

AGENDA
North Carolina Land and Water Fund
Board of Trustees Meeting
December 6, 2022, 1:00 p.m. – 4:00 p.m.

State Archives Building
Third Floor Conference Room
109 E. Jones St. Raleigh, NC 27601

This meeting will also be available to the public by teleconference. Please contact Terri Murray at teresa.murray@ncdcr.gov or 919-707-9400 to request a meeting invitation/call-in for the meeting.

Board of Trustees:

John Wilson (Chair), Ann Browning, Greer Cawood, Amy Grissom, Renee Kumor, Mike Rusher,
Jason Walser, Darrel Williams, David Womack

COMMENCEMENT

- 1) Call to Order (Chair)**
 - a) Welcome**
 - b) Roll call**
 - c) Compliance with General Statute § 138A-15**

General Statute § 138A-15 mandates that the Chair inquire as to whether any Trustee knows of any conflict of interest or the appearance of a conflict of interest with respect to matters on the agenda. If any Trustee knows of a conflict of interest or the appearance of a conflict of interest, please state so at this time.
 - d) Please put cell phones on vibrate or turn off**
 - e) Revisions, additions, and adoption of the agenda**
- 2) Consent Agenda (Chair)**
 - a) Approval of minutes from the September 2022 board meeting**
- 3) Executive Director's Update (Will Summer)**

PUBLIC COMMENTS

The public is invited to make comments to the Board (Chair) *three minutes per person*

BUSINESS

- 1) Executive Committee Report (Chair)**

Staff will review the results of the recent Executive Committee meeting.
- 2) Acquisition Committee Recommendations (Chair)**
 - a) Triangle Land Conservancy Grant Contract Assignment (Marie Meckman)**

Staff will review the committee recommendation to transfer grant contract 2018-066 from Triangle Land Conservancy to Wake County.

b) Catawba Lands Conservancy Extension Request (Marissa Hartzler)

Staff will review the committee recommendation to extend grant contract 2022D-001 for the Catawba Lands Conservancy Sandifer Wilson donated mini grant project.

c) City of Morganton Conservation Easement Amendment Proposal (Justin Mercer)

Staff will review the committee recommendation to amend a conservation easement in Burke County recorded as part of 1997A-032.

d) Town of Wake Forest Conservation Easement Amendment Proposal (Justin Mercer)

Staff will review the committee recommendation to amend a conservation easement recorded in Wake County as part of 2000A-016.

e) Unique Places to Save Scope Change Request (Marissa Hartzler)

Staff will review the committee recommendation for a scope change to grant contract 2020-098 from Unique Places to Save.

3) Allocation of Monitoring Funds (Justin Mercer)

Staff will present a request to assign unallocated principal for easement monitoring.

ADJOURNMENT

Information Item

Staff members: Will Summer

Agenda Item 1) Executive Committee Report

The Executive Committee reviewed the following items and requested that staff schedule committee meetings for further consideration of each in the winter/spring:

Executive Committee

- Definition and expectations for third-party right of enforcement in conservation agreements
- Clarification of delegations made through the Decision Matrix Policy
- Social justice considerations in rating system

Acquisition Committee

- Reconsideration of stewardship cost as part of the rating system
- Easement amendment policy updates
- Donated Minigrant program updates
- Native community restoration and forest management

Restoration Committee

- Conservation/management agreements for atypical restoration projects (e.g. dam removal, culvert replacement, pocosin restoration)
- Clarification of buffer/practice width expectations
- Clarification of conservation agreement term expectations on agricultural lands
- Broadening Innovative Stormwater Program expectations

The committee also considered conflict of interest expectations and requested that staff add questions to 2023 applications requiring disclosure and explanation of any identified conflicts. Staff will report any conflicts to trustees during project review.

Action Item**Staff member: Marie Meckman**

**Agenda Item 2a) Triangle Land Conservancy Grant Contract Assignment – 2018-066
TLC Turnipseed South****Background**

Triangle Land Conservancy has been working with Wake County on a joint project to protect 51 acres in the Marks Creek Floodplain which drains to the Neuse River, providing drinking water to the Town of Clayton and Johnson County. The original conservation strategy involved TLC purchasing the property, and after closing, transferring the property to Wake County. Unfortunately, the project has stalled multiple times due to delays related to COVID and then to bond fund availability. The purchase agreement with the landowner expires on December 22, 2022.

Closing materials are almost complete but were not completed in time for NCLWF to review and approve by the end of the calendar year. Wake County has agreed to purchase the property and seek reimbursement from NCLWF after project documents and easements are reviewed and recorded in 2023. The contract will need to be assigned to Wake County to allow this change in strategy.

Other than changing the Grant Recipient, there will be no other changes made to the grant contract.

Wake County and TLC have submitted letters acknowledging their responsibility in this transaction.

Committee recommendation

The committee unanimously recommended approving the assignment of the grant contract to Wake County.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: letters requesting contract assignment



10/26/2022

Will Summer
North Carolina Land & Water Fund
Nature Research Center – 121 W. Jones Street
1651 Mail Service Center
Raleigh, NC 27699-1651

RE: Request to Assign Project No. 2018-066 to Wake County

Dear Mr. Summer:

On behalf of Triangle Land Conservancy (TLC), I would like to request that NCLWF assign TLC's grant regarding the fee acquisition of the Turnipseed South property (Project No. 2018-066) to Wake County.

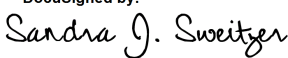
The Turnipseed South property is located directly adjacent to open space already owned by Wake County, and as stated in our application, Wake County has always been the intended landowner of the property.

Our purchase agreement with the landowner expires on December 22, 2022. We understand that NCLWF is not able to accommodate additional project closings this calendar year. Therefore, we wish to assign our NCLWF grant contract to Wake County so that they may purchase and take title to the property before the expiration of our purchase agreement.

Wake County may then seek reimbursement from NCLWF for up to the \$443,511 grant amount next year once all project documents have been reviewed and approved, and the NCLWF easement has been recorded on 39 acres and the TLC easement recorded on the entire 51-acre property. TLC commits to monitoring the State-held easement once it is recorded, as well as the TLC conservation easement.

We believe this is the best approach to conserving this property, and we appreciate the NCLWF's consideration of this request. If you have any questions please contact Brenna Thompson, Land Protection Manager East, at bthompson@triangleland.org or 603-244-0497.

Sincerely,

DocuSigned by:

0E0CE62ACF51421...
Sandra Sweitzer

Executive Director
Triangle Land Conservancy



Parks, Recreation, and Open Space

TEL 919 856 6170
FAX 919 856 6181

Wake County Office Building 10th Floor

337 S. Salisbury Street

PO Box 550, Suite 1000

Raleigh, NC 27602

<http://www.wakegov.com/parks/Pages/default.aspx>

October 25, 2022

Will Summer
North Carolina Land & Water Fund
Nature Research Center - 121 W. Jones Street
1651 Mail Service Center
Raleigh, NC 27699-1651

Dear Will:

This letter is in support of Triangle Land Conservancy's (TLC) request to transfer their North Carolina Land & Water Fund grant (NCLWF Project No. 2018-066) in the amount of \$443,511 to Wake County.

Wake County has been working with TLC on this conservation project for several years. The landowners wish to close before the end of the calendar year and therefore it is necessary for the County to play a larger role in closing this property.

After consultation with Wake County's Facilities, Design and Construction-Real Estate Office and the County Attorney's Office, we support TLC's request to transfer NCLWF Application 2018-066 Turnipseed South from TLC to Wake County thereby allowing the most efficient acquisition of this important property. We acknowledge that we have read it in full and accept the requirements within it. We further agree to assume all responsibilities and rights in the original grant contract and its subsequent amendment and support the NCLWF funding of this project now to insure protection of the Alcock property and its associated tributaries of Mark's Creek and the Neuse River.

Please contact either of us at the numbers below if we may be of assistance.

DocuSigned by:

Chris Snow

8BFA026D5A384E0...

Christopher Snow

Director, Wake County Parks, Recreation & Open Space (919) 856-6677

DocuSigned by:

Mark Edmondson

E2E29283A6B8424...

Mark Edmondson

Real Estate Project Manager (919) 856-6176

Action Item**Staff member: Marissa Hartzler**

Agenda Item 2b) Catawba Lands Conservancy Extension Request**Background**

On January 20, 2022, Catawba Lands Conservancy received an administrative award of \$17,204 for project 2022D-001 to record a donated conservation easement on approximately 10.9 acres in Mecklenburg County. The conservation easement would protect riparian buffers of an unnamed tributary to the Catawba River and preserve the historic landscape around the Thomas T. Sandifer farmhouse, one of the few remaining Civil War-era farmhouses in the county.

Catawba Lands Conservancy completed all due diligence required and NCLWF staff issued an approval to record the conservation easement pending successful subordination of a mortgage from the landowner's lender. While the request to subordinate is currently being reviewed by the lender and early review has indicated they are likely to move forward with subordination, Catawba Lands Conservancy needs additional time to for the lender to complete this critical step.

While the Donated Mini Grant program does not traditionally allow for extensions, staff feel that successful completion of the project is possible with additional time.

Committee recommendation

The committee unanimously recommended granting a six-month extension for the contract to allow for the subordination of the mortgage to be recorded prior to recording the conservation easement.

Board action needed

Approve, deny, or amend the committee recommendation.

Action Item**Staff member:** Justin Mercer

Agenda Item 2c) 1997A-032 City of Morganton Sewer Expansion and Greenway Amenities Amendment

The City of Morganton is requesting an amendment to the conservation easement to allow for a new sewer line, greenway amenities, future utility expansion, and a pedestrian bridge over the Catawba River.

Background

In 1997, the North Carolina Land and Water Fund awarded a grant in the amount of \$550,000 to the City of Morganton for the acquisition of approximately 198 acres along the Catawba River. The resulting conservation easement granted to the State of North Carolina allowed for the creation of Catawba Meadows Park.

The City of Morganton has recently received a number of requests for housing development on the north side of the city, but the existing sewer system does not have the capacity to support additional housing. The City has worked with a consulting engineer to design a new sewer expansion project and has determined that crossing the State's conservation easement at Catawba Meadows Park is the preferred option. Time constraints by the funders require that the money be allocated by 2024. The proposed sewer expansion would impact approximately 0.95 acres of the easement held by NCLWF. In addition, the City of Morganton is requesting an allowance of up to 2 additional acres to accommodate future utility lines.

The need to request an amendment to the conservation easement brings the opportunity to consider additional future needs for the property. The existing easement allows for construction of a paved greenway, but unlike NCLWF's modern greenway language, the existing easement is somewhat vague on maintenance and allowable amenities to support the trail (benches, bicycle workstations, water fountains, etc.). Future plans for the greenway also include expansion to property across the Catawba River. The City of Morganton would request to update the greenway language to allow for support amenities, define maintenance practices, and allow for a pedestrian bridge across the Catawba River.

Committee recommendation

The committee unanimously recommended approving the amendment request with the understanding that the final locations of the 2-acre utility right-of-way and pedestrian bridge will require NCLWF staff approval prior to construction and that \$10,620 in compensation be paid to NCLWF stewardship endowment to fund monitoring and mitigate offsets for this amendment.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: Policy, request letter, engineer's consultation memo



Stewardship Program Policies:

Conservation Agreement Amendment Policy (STW-001)

Background: On rare occasions, permanent conservation agreements may need to be modified or amended. This policy was established and approved by the Board to provide a consistent and predictable process for these cases.

Policy:

The North Carolina Land and Water Fund (NCLWF) was established in 1996 primarily to protect water quality interests in the State. In 2013, the purpose of the NCLWF was expanded to include the protection of natural heritage, historic and cultural resources as well as to buffer military bases. In addition, with the dissolution of the Natural Heritage Trust Fund (NHTF) in 2013, the North Carolina Land and Water Fund became the de facto appointed body for matters that would have gone before the NHTF in the past. Therefore, this document pertains to changes to conservation agreements initially entered into by either of the aforementioned funds.

When the Board elects to fund a land protection project, there are two arrangements in which the State retains an interest in perpetuity: 1) a State-held conservation easement, and 2) dedications under either the State Nature Preserves Act or State Nature and Historic Preserve Dedication Act. There may also be term agreements that exist only for a set number of years. These instruments, hereafter referred to broadly as “conservation agreements,” should be designed and written so as to avoid the need for an amendment or modification of the agreed upon terms. It is the State’s presumption that they will not be amended or modified. In exceptional cases or in unforeseen circumstances, this presumption may be rebutted provided the procedures outlined below are met. Among other factors, the original intent of the agreement will be considered.

Because every property is unique, no decision by the Board with respect to an amendment of a conservation agreement shall form a precedent with respect to any other request for an amendment. Although this amendment policy sets forth certain guidelines and procedures, nothing herein shall be deemed to impair the sole and absolute discretion of the Board of Trustees. An amendment is an extraordinary procedure and not available to a landowner as a matter of right. All amendments must comply with applicable federal, state and local laws.

- I. **Minor amendments** – These amendments, as described below, have been deemed to be small in scale or impact, and the Board has delegated consideration and approval to staff.
 - A. Amendments to language – Changes to the language of a conservation agreement that do not affect the spatial boundaries.
 1. *Technical amendments or corrections* – Adjustments that have no effect on the conservation values or correct a clerical error in the language may be approved at the staff



level.

2. *Other amendments* – All other amendments to language not covered under section I.A.1 must be taken to the NCLWF Board for consideration per the guidance in section II.

B. Amendments to boundary – Changes to the spatial boundary of an agreement.

1. *Amendments to accommodate public works projects* (i.e. roads, bridges, sewer and water lines or associated infrastructure) may be approved at staff level if the following conditions are met:
 - a. The amendment would affect less than 1 acre or 5% of the easement area, whichever is smaller.
 - b. The project would be perpendicular or minimal distance parallel to surface water if any riparian buffers are affected.
2. *Other boundary amendments* – All other amendments to the boundary not covered under section I.B.1 must be taken to the NCLWF Board for consideration per the guidance in section II.

II. **Major amendments** – All amendments not explicitly covered above will be considered by the Board and must be affirmed by a two-thirds vote in order to pass.

- A. Public works projects – Amendments to accommodate public works projects that are not covered above may be adopted by the NCLWF Board.
- B. Public Drinking Water Supply Reservoir – After the Record of Decision has been issued (final location has been permitted) an easement or portions of an easement may be amended by the NCLWF Board for development of a public drinking water supply reservoir.
- C. Other Circumstances – All proposals for amendment of easements for circumstances not covered above must meet the following criteria:
 1. Clearly serve the public interest and provide a public or community benefit
 2. Have a net beneficial effect on the relevant conservation values protected by the easement
 3. Not result in private benefit other than the benefit inherent to the conservation agreement
 4. Must be consistent with the conservation purpose(s) and intent of the easement
 5. Must be consistent with the documented intent of the donor(s), other grantors and any direct funding source
 6. Demonstrate that no practicable alternatives exist and that the impacts have been minimized

III. **Approved amendment requirements** – The following outlines the expectations for approved amendments:

- A. Compensation – The NCLWF must be made whole from any loss of monetary or conservation



value resulting from an amendment. In the case of an amendment required as the result of the State or a municipality's power to take private property for public use, the NCLWF may elect to be reimbursed, at minimum, the current fair market value, as determined by the State Property Office, or pro-rated amount of the investment at the time of the grant contract, whichever is greater. In other cases where the approval of the amendment is solely at the Board's discretion, the terms of compensation, whether monetary or by land swap, should be generously to the favor of the NCLWF and its conservation interests by a ratio of at least 3:1. Any exchange of land shall consist of land of equal or greater conservation value.

Funds reimbursed to NCLWF from an easement amendment will be returned to the appropriate program area.

- B. Other costs – All costs associated with the amendment, including survey, transaction, increased stewardship, and any fees charged by the State Property Office, will be paid by the party making the request.

IV. **Amendment request requirements** – The following outlines the required information for amendment requests:

- A. The name, address, and phone number of the property owner.
- B. The nature of the activity proposed to be conducted.
- C. The location of the activity.
- D. A map of sufficient detail to accurately delineate the boundaries of the land proposed to be impacted to carry out the activity, including the location and dimensions of any disturbance associated with the activity.
- E. An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the easement, preserve aquatic life and habitat and protect water quality.
- F. Plans for any best management practices proposed to be used to control the impacts associated with the activity.

V. **Notifications** – For any major amendments, the following parties will be notified at least two weeks before a Board decision is scheduled:

- A. The original parties associated with the conservation agreement that is proposed to be amended.
- B. The general public and other interested parties.

Versions	Revisions
July 10, 2013	Original Effective Date
September 16, 2014	Revised and Adopted
March 9, 2015	Revised and Adopted
September 14, 2016	Revised and Adopted
May 21, 2019	Revised and Adopted



August 30, 2022

Justin E. Mercer
Stewardship Manager
North Carolina Land and Water Fund
Division of Land and Water Stewardship

Re: Amendment to conservation easement from City of Morganton

Dear Mr. Mercer:

The City of Morganton entered into a conservation easement with the Clean Water Management Trust Fund on August 21, 1998 concerning the old Ralph Edwards Tree Nursery property. The easement covers a 200-acre +/- tract of land, which the City operates as Catawba Meadows Park, adjacent to the Catawba River.

The City has had many requests for housing development on the North side of the city, but there is not enough sanitary sewer capacity to support additional housing. The existing sanitary sewer along the N. Green Street corridor is currently reaching maximum capacity and is at risk of manholes overflowing. This could threaten the health and public safety of the community and have significant negative environmental impacts. Therefore, a new sewer line is required.

The City has hired consulting engineers, Merrick, to study and design the Bost Road Sewer Expansion Project. Merrick researched five possible routes for the line and concluded that route 1, which crosses Catawba Meadows Park, will be the only feasible route and the one that causes the least impact to the river (see attached memorandum). Morganton is requesting an amendment of the conservation easement in order to extend the sanitary sewer through Catawba Meadows Park.

Morganton has received grant funding from Dogwood Health Trust and direct dollars from ARPA funds to pay for the Bost Road Sewer Expansion. The time constraints of the grantors require this money to be allocated by 2024. In order for the City to meet this requirement and make necessary improvements to sanitary sewer service, 100% designs and project bids need to be secured as soon as possible, long before the 2024 deadline.

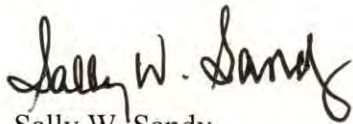
For future upgrades to Catawba Meadows Park, Morganton also requests amendment of the conservation easement for installation and operation of all other city utilities (water, electric, cable) within the easement area, along with the new sewer line. Land disturbance for the sewer line will be approximately 0.95 acre, and the estimated disturbance for future utilities would be no more than an additional 2 acres.

Finally, the City would like to add supportive greenway fixtures such as benches, bicycle workstations, water fountains, signage, and future greenway accessories to the existing (specifically authorized) paved greenway path. The Easement Agreement already permits observation decks or fishing piers along the river. In order to improve the greenway in the future, and to extend it across the Catawba River, the City requests further amendment of the conservation easement to allow for a pedestrian bridge across the river.

The sewer line will be constructed in such a way as to minimize impact to the property and will disturb 0.95 acre or less within the easement area. There will be no surface impact inside the riparian buffer.

Morganton is submitting this request for amendment of the conservation easement and appreciates your assistance in expediting this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Sally W. Sandy". The signature is fluid and cursive, with the first name "Sally" being more prominent.

Sally W. Sandy
City Manager



Re: Bost Road Pump Station – Ralph Edwards Riparian Buffer and Conservation Easement Crossing

To: Justin Mercer, Stewardship Manager, North Carolina Land and Water Fund
Sonja Marston, Assistant City Manager and Rob Winkler, Special Projects Manager
City of Morganton, City Hall

From: 305 E. Union St. Suite A100
Morganton, NC 28655
828-437-8863

Cc: Sally Sandy, City Manager; Brad Boris, Water Resources Director; Louis Vinay, City Attorney; Phillip Lookadoo, AICP, CFM, Development & Design Services Director; Mario Sclarandis, PE, City Engineer; Mark Hall, Civil Design Technician II

Date: June 14, 2022

This memorandum documents the need for a proposed 8-inch force main (pressure pipe) connection from the Bost Road Pump Station, on the west side of the Catawba river, to the existing 42" gravity sewer line along Sanford Dr. on the east side of the river. The force main will cross under the Catawba river by horizontal direction drilling, eliminating above ground impacts within the 250' Riparian Buffer located in Morganton's Catawba Meadows Park.

Background

As part of the Bost Road sewer pump station expansion project, a new force main pipeline is required. This sewer project is needed to provide relief to the sewer system capacity issues along the entire N Green Street corridor and upstream sewer shed. Sewer system modeling has already shown that manholes in this area will surcharge to near overflow conditions if left as-is. Without these improvements, the risk of sewer overflows increases significantly, threatening the health and safety of property owners and the public, as well as posing a risk to the river and surrounding environment.

Alignment Options

See Attachment 1 for a plan view of the routes mentioned below.

- **Route 1 – Current Design Route:** The only existing gravity outfall with capacity to handle the flow from the project is located on the opposite side of the Catawba river from where the current capacity issues exist. This main outfall runs along/parallel to the Sanford Drive (Hwy 64) corridor. Most of the force main line is through the abandoned golf course, which is a heavily disturbed area. After investigation and consideration, Merrick recommends Route 1, the current alignment.
- **Route 2 – South:** The force main cannot cross south of the proposed route, between the end of the riparian buffer and conservation easement and N. Green Street (Hwy 181) bridge due to conflicts with the bridge abutment, inadequate space between the highway and the river to allow for

construction of a crossing, and multiple unavoidable utility conflicts. Additionally, there is insufficient space to properly avoid the Catawba River riparian buffer.

- Route 3 – North: Trying to cross to the north of the planned route is not feasible due to the presence of homes/structures and a significantly greater impact to existing vegetated areas and buffers along the river. The total length of the impacts to vegetated areas north and east along the river would be at least 7900 linear feet.
- Route 4 and 5: Other alignment options assessed re-routing flow to the south of the N Green St sewer corridor and tying into the existing sewer line that crosses the Catawba River to the south of Freedom High School. Both routes will have unavoidable utility conflicts in and adjacent to all road rights of way. In addition, this would also require upsizing several existing gravity sewer lines from Bost Rd, along N. Green St., and potentially further downstream, which requires more space and significant bypass pumping for months.
 - Route 4 – Catawba River: Additionally, this route would require upsizing the entire line parallel to the Catawba River, from Wamsutta Mill Rd to the river crossing, impacting a large, vegetated area parallel to the Catawba River and areas in the riparian buffer. This area would undoubtedly have environmentally sensitive areas to consider, such as wetlands, intermittent and/or perennial streams, and potentially endangered or protected species habitat.
 - Route 5 – Independence Blvd: Additionally, this route would require excavating to depths over 20-ft, along Independence Rd., and construction in close proximity to Canoe Creek. These depths would make construction activities disrupt a larger area and for a longer time.

Proposed Force Main Installation

Attachment 2 shows a more detailed view of Route 1, within the conservation easement. Route 1 proposes to cross the Catawba River by horizontal directional drilling (HDD). The force main will be an 8-inch diameter High Density Polyethylene Pipe (HDPE) pipe inside a 20" diameter casing pipe, a minimum of 10 feet below the river's bottom. The force main pipe is sized for future development with the only future work expected to be potential maintenance. With the use of HDPE, the anticipated maintenance of the pipe is minimal. HDPE is chosen as the material because it is flexible and butt fused/welded together as a single pipe to prevent leakage, and the outer casing pipe is for added protection against pipe damage and leak prevention/containment. HDD is a trenchless technology and the preferred method for crossing rivers due to its minimal environmental impact or surface disruption compared to other sewer installation methods. See Figure 1, 2, and 3 from a recent similar HDD crossing, which crossed through a golf course, neighborhood, and under a lake.



Figure 1 – HDD preparation



Figure 2 - HDD pit and pipe installation



Figure 3 - Post Construction, before seeding/landscaping

The proposed force main will start on the west side of the Catawba River, before crossing by HDD at a near right angle to the river and will exit at the ground surface outside of the riparian buffer before continuing along by traditional trench install. This trench will generally be less than 5' in depth and, traveling approximately 920 linear feet through the conservation easement (park) before tying into the existing sewer manhole at Sanford Dr. This proposed alignment is currently subject to minor adjustments based on pending landowner agreements and constructability but will be located within the proposed limit of construction area, called out in Attachment 2.

There will be a total surface impact of 0.95 acres in the conservation easement (Catawba Meadows Park), but no surface impact anticipated inside the riparian buffer. The area of disturbance is comprised of the following specific areas:

- A temporary 24' wide construction entrance for vehicles and equipment access.
- A temporary 50' x 50' construction laydown yard to place equipment.
- A temporary 30' wide limit of construction area for vehicle access and safe working space along the force main alignment.
- Permanent 2' x 250' below grade impact from the HDD.

Minimizing/Mitigating Impacts

- No surface impacts are proposed within the riparian buffer. The force main, installed using the trenchless HDD method, will cross under the river and extend beyond the riparian buffer. The only open cut trenches will be in the conservation easement at an anticipated minimal depth of less than 5ft.

- No above ground structures will be constructed in the conservation easement. There will be an approximately 4' x 4' concrete vault top, set at grade level, sealed, locked, and screened or camouflaged to match the Park's aesthetic. It will comply with flood plain regulations.
- Route 1 is specifically intended to minimize the impact at the river and the riparian buffer by crossing through them perpendicularly. This serves to minimize the length of these crossings, which in turn minimizes the impacts.
- Post construction, all temporary construction impacts noted above (laydown yards, access roads, and easements) will be seeded with the appropriate seed mix for the area and planted with native trees. A small permanent easement will remain for City maintenance, but this can be reduced to the minimum width they require and will also be seeded with seed mix.
- The overall project, including the crossing of the river, riparian buffer, and conservation easement will be permitted through the appropriate local, state and federal agencies. These permits include the US Army Corps of Engineers Section 10 (river crossing) and 404 (water quality) permits, and NC Department of Environmental Quality (NCDEQ) 401 permit, NCDEQ erosion control and stormwater construction permits. and stormwater management, and City of Morganton Floodplain development permit.
- Several best management practices will be implemented to ensure the surrounding area is protected. These include enhanced erosion control measures and easement mitigation.
 - Enhanced erosion control measures include:
 - Double row high hazard silt fence along the creek side of the alignment
 - Orange high-visibility snow fence along the rest of the easement to delineate TCE and prevent impact outside of these lines.
 - Tree protection around larger trees and elsewhere as necessary.
 - Easement mitigation includes:
 - All impacted areas will be seeded with appropriate seed mix
 - All Impacted areas within the TCE and outside of the permanent easement will be seeded with riparian seed mix and planted with native trees (or restored to as close as possible to pre-construction conditions)
 - The permanent easement will be seeded with appropriate seed mix.

Merrick performed a similar restoration in a recent gravity sewer project through an environmentally sensitive stream basin, where federally endangered species habitat was present. See Figures 4 and 5 below.



Figure 4 – Post Construction - Early stages of easement restoration

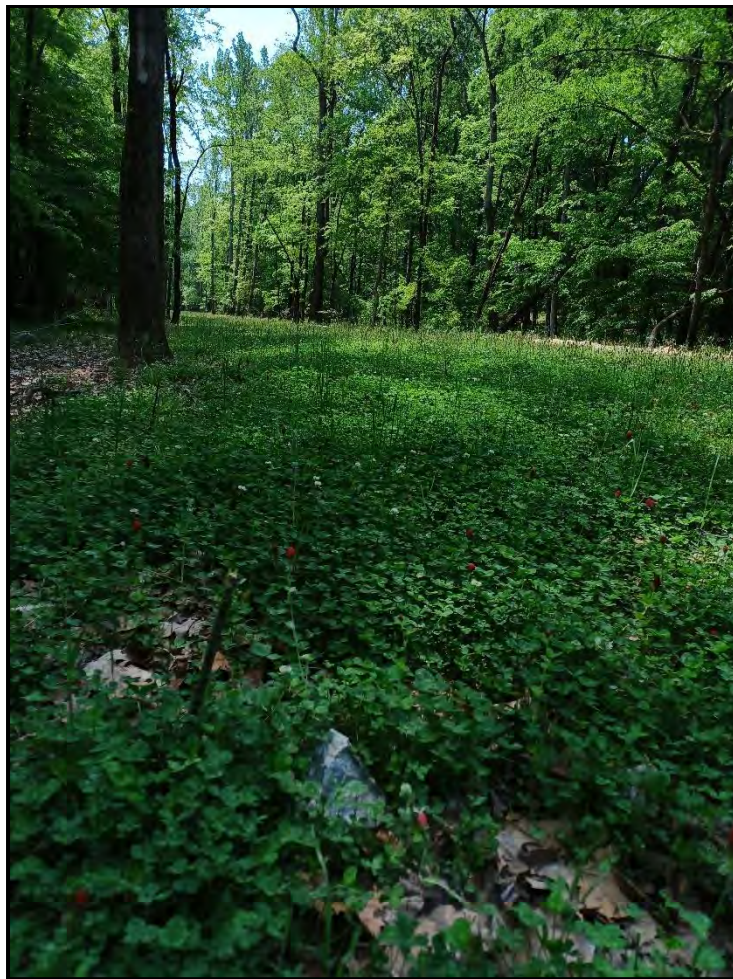
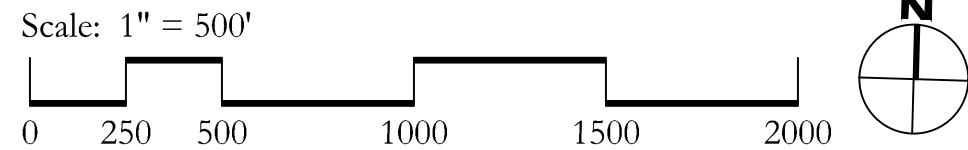
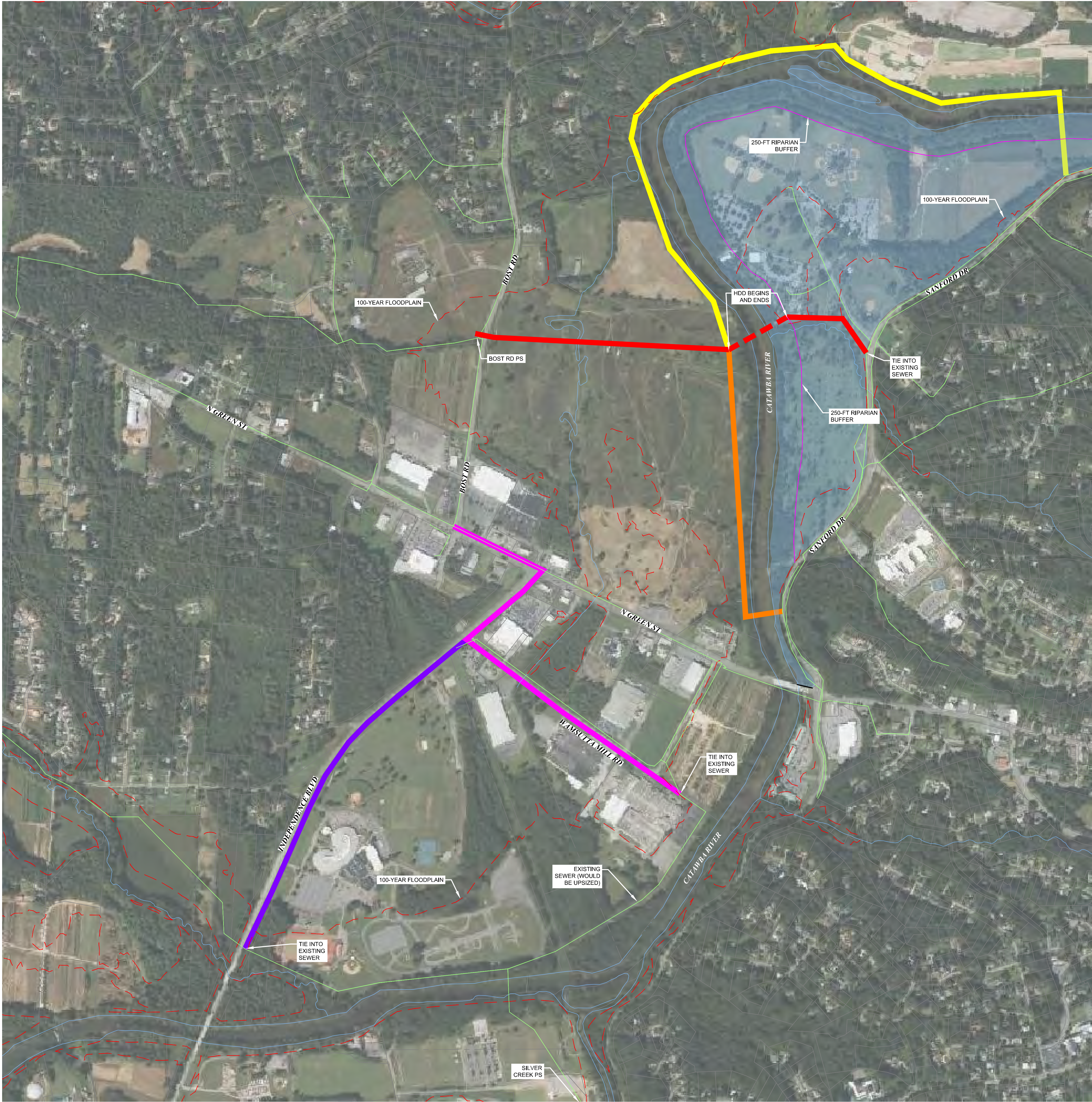


Figure 5 – Post Construction – Easement restoration (3 months, no disturbance)

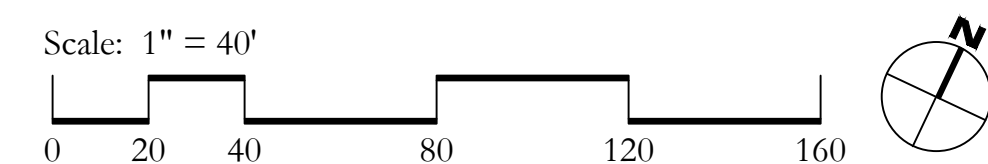
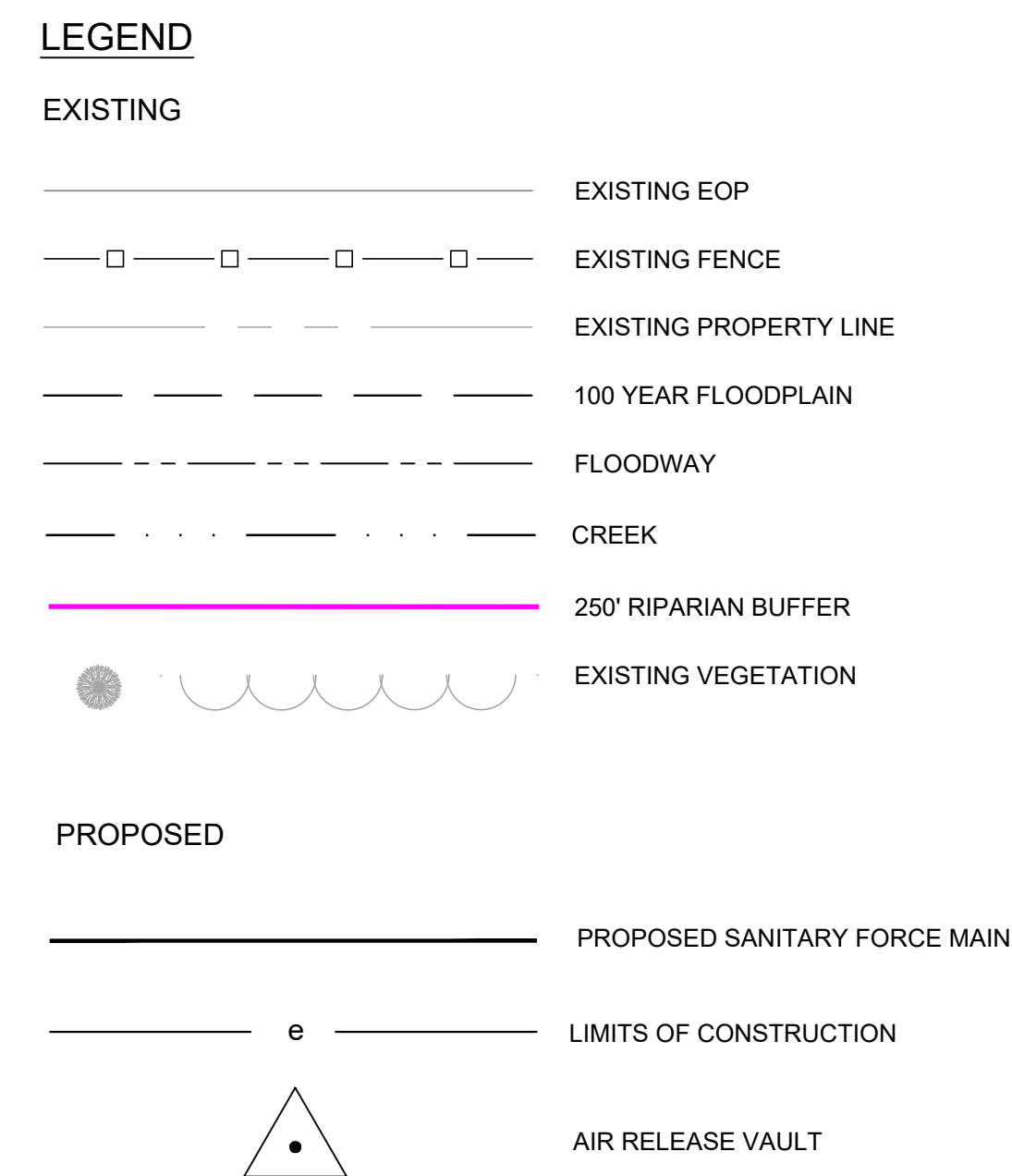


- LEGEND
- ROUTE 1 - CURRENT DESIGN
 - ROUTE 2 - SOUTH
 - ROUTE 3 - NORTH
 - ROUTE 4 - CATAWBA RIVER
 - ROUTE 5 - INDEPENDENCE BLVD
 - EXISTING SEWER
 - PROPERTY LINES
 - 100-YEAR FLOODPLAIN
 - 250 RIPARIAN BUFFER
 - RALPH EDWARDS CONSERVATION EASEMENT

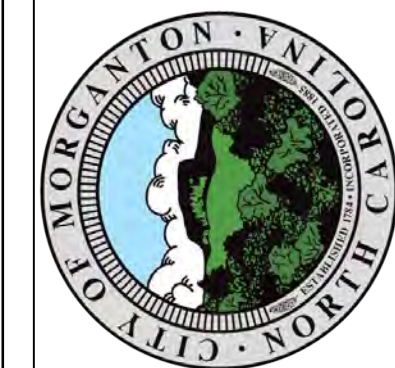
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PRELIMINARY DESIGN
NOT FOR CONSTRUCTION



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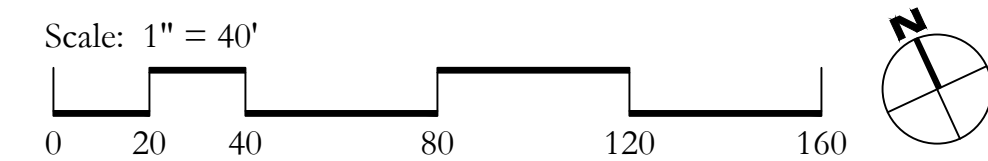
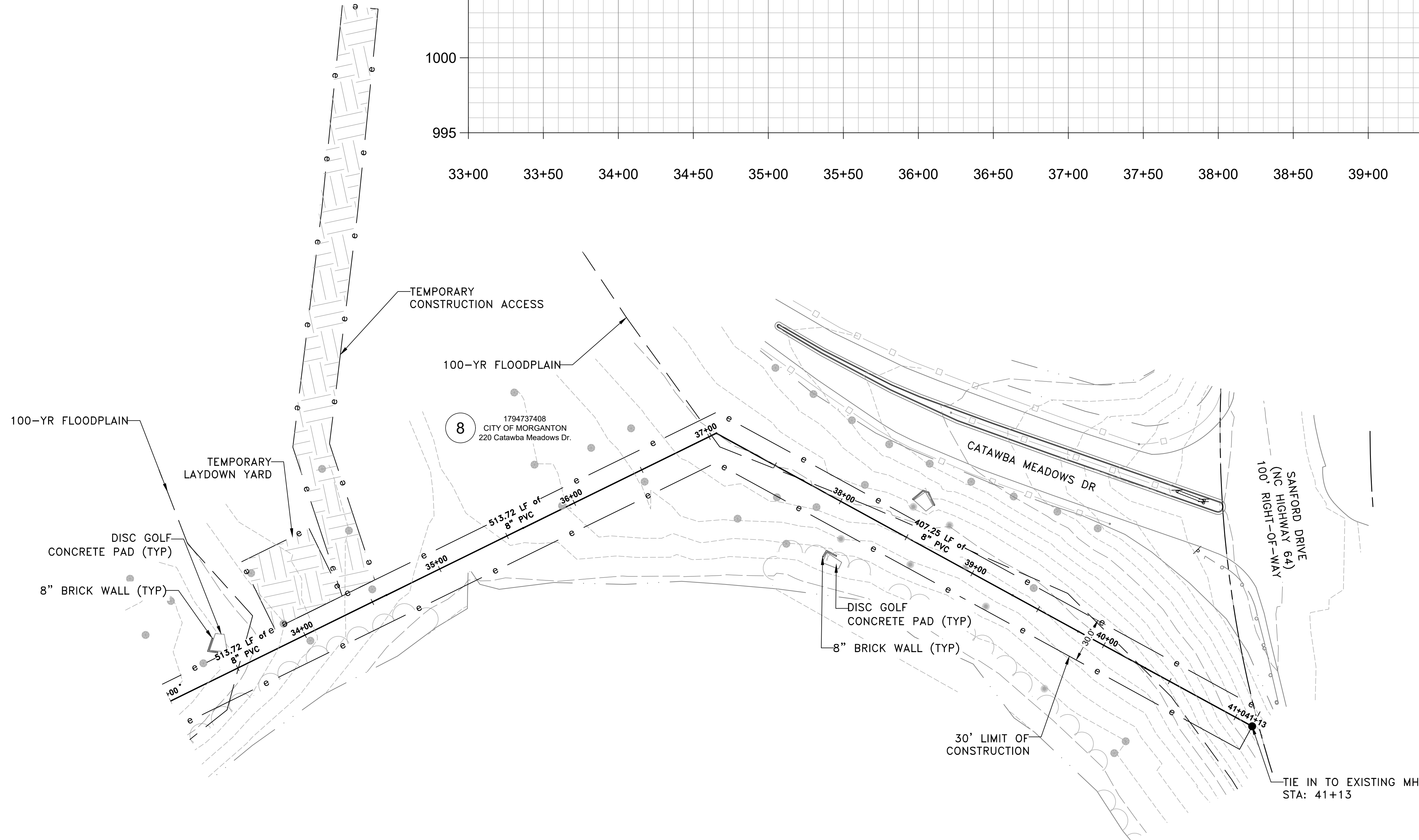
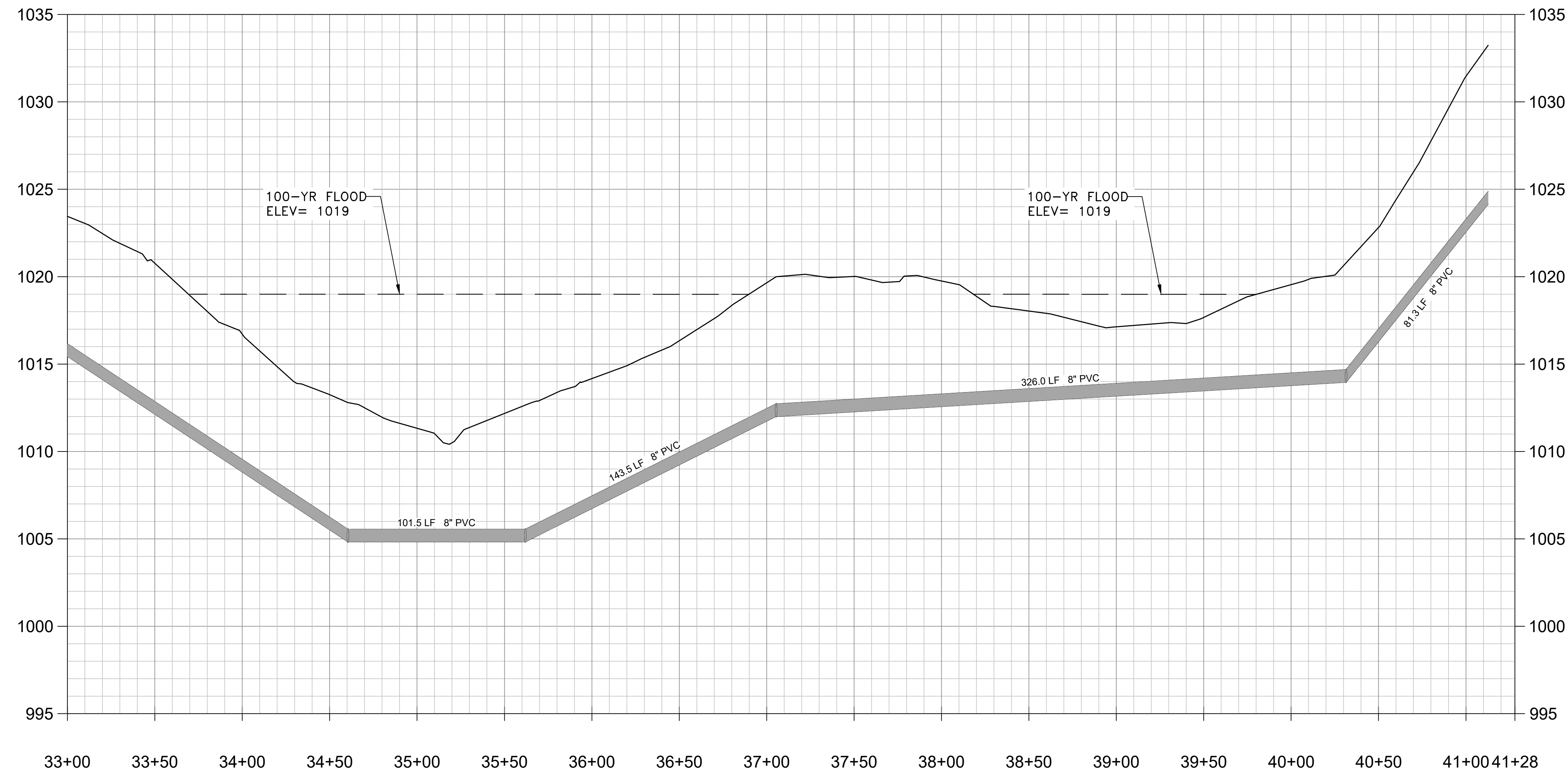
LEGEND

EXISTING

- EXISTING EOP
- EXISTING FENCE
- EXISTING PROPERTY LINE
- 100 YEAR FLOODPLAIN
- FLOODWAY
- CREEK
- 250' RIPARIAN BUFFER
- EXISTING VEGETATION

PROPOSED

- PROPOSED SANITARY FORCE MAIN
- LIMITS OF CONSTRUCTION
- CONTRACTOR LAYDOWN AND ACCESS



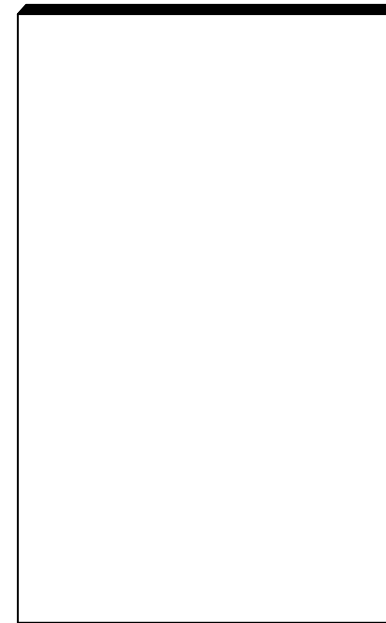
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Bost Rd Sewer Improvements
Morganton, NC
Force Main Plan & Profile
Attachment 2



JOB NO: 65421093	DATE: 6/6/2022
SHEET 2	

Action Item**Staff member:** Justin Mercer

Agenda Item 2d) 2000A-016 Town of Wake Forest Easement Amendment

The Town of Wake Forest is requesting an amendment to the conservation easement to allow for an approximately 1.06-acre parking area to facilitate access to the Smith Creek Greenway.

Background

In 2000, the North Carolina Land and Water Fund awarded a grant in the amount of \$1,128,300 to the Town of Wake Forest for the purchase of 111 acres to be used for construction of the Smith Creek Greenway. As a result of this grant, several conservation easements were granted to the State of North Carolina on properties along Smith Creek including the 6.58-acre Lewis-Tatum tract.

The Town of Wake Forest has identified a need to provide additional greenway access for the community and improve ADA accessibility along the Smith Creek Greenway. Urban and residential growth in Wake Forest has resulted in a limited number of available parcels with adequate size and proximity to existing travel corridors. The size of the Lewis-Tatum tract and its adjacency to Ligon Mill Road make it an ideal location for a trailhead with parking facilities. Though the easement allows for a paved greenway and amenities, as well as a canoe/kayak launch, it is silent on parking.

The Town of Wake Forest requests amendment of the conservation easement to add a reserved right that allows for a parking lot and trailhead approximately 1.06 acres in size. This request would also necessitate an increase in the cap on impervious surfaces from 5% to 7%. As compensation for this amendment, the Town has proposed to record a declaration of covenants and restrictions on additional acreage totaling approximately 3.19 acres. This land swap represents the 3:1 ratio proposed by the Conservation Agreement Amendment Policy (STW-001).

Committee recommendation

The committee unanimously recommended approving the request with the understanding that the final location and design of the parking area will be determined in consultation with NCLWF staff in an effort to minimize impacts to the conservation values.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: Policy, request packet



TOWN OF WAKE FOREST CONSERVATION EASEMENT AMENDMENT REQUEST

Prepared by the Town of Wake Forest
Planning Department, 2022



TOWN of
WAKE FOREST

COVER LETTER

The Town of Wake Forest recognizes the value of preserving the natural environment and endeavors to protect and showcase natural habitats by installing greenways along local streams and waterways. These greenways not only serve the public by better connecting them to nature, but also provide viable bike and pedestrian routes linking residents to adjacent neighborhoods, parks, and commercial areas.

Smith Creek serves as one of Wake Forest's primary waterways, stretching over eight miles from the Neuse River to the southern edge of Youngsville in Franklin County. In an effort to better protect this important natural resource and improve bike and pedestrian connectivity for residents, the Town of Wake Forest is committed to constructing greenway facilities along the creek's entire length within corporate limits. Several large segments of greenway have been constructed along Smith Creek with more large segments planned in the near future.

Moreover, to enhance access for members of the community not directly adjacent to this greenway and improve ADA accessibility, the Town wishes to build a handful of trailhead entrances with parking facilities at key locations along Smith Creek. These trailhead parking areas will be limited in size and properly screened to minimize their visual impact on the scenic environment.

One specific location currently being analyzed for a future parking area is 9317 Ligon Mill Road, Wake Forest, NC 27587 (Wake County PIN 1739932460). This location would serve to improve greenway access to a significant number of residents from both Wake Forest and Raleigh. However, the property currently carries a state-held conservation easement, which includes restrictions on parking facilities of any kind. It is the Town's hope, and the primary purpose of this request, that the easement be modified to allow for limited parking area facilities specifically designed to improve the community's access to the greenway system. The following sections contained herein aim to provide further details on the site's existing conditions and parking area proposal.

Kip Padgett

Kip Padgett
Wake Forest Town Manager

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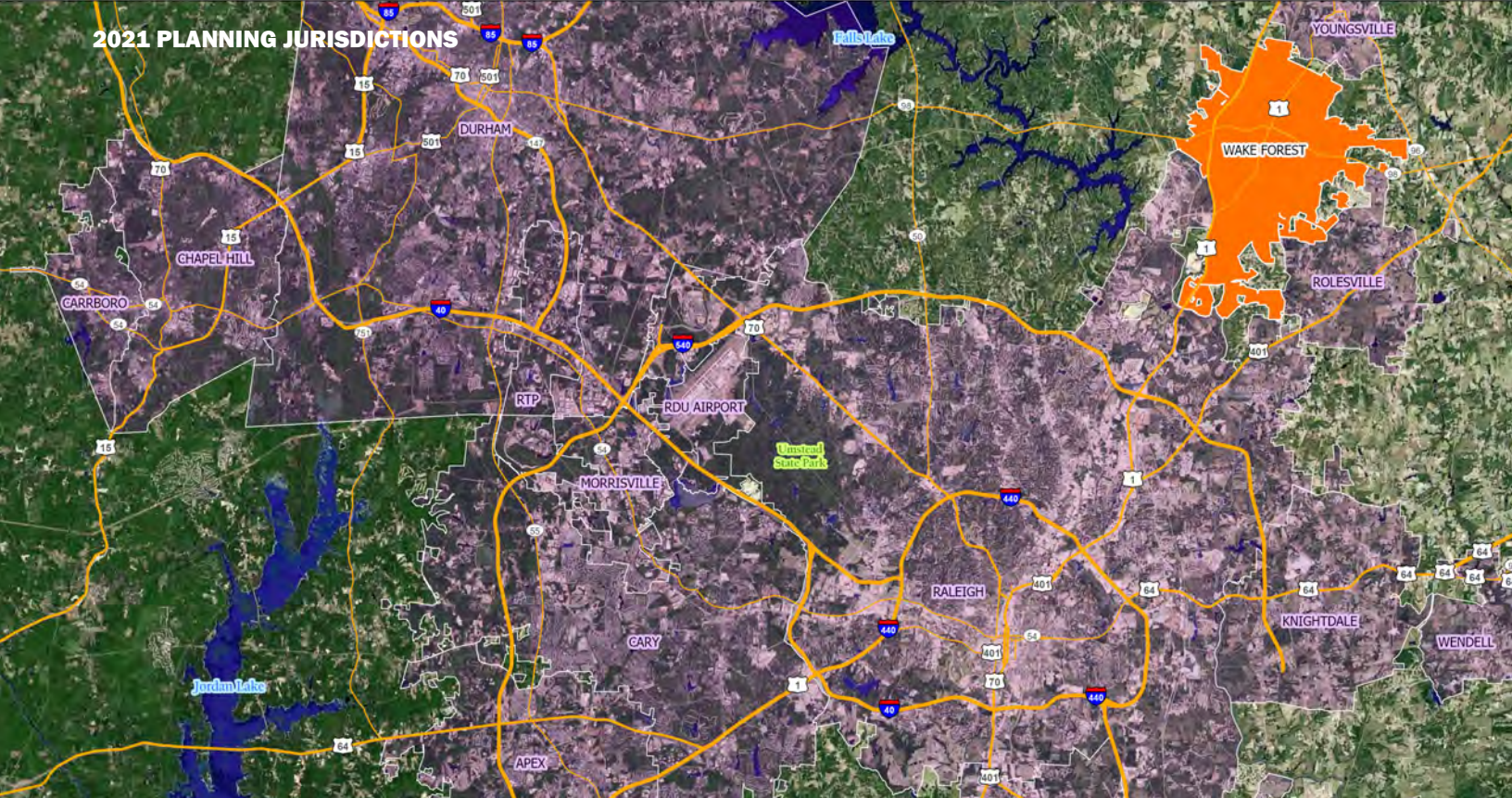
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SECTION 2: Greenway System Overview 3

SECTION 3: Site Overview 4

SECTION 4: Detailed Proposal 6

SECTION 5: Summarized Request 9

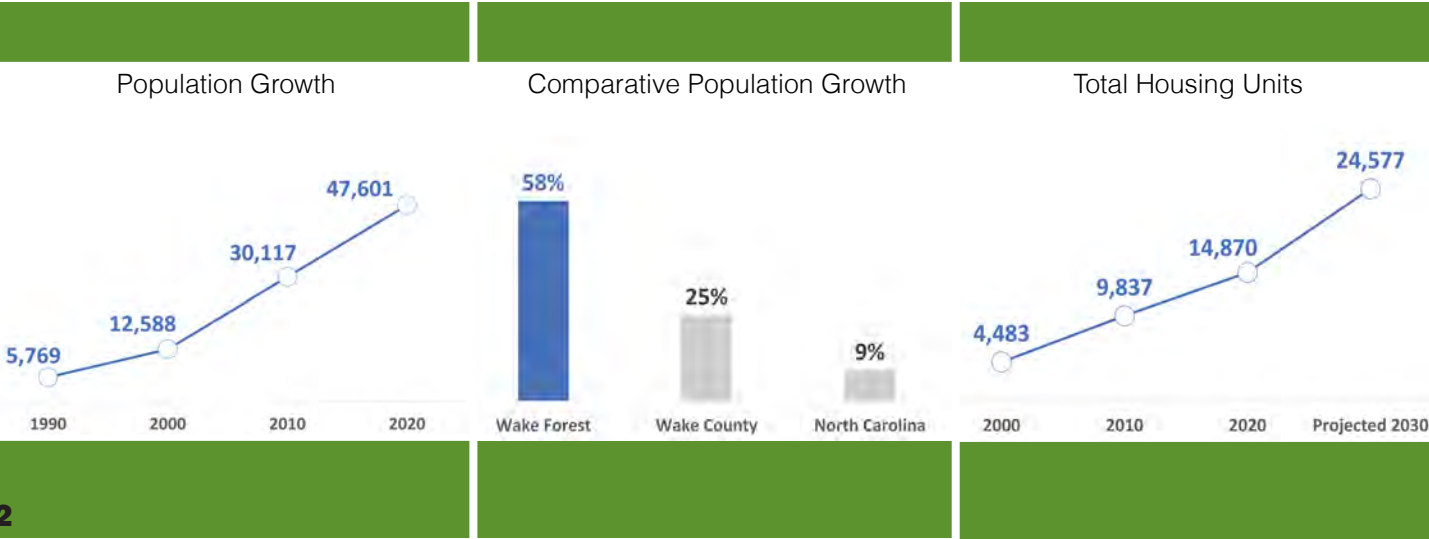


SECTION 1: COMMUNITY PROFILE

Part of North Carolina’s Research Triangle, Wake Forest is located on the periphery of one of the fastest-growing research and development hubs in the United States. The community is connected to the surrounding region by the major routes US 1, NC Hwy 98, I-540, and US 401, with access to destinations across the world via the Raleigh-Durham International (RDU) Airport located just 17 miles away.

According to the Wake County Planning, Development, and Inspections Department, Wake County has grown by 80% over the past 20 years,

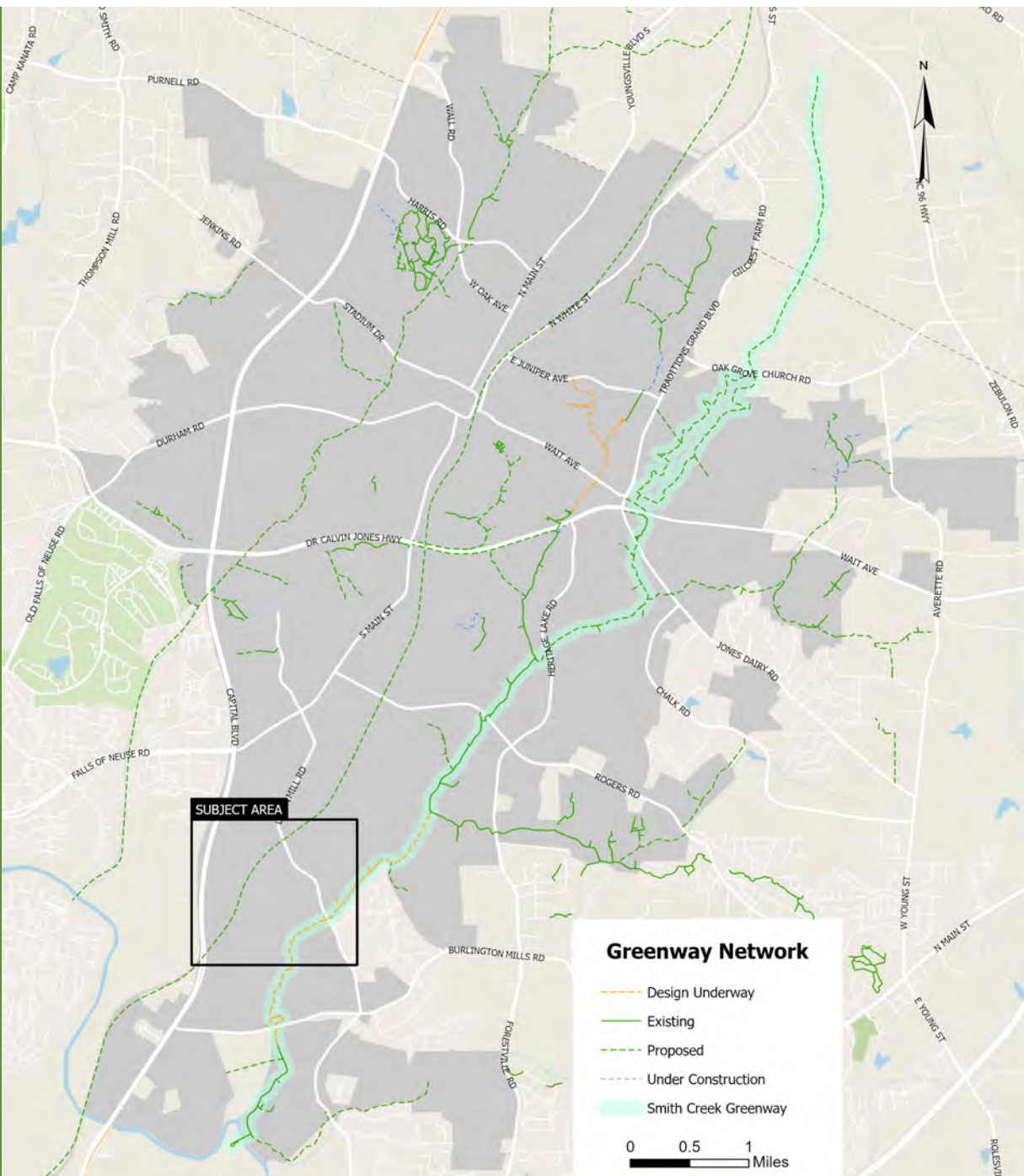
with a net average increase of 62 residents per day. The County is projected to gain another 250,000 residents over the next decade with a need for an additional 125,000 to 175,000 new housing units over the next 10 to 15 years. Similar growth trends have also occurred in neighboring counties. As Wake Forest is positioned squarely in the path of new growth, this momentum presents considerable potential for future development, along with a concurrent need for increased focus on resource protection and expansion of recreational amenities.



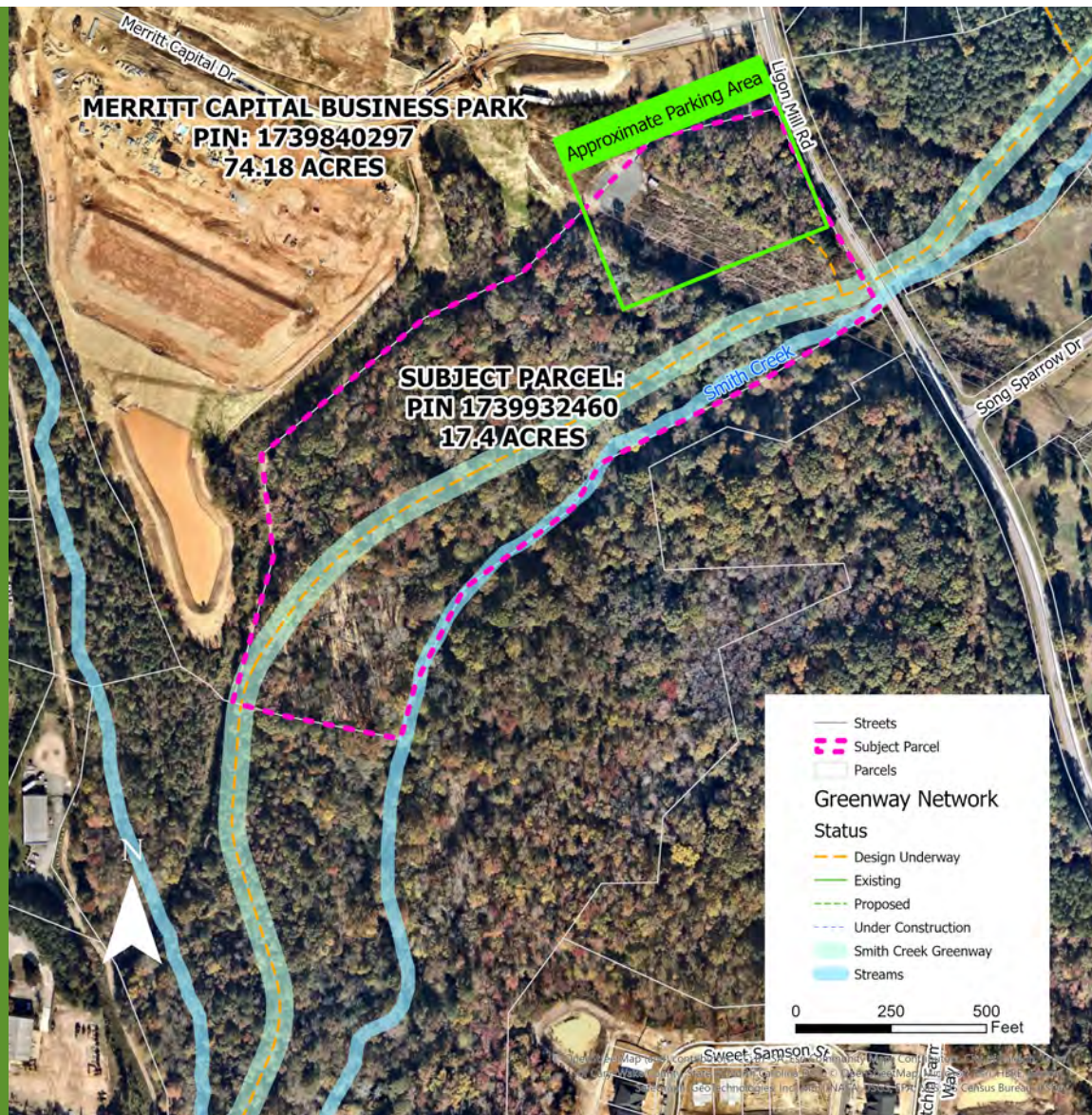
SECTION 2: GREENWAY SYSTEM OVERVIEW

To ensure existing and future residents continue to enjoy direct access to our region's natural resources and activity centers, the Town of Wake Forest is committed to expanding its greenway system concurrently with new growth. As a major milestone in this endeavor, the Smith Creek Greenway will establish a complete north-south bike and pedestrian route roughly traversing

the full length of Wake Forest from the Neuse River to Franklin County. As mentioned earlier, the Town wishes to build a handful of trailheads with parking facilities to better support greenway access, including a parking facility along Ligon Mill Road, which is examined herein.



SECTION 3: SITE OVERVIEW



After an extensive examination of possible locations, 9317 Ligon Mill Road was determined most viable for a small parking lot facility due to its size, proximity to the future greenway, road access, and walkability to nearby neighborhoods.

The subject parcel, where the proposed parking area would be constructed, totals approximately 17.4 acres, is currently undeveloped, and hugs the banks of Smith Creek. Large overhead power lines traverse the subject parcel, including the proposed parking area.

Ligon Mill Road currently provides direct access to the site and is anticipated to be expanded to incorporate a center turn lane and multi-use paths on either side per the Town's Comprehensive Transportation Plan (CTP). Directly north of the subject parcel, a 74-acre business park is currently being constructed at the time of this request. Per approved plans for the business park, it is anticipated that access for the proposed parking area may be shared with the adjacent development's main access road, Merritt Capital Drive.

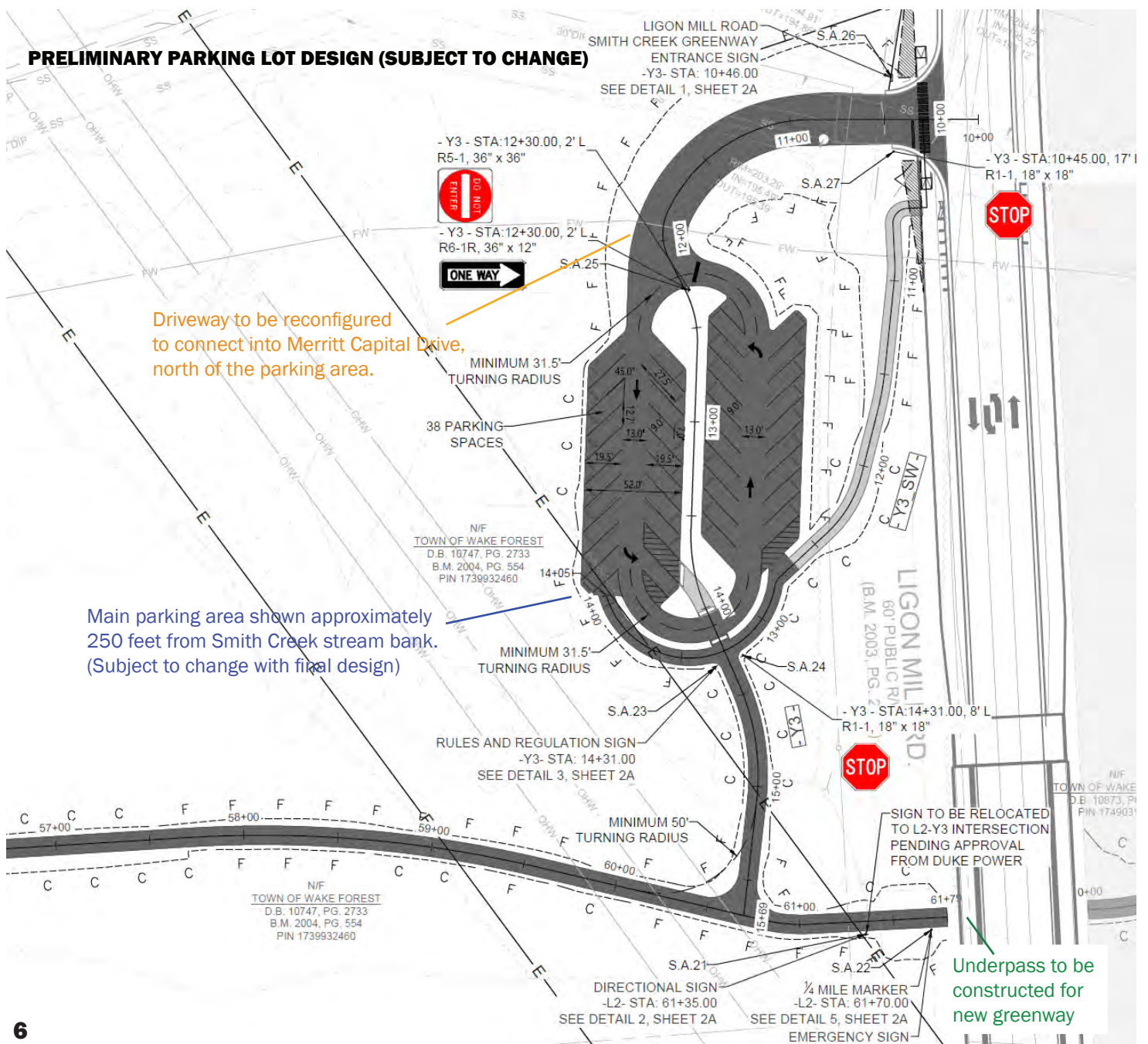
Furthermore, the conservation easement specifically lists activities that are permitted on the subject parcel. These activities include passive recreational use, greenway trails, observation/viewing platforms, and

canoe/kayak access. However, the list of permitted activities does not currently include parking facilities and associated driveway access. Additionally, the conservation easement sets a limit on all cleared, non-revegetated area to no more than five percent of the subject parcel area. This limit applies to all activities or uses, as a whole, occurring on the site. More specifically, with the subject parcel being approximately 17.4 acres, the allowable cleared, non-revegetated area is limited to less than an acre (.87 acres). In order to provide a parking facility for enhanced trail access, the existing easement restrictions would need to be adjusted through a formal easement modification request to the State.

SECTION 4: DETAILED PROPOSAL

In an effort to enhance access for members of the community not directly adjacent to the Smith Creek Greenway and improve ADA accessibility, the Town is proposing to construct a 38-space asphalt parking lot. The proposed parking lot would be designed with a large center landscape island and angled parking stalls along two, one-way drive aisles to present a slimmer profile and minimize the visual impact on its

surroundings. Vehicular access to the site is currently proposed to be shared with nearby Merritt Capital business park's primary access road, Merritt Capital Drive. Additionally, a multi-use path will connect the parking area to Smith Creek Greenway and Ligon Mill Road's future sidewalk right of way for bike and pedestrian access.

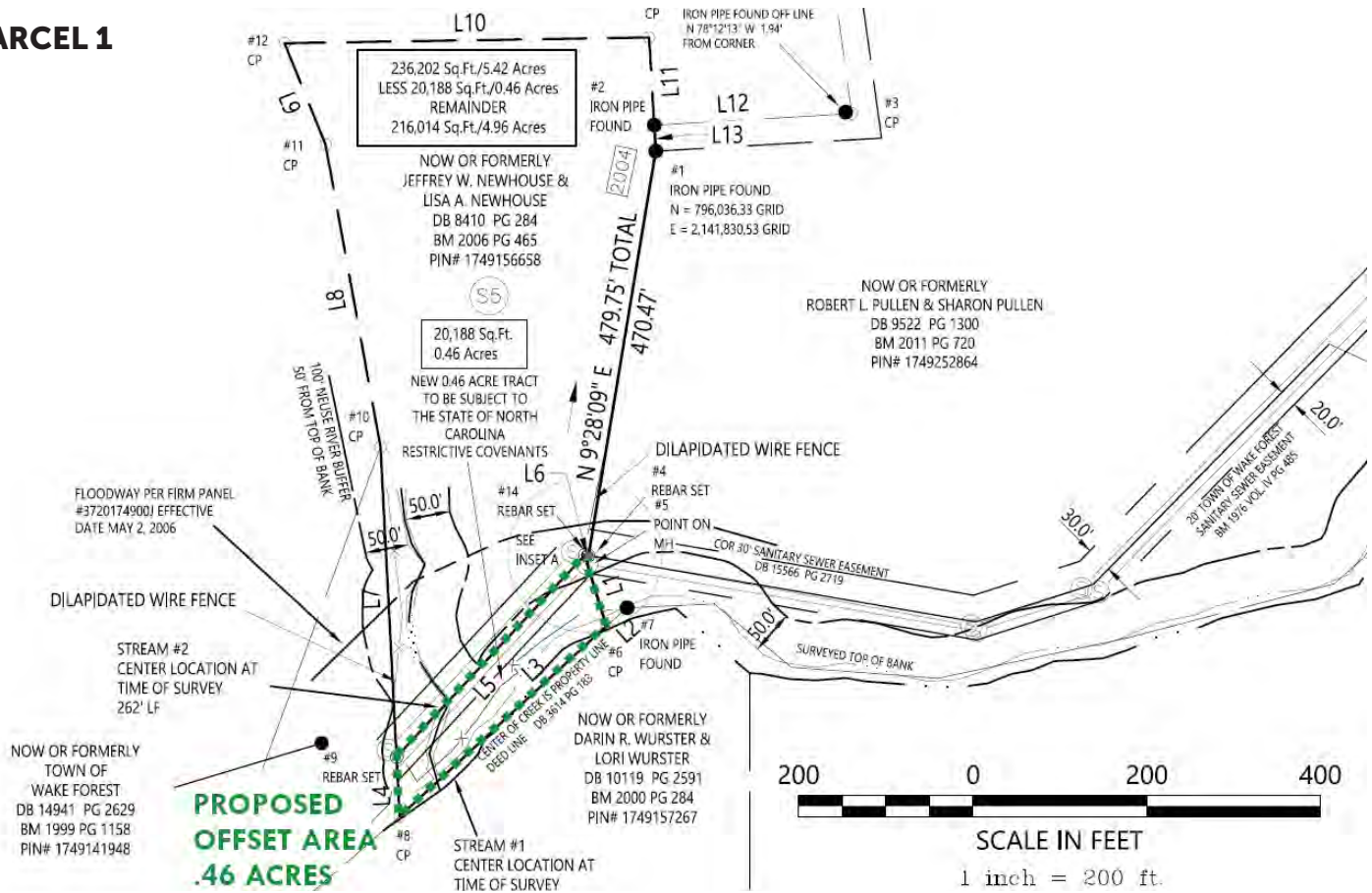


Per the North Carolina Land and Water Fund Policy Manual, any easement amendment must be offset by a three to one size ratio in terms of area impacted. As such, the proposed offset area is situated approximately a half mile upstream from the subject parcel.

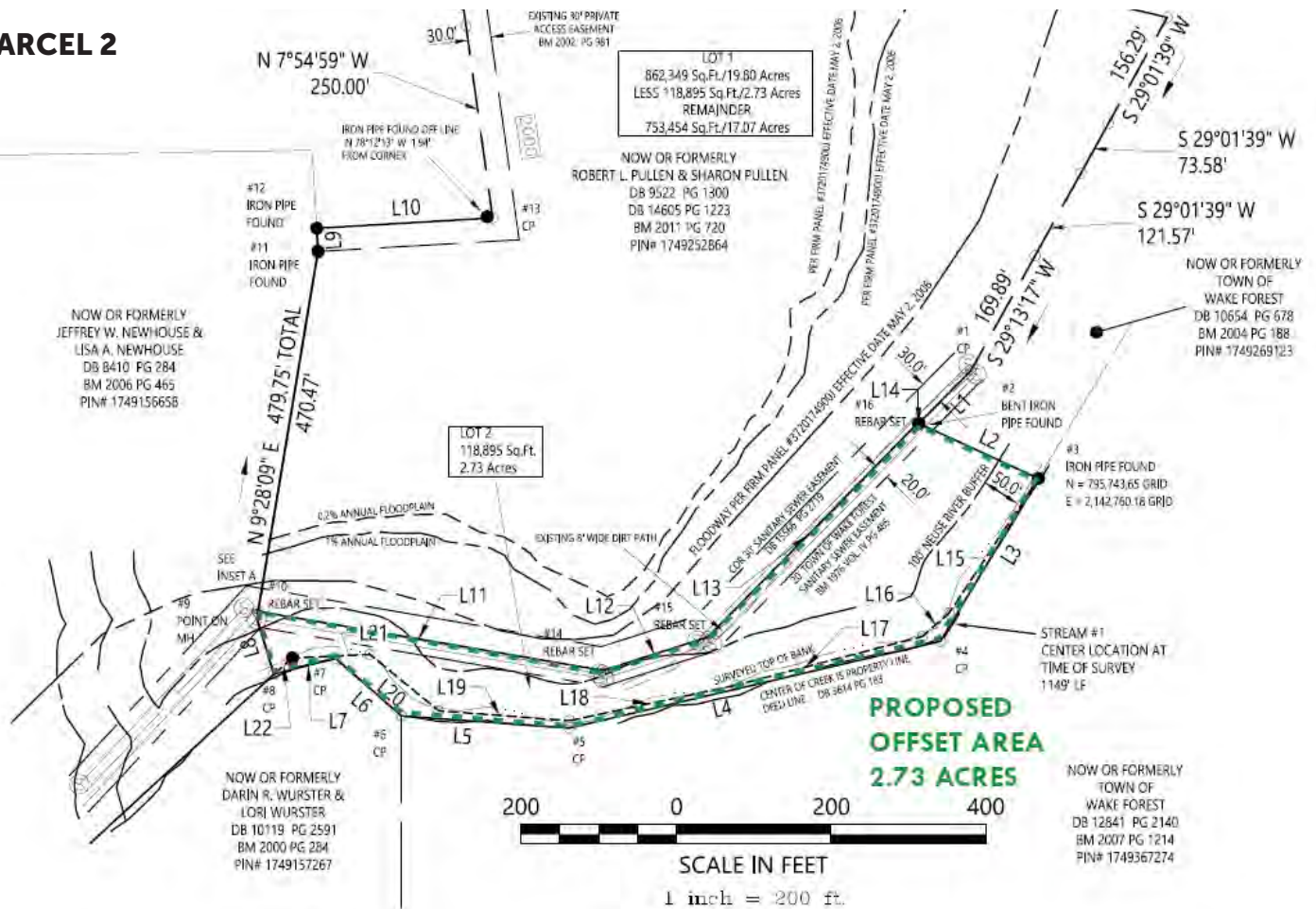
At approximately one acre of potential impact from the proposed parking area, the proposed offset area totals just over three acres across two parcels. More detailed surveys of the proposed offset areas and surveyed parcels can be found on the following page.



PARCEL 1



PARCEL 2



SECTION 5: SUMMARIZED REQUEST

The Town of Wake Forest requests that the current conservation easement (*Wake County BK 010747 PG 02738*) for 9317 Ligon Mill Road (*Wake County PIN 1739932460*) be amended by the State of North Carolina to allow for a parking facility use, approximately 1.06 acres in size, with a three to one offset area of approximately 3.19 acres provided by the Town.

Action Item**Staff member: Marissa Hartzler**

Agenda Item 2e) Unique Places to Save Scope Revision Request**Background**

Unique Places to Save (UPTS) has been working with the Town of Ramseur and partners on the 2020-098 Ramseur Dam project, awarded for the purchase and protection of approximately 4.06 acres along the Deep River in Randolph County. Successful completion of the acquisition of the NCLWF parcel by the Town of Ramseur will leverage both a PARTF grant and an appropriation for completion of a second phase of acquisition, with a goal of providing a public access point for the Deep River State Trail.

The appraisal for the property yielded two changes from the original project: the entire property of 9.12 acres was valued at \$4,600 per acre, including islands and land currently inundated by the Deep River. The prior assumption was that the inundated acres contributed no value. The total approved value for the entire 9.12 acres was also lower than originally budgeted, a reduction of \$58,000 to the acquisition cost.

UPTS has requested to increase the scope of the project, purchasing the entire 9.12 acres for \$35,700, with a bargain sale of \$6,300, recording a declaration of covenants and restrictions on the entire 9.12 acres, with third party rights of enforcement to the State. At its current condition, the Deep River is non-navigable due in part to an existing dam. A proposed, although not yet permitted dam removal may increase the dry land at the site which could be protected by inclusion in the project and declaration of covenants and restrictions.

The proposed scope and budget changes do not result in a change to the project score, and even discounting the additional potential dry acreage to be protected, this proposal results in a decrease in unit costs of 46%.

Committee recommendation

The committee recommended approving the change of scope to up to 9.7 acres at a total NCLWF contribution not to exceed \$48,200 with four votes for and one abstention.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: map, budget

Original project map, 2020





To: North Carolina Land and Water Fund Acquisition Committee

From: Christine Pickens, Science Director of Unique Places to Save

Date: November 11, 2022

Regarding: 2020-098_UP2S_Ramseur Dam, Deep River Proposal to Amend Scope of Work/Legal Description/Budget

Unique Places to Save has been working with the Town of Ramseur to acquire and protect riparian habitat as well as expand outdoor recreation opportunities on the Deep River by expanding the Deep River State Trail and Blueway. The project awarded to Unique Places to Save (2020-098-UP2S-Ramsuer Dam, Deep River) is the cornerstone to this multi-grant effort. The intent of the NCLWF award was to purchase the river-right portion of the parcel that includes Ramseur Dam. This parcel is atypical in that ownership extends across the river with the result that some of the acreage is currently submerged. Furthermore, the appraisal for the parcel estimated the land value on river-right to be much less than originally expected, and assumes that all “greenspace” acreage has the same per acre value whether or not it is submerged.

Unique Places to Save is respectfully requesting that the Legal Description of Property in Exhibit A be amended to include all parcel acreage from the approximate centerline/thalweg of the Deep River to the parcel boundary on river-right (Leonard Park side of the parcel) which is approximately 9.65 acres based on the following considerations:

- The parcel ownership extends across both sides of the Deep River.
- Ramseur Dam is located on this parcel. There is a current grant proposal being considered for the removal of Ramseur Dam for ecological benefit. Therefore, it is possible that the dam may be removed and this possibility was included in the original proposal under Special Conditions. If the dam is removed, it is expected that the river would return to its natural channel and additional land would be exposed on the property.
- The appraisal for the property treats greenspace acreage the same in that its highest and best use is outdoor recreation whether or not the land is submerged.
- The appraisal also valued the land much lower than expected, \$4,600 per acre. The total amended project budget would also be reduced (original award: \$87,500 to protect at least ~4.1 acres, amended award: \$69,500 to protect up to ~9.7 acres, see below).
- The conservation agreement will be a Declaration of Covenants and Restrictions that may afford more flexibility in protecting land exposed by potential dam removal.

Original Budget:

ITEM	NCLWF Grant Amount	Matching Funds	Total Project Cost
Property Acquisition	75,000	25,000	100,000
Transactional Costs	10,000	15,000	25,000
Stewardship Endowment	0	0	0
Property Management	0	0	0
Project Administration	2,500	0	2,500
TOTALS	87,500	40,000	127,500
Funding Percentages	69%	31%	100%

Proposed Amended Budget:

ITEM	NCLWF Grant Amount	Matching Funds	Total Project Cost
Property Acquisition	35,700	6,300	42,000
Transactional Costs	10,000	15,000	25,000
Stewardship Endowment	0	0	0
Property Management	0	0	0
Project Administration	2,500	0	2,500
TOTALS	48,200	21,300	69,500
Funding Percentages	69%	31%	100%

For questions or concerns, please contact Christine:

cpickens@uniqueplacetosave.org

225-931-2073

Action Item**Staff members: Justin Mercer****Agenda Item 3) Allocation of Monitoring Funds, Tar River Land Conservancy****Background**

During approximately the first decade of the North Carolina Land and Water Fund's operation, many land acquisition projects were funded without consideration of long-term stewardship. Until 2008, easements required under the restoration, stormwater, and wastewater programs were also held by the State of North Carolina without stewardship funding. In May 2022, the board agreed to set aside \$2.5 million for the purpose of identifying and contracting third-party monitors to assist in the perpetual stewardship of these easements.

NCLWF staff has identified 16 easements in Halifax, Nash, and Franklin Counties that are in need of a permanent monitor. Tar River Land Conservancy is willing to provide annual monitoring and reporting for these easements. Staff has negotiated a reimbursement of up to \$6,514/year for monitoring, which would require a total of \$162,845 in endowment funds (annual payment multiplied by 25). The specific amount allocated for each grant is outlined in the table below:

NCLWF Project	Number of Easements	Acres	Perimeter (feet)	Annual Monitoring Estimate	Total Endowment
1997A-010 Tar River Watershed	7	19.16	11,652	\$2,473.75	\$61,844
2001B-012 Joyner Park	1	55.35	12,819	\$702.50	\$17,563
2006-412 Roanoke River Tribs Rest	4	21.45	13,638	\$1,693.75	\$42,344
2007-403 Roanoke River Tribs Rest 2	4	7.61	6,390	\$1,643.75	\$41,094
Totals	16	103.57	44,499	\$6,513.75	\$162,845

The creation of STW-006 Retired Principal Policy in 2019 and the dedication of funds in May 2022 established a process for the allocation of uncommitted principal to easements in need of monitoring. There is currently \$2,601,782 of unallocated principal in the Endowment.

Staff Recommendation

Assign \$162,845 of unallocated principal in the Stewardship Endowment for the monitoring of the conservation easements from projects 1997A-010, 2001B-012, 2006-412, and 2007-403, to be monitored by Tar River Land Conservancy and reimbursed through their annual monitoring contract with NCLWF.