

Contact

US Army Corps

of Engineers ® Fort Worth District

Public Notice

Applicant: Mr. Josh Morriss, III, Waggoner Creek Crossing Development

Project No.: SWF-2017-00265

Date: November 16, 2017

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program	Since its early history, the U.S. Army Corps of Engineers has played
	an important role in the development of the nation's water resources.
	Originally, this involved construction of harbor fortifications and
	coastal defenses. Later duties included the improvement of
	waterways to provide avenues of commerce. An important part of
	our mission today is the protection of the nation's waterways through
	the administration of the U.S. Army Corps of Engineers Regulatory
	Program.
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Section 10 The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States.* The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404The U.S. Army Corps of Engineers is directed by Congress under
Section 404 of the Clean Water Act (33 USC 1344) to regulate the
discharge of dredged and fill material into all waters of the United
States, including wetlands. The intent of the law is to protect the
nation's waters from the indiscriminate discharge of material capable
of causing pollution and to restore and maintain their chemical,
physical and biological integrity.

Name: Mr. John Derinzy

Phone Number: 817-886-1742

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with the proposed development known as Waggoner Creek Crossing, a multi-use development on a 89 acre parcel in Texarkana, Bowie County, Texas.

APPLICANT: Mr. Josh Morriss, III Waggoner Creek Crossing Development 217 West Broad Street Apartment D Texarkana, Texas 75501

APPLICATION NUMBER: SWF-2017-00265

DATE ISSUED: November 16, 2017

LOCATION: The proposed Waggoner Creek Crossing multi-use development would be located on a 175 acre parcel of land located approximately at UTM coordinates Latitude 33.457097 North and Longitude -94.110895 West on the USGS MAP Texarkana 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit Lower Sulphur Watershed (HUC 11140302).

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposed to discharge approximately 17,702 cubic yards of dredged and fill material into approximately 4.76 acres of waters of the United States (U.S.) in conjunction with the construction of a multi-use commercial development. Total proposed impacts to waters of the U.S. include 4.76 acres of direct impacts to wetlands. Impacts would be 2.3 acres of emergent wetlands, 0.06 acres of shrub/scrub wetlands, and 2.4 acres of forested wetlands.

INTRODUCTION: According to the applicant, there is a local need within the City of Texarkana for retail, restaurant, office, and housing facilities. Texarkana and the City of Nash, which is located just west of the proposed project site, have seen tremendous growth in the last five years. The purpose of the proposed project is to develop a mixed-use development to satisfy this growing need.

The applicant proposed plan includes the development of approximately 89 acres out of an area approximately 175 acres in size that represents a section of the Waggoner Creek Crossing, LP property that is available and currently ready for development. The designated 89 acres was further dissected into nine development areas (DA) based on existing access, present need, commercial viability, and the economic potential of each parcel. A conceptual drawing of how each DA might be developed has been included in the attached engineer's plans. While the actual commercial or retail buyer, and subsequent structure, for each DA may be different from the conceptual design, it will give the reviewer a visual representation of how each DA will be developed. Each delineated DA represents the extent of the proposed development and the entire area inside each DA will be cleared and filled in preparation for individual sale, whether that is a portion of the DA or in its entirety. The applicant states the goal of the WCCD project, as related to this request, is to procure authorization to clear and fill waters of the U.S., or other waters, in order to prepare each DA to a "build ready" condition where future buyers can purchase all or part of each DA and build based on their own design and needs. The size of each DA is based on engineering feasibility requirements for buildings, parking, and utilities.

EXISTING CONDITIONS

VEGETATION: Vegetation within the project area outside potentially jurisdictional areas consisted primarily of upland maintained fields, mature mixed pine/hardwood forest, and mature pine plantation. Vegetation within the mapped PEM wetlands is documented on the associated wetland data forms. The dominant vegetation within the mapped PEM wetlands included leathery rush (*Juncus coriaceus*), woolly rosette grass (*Dichanthelium scarbriuscula*), beaked comsalad (*Vale rianella radiata*), woolly ragwort (*Senecio tomentosa*), sand bracted sedge (*Carex muehlenbergii*), tapered rosette grass (*Dichanthelium acuminatum*), broom sedge (*Andropogon virginicus*), curly dock (*Rumex crispus*), dwarf dandelion (*Krigia virginica*), common sneezeweed (*Helenium autumnale*), narrow blue-eyed grass (*Sisyrinchium angustifolium*), false garlic (*Nothoscordum bivalve*), water oak (*Quercus nigra*), sweetgum (*Liquidambar styraciflua*), black willow (*Sa lix nigra*), eastern baccharis (*Baccharis halimifolia*), Louisiana sedge (*Carex louisianica*), soft rush (*Juncus ejfusus*), nutgrass (*Cyperus rotundus*), buttercup (*Ranunculus* spp.).

The vegetative community within the shrub/scrub wetland consisted of willow oak (*Quercus phellos*), eastern baccharis, Chinese privet (*Ligustrum sinense*), winged elm (*Ulmus alata*), loblolly pine (*Pinus taeda*), tapered rosette grass, broom sedge, soft rush, southern dewberry (*Rubus trivia/is*), nutgrass, giant goldenrod (*So lidago gigantea*), slender woodoats (*Chasmanthium laxum*), Japanese honeysuckle (*Lonicera japonica*), and cat greenbrier (*Smilax glauca*).

The vegetative community within the forested wetland consisted of water oak, willow oak, sweetgum, American elm (*Ulmus americana*), loblolly pine, Chinese privet, possumhaw (*flex decidua*), American hornbeam (*Carpinus caroliniana*), nutgrass, dwarf palmetto (*Sabal minor*),

Japanese honeysuckle, Alabama supplejack (*Berchemia scandens*), red maple (A cerrubrum), and common greenbrier (*Smilax rotundifolia*).

SOILS: The United States Department of Agriculture (USDA) Soil Conservation Service Soil Survey for Bowie County was used to determine the soil types in the project review area. Six soil mapping units were identified in the project area: Thenas fine sandy loam, frequently flooded (42), Amy silt loam, frequently flooded (3), Rosalie loamy fine sand, 2 to 5 percent slopes (25), Ruston fine sandy loam, 1 to 3 percent slopes (27), Sawyer silt loam, 0 to 3 percent slopes (36), and Eylau very fine sandy loam, 0 to 3 percent slopes (13). Of these, the Amy silt loam, frequently flooded, Eylau very fine sandy loam, 0 to 3 percent slopes, and Sawyer silt loam, 0 to 3 percent slopes are included on the NRCS National List of Hydric Soils for Bowie County (NRCS, 2015).

HYDROLOGY: The project area is located within the HUC 11140302 associated with the Lower Sulphur Watershed. The project area is located along the Waggoner Creek and two unnamed tributaries to Waggoner Creek on the Texarkana, Texas USGS 7.5-minute topographic maps. Hydrology indicators noted within aquatic areas consisted of oxidized rhizospheres on living roots, sediment deposits, drift deposits, water stained leaves, drainage patterns, crayfish burrows, surface water, water marks, saturation visible on aerial imagery, and geomorphic position.

ONSITE ALTERNATIVES: The applicant has prepared an alternatives analysis summarized below. The USACE has not yet evaluated this alternatives analysis.

- Alternative 1 No Action: Though the no action alternative would avoid all impacts to waters of the U.S., it would not meet the need and purpose of the proposed project. This alternative considered the implications of not developing the proposed project and selection of this alternative would not allow WCC to provide suitable commercial development to meet the demand of a growing population, nor would it allow for the growth of Texarkana's economic development. Therefore, the applicant claims the no action alternative is not practicable.
- 2) Onsite Alternative 1 (Applicant's Preferred Alternative): The applicant preferred alternative would include the construction of a mixed-use development. The applicant states that their preferred alternative would also maximize the building area on the selected development areas, result in minimal costs for utilities and infrastructure for each development area, greatly minimize impacts to waters of the U.S. and floodplain, provide sufficient buildable space, and not encumber the applicant with an unnecessary financial burden. The applicant proposes to permanently impact 2.3 acres of emergent wetlands, 0.06 acres of shrub/scrub wetlands, and 2.4 acres of forested wetlands. This alternative avoids impacts to 13.6 acres of emergent wetlands, 12.3 acres of shrub/scrub wetlands, 30.9 acres of forested wetlands, 4,033 linear feet of ephemeral stream, and 7,830 linear feet of intermittent stream. The applicant has stated that they did not purchase the property for the purpose of building the proposed development. Rather, the applicant inherited the property from an estate. The total project site is 175 acres while

and the applicant preferred alternative proposes to impact only 89 acres. This can be accomplished because there was not an initial monetary investment which would naturally necessitate maximizing the buildable area thus maximizing the potential return on investment. The applicant believes they should be recognized for choosing to not maximize the amount of money that could be generated off of the property. According to the applicant, onsite alternative 1 would avoid impacts to waters of the U.S. to the greatest extent possible while delivering a project that will maximize the remaining acreage. The footprint of the proposed development areas was designed to use natural topography and proximity to major roads while avoiding waters of the US to maximize building square footage and parking space requirements by the City of Texarkana.

3) Onsite Alternative 2: Onsite alternative 2 is identical to onsite alternative 1 (applicant preferred alternative) in every aspect except one and that is impacts to waters of the U.S. and floodplain. The applicant indicates this alternative would maximize buildable area on the entire 175-acre property and double or triple the amount of revenue that could be generated per acre. To facilitate the construction of this alternative, permanent impacts to 15.9 acres of emergent wetlands, 12.4 acres of shrub/scrub wetlands, 33.4 acres of forested wetlands, 4,033 linear feet of ephemeral stream, and 7,830 linear feet of intermittent stream would be impacted. Additionally, approximately 70 acres of the total 175-acre property is located in the 100-year floodplain.

OFFSITE ALTERNATIVES:

According to the applicant, due to the amount of commercial development in the area and lack of available large contiguous properties similar to the project site, moving the development to multiple smaller properties in outlying areas of Texarkana not meet the project need and purpose. The applicant states that the availability of large contiguous properties, similar to the project site, that allow for commercial or retail structures that require a large footprint are nonexistent in the general vicinity of the project site. As a result, smaller properties have a limited clientele and do not afford the earning potential of larger properties. The applicant further states that commercial properties in the general vicinity of the project site sell by the square foot. Pricing varies based on location, with properties closer to I-30, and other main thoroughfares, demanding a higher price. Currently, the real price per square foot for an optimally located property sells for between \$5 and \$20, as cited by the applicant. Based on these numbers, the proposed WCCD, which is approximately 89 acres, would cost between \$19 and \$77 million dollars. Since the property is currently owned and managed by WCC, it would cost the partnership between \$19 and \$77 million dollars to find another property with similar attributes.

However, as part of the alternatives analysis process, three properties in the general vicinity of the project site, that are currently for sale, were evaluated based on size, location, cost, and percent of waters of the U.S. HEI reviewed the tracts of land that are currently for sale in the general vicinity of the proposed project location. A cursory review by HEI indicated that all three tracts had some degree of hydric soils, visible saturation, and two of three had potential ephemeral stream channels.

- 1) Offsite Alternative 1: Tract 1 is approximately 17.2 acres in size and is comprised of 73% hydric soils (Sacul fine sandy loam (31) and Eylau very fine sandy loam (13)), and 16% of the tract is located within the 100-year floodplain. While the Eylau series is typically associated with flatwoods and/or depressional wetland assemblages, the amount of wetlands attributable to this series can vary widely per site. Additionally, saturation is visible on the aerial photograph and the potential wetland areas are located within a stream floodplain and hillside which could contain seep wetlands. Based on this evidence and site topography, HEI estimates that this property could contain as much as 5 to 6 acres of emergent and forested wetlands, or 30-35% of the total property acreage. While there is not a designated blue line, the 100-year floodplain boundary, topographic evidence, and knowledge of the property confirm the presence of an ephemeral stream on the property. Based on measurements from the aerial photograph, there is approximately 280 linear feet (lf) of ephemeral stream on Tract 1. Applicant has stated that while logistics and availability are acceptable for this alternative, excluding sufficient size, existing technology and cost are not due to the amount of potential waters of the US and floodplain impacts and additional financial burden that WCC would incur. As a result, construction of the project at this location is not practicable according to the applicant.
- 2) Offsite Alternative 2: Tract 2 is approximately 21.5 acres in size and is comprised of 91% hydric soils (Eylau very fine sandy loam (13); however, none of this tract is located within the 100-year floodplain. Saturation is also visible on the aerial photograph and the potential wetland area is located within a large swale in the middle of the property that is very discernible on the topographic map. Based on this evidence HEI estimates that this property could contain as much as 9 to 10 acres of emergent wetlands, or 42-46% of the total property acreage. Like Tract 1, while there is not a designated blue line, the 100-year floodplain boundary, topographic evidence, and a visible stream channel on the aerial photograph indicate the potential presence of an ephemeral stream on the property. Based on measurements from the aerial photograph, there could be as much as 630 linear feet of ephemeral stream on Tract 2. Applicant has stated that while logistics and availability are acceptable for this alternative, excluding sufficient size, existing technology and cost are not due to the amount of potential waters of the US and floodplain impacts and additional financial burden that WCC would incur. As a result, construction of the project at this location is not practicable according to the applicant.
- 3) Offsite Alternative 3: Tract 3 is approximately 20.5 acres in size and is comprised of 100% hydric soils (Amy silt loam (3) and Eylau very fine sandy loam (13)), and 12% of the tract is located within the 100-year floodplain. Saturation is not visible on the aerial photograph due the site being 100% forested; however, approximately 5 acres of the site is located in the floodplain or first terrace of Waggoner Creek. Based on this evidence, site topography, and the knowledge that HEI has of the Waggoner Creek floodplain and potential for wetlands, it is estimated that this property could contain as much as 5 to 6 acres of wetlands, or 24-30% of the total property acreage. While there is not a designated blue line, the 100-year floodplain boundary, topographic evidence, and visible impoundments on the aerial photograph and topographic map indicate the presence of, at minimum, an ephemeral stream and possibly an intermittent stream. Based on measurements from the topographic map, there could be approximately 1,360 linear feet

of stream on Tract 3. Applicant has stated that while availability is acceptable for this alternative, logistics, existing technology and cost are not due to the location, insufficient size, amount of potential waters of the US impacts, and additional financial burden that WCC would incur. As a result, construction of the project at this location is not practicable according to the applicant.

COMPENSATORY MITIGATION: To offset unavoidable adverse impacts to waters of the U.S., the applicant proposes to purchase wetland mitigation credits from a USACE approved wetland mitigation bank with a primary service area inclusive of the impact area.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits 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 its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore 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.

The USACE 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 USACE in determining whether to issue, issue with modifications, or conditions, 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.

STATE WATER QUALITY CERTIFICATION: This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water

quality standards. By virtue of an agreement between the USACE and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. <u>Any</u> comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin Office. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, would adversely affect such interest.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in a county where the least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), and red knot (*Calidris canutus rufa*) are known to occur or may occur as migrants. The least tern is an endangered species and the piping plover and red knot are threatened species. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The USACE has reviewed the latest complete published version of the National Register of Historic Places and found no listed properties to be in the project area. However, presently unknown scientific, archaeological, cultural or architectural data may be lost or destroyed by the proposed work under the requested permit.

FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may 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.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his

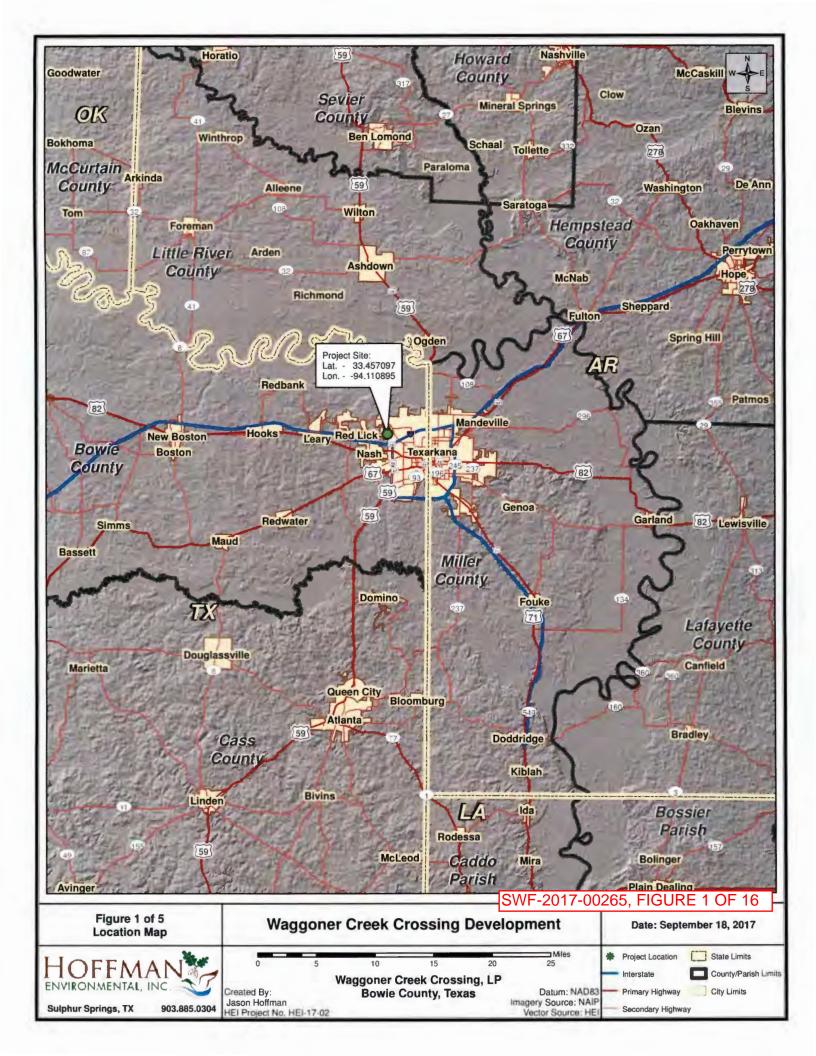
permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

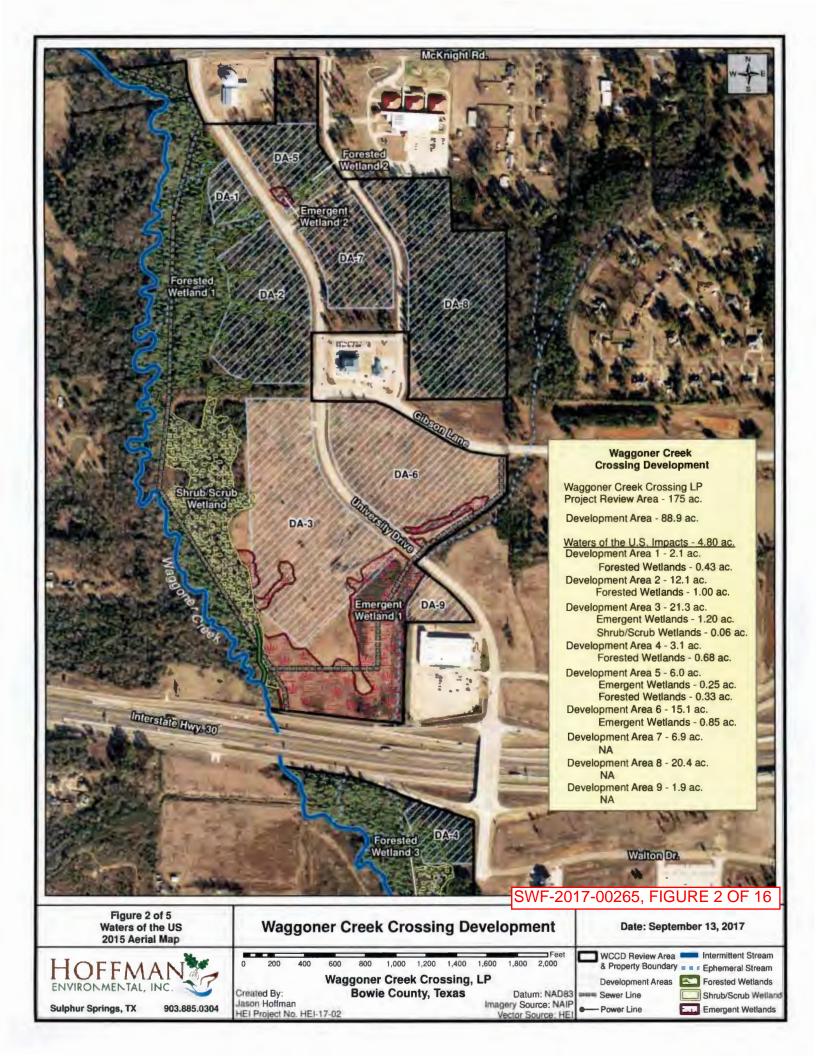
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before December 18, 2017, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to ; Regulatory Branch, CESWF-DE-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

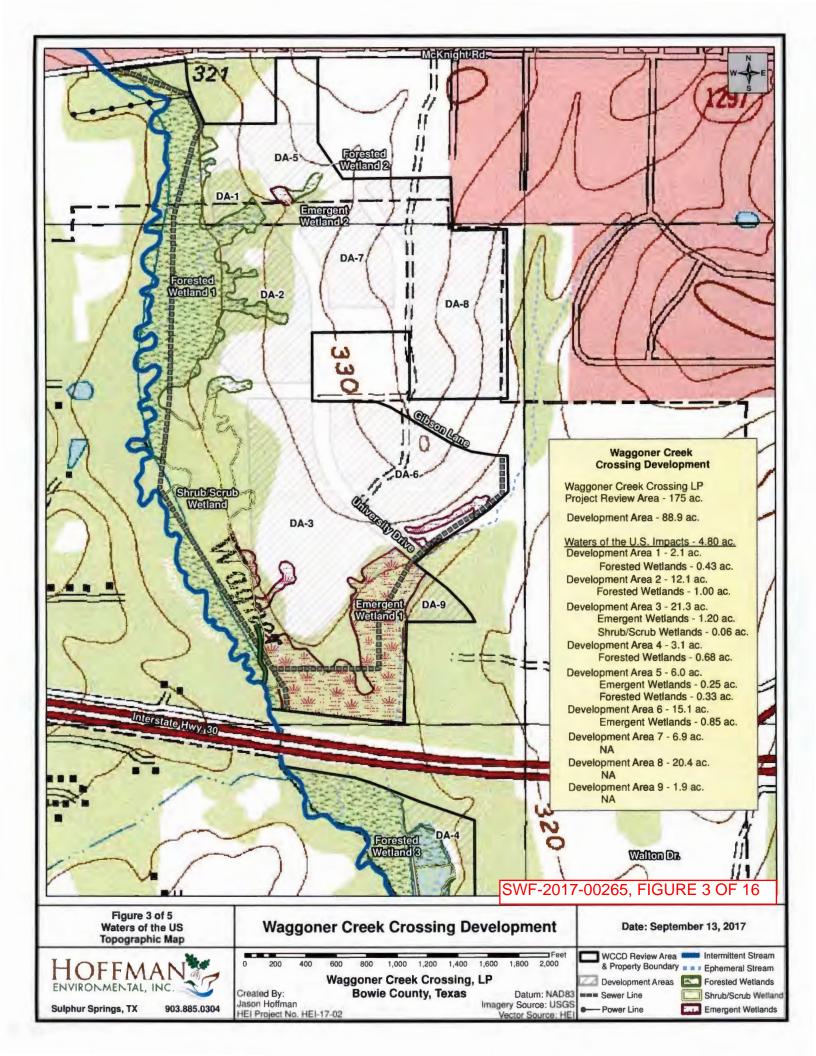
DISTRICT ENGINEER FORT WORTH DISTRICT CORPS OF ENGINEERS

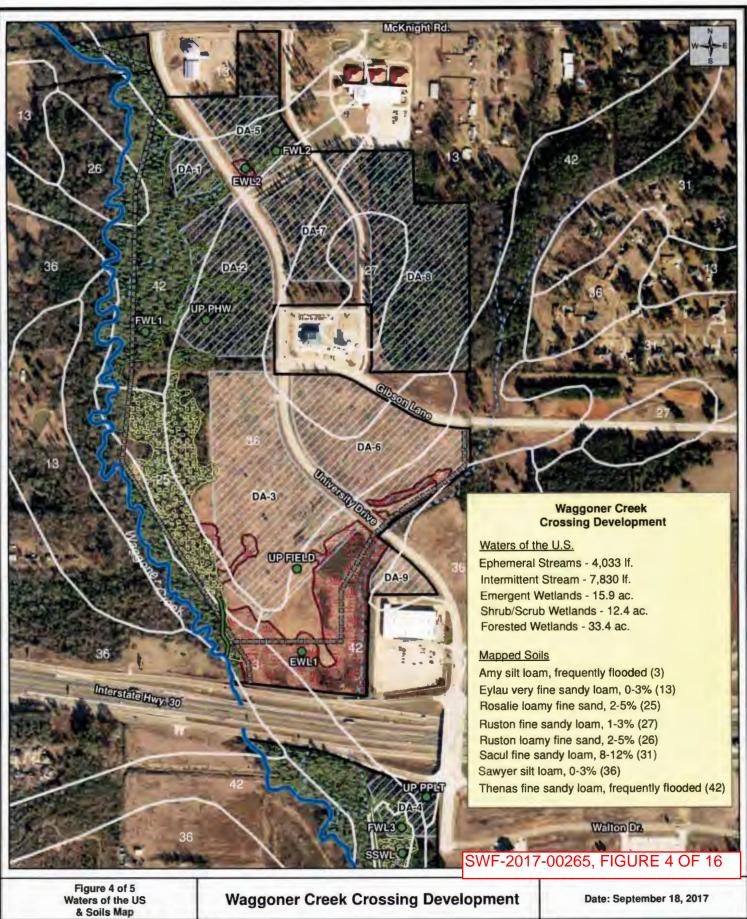
ATTACHMENTS:

FIGURE 1: LOCATION MAP, WAGGONER CREEK CROSSING DEVELOPMENT FIGURE 2: WATERS OF THE U.S. 2015 AERIAL MAP FIGURE 3: WATERS OF THE U.S. TOPOGRAPHIC MAP FIGURE 4: WATERS OF THE U.S AND SOILS MAP FIGURE 5: ALTERNATIVE PROJECT LOCATIONS FIGURE 6: CONSTURCTION PLANS FOR PRELIMINARY SITE DEVELOPMENT FOR WAGGONER CREEK CROSSING SOUTH, VICINITY MAP FIGURE 7: WCC DEVELOPMENT AREAS FIGURE 8: SITE # 1 AND 5 FIGURE 9: SITE #2 FIGURE 10: SITE #3 FIGURE 11: SITE #4 FIGURE 12: SITE #6 FIGURE 13: CROSS SECTIONS FIGURE 14: CROSS SECTIONS FIGURE 15: CROSS SECTIONS FIGURE 16: CROSS SECTIONS

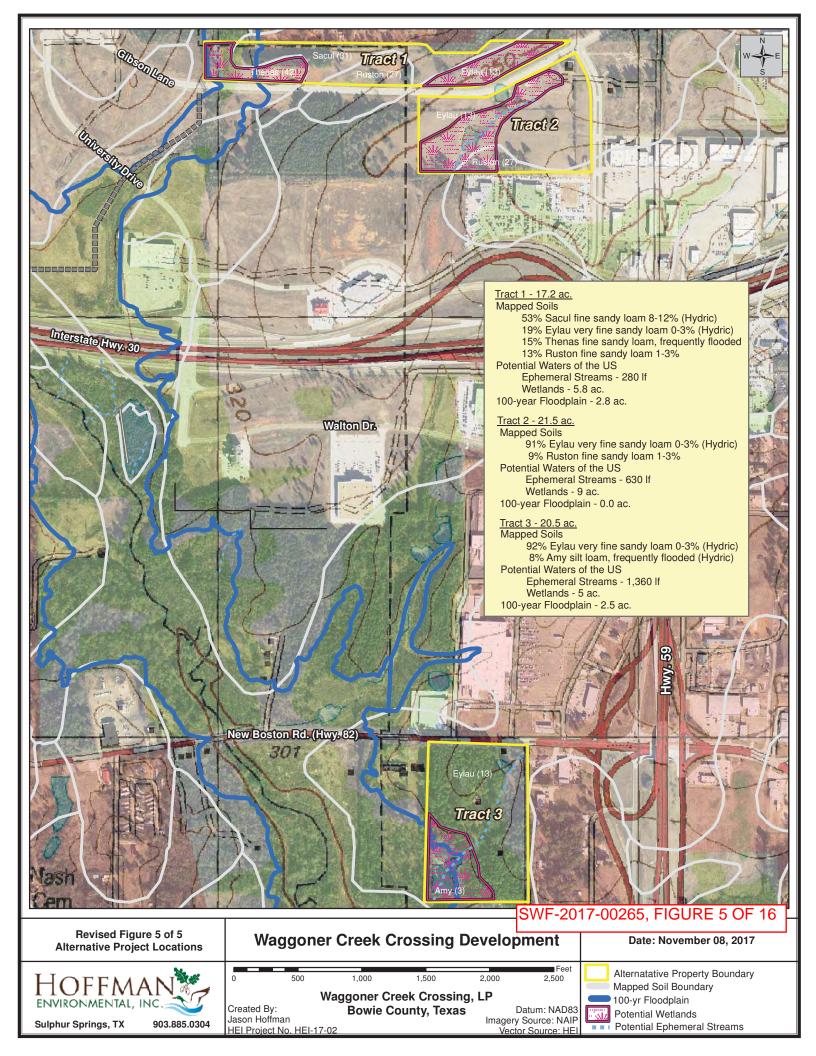








1,800 2,000 Property Boundary Intermittent Stream 400 600 1,000 1.200 1,400 1,600 200 800 Development Areas Ephemeral Stream HOFFMA E Forested Wetlands Waggoner Creek Crossing, LP Sample Locations ENVIRONMENTAL, INC. Greated By: Datum: NAD83 **Bowie County, Texas** Shrub/Scrub Wetland Sewer Line Jason Hoffman Imagery Source: NAIP 903.885.0304 Sulphur Springs, TX Emergent Wetlands Power Line HEI Project No. HEI-17-02 or Source: HEI



REFERENCE LIST

City of Texarkana, Texas Ph: 903-798-3948 Kyle Dooley

A.E.P. Electric Ph: 903-223-5761 Derik Trowler

Windstream Ph: 903-223-4665 James Latimer

Texarkana Water Utilities Ph: 903-798-3800 Gary Smith

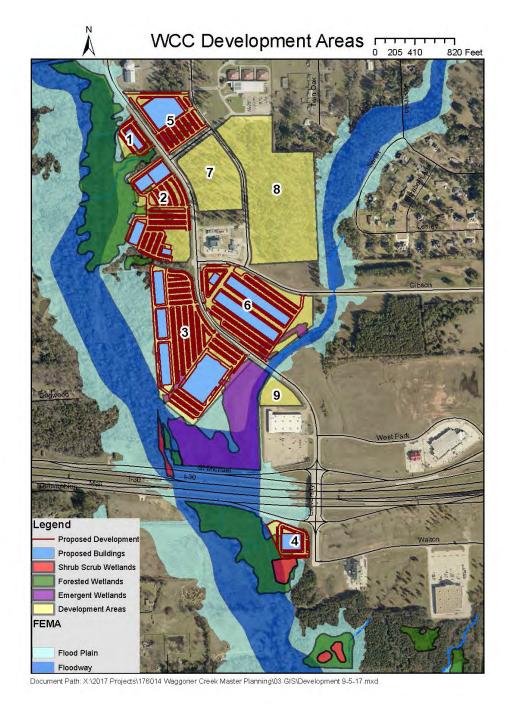
Centerpoint Energy Ph: 870-779-6338 Diane Engelkes

CONSTRUCTION PLANS FOR PRELIMINARY SITE DEVELOPMENT FOR

MAGGONER CREEK CROSSING SOUTH

TEXARKANA, TEXAS JOB NO. 176014 SEPTEMBER, 2017

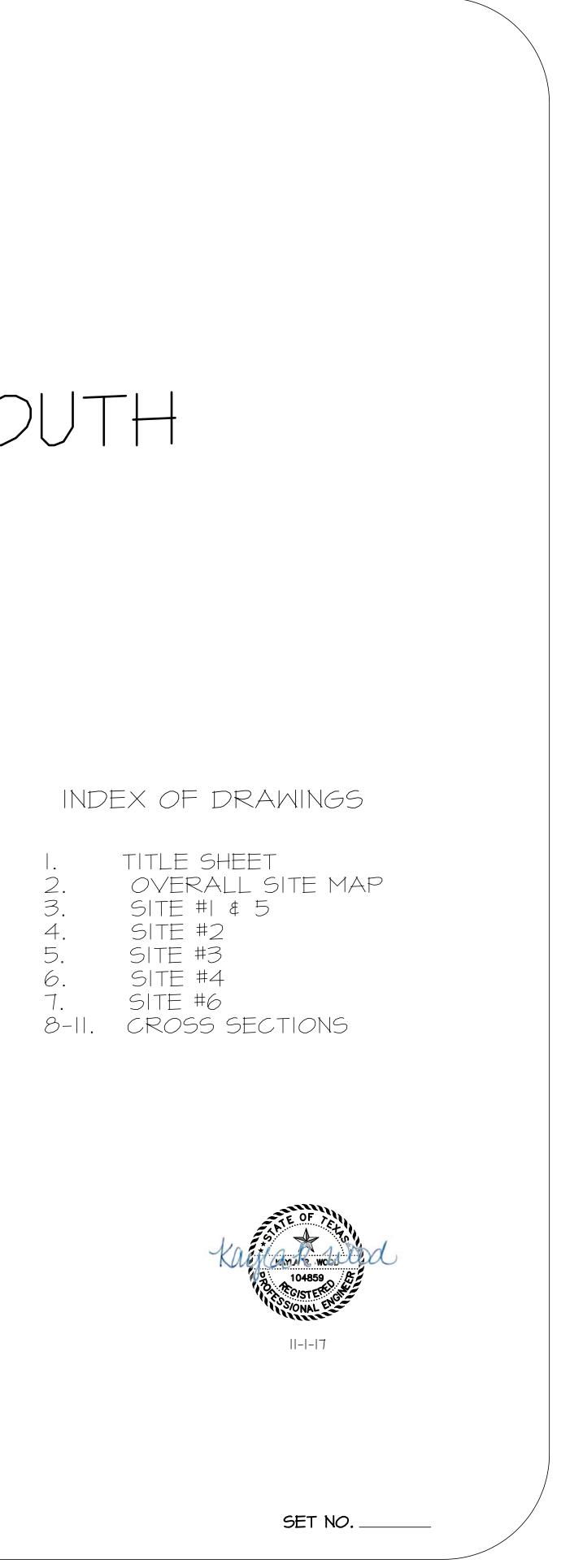
VICINITY MAP



SWF-2017-00265, FIGURE 6 OF 16

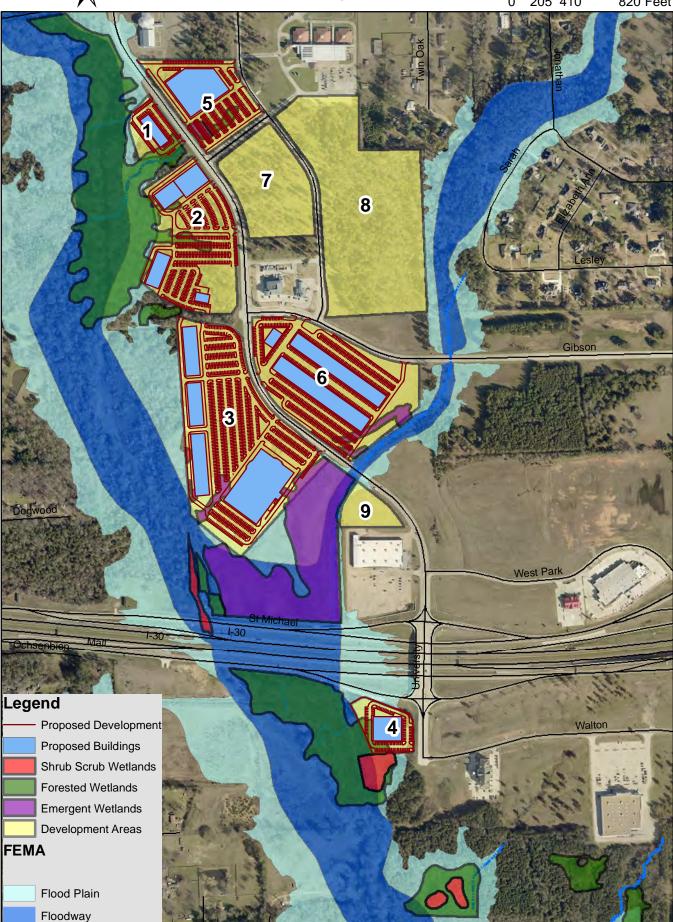


5930 SUMMERHILL RD. | P.O. BOX 3786 TEXARKANA TEXAS 75501 P 903.838.8533 | F 903.832.4700 www.mtgengineers.com TBPE FIRM NO. F-354 | ASBL NO. 125 \odot MTG 2017

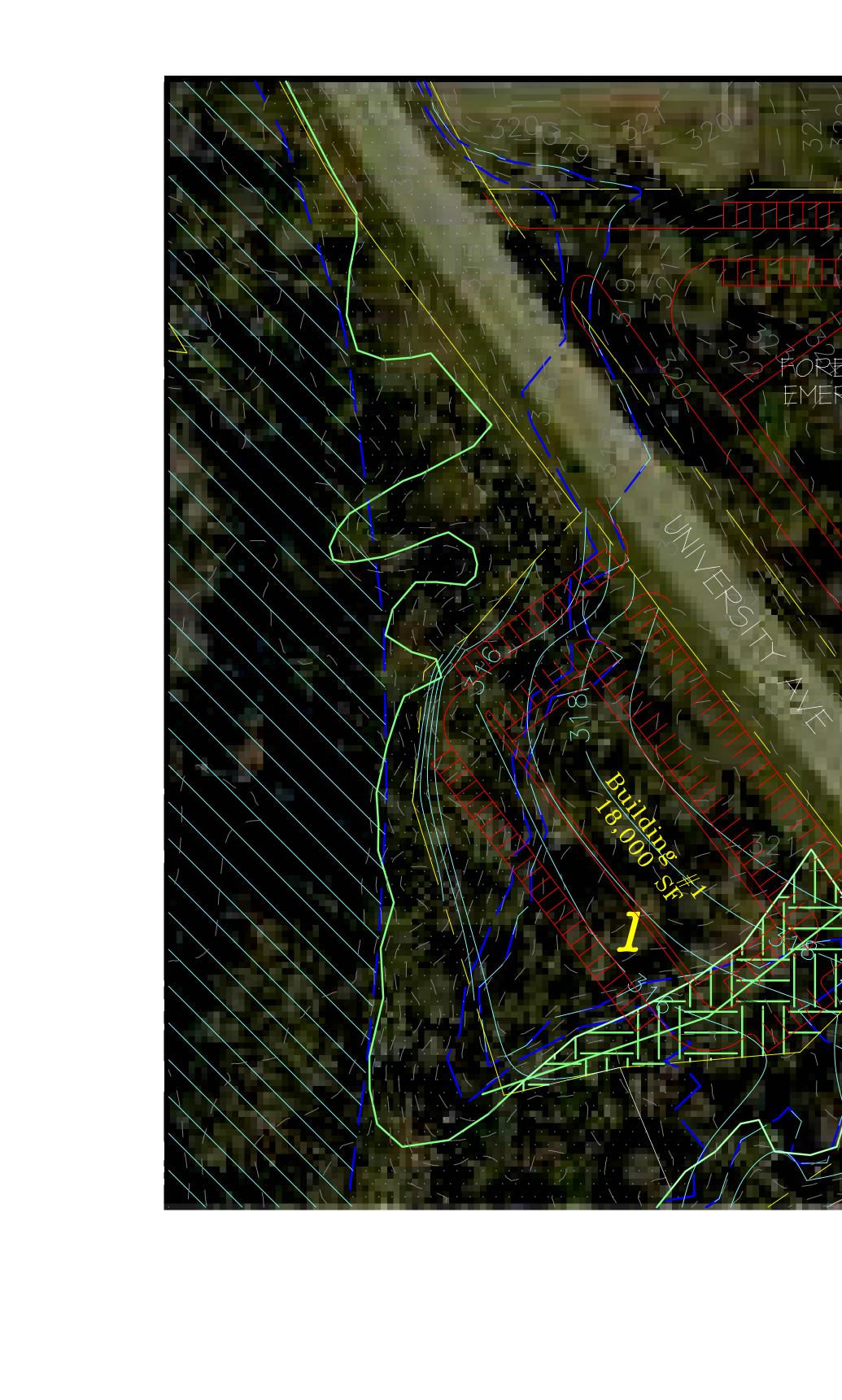


WCC Development Areas

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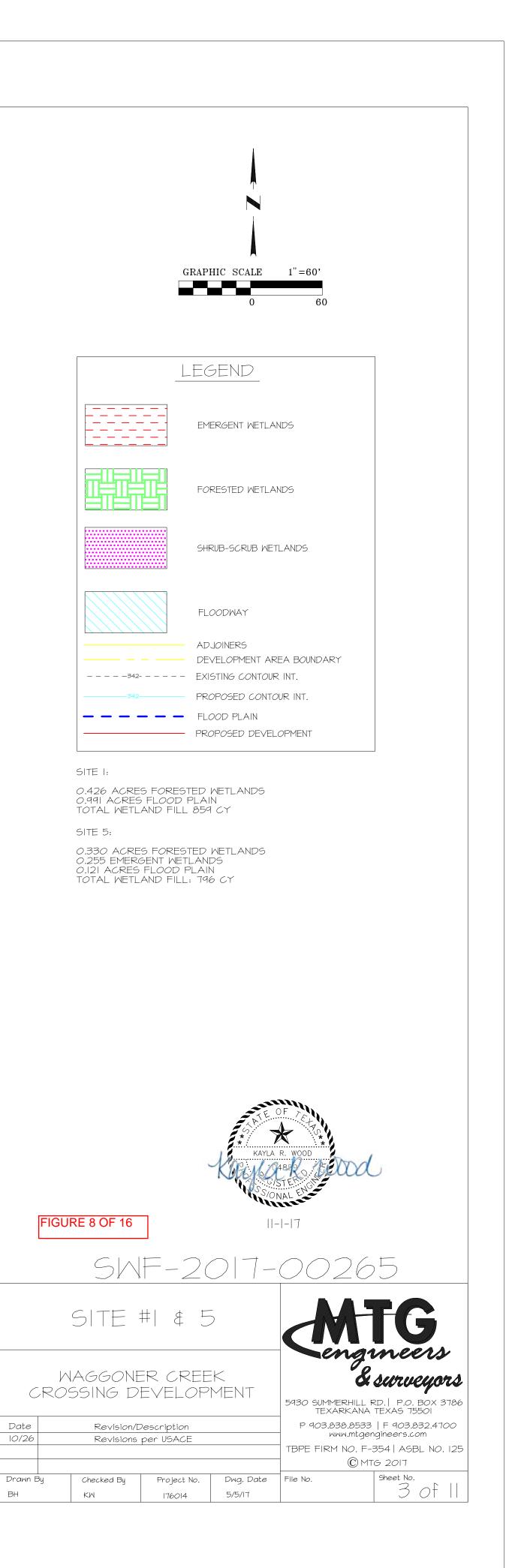


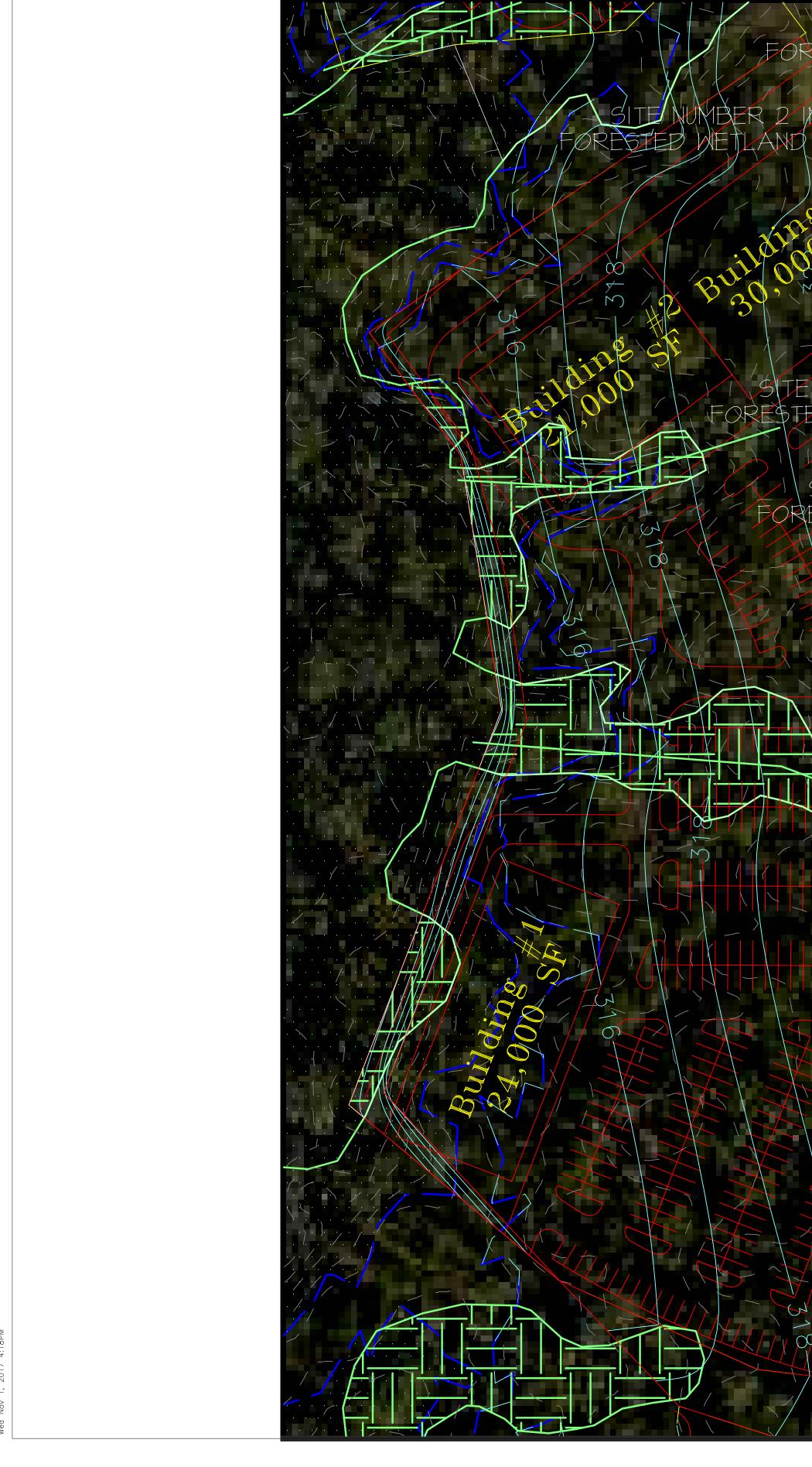
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SITE NUMBER 5 IMPACTS: ESTED WETLAND 0.330 ACRE RGENT WETLAND 0.255 ACRES

Building #1 90,000 SF

ORESTED WETLAND 0,426 AGRES



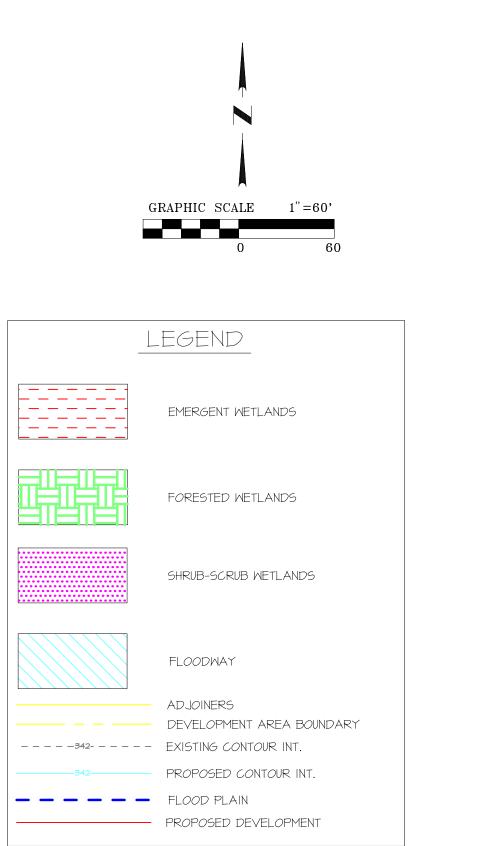


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WMBER, 2/MPACTS: WETLAND 0.67 ACR

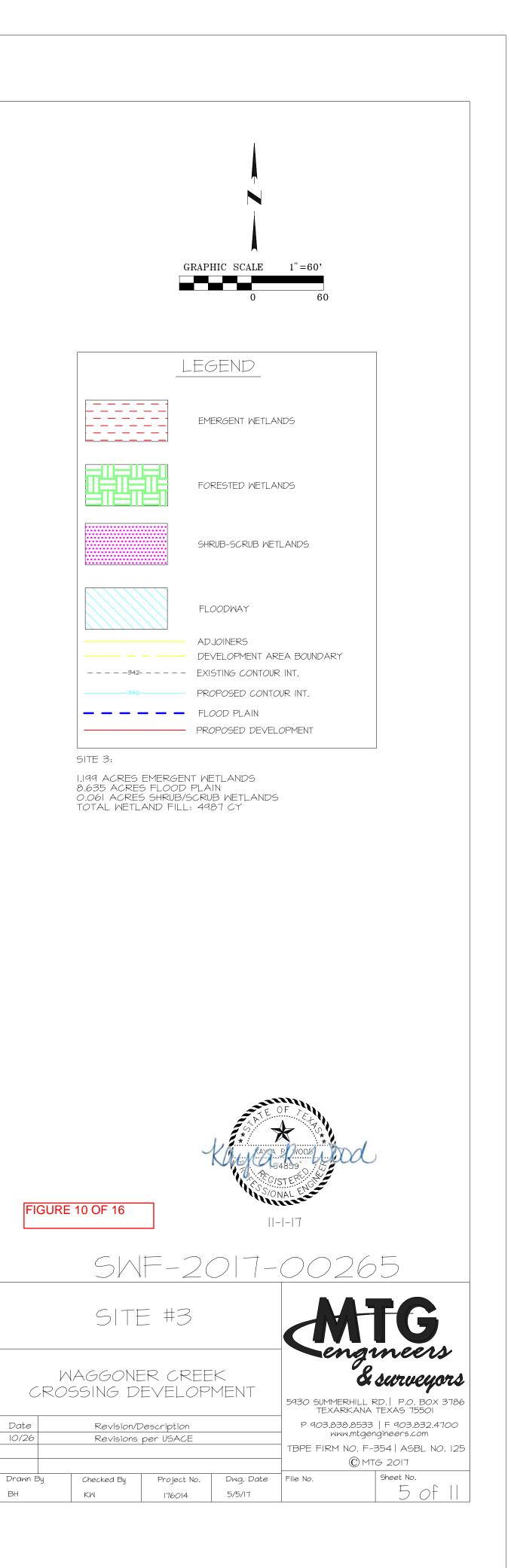
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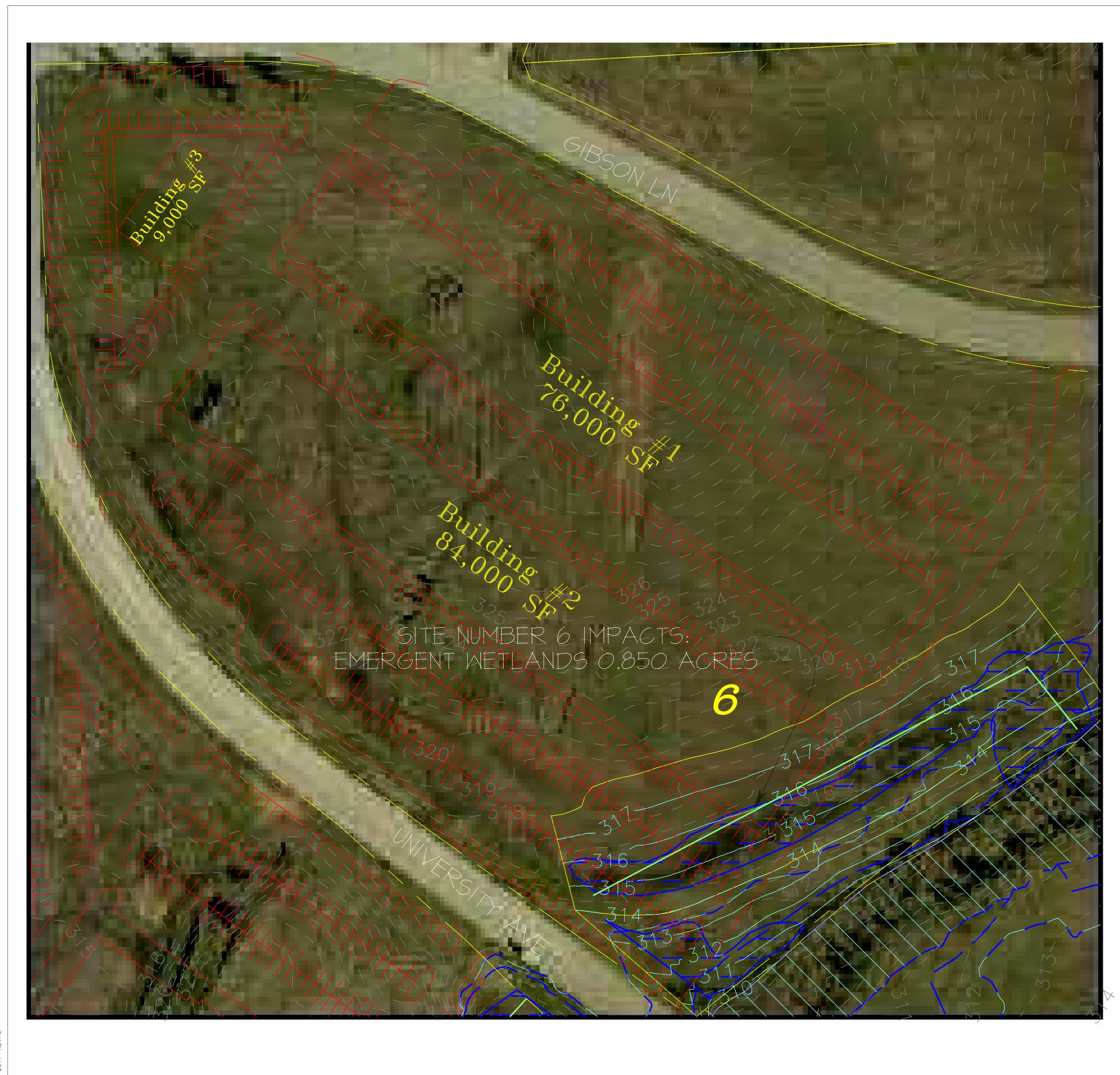


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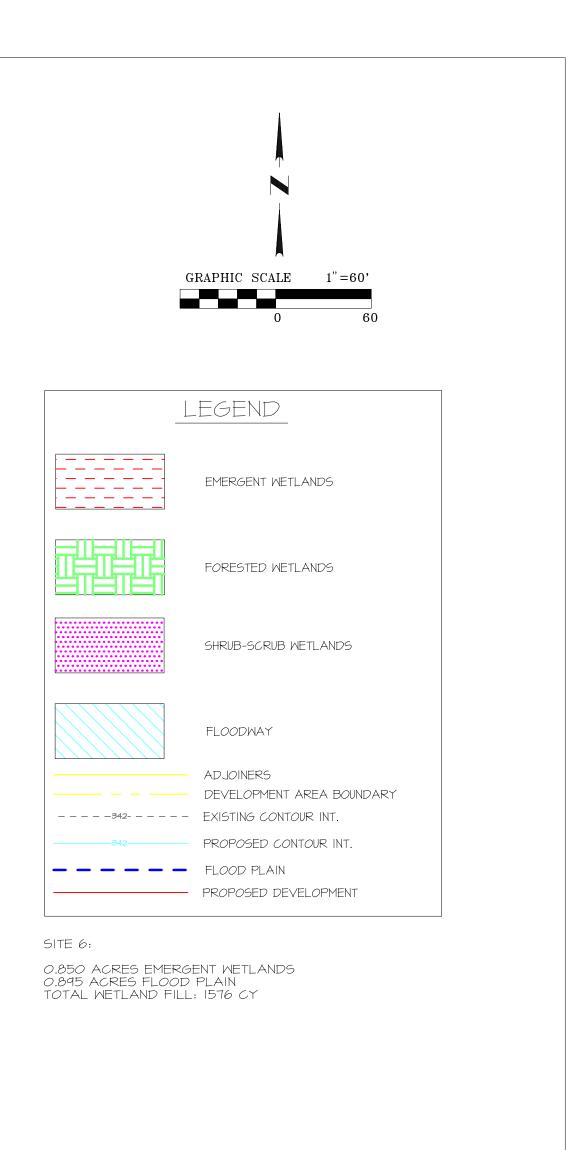




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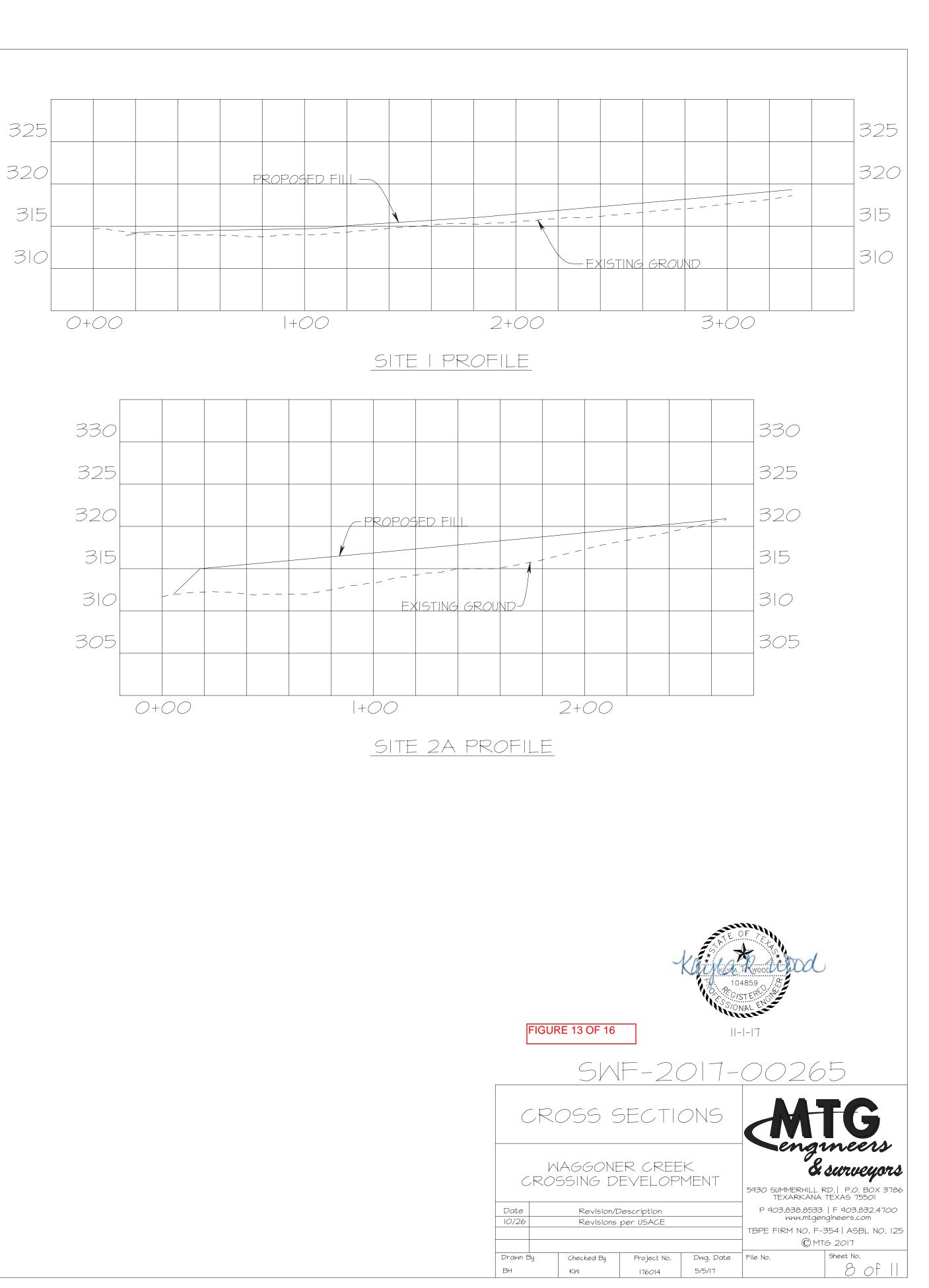


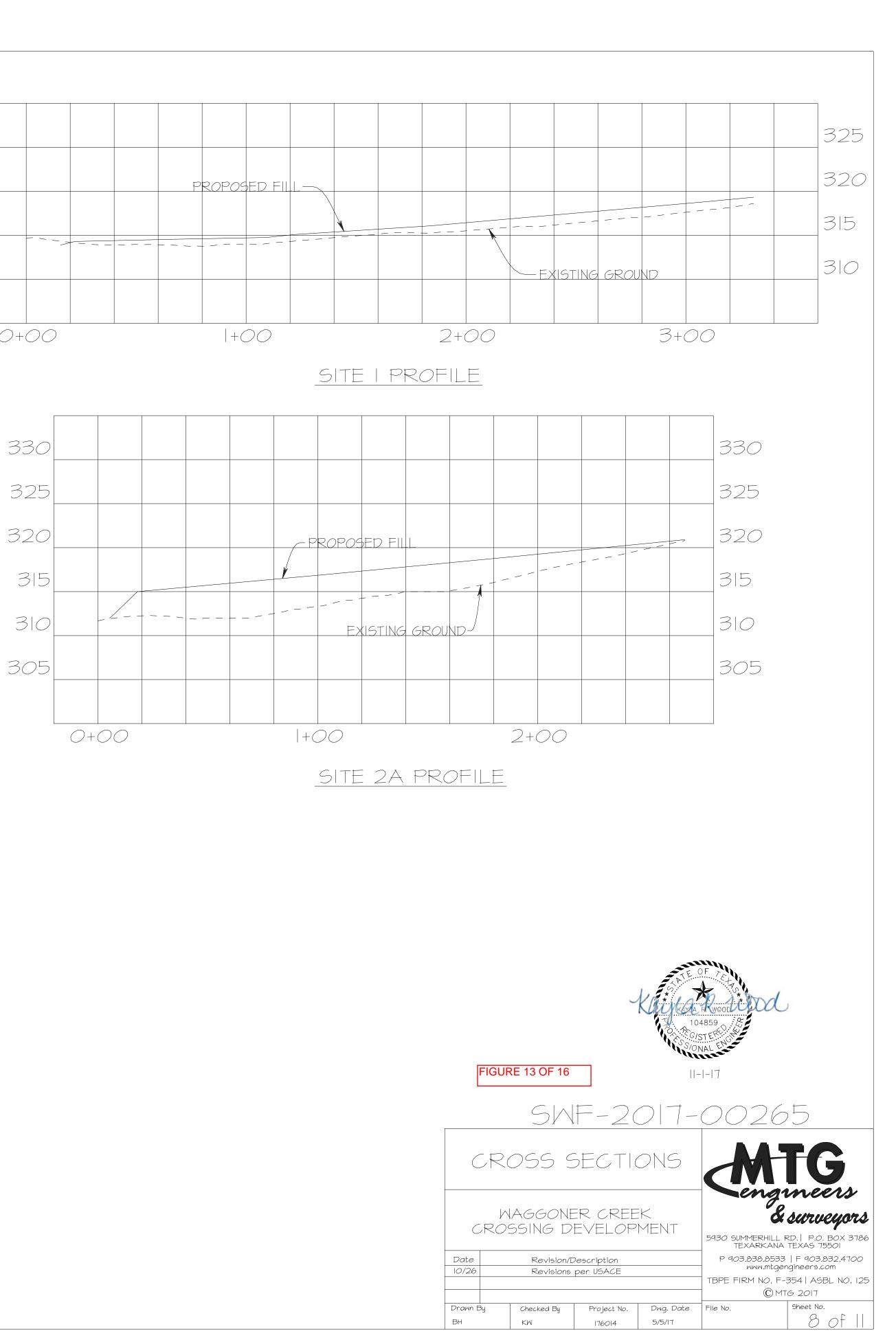
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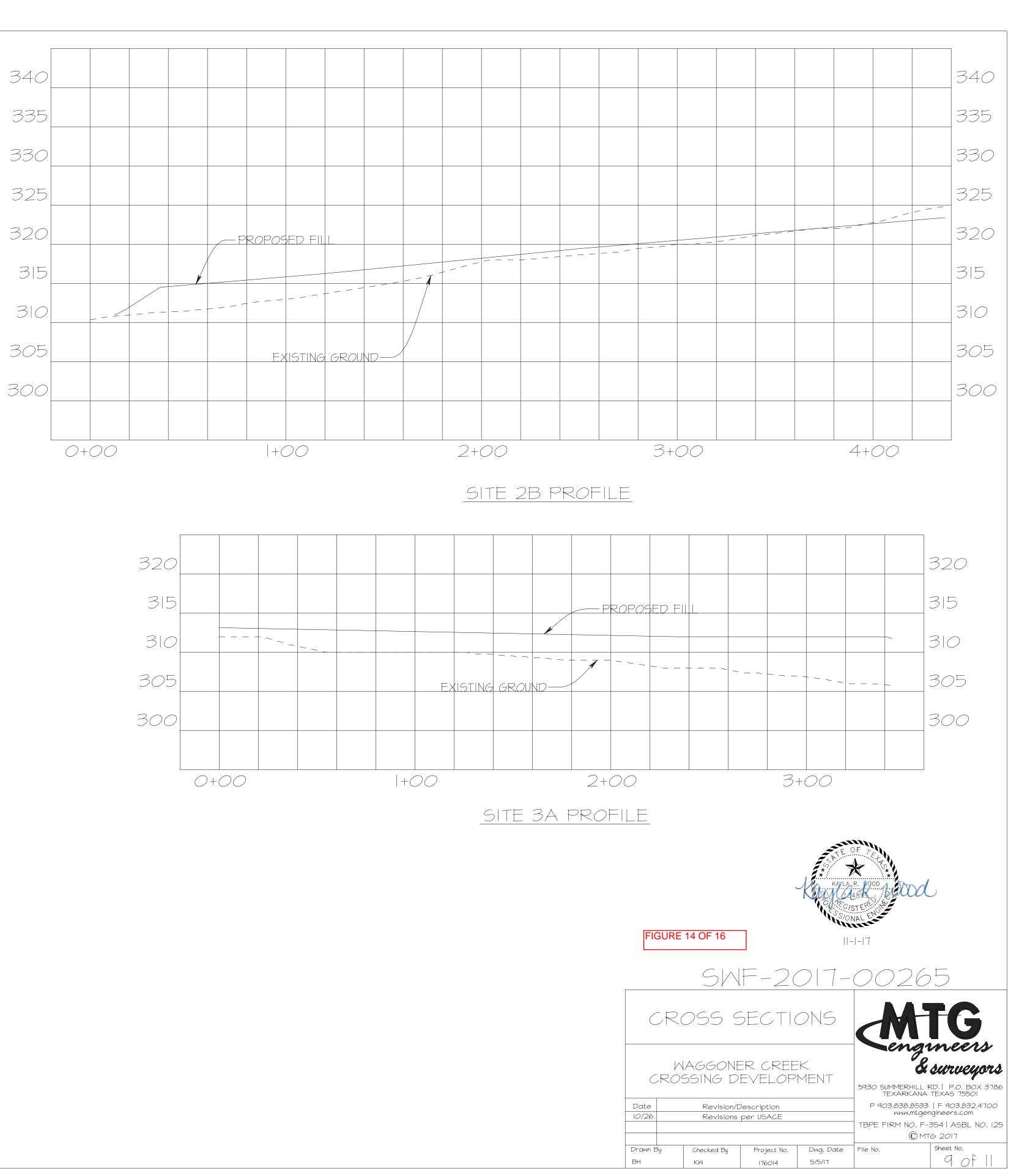


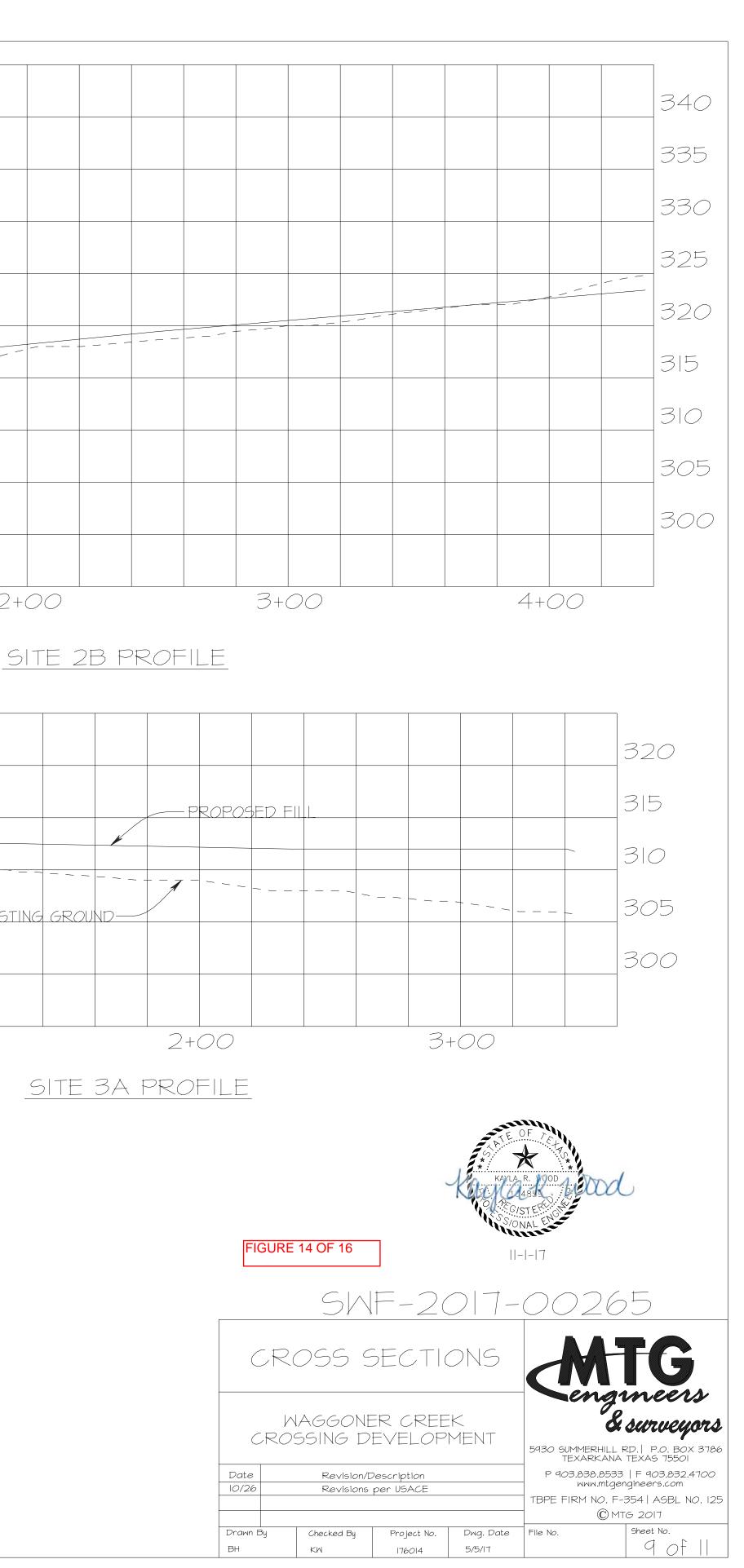


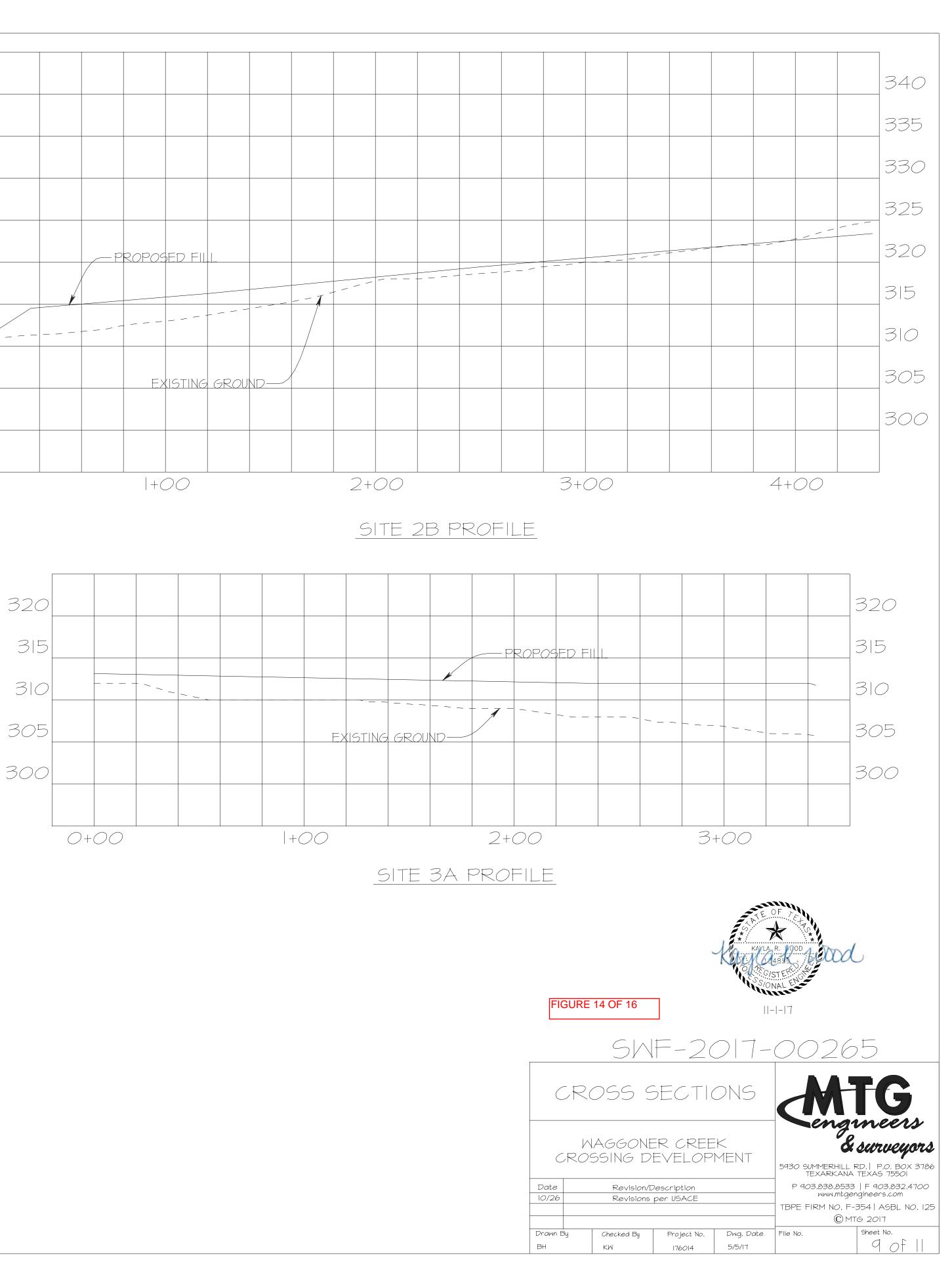


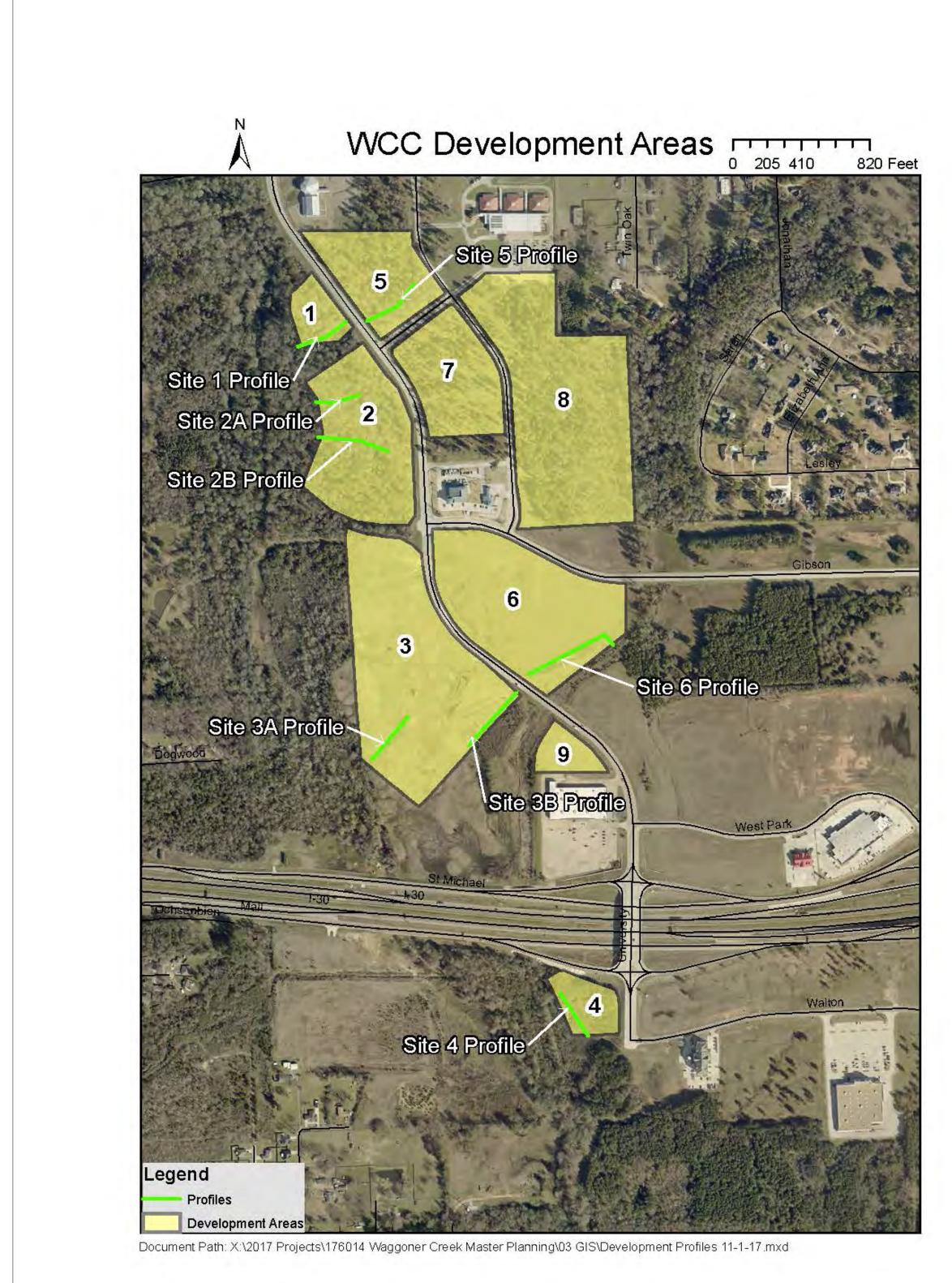












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