



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE
CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

CESAM-RD
PUBLIC NOTICE NO. SAM-2006-2708-JEB

SEP 11 2007

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
STATE OF ALABAMA
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

AFTER-THE FACT AUTHORIZATION FOR A 2.35 ACRE IMPOUNDMENT
AT WYNNFIELD SUBDIVISION, MOBILE, MOBILE COUNTY, ALABAMA

TO WHOM IT MAY CONCERN:

This District has received an application for a Department of the Army permit pursuant to Section 10 of the River and Harbor Act of 1899 (33 USC 403), and Section 404 of the Clean Water Act (33 USC 1344). Please communicate this information to interested parties.

APPLICANT: Wynnfield Development, LLC
Attention: Mr. Charles J. Vinson
Post Office Box 91323
Mobile, Alabama 36692

WATERWAY: Intermittent unnamed tributary to Halls Mill Creek, Section 7, Township 5 South, Range 2 West, Mobile, Mobile County, Alabama.

WORK: The applicant requests after-the-fact authorization for a 2.35 acre impoundment within the Wynnfield Subdivision in west Mobile. The impoundment was created by damming an unnamed tributary to Halls Mill Creek. The proposed project has impacted 2.19 acres of wetlands through flooding and 0.31 acres due to construction of the dam/outfall structure, for a total of 2.5 acres of wetland impacts. Additionally, 570 linear feet of perennial stream channel was impacted by pond and outfall structure construction. As mitigation for project impacts, the applicant proposes preservation of 7.70 acres of on-site wetlands located adjacent to the proposed lake site and preservation of 1600 linear feet of on-site perennial stream channel with 50 foot wide riparian buffers along each side. Remaining stream and mitigation credits will be purchased from an approved

CESAMRD-I
PUBLIC NOTICE NO. SAM-2006-2708-JEB

wetland mitigation bank. All mitigation will be accomplished in accordance with the attached "After-the-Fact Mitigation Plan for Wynnfield Development Corporation".

The applicant has applied for certification from the State of Alabama in accordance with Section 401(a)(1) of the Clean Water Act, and upon completion of the required advertising, a determination relative to certification will be made.

This public notice is being distributed to all known interested persons in order to assist in developing facts on which a decision by the U.S. Army Corps of Engineers (Corps) can be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. The decision whether to issue a permit will be based on an evaluation of the probable impact, 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, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production, and in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; 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 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

CESAM-RD-I
PUBLIC NOTICE NO. SAM-2006-2708-JEB

environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. 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 this application. Requests for public hearings shall state with particularity, the reasons for holding a public hearing.

Evaluation of the probable impacts involving deposits of dredged or fill material into waters of the United States will include the application of guidelines established by the Administrator of the U.S. Environmental Protection Agency.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known to exist which would be affected by the proposed work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the U.S. Department of the Interior, National Park Service, Division of Archeological Services.

Preliminary review of this application and the U.S. Department of the Interior List of Endangered and Threatened Wildlife and Plants indicate that the proposed activity will not affect listed endangered or threatened species, or their critical habitat.

Correspondence concerning this Public Notice should refer to Public Notice Number **SAM-2006-2708-JEB** and should be directed to the District Engineer, U.S. Army Engineer District, Mobile, Post Office Box 2288, Mobile, Alabama 36628-0001, Attention: Regulatory Division, with a copy

CESAM-RDI
PUBLIC NOTICE NO. SAM-2006-2708-JEB

to the Alabama Department of Environmental Management, 4171 Commanders Drive, Mobile, Alabama 36615, (If not in coastal zone: Post Office Box 301463, Montgomery, Alabama 36130-1463). Comments should be received no later than 30 days from the date of this Public Notice.

If you have any questions concerning this publication, you may contact this office, **Mr. Eric Buckelew**, telephone number **251-690-3184**. Please refer to the above Public Notice number.

For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil/RD/reg, and please take a moment to complete our customer satisfaction survey while you're there. Your responses are appreciated and will allow us to improve our services.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosures

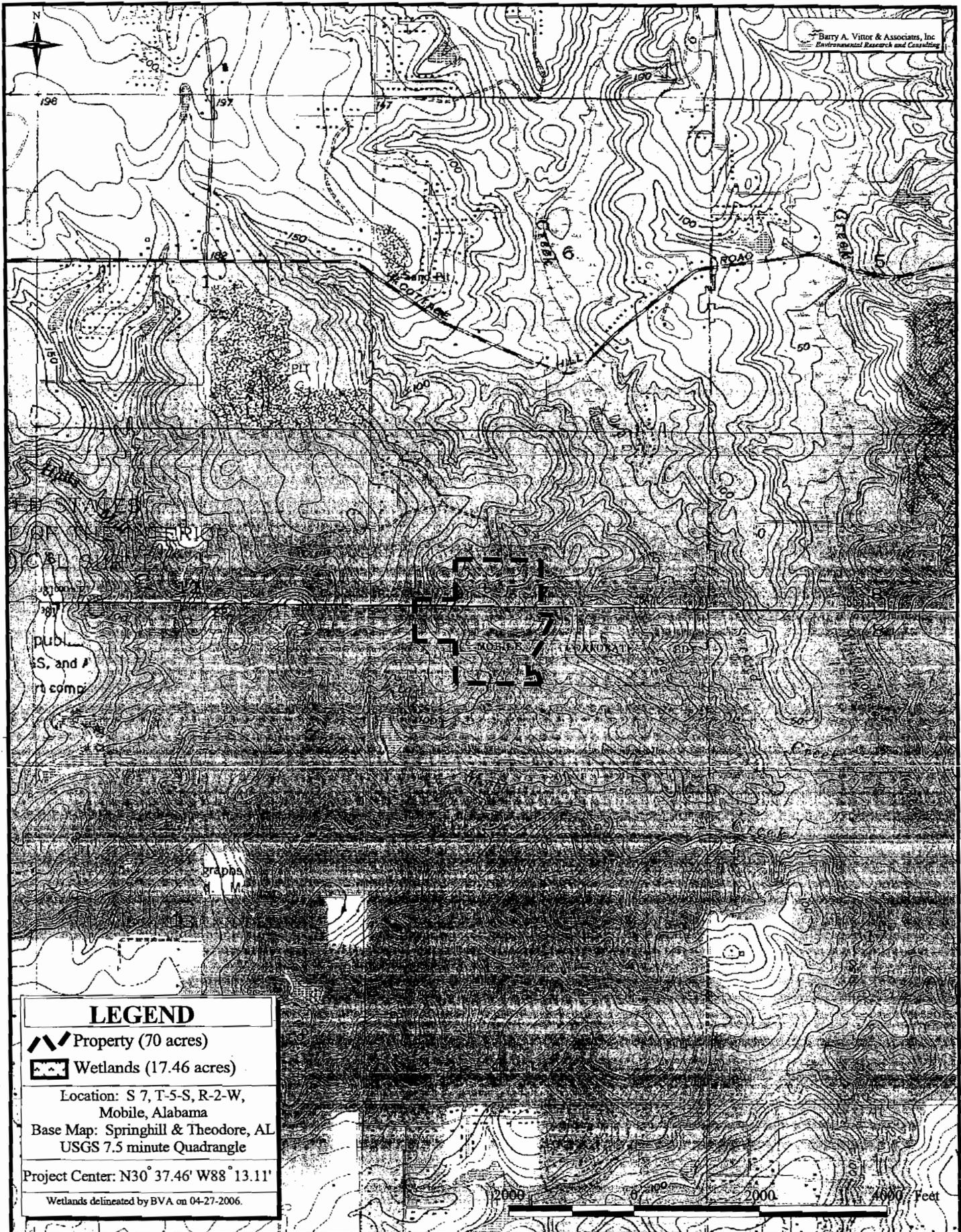
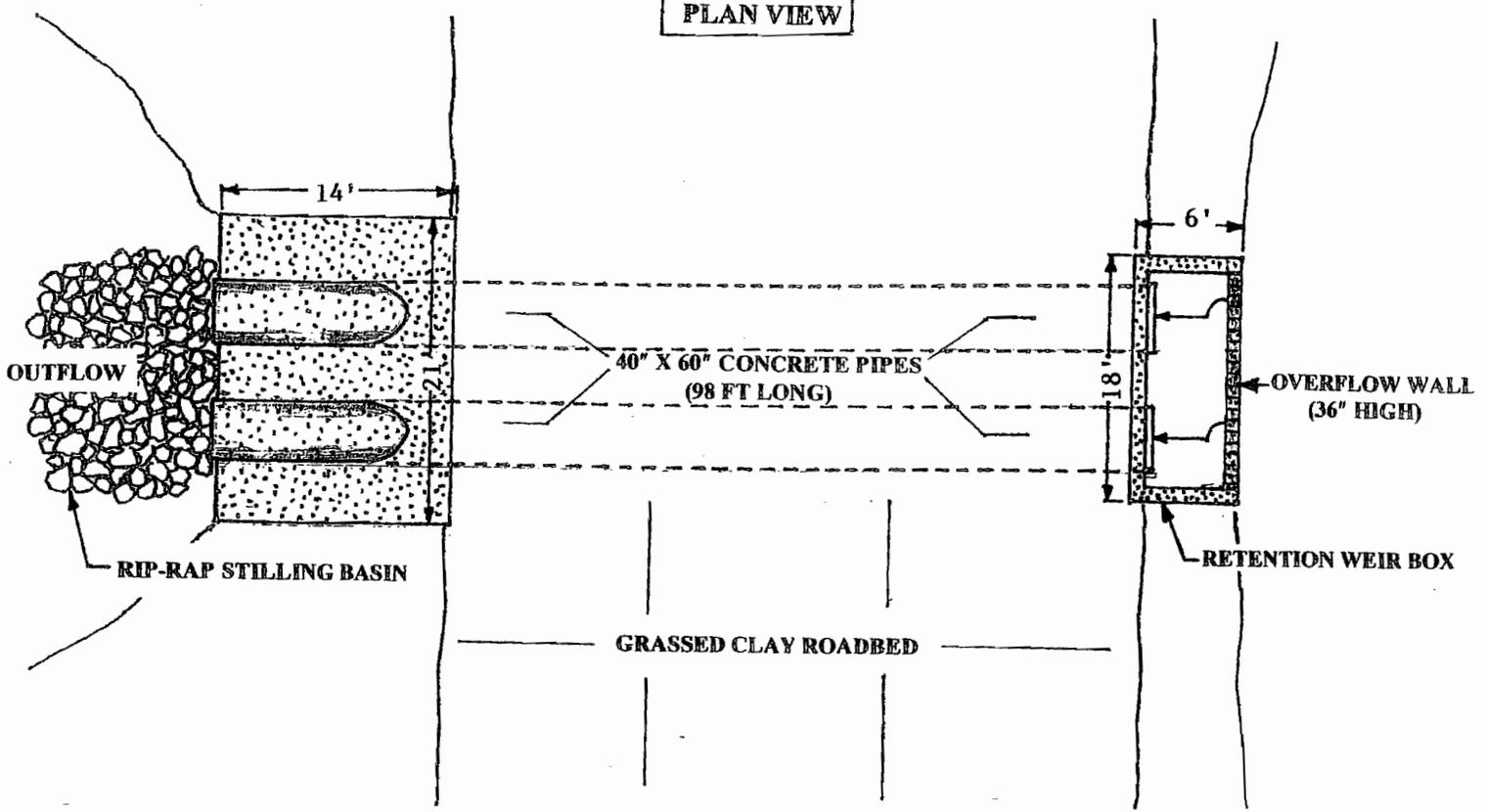
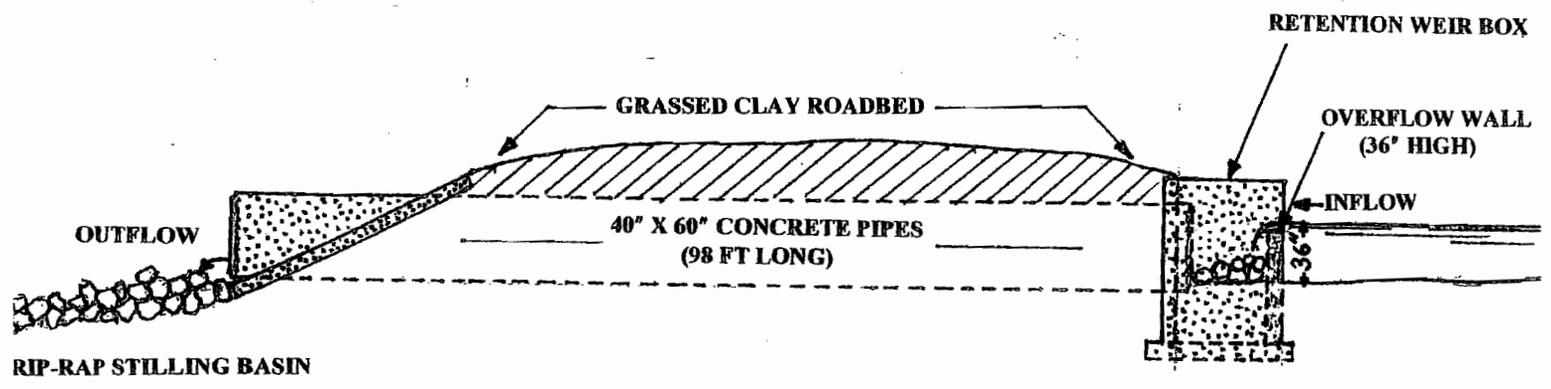


Figure 1. Vicinity map for the Wynfield Subdivision.

PLAN VIEW



CROSS SECTION VIEW



**WYNNFIELD SUBDIVISION
RETENTION POND
OUTFLOW STRUCTURES**

(Not to Scale)

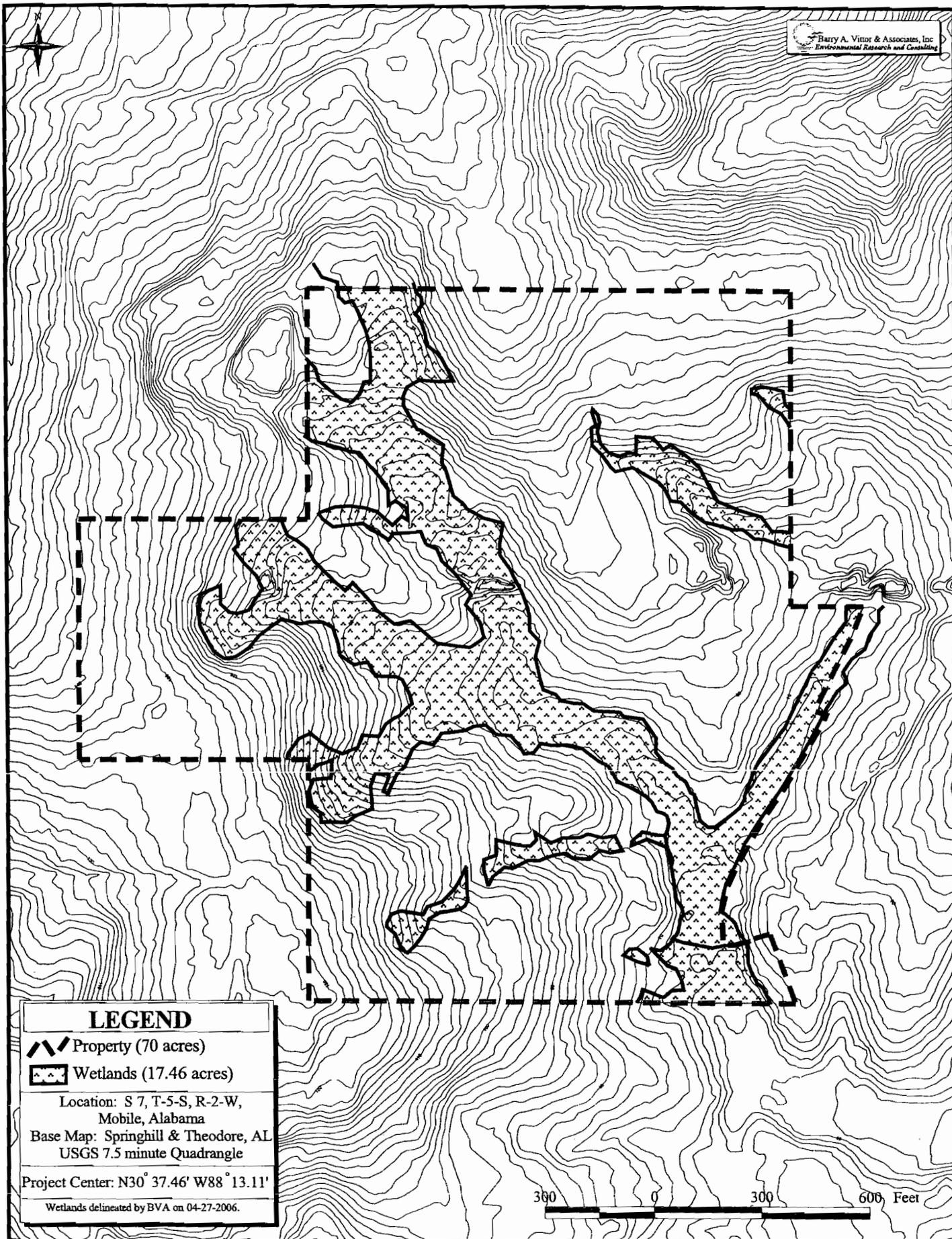
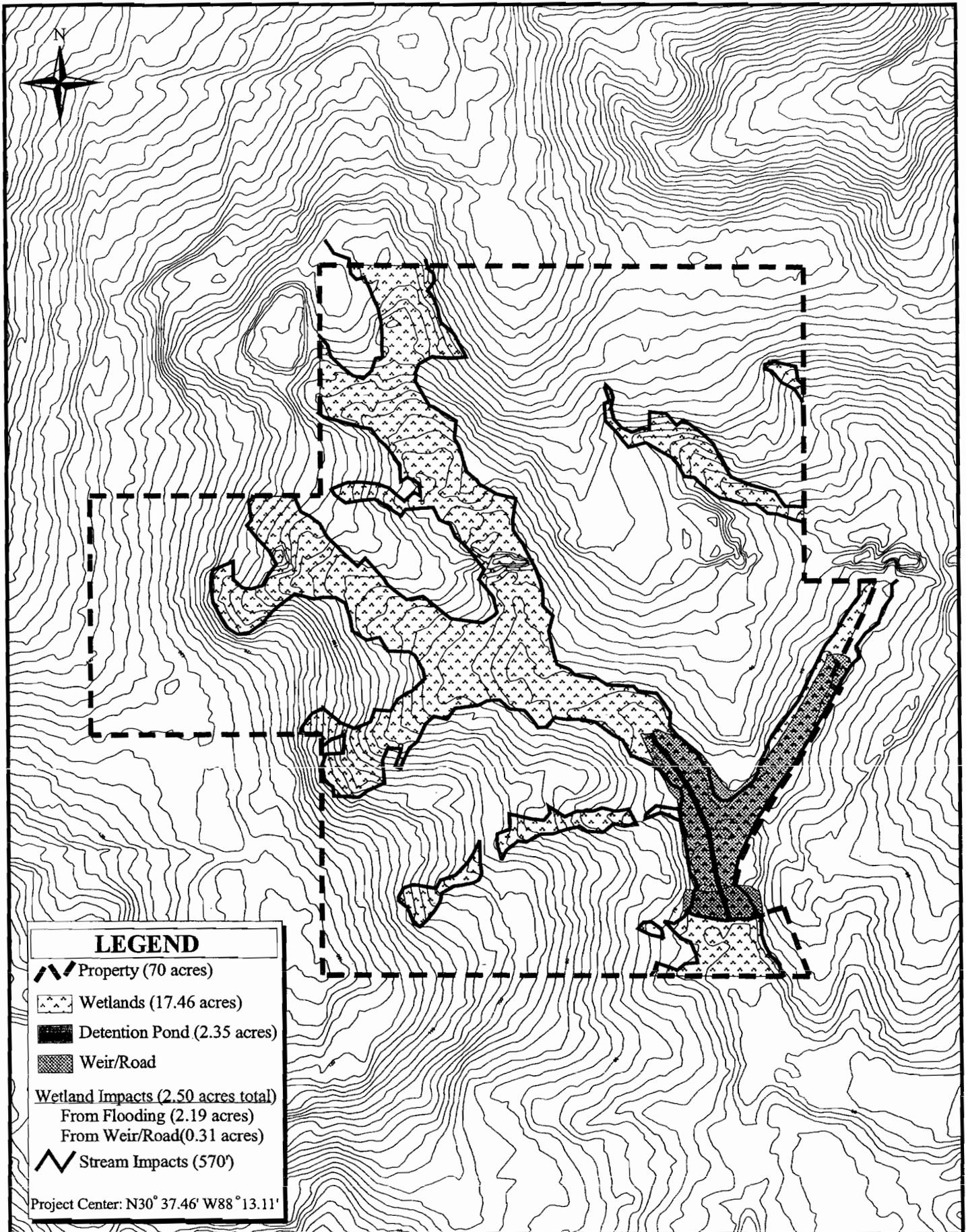


Figure 2. Jurisdictional wetland delineation for the Wynnfield Subdivision.



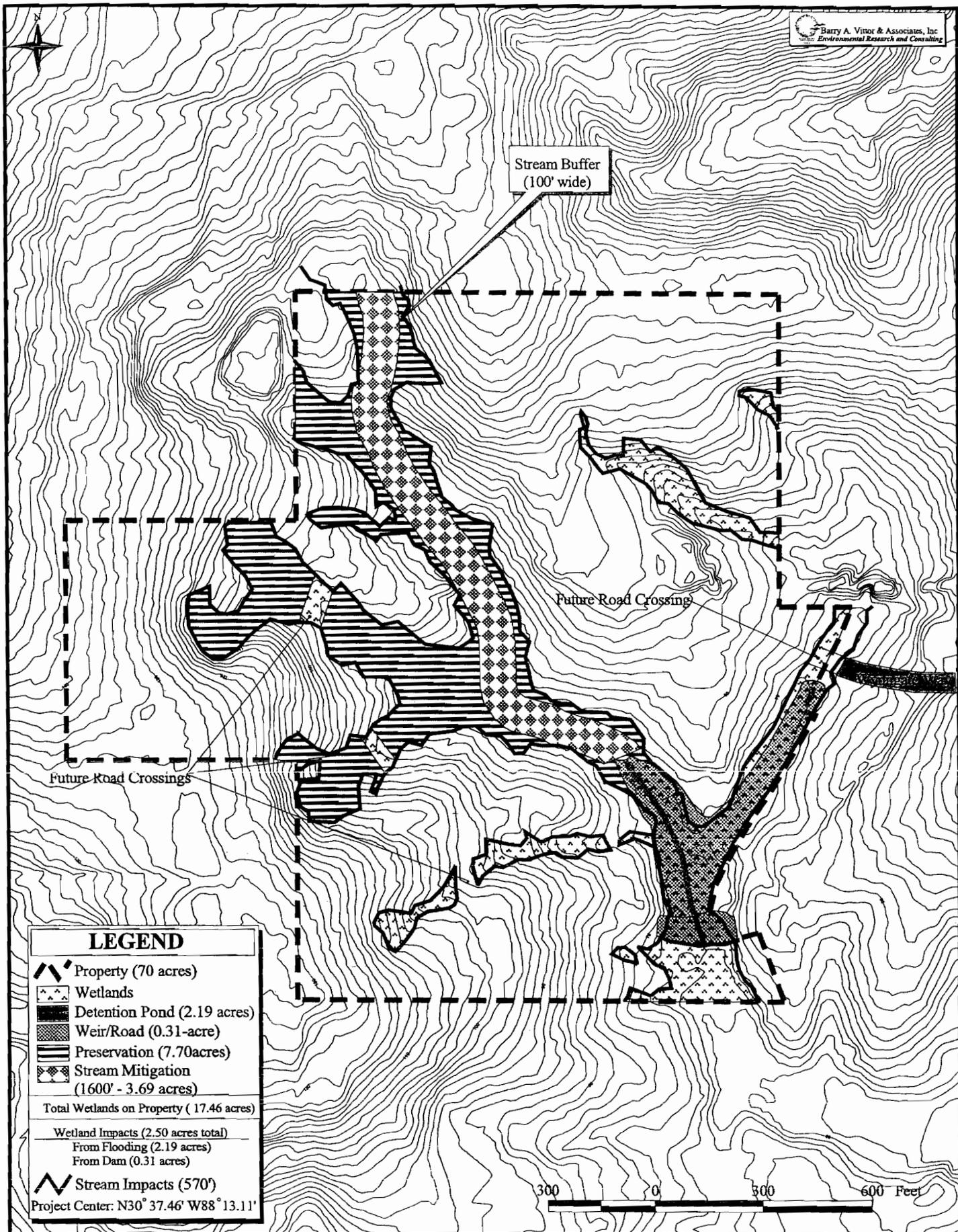


Figure 3. Proposed on-site stream and wetland mitigation for the Wynnfield Subdivision.

AFTER-THE-FACT MITIGATION PLAN
FOR
WYNNFIELD DEVELOPMENT CORPORATION

INTRODUCTION

This After-the-Fact Mitigation Plan was prepared by Barry A. Vittor & Associates, Inc. on behalf of Wynnfield Development, LLC for unauthorized impacts to wetlands that occurred in Wynnfield Subdivision, Mobile County. Specifically, the site is located in Section 7, Township 5 south, Range 3 west, Theodore, AL USGS 7.5-minute Quadrangle Map; latitude N30° 37.46', longitude W88°13.11'. A site locator map is attached (Figure 1).

WETLANDS IMPACTS

Impacts to 2.5 acres of forested wetlands occurred during construction of a 2.35 acre detention pond that was built three years ago as part of the phased subdivision development. The shallow pond was formed by the construction of an overflow weir/wall that maintains a constant flow through the system. Water flowing over the weir wall then passes through two large culverts under the road crossing. The pond flooded approximately 2.19 acres of forested drainage wetlands and seepage wetlands. The detention weir, culverts and road crossing impacted an additional 0.31 acres of forested wetlands. Vittor & Associates delineated and GPS mapped the pond and the remaining wetlands on the undeveloped 70-acre property. A map of the pond and the wetland boundaries is attached. The undisturbed wetlands were evaluated using the Wetland Rapid Assessment Procedure (WRAP) to establish the pre-impact site conditions. After a thorough examination of the wetlands above and below the lake and extrapolating from the LIDAR topographic data and the Vittor & Associates delineation, it was determined that the unauthorized detention pond, and outfall structures had impacted 2.5 acres of the total 17.46 acre of jurisdictional wetlands on the property.

The vegetation in these forested wetlands was comprised of a canopy of sweet bay (*Magnolia virginiana*), swamp tupelo (*Nyssa biflora*), red maple (*Acer rubrum*), water oak (*Quercus nigra*), and buckwheat tree (*Cliftonia monophylla*). The shrub layer contained giant gallberry (*Ilex coriacea*), titi (*Cyrilla racemiflora*), wax myrtle (*Myrica cerifera*), witch hazel (*Hamamelis virginiana*), poison sumac (*Toxicodendron vernix*), and grape vine (*Vitis rotundifolia*). Herbaceous vegetation included soft rush (*Juncus effusus*), chain fern (*Woodwardia areolata*), royal fern (*Osmunda regalis*), St. Johns wort (*Hypericum* sp.), pitcher plant (*Sarracenia* sp.), and arrow arum (*Peltandra virginica*). Field data sheets and a WRAP worksheet are attached.

STREAM IMPACTS

Approximately 570 feet of first order perennial stream was impacted by the detention pond, the road crossing, and detention weir construction. Stream impacts occurred only

on the west fork of the pond where there is a flowing stream with a small, defined channel. The stream is part of an unnamed tributary to Halls Mill Creek and is in the Dog River watershed. The east fork of the pond flooded a titi seepage system that was classified by Vittor & Associates as an ephemeral drain.

PROPOSED MITIGATION

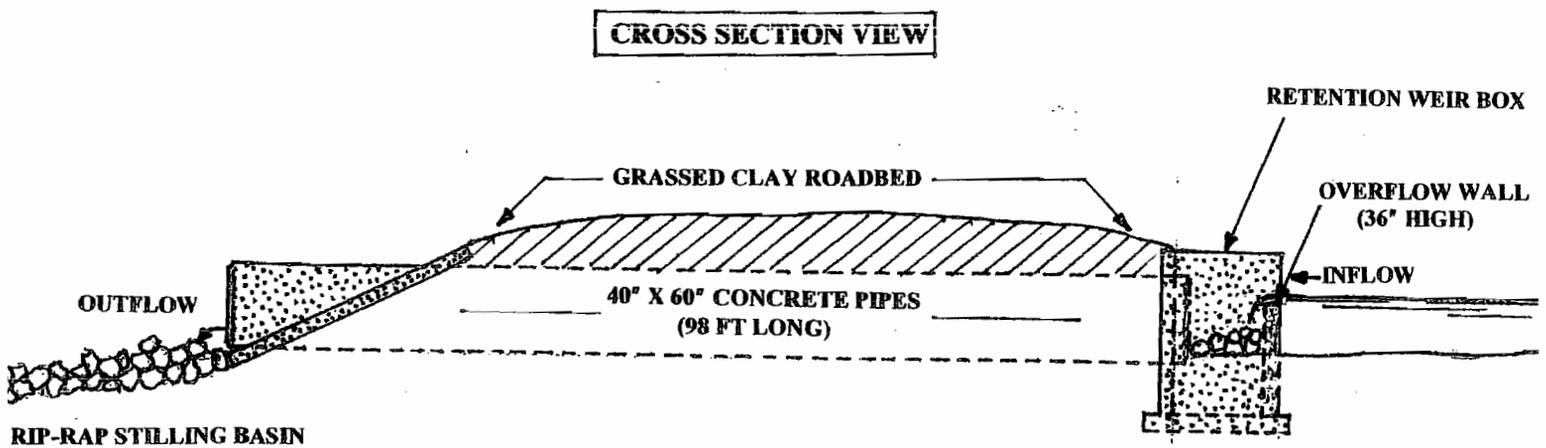
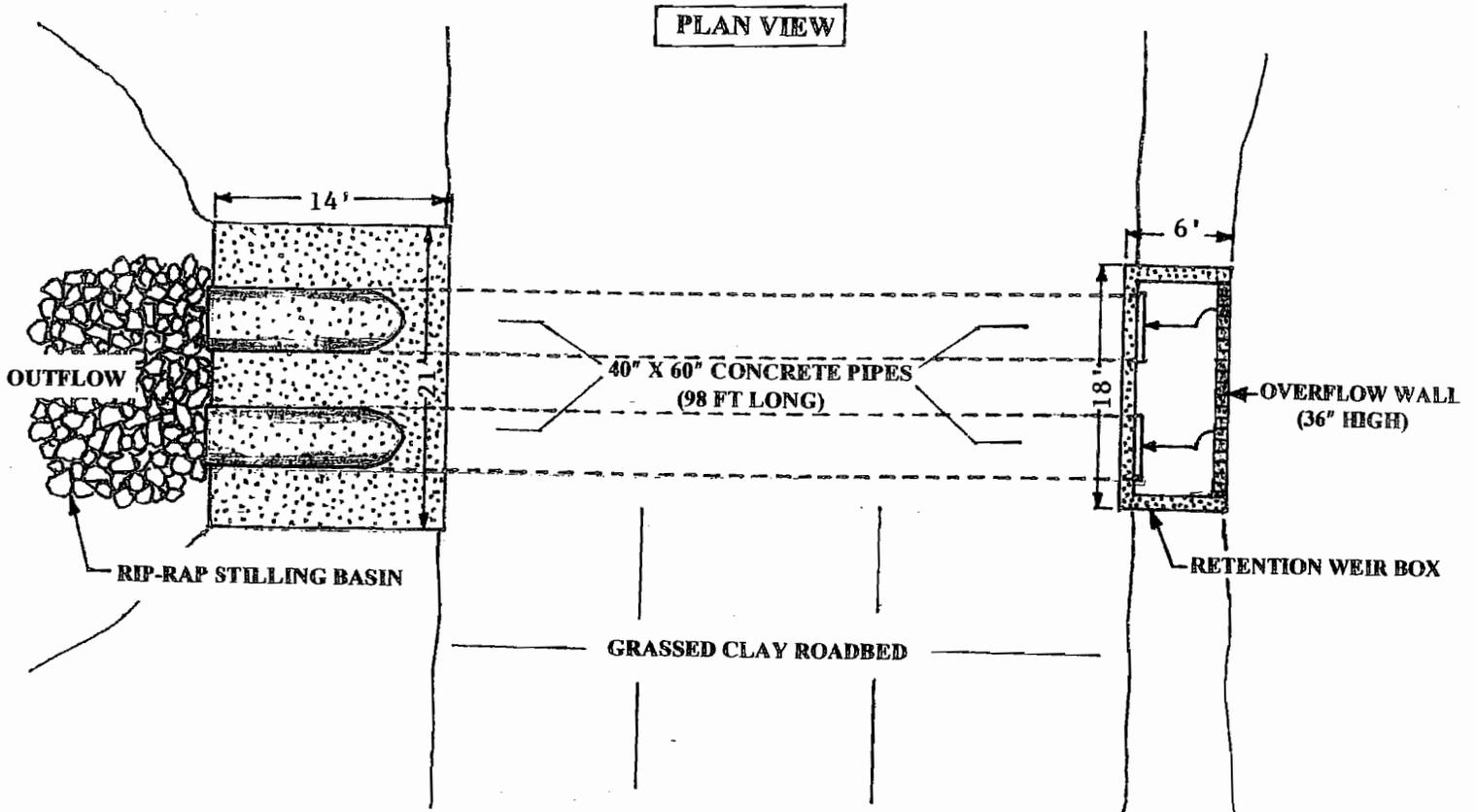
The required mitigation for impacts to 2.5 acres of jurisdictional wetlands was computed using the WRAP score (.60 = medium quality = 2.5-to1 mitigation ratio) and by applying the Temporal Loss Factor (0.9340 for a 3 year lag). This resulted in a wetland mitigation requirement of 6.69 credits, if all mitigation were accomplished by purchasing credits at a mitigation bank.

However, partial mitigation for wetland impacts would be accomplished through the preservation and protection under Restrictive Covenants of 7.70 acre of impact, computed at a 10-to1 ratio. The remaining 1.78 acres of required mitigation would be accomplished through the purchase of 4.76 credits in an approved off-site wetlands mitigation bank (*ie.*, 1.78 acres x 2.5:1 x 1.07 lag = 4.76 credits).

The required stream mitigation for impacts to 570 linear feet of first order perennial stream was computed according to the SOP Compensatory Stream Mitigation Guidelines. Stream SOP worksheets are attached. It was determined that 2,307 stream credits would be needed to account for stream impacts caused by the detention pond.

Partial mitigation for stream impacts would be accomplished on-site through the preservation and protection under Restrictive Covenants of 1,600 linear feet of stream above the pond. This partial stream mitigation would include the protection of a 50 foot-wide riparian buffer on each side of the stream, and would account for 720 mitigation credits. The balance of the required stream mitigation (1,587 credits) would be accomplished through the purchase of credits in an approved off-site, out of service area stream mitigation bank. A 1.6 multiplier was applied for use of an out-of-area stream mitigation bank; this results in a requirement to purchase 2,539 credits.

A map showing the proposed on-site wetland and stream mitigation areas is attached (Figure 3). A Table of Mitigation Credits is also attached.



**WYNNFIELD SUBDIVISION
RETENTION POND
OUTFLOW STRUCTURES**

(Not to Scale)

**TABLE OF MITIGATION CREDITS
WYNNFIELD DEVELOPMENT CORPORATION**

WETLAND IMPACTS: 2.50 ACRES (Temporal Loss Factor Applied)		
On-Site Mitigation Measure and Ratio	Amount	Acres Mitigated
On-Site Wetland Preservation, 10-to-1 Ratio (Restrictive Covenant)	7.70 acres	0.77 x 0.934 = 0.72 acres
Purchase Wetland Mitigation Bank Credits 2.5-to-1 Ratio	4.76 credits	1.78
Total Mitigation		2.50 acres

Impacts to 570 Feet of Intermittent Stream (SOP Worksheets Attached)		
Mitigation Measure and Ratio	Amount	Mitigation Credit Achieved
On-Site Stream Preservation (50 Foot-Wide Buffer Both Sides)	1,600 Linear Feet	720 Credits
Purchase Remaining Stream Credits (1.6 Multiplier for Out-of-Area Bank)	2,539 Credits	1,587
Total Stream Credits		2,307 Credits