



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

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CESAM-RD-C
PUBLIC NOTICE NO. SAM-2008-2038-HEH

March 9, 2009

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

PROPOSED FILL OF WETLANDS FOR A SMALL MAN-MADE TIDAL POND
AND INSTALLATION OF A DRAIN PIPE
IN A TRIBUTARY OF THE DEER RIVER, MOBILE COUNTY, ALABAMA

TO WHOM IT MAY CONCERN: This District has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 USC 1344). Please communicate this information to interested parties.

APPLICANT: Chicago Deer River Properties
Mr. Morgan B. Myles
P. O. Box 190339
Mobile, AL 36619

AGENT: Clark, Geer, Latham &
Associates, Inc.
Mr. Thomas B. Clark
762 Downtowner Loop W.
Mobile, AL 36609

LOCATION: The project is located in the headwaters of a tributary of the Deer River near Mobile Bay, at 2640 Claudia Lane, Theodore (near Latitude 30.52410 and Longitude -88.10045 in Section 17, Township 6 South, Range 1 West) Mobile County, Alabama.

WORK: The applicant proposes to perform the following work: (1) Fill an existing man-made tidal pond: Approximately 4,950 cubic yards of commercially obtained fill material will impact 15,600 square feet (0.36 acres) of tidal waters of the United States. The pond and immediate area includes 0.12 acres of wetlands and 0.24 acres of water bottom. Of this total, 0.05 acres of water bottom and wetlands would be avoided along the western edge of the proposed action area. Therefore, a total of 0.07 acres of shrub, scrub marsh wetland of low quality would be filled. It is proposed that a minimum mitigation credit of 0.25 credits be made at a mitigation ratio of 3.5 to 1 for payment of \$2,500.00 to an appropriate wetland mitigation bank. The proposed project would provide room for traffic circulation, control, monitoring, and security in the Theodore Industrial Port area, with added benefits to Homeland Security. With the implementation of Homeland Security's Terminal Identification Credential (TWIC) program, port facility's in the area that serve foreign flag vessels have been charged with the responsibility of enforcing the terms of the program which include monitoring and restricting the movement of all persons requiring access to its facility. (2) Extend an Existing Pipe: Approximately 90 linear feet of cross drainage pipe would extend the length of an existing 48-inch, overall diameter pipe that

allows tidal waters circulation under the existing access road to the port facility and adjacent wetlands. A concrete headwall would be constructed at the end of the pipe line extension with an inlet installed approximately mid way of the extended pipe line.

The applicant has applied for state water quality (WQ) certification in accordance with Section 401(a) (1) of the Clean Water Act, and for coastal zone (CZ) consistency in accordance with the State Coastal Zone Management Program. Upon completion of the required advertising and public comment review, a determination relative to WQ certification and CZ consistency will be made by the Alabama Department of Environmental Management.

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 use 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 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.

March 9, 2009

In accordance with Section 106 of the National Historic Preservation Act, and Appendix C of 33 CFR 325, the undertaking defined in this notice is being considered for the potential to effect cultural and historic properties within the permit area. Although the extent of federal control and responsibility for these considerations are confined to the limits of the permit area for this particular project, the potential indirect effects that may occur to historic properties as a result of this undertaking are also being considered. We are seeking comment from the State Historic Preservation Officer, federally-recognized American Indian tribes, local historical societies, museums, universities, the National Park Service, and concerned citizens regarding the existence or the potential for existence of significant cultural and historic properties within the permit area. Historic architectural or archaeological investigations may be necessary to ascertain the existence of such resources. Efforts will be made through the consultation process to avoid, minimize, or mitigate any adverse effects to significant cultural and historic properties that may occur as a result of this undertaking. The district engineer remains the final decision authority.

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. The National Marine Fisheries Service requires the evaluation of impacts to Essential Fish Habitat of estuarine species.

The Mobile District has determined that the proposed action would not adversely impact Essential Fish Habitat or associated fisheries managed by the Gulf of Mexico Fishery Management Council or the National Marine Fisheries Service.

Correspondence concerning this Public Notice should refer to Public Notice Number SAM-2008-02038-HEH and should be directed to:

District Commander
U.S. Army Engineer District, Mobile
Post Office Box 2288, Mobile, Alabama 36628
Attention: Regulatory Division

with a copy to the:

Alabama Department of Environmental Management
4171 Commanders Drive
Mobile, Alabama 36615

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 the project manager via e-mail at harry.e.halley@usace.army.mil or telephone number **(251) 690-3262**. Please refer to the above Public Notice number.

March 9, 2009

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.

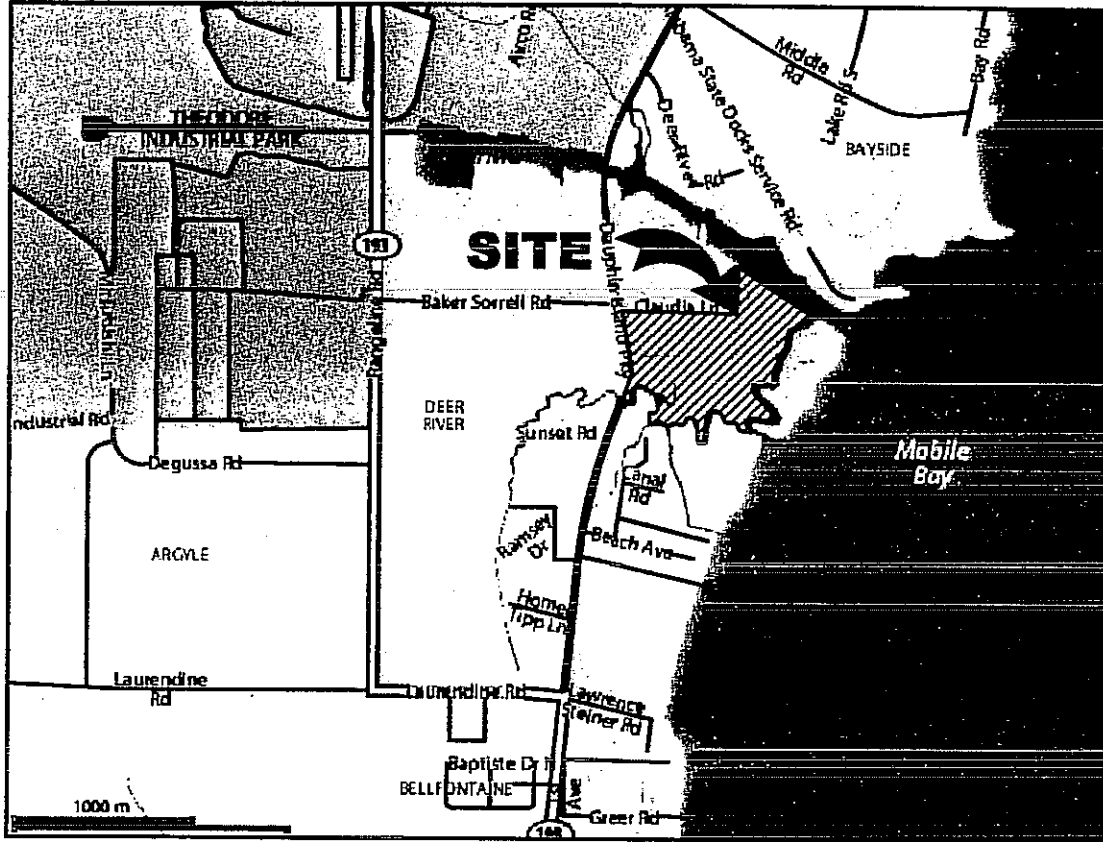
MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosures

1. Vicinity Map
2. Overall Site Plan
3. Enlarged Existing Site Plan
4. Enlarged Proposed Site Plan

**CLARK, GEER, LATHAM
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ENGINEER • ARCHITECT
762 Downtowner Loop West
Mobile, Alabama 36609
(251)344-7073 FAX (251)343-9179

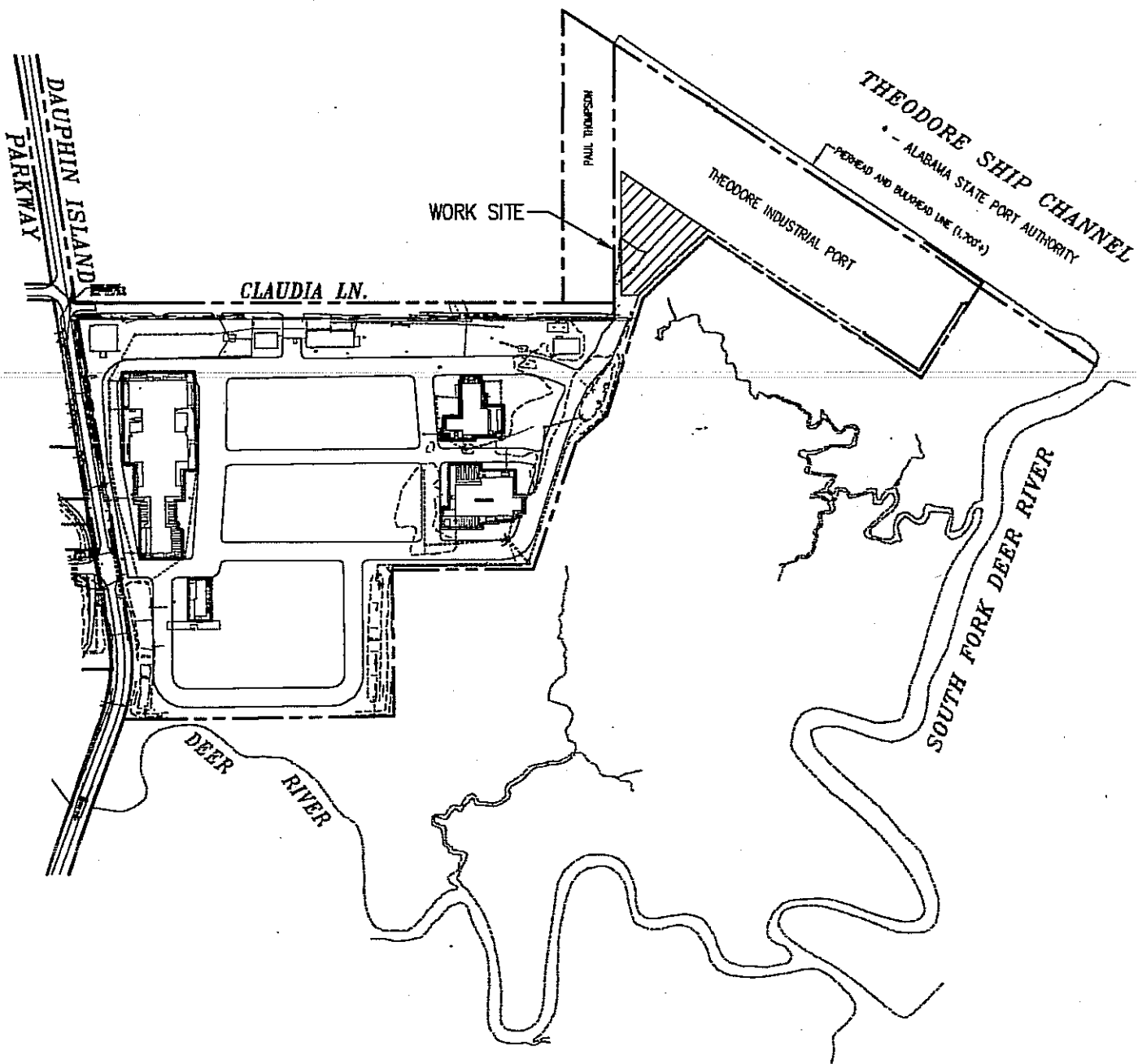
CHICAGO DEER RIVER PROPERTIES
THEODORE INDUSTRIAL PORT
THEODORE SHIP CHANNEL AT
SOUTH FORK DEER RIVER
CGL PROJECT NO. 0803-11
DATE: FEBRUARY 2009



VICINITY MAP
N.T.S.

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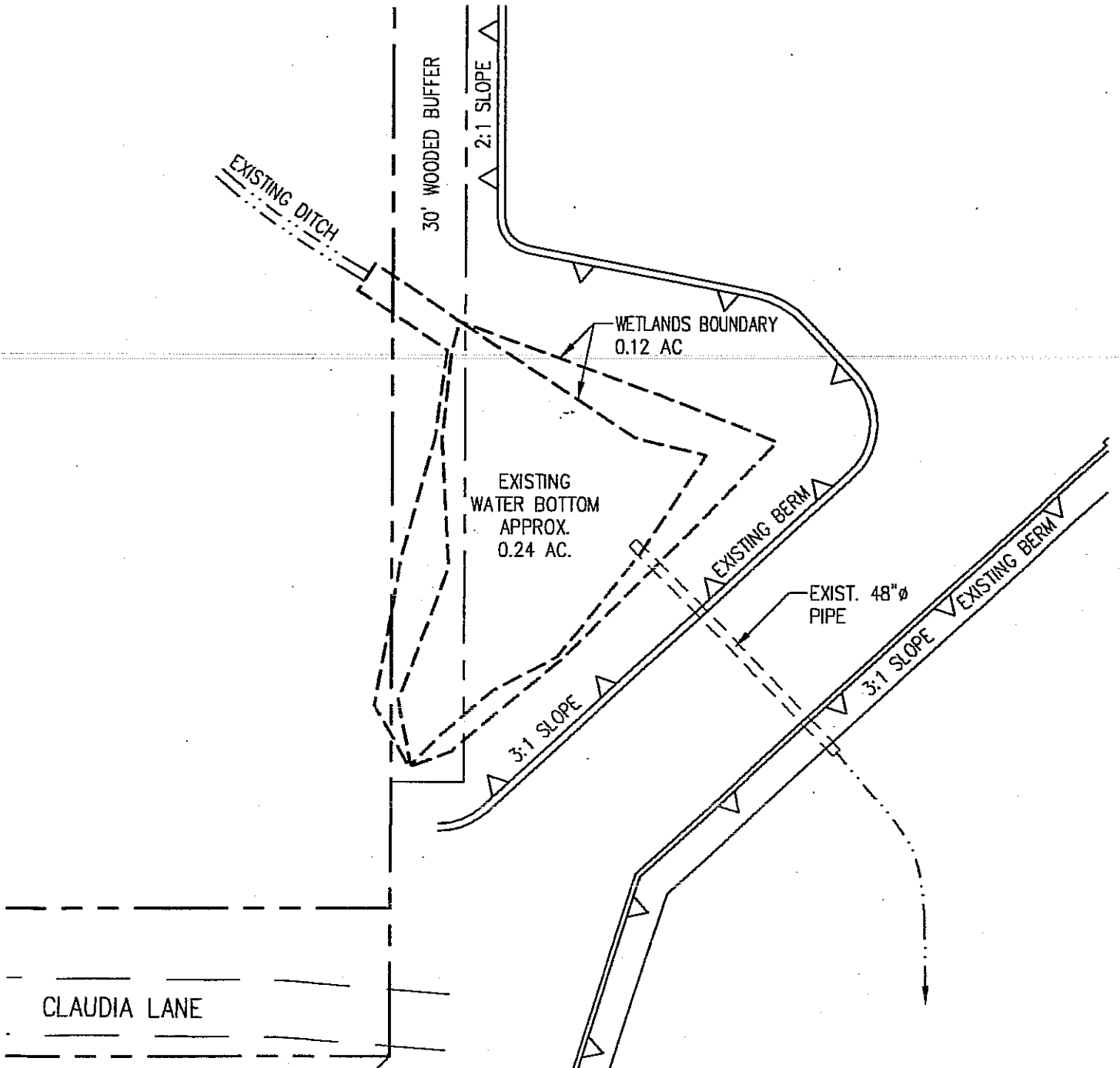
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OVERALL SITE PLAN
1"=600'

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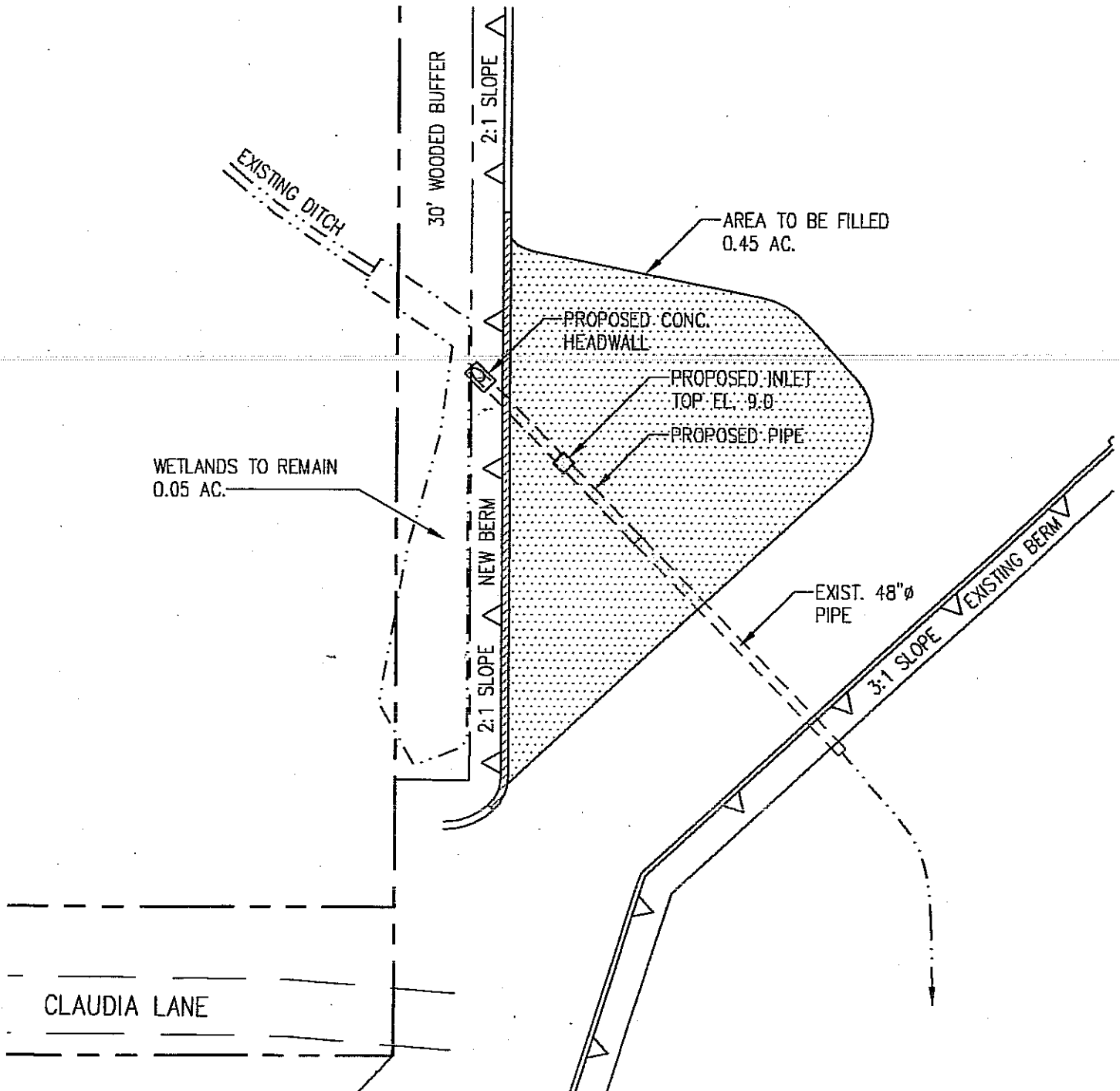


ENLARGED EXISTING SITE PLAN

1"=60'

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1"=60'

DEPARTMENT OF THE ARMY
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P.O. BOX 2288
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