



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: September 22, 2017
Comment Deadline: October 23, 2017
Corps Action ID Number: SAW-2009-01847

The Wilmington District, Corps of Engineers (Corps) has received an application from AFTEW Properties, LLC, seeking Department of the Army authorization to discharge fill material within waters of the U.S. for the purpose of constructing a residential development near the City of Wilmington, New Hanover County, North Carolina. The currently proposed project would require the modification of an existing Department of the Army authorization which was issued in 2013.

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: AFTEW Properties, LLC
Attn: Dr. Arnold Sobel
2020 Churchill Drive
Wilmington, North Carolina 28403

AGENT (if applicable): Southern Environmental Group, Inc.
Attn: Mr. David Syster
5315 South College Road, Suite E
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 downtown Wilmington proceed south on U.S. Highway 421 (Third Street and Carolina Beach Road). Turn right (west) on Sanders Road and then right onto River Road. Take the next right into the Village at Motts Landing.

Project Area (acres): approximately 262 acres
Nearest Waterway: Motts Creek
Latitude and Longitude: 34.1279, -77.9111W

Nearest Town: Wilmington
River Basin: Cape Fear

Existing Site Conditions

The project site is comprised of approximately 261.89 acres near the intersection of Sanders Road and River Road, near the City of Wilmington, New Hanover County, North Carolina. A previous jurisdictional determination verified by the Corps identified the presence of 64.0 acres of jurisdictional wetlands and 2,025 linear feet of jurisdictional non-wetlands waters on-site. Work has been conducted related to the construction of Phases I and II of the development, specifically the construction of infrastructure and several homes.

The project was initially authorized via individual permit in 2005 and subsequently modified in 2006, which authorized permanent impacts to 1.523 acres of jurisdictional wetlands and temporary impacts to 0.034 acres of jurisdictional wetlands. Of the impacts authorized by the 2006 modification, 0.16 acres of permanent wetland impacts were actually implemented for the purpose of constructing roads and infrastructure related to Phase I of the development prior to its expiration in December of 2008.

A subsequent individual permit was issued on 2012 which authorized the permanent placement of fill material in 1.11 acres of jurisdictional wetlands for the purpose of completing the subdivision. The permit was subsequently modified in 2013 to authorize the permanent placement of fill material in 1.23 acres of jurisdictional wetlands in addition to the 0.16 acres impacted under the 2005 permit and 2006 modification. To date, 0.16 acres of jurisdictional wetlands have been permanently impacted related to the development of the Village at Motts Landing subdivision.

Applicant's Stated Purpose

The applicant states "The purpose of the project is to construct a residential housing community, with associated amenities in New Hanover County, North Carolina, and make a reasonable return on investment. Work has already begun on Phase I of this project. An IP (Individual Permit) was issued in 2005 and modified in 2006, for the remaining phases, though only a small amount of impacts (i.e. 0.16 acre) took place during that time, and then the recession hit, which halted work and the IP expired. Another was secured in 2012 and later modified in 2013".

Project Description

The project proposes to modify the existing 2012 Corps authorization to permanently impact an additional 0.80 acres of jurisdictional and an additional 125 feet of stream. The proposed impacts would facilitate the development of lots, road crossings and associated energy dissipaters, and driveway accesses. A temporary wetland impact is also proposed to facilitate the installation of a stormwater pipe for the purpose of conveying storm flow into a proposed stormwater pond. Cumulatively, the project would permanently impact 2.19 acres of jurisdictional wetlands and the 125 feet of jurisdictional non-wetland waters (streams). Heavy machinery, such as bulldozers, graders, back hoes and track hoes would be utilized to clear, stabilize, grade and transport fill material to the project site. Additional information related to the project design and associated wetlands impacts are depicted in the attach project plans and drawings.

Avoidance and Minimization

The applicant states that impacts to wetlands and the stream on site have been avoided and/ or minimized to the greatest extent practicable. Specifically, the applicant states that roads were situated to cross wetlands perpendicularly. According to the applicant, development on a specific upland area was abandoned to avoid 0.32 acres of wetland impacts. The applicant states they have also removed or reduced the size of energy dissipaters from road crossings.

Compensatory Mitigation

Project related impacts are proposed to be compensated for using a variety of mitigation methods. Project related impacts associated with the 2005 Corps permit and subsequent 2006 modification were compensated for through the purchase of 3.25 credits of non-riparian wetlands from North Carolina Ecosystem Enhancement Program. Of the 1.523 acres of permanent wetland impacts that were authorized via the 2006 permit modification, 0.16 acres were conducted under that authorization prior to the permit expiration in 2008.

A subsequent 2012 Corps permit authorized permanent impacts to 1.11 acres of permanent wetland impacts. These impacts were considered cumulative to those (0.16 acres) conducted under the 2005 permit and 2006 permit modification (total of 1.27 acres). The Corps determined that these previously purchased 3.25 credits were sufficient to compensate for the 1.27 acres of permanent loss authorized via the 2005 Corps permit, 2006 modification and 2012 Corps permit. In 2013, the applicant subsequently requested modification to the 2012 Corps permit for an additional 0.12 acres of permanent wetland impacts (total 1.39 acres). To compensate for the additional 0.12 acres of permanent wetland impacts, the applicant purchased 0.25 credits of non-riparian wetlands from North Carolina Ecosystem Enhancement Program.

The applicant is currently proposing another modification to the 2012 Corps permit to authorize an additional 0.80 acres of permanent wetlands impacts and 125 linear feet of stream impacts. To compensate for the additional impacts to 0.8 acres of wetlands and 125 linear feet of stream, the applicant is proposing to purchase 1.60 wetland credits and 100 linear feet of stream credits from Lower Cape Fear Umbrella Mitigation Bank. In addition, the application is proposing to conduct on-site permittee responsible restoration of 0.04 acres of wetlands and 25 linear feet of stream.

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:

- ☐ Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.
- ☐ 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 (or THPO).
- ☒ Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).
- ☐ Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).
- ☐ Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an

adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).

- ☐ The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and 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 determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- ☒ The Corps determines that the proposed project may affect, not likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat. The Corps will conduct consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- ☐ 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. 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, by October 20, 2017 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,

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

North Carolina Division of Coastal Management (NCDCM):

- ☒ The application did not include a certification that the proposed work complies with and would be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2 (b)(2) the Corps cannot issue a Department of Army (DA) permit for the proposed work until the applicant submits such a certification to the Corps and the NCDCM, and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt, concurrence or objection from the NCDCM.
- ☐ Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which 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

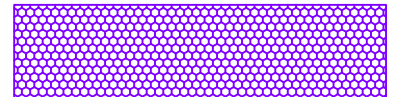
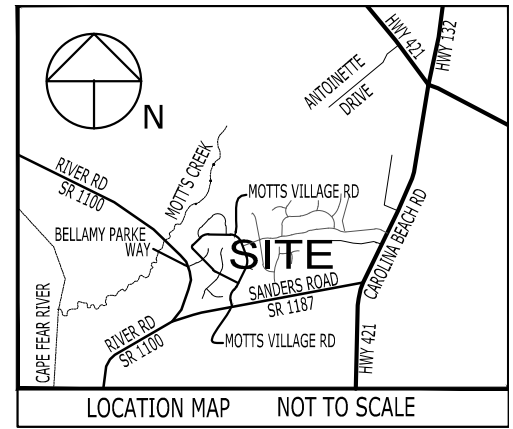
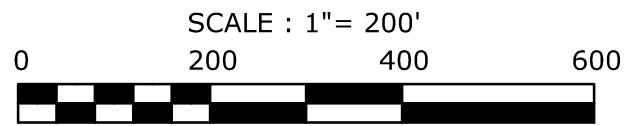
thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water 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

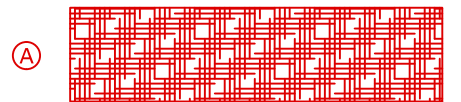
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. 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, October 23, 2017. Comments should be submitted to Eric Reusch, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4631.



PROPOSED WETLAND IMPACTS



PREVIOUSLY AUTHORIZED IMPACTS

WETLAND IMPACT MAP
SHEET 1 OF 4

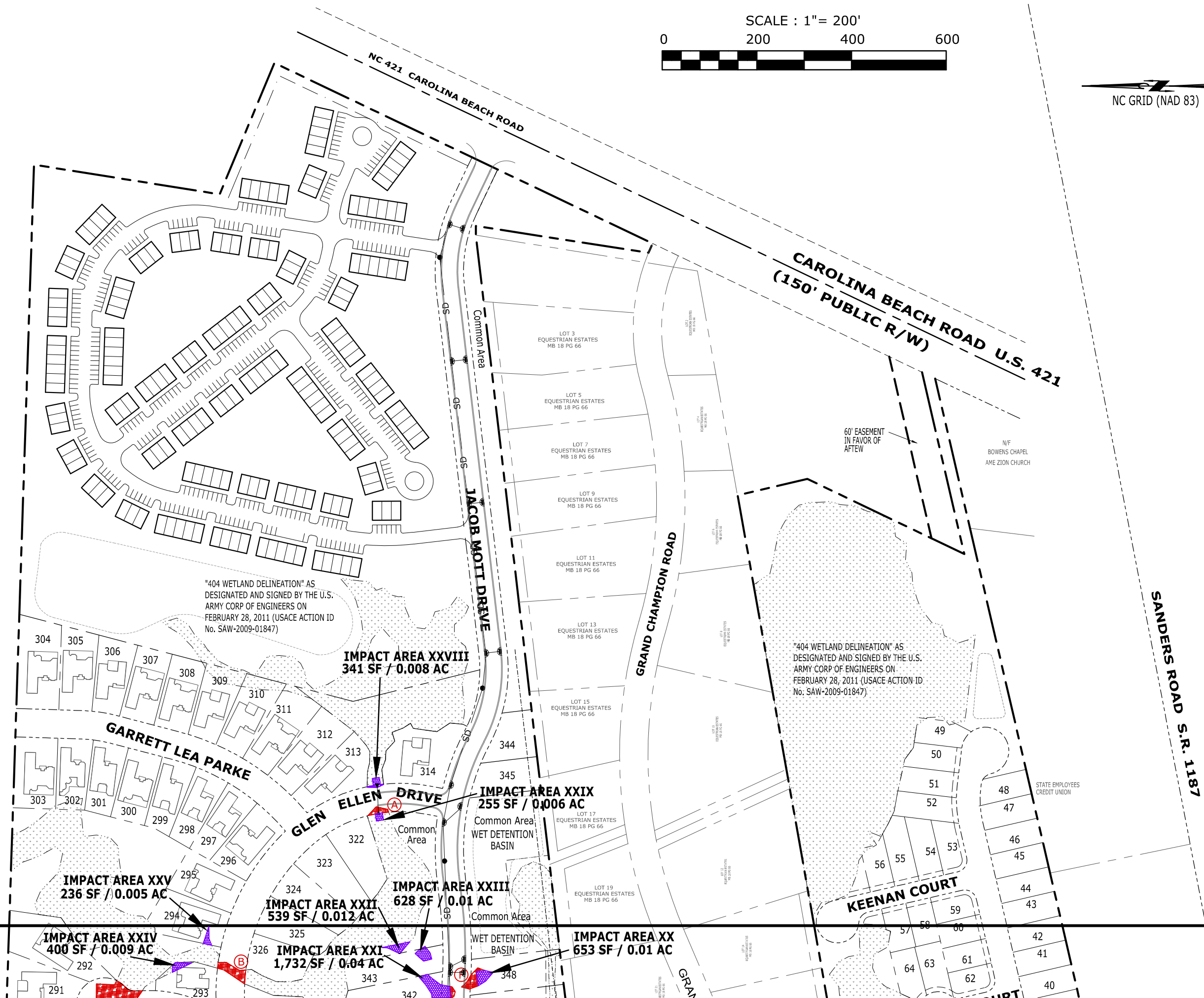
FOR
AFTEW PROPERTIES LLC
THE VILLAGE AT MOTTS LANDING
FEDERAL POINT TOWNSHIP NEW HANOVER COUNTY
NORTH CAROLINA

SCALE : 1"= 200' DATE: SEPTEMBER 15, 2017




PROJECT No. 16-0465

MATCH LINE SHEET 1
MATCH LINE SHEET 2



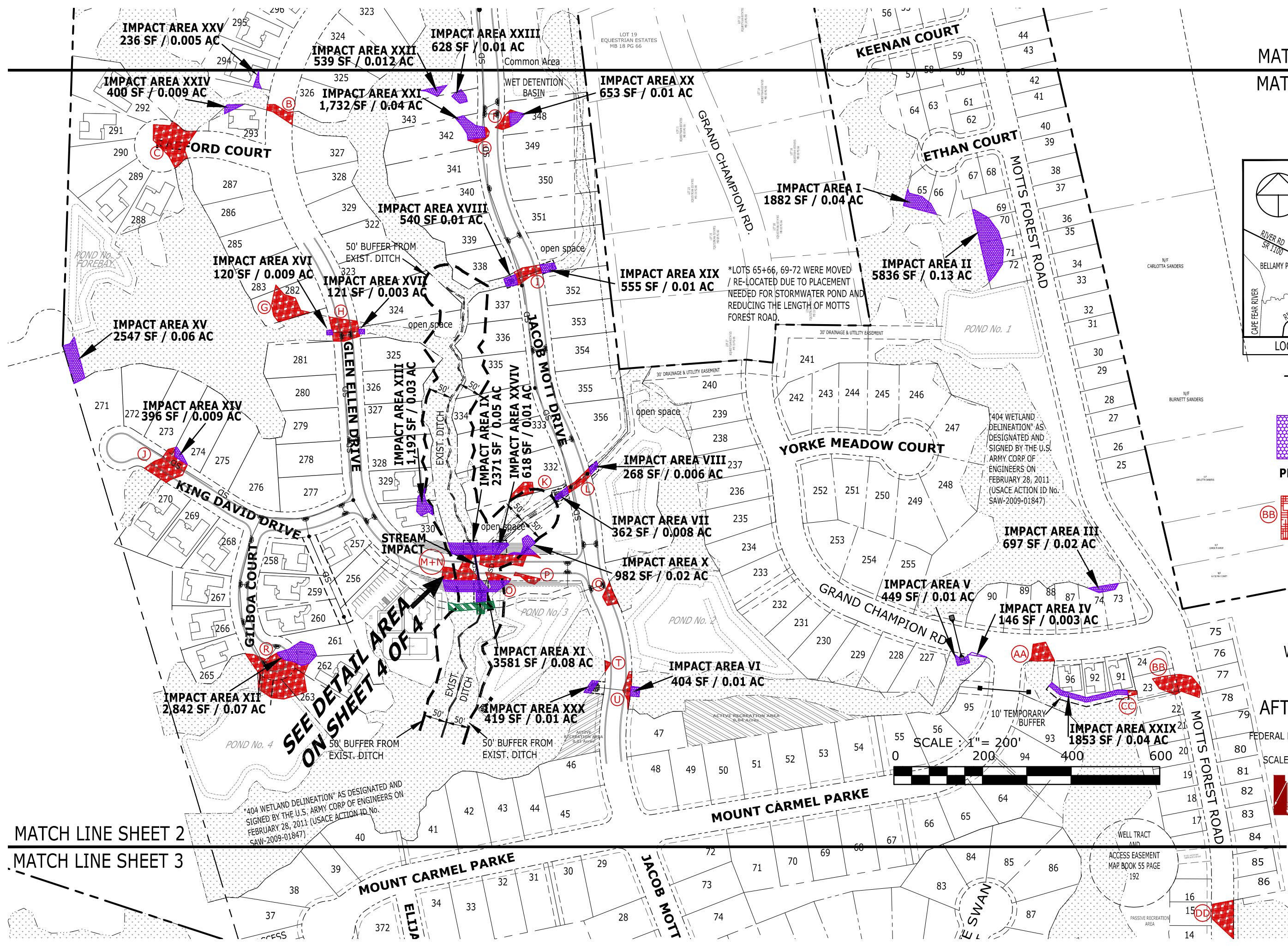
A location map showing the site's position relative to surrounding roads and landmarks. The map includes a north arrow in the top left corner. The site is located at the intersection of Motts Village Rd and Sanders Road SR 1187. Other roads shown include River Rd SR 1100, Bellamy Parke Way, Cape Fear River, Motts Creek, Antoinette Drive, Highway 421, and Highway 132. The site is marked with a large 'S' and the word 'SITE'.

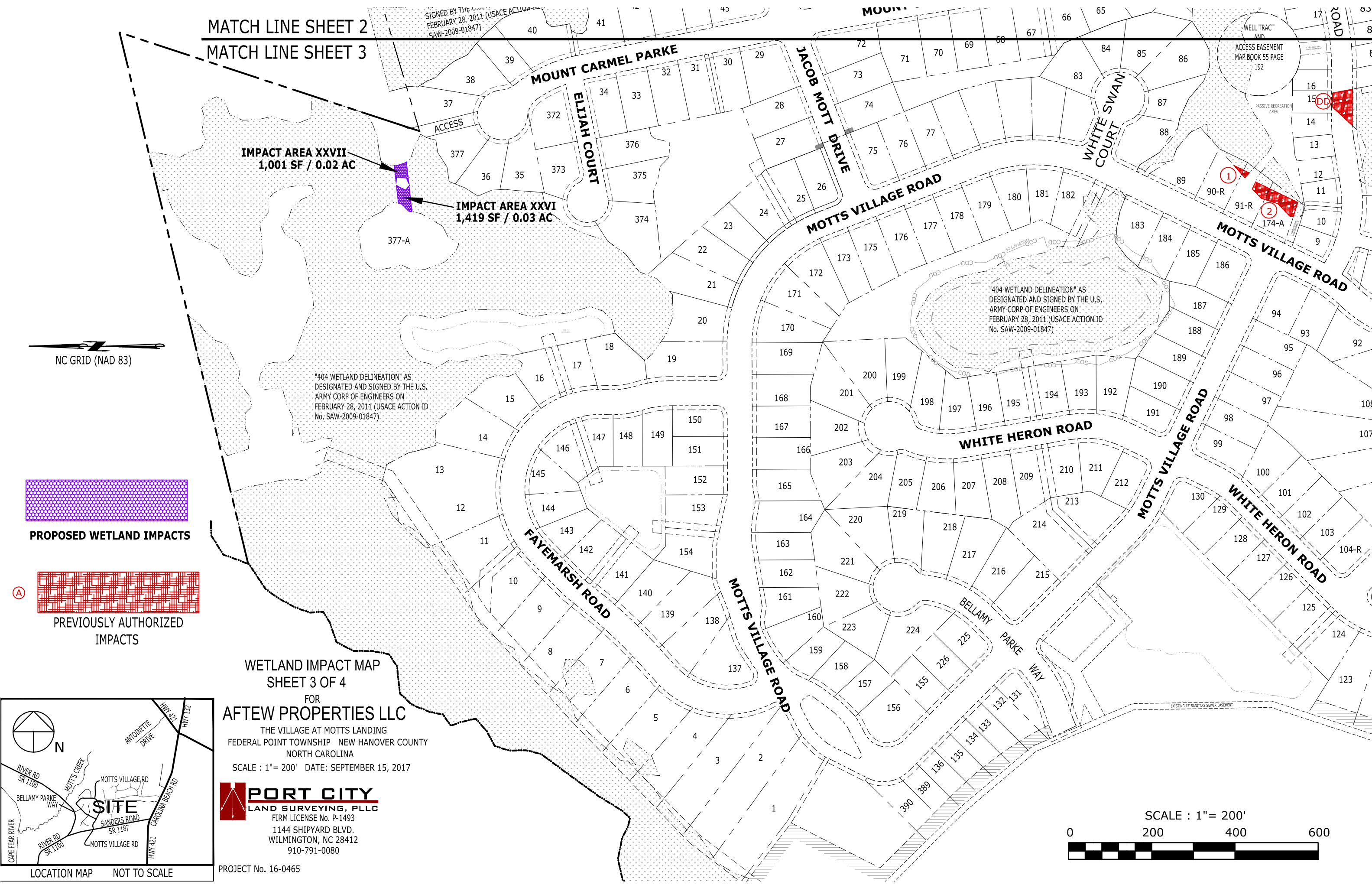


WETLAND IMPACT MAP
SHEET 2 OF 4
FOR

SCALE : 1" = 200' DATE: SEPTEMBER 15, 2017

PROJECT No. 16-0465





MATCH LINE SHEET 2
MATCH LINE SHEET 3

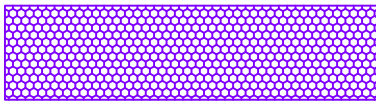
IMPACT AREA XXVII
1,001 SF / 0.02 AC

IMPACT AREA XXVI
1,419 SF / 0.03 AC

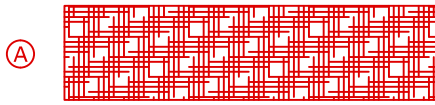
"404 WETLAND DELINEATION" AS
DESIGNATED AND SIGNED BY THE U.S.
ARMY CORP OF ENGINEERS ON
FEBRUARY 28, 2011 (USACE ACTION ID
No. SAW-2009-01847)

"404 WETLAND DELINEATION" AS
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NC GRID (NAD 83)



PROPOSED WETLAND IMPACTS



**PREVIOUSLY AUTHORIZED
IMPACTS**

**WETLAND IMPACT MAP
SHEET 3 OF 4**

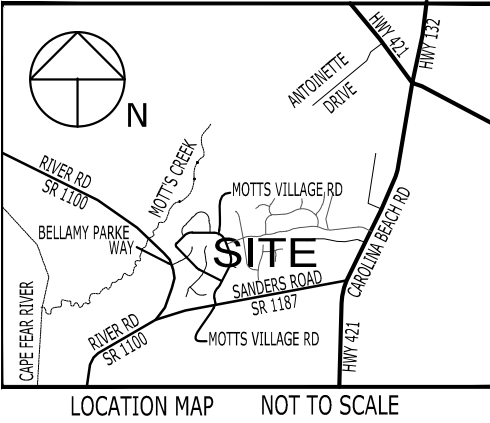
FOR
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THE VILLAGE AT MOTTS LANDING
FEDERAL POINT TOWNSHIP NEW HANOVER COUNTY
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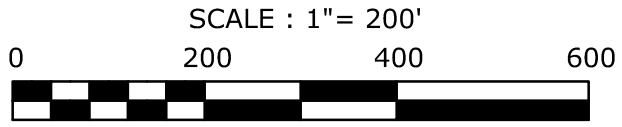
SCALE : 1"= 200' DATE: SEPTEMBER 15, 2017

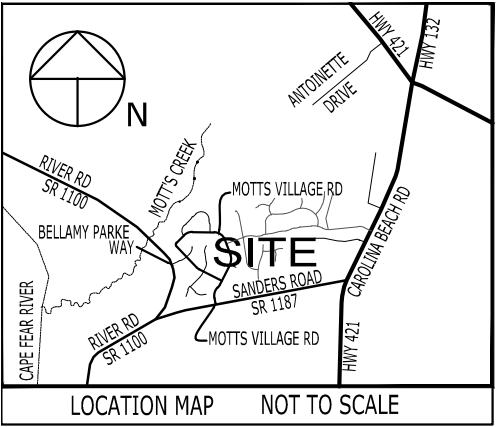
PORT CITY
LAND SURVEYING, PLLC
FIRM LICENSE No. P-1493
1144 SHIPYARD BLVD.
WILMINGTON, NC 28412
910-791-0080

PROJECT No. 16-0465

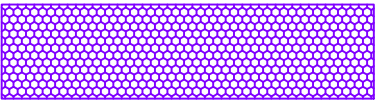


LOCATION MAP NOT TO SCALE

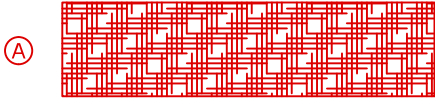




NC GRID (NAD 83)



PROPOSED WETLAND IMPACTS



PREVIOUSLY AUTHORIZED
IMPACTS



WETLAND RESTORATION AREA

PDE = PROPOSED DRAINAGE EASEMENT

114 LF 48" RCP
SD
REINFORCED CONCRETE STORM DRAIN PIPE

DETAIL AREA FROM SHEET 3 OF 3
WETLAND IMPACT MAP
SHEET 4 OF 4

FOR
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