



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: 20 June 2016  
Comment Deadline: 21 July 2016  
Corps Action ID Number: SAW-2012-01624

The Wilmington District, Corps of Engineers (Corps) received an application from Pender Farm Development, LLC seeking Department of the Army authorization to impact waters and wetlands of the US, associated with the development of a 191 lot residential development in Scott's Hill, Pender County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at:

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

**Applicant:** Pender Farm Development, LLC  
c/o Mr. Raiford G. Trask III  
1202 Eastwood Road  
Wilmington, North Carolina 28403

**AGENT (if applicable):** Southern Environmental Group, Inc.  
c/o Mr. David A. Syster  
5315 South College Road  
Wilmington, North Carolina 28412

## Authority

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

- ☒ Section 404 of the Clean Water Act (33 U.S.C. 1344)
- ☐ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
- ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

## Location

Directions to Site: From Wilmington on NC 17 North, turn left onto Sidbury Road in Scott's Hill. Travel 0.54 mile west to Huggins Road/Hogans Trail (unmarked dirt road). Then, turn right on Huggins Road and go approximately 0.66 mile. The site is located directly north and east, as shown in the attached Vicinity Map (Attachment 1).

Project Area (acres): 1164	Nearest Town: Scott's Hill
Nearest Waterway: Futch Creek	River Basin: Northeast Cape Fear River Basin
County: Pender	
Latitude and Longitude: 34.3347N, -77.7647W	

## Existing Site Conditions

The Wilmington to Hampstead corridor is a rapidly growing area in southeastern North Carolina. With the construction of Interstate 140 and the completion of a local waste water treatment facility, there is a current need for residential development to meet the demand for housing in the Scott's Hill area. The closest subdivisions are east of the site along Scott's Hill Loop Road, but they do not contain developable lots. The Whitebridge subdivision is located further north of the site on the east side of NC 17 N, but it has very few lots available for development.

The proposed site is 1,164 acres of timberland consisting of wet flats and pocosins. Several silviculture ditches traverse the site, connecting onsite wetlands to a single discharge point along the eastern property boundary before ultimately discharging offsite into a tributary of Futch Creek. Site hydrology is primarily driven by rainfall and groundwater recharge, which allows the ditch system to dry up during summer months. Woody vegetation consists of sweet gum (*Liquidambar styraciflua*), loblolly pine (*Pinus taeda*), red maple (*Acer rubrum*), and winged sumac (*Rhus copallinum*). Predominant herbaceous vegetation consists of giant cane (*Arundinaria gigantea*), *Carex* spp., and Virginia chainfern (*Woodwardia virginica*).

Mapped soil types proximal to wetland impact locations are Rains fine sandy loam and Woodington fine sandy loam. According to the Soil Survey of Pender County, North Carolina, the Rains soil series consists of poorly drained soils and includes intermingled areas of Woodington, Liddell, Grantham, and Grifton soils. The Woodington series is also poorly drained and found on broad, smooth, interstream areas and in depressions near waterways. This series has inclusions of Rains, Liddell, Grantham, and Torhunta soils. The majority of the soils across the site appear to correspond with the soil map.

## Applicant's Stated Purpose

The purpose of the project is to construct an economically feasible residential development with associated amenities in the Scott's Hill area and provide access to NC 17 and I-140.

## **Project Description**

The proposed project entails the permanent filling of 1.40 acres of wetlands and 0.57 acres of relatively-permanent waters associated with the development of a 191 lot subdivision, road crossings, and stormwater management features (Attachment 2. Wetlands Impact Maps, 1-9).

## **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The applicant avoided impacts to the larger, high-functioning onsite wetland systems during the design and layout phase and targeted smaller, low-quality wetlands that are somewhat degraded by existing ditches. The project design utilized road and utility corridors that minimized wetland impacts while still conforming to local and state design requirements. Perpendicular road crossings and a reduction in road heights helped to eliminate fill slope impacts. Additionally, in order to minimize secondary impacts to downstream water quality, the applicant proposes to enhance existing ditches within the site by creating an adjacent floodplain. This will increase storage volume and retention time during periods of heavy rain. The increased contact time with the floodplain will allow the natural chemical and biological process to occur and help protect downstream waters.

## **Compensatory Mitigation**

The applicant proposes to offset impacts to 0.57 acre of relatively-permanent waters by relocating the ditches onsite and providing additional floodplain and buffer to the relocated features. This will increase the open water acreage onsite from 0.78 acre to 1.91 acres. A formal mitigation plan has not yet been developed.

The applicant determined that the high cost of purchasing mitigation credits from an established mitigation bank would make the project economically unfeasible and, thus, would not be practicable. Instead the applicant is proposing to restore three acres of onsite wetlands to offset the proposed impacts to 1.40 acres of wetlands. The restoration will target a Hardwood Flat habitat by restoring vegetation and hydrology to an area that has been effectively drained by historic ditching (Attachment 3. Proposed Wetland Restoration Map).

The applicant proposes to construct an earthen berm on the downstream edge of the area to be restored and along the adjacent property boundary in order to capture the needed hydrology for the restoration site and prevent hydrologic trespass. This berm will extend from one existing wetland to another in a perpendicular orientation to the ditch that has drained the proposed restoration site. A flashboard riser weir will be placed in the ditch to maintain a bankfull condition throughout the portion of the channel located within the mitigation area, which should effectively restore hydrology to the site.

The applicant also proposes to mow the areas of the mitigation site that have been recently timbered and bush hogged and replant hardwood species such as laurel oak, swamp chestnut oak, and green ash. The bare root seedlings will be planted on ten foot centers for a total of 1,300 seedlings.

The proposed success criteria will be based on the presence of hydrophytic vegetation and wetland hydrology as described in the 1987 USACE Wetland Delineation Manual and the Atlantic and Gulf Coast Supplement. Monitoring will occur for seven years, and an annual report will be submitted to the Corps of Engineers for review no later than April 1 of the year following the monitoring event. The applicant proposes that after year two the site be considered successful if there are two consecutive, successful monitoring years.

To successfully meet hydrology, the applicant proposes that the site will be saturated within the upper 12 inches of the soil profile for 12.5% of the growing season. Hydrology will be monitored by installing two hydrologic monitoring wells in accordance with the "Technical Standard for Water Table Monitoring of Potential Wetlands Sites", dated June 2005. Vegetation success will be determined using stem counts of planted vegetation. Survival must meet or exceed 320 planted stems at year three, 260 stems at year five, and 210 stems at year seven. No single planted or volunteer species will comprise more than 50% of the total composition within any plot at year three, five, or seven. Because the site consists of a Rains soil type, success of the mitigation site will not be dependent on this parameter. Site soils already exhibit some hydric soil indicators, which are expected to increase as hydrology is restored to the site. If the site is deemed unsuccessful at any time, supplemental planting may occur or adjustments to the water control structure may be made to address deficiencies. If the site fails, an additional onsite mitigation area will be proposed or payment will be made to a mitigation bank or in-lieu fee program as appropriate.

### **Essential Fish Habitat**

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project would not effect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

### **Cultural Resources**

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C, the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that no historic properties, nor properties eligible for inclusion in the National Register, are present

within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

### **Endangered Species**

Pursuant to the Endangered Species Act of 1973, the Corps reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. Therefore, the Corps' preliminary determination is that the proposed project would have no effect on any threatened or endangered species, or adversely modify critical habitat, protected under the ESA. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

### **Other Required Authorizations**

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

**North Carolina Division of Water Resources (NCDWR):** The Corps will generally not make a final permit decision until the NCDWR issues, denies, or waives the state Certification as required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so in writing to:

NCDWR Central Office  
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit  
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617

Or to,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

### **North Carolina Division of Coastal Management (NCDCM):**

Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity that would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

### **Evaluation**

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

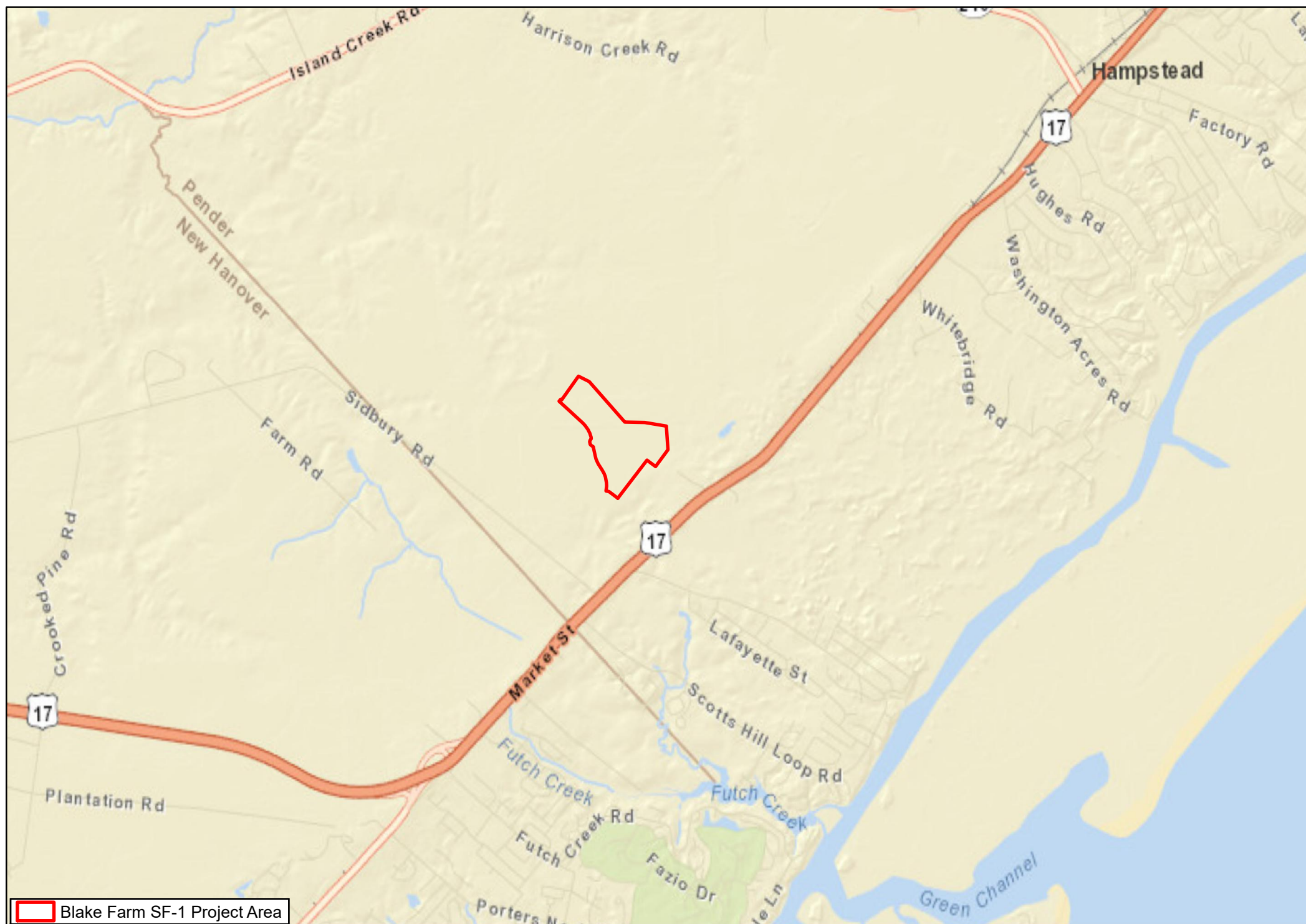
### **Commenting Information**


The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a

public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, 21 July 2016. Comments should be submitted to Ms. Emily Greer, Wilmington Regulatory Field Office,, 69 Darlington Avenue, Wilmington, North Carolina 28403 , or at [emily.c.greer@usace.army.mil](mailto:emily.c.greer@usace.army.mil).

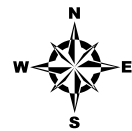


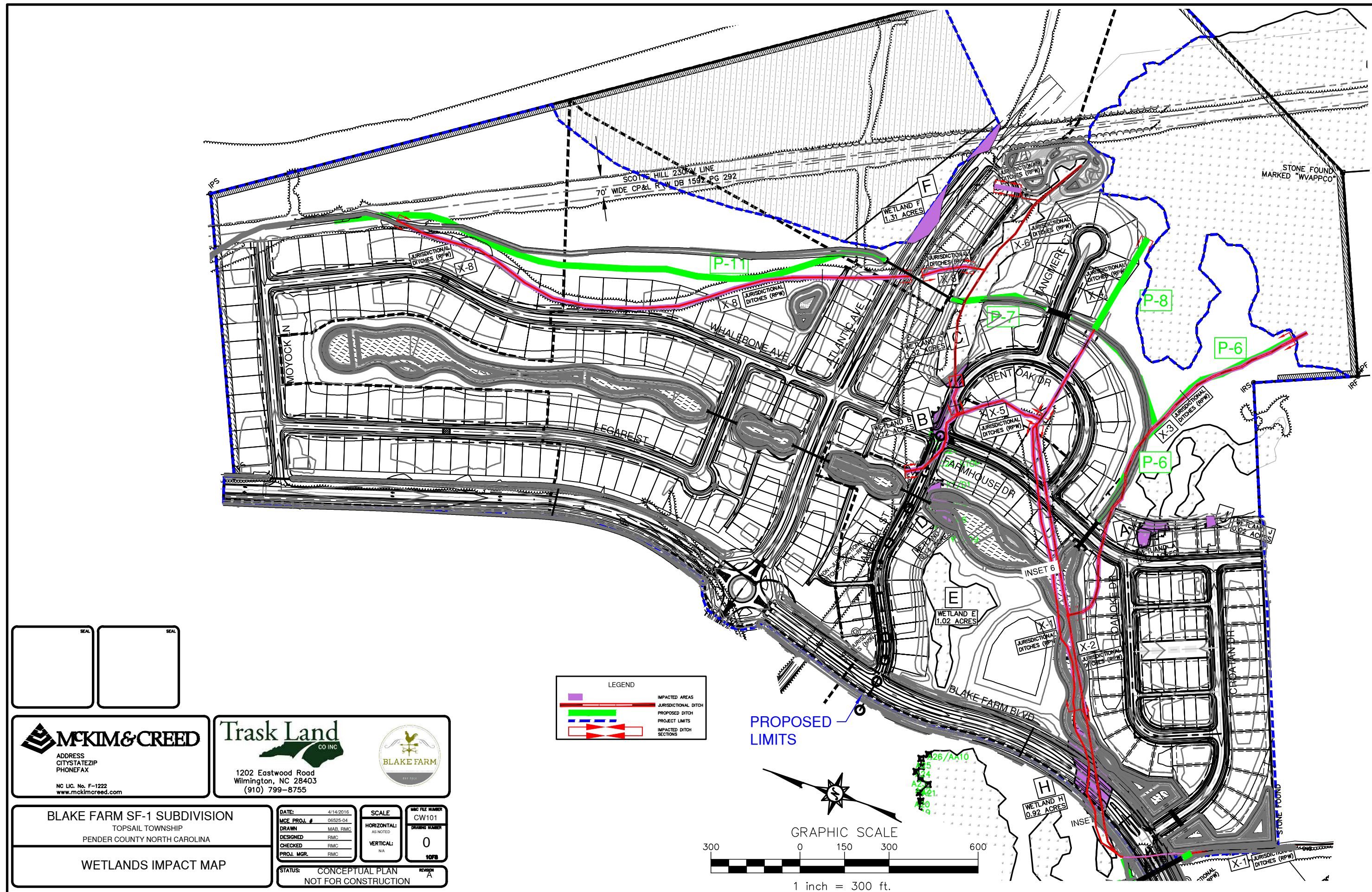
 Blake Farm SF-1 Project Area

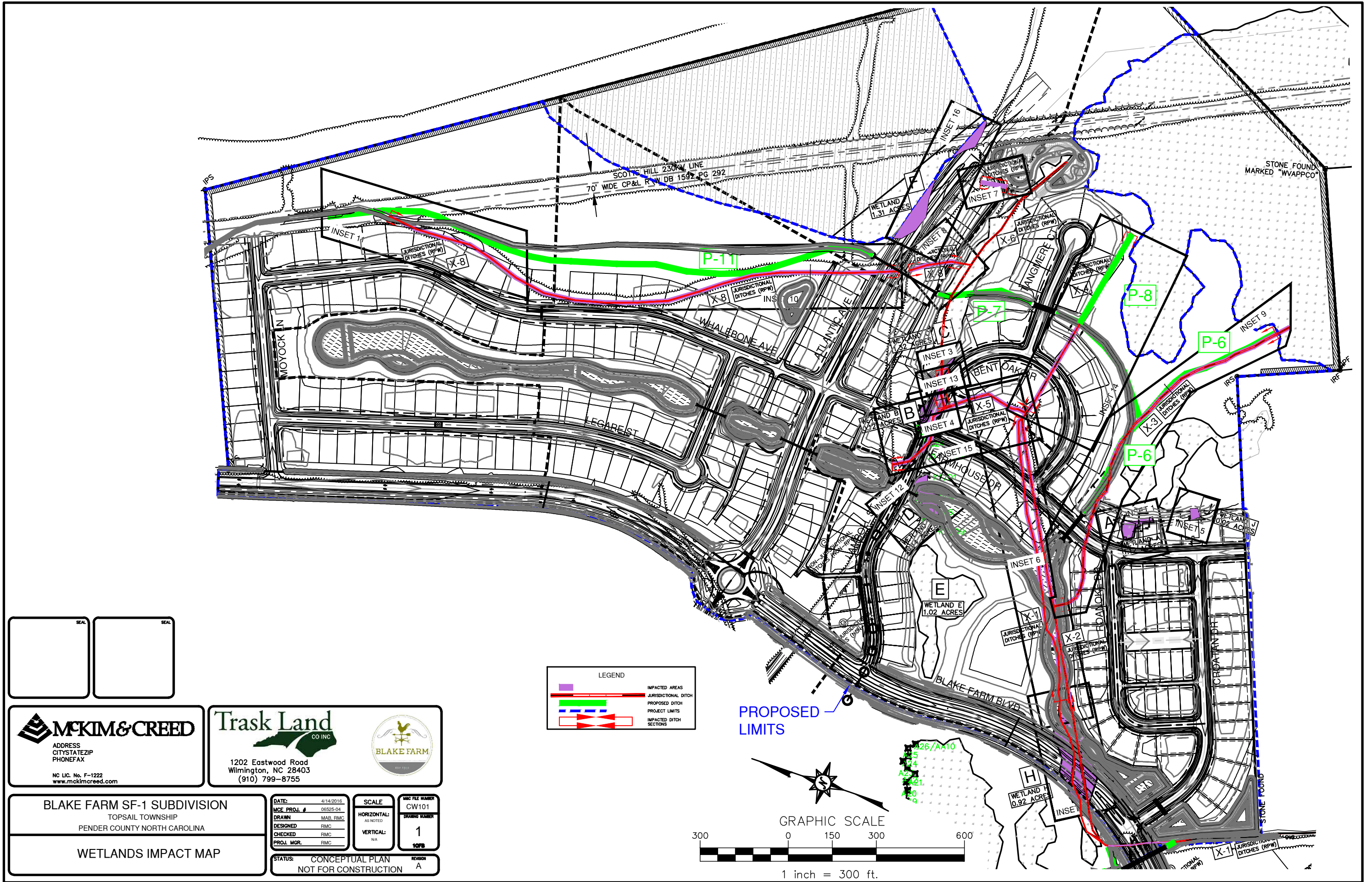
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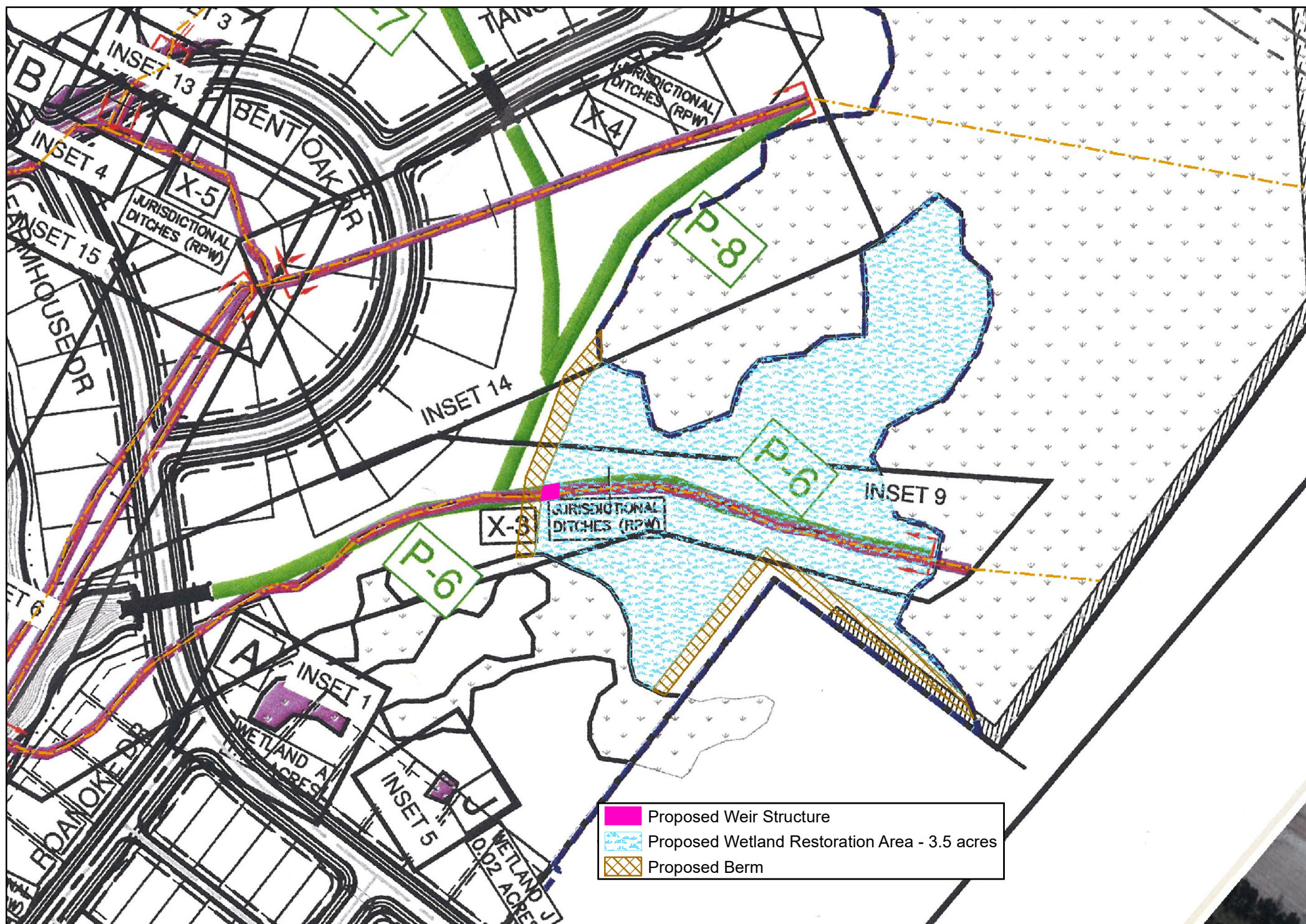
Map Source: ESRI Street Maps

**Vicinity Map**  
**Blake Farm SF-1 Project Area**  
**Scotts Hill, Pender Co., N.C.**  
**4/27/2016 05-159.01**









**Proposed Wetland Restoration Map**  
**Blake Farm SF-1 Project Area**  
**Scotts Hill, Pender Co., N.C.**  
**5/4/2016 05-159.01**

