



**US Army Corps
of Engineers**
St Paul District

APPLICANT: Kellner Highland
Property, LLC

Public Notice

ISSUED: May 11, 2022
EXPIRES: May 26, 2022

REFER TO: 2012-05355-MWM

SECTION: 404 - Clean Water Act

1. APPLICATION FOR PERMIT TO permanently discharge dredged and fill material into 29,911 square feet (0.687 acres) of wetlands for the purpose of constructing three building pads, each 5,000 square feet, and associated grading to support three single family homes.

2. SPECIFIC INFORMATION

APPLICANT

William Arpe
Kellner Highland Property, LLC
789 North Water Street Suite 200
Milwaukee, Wisconsin 53202

AGENT

Brian Lennie
Stantec Inc.
12075 Corporate Parkway Suite 200
Mequon, Wisconsin 53092

PROJECT LOCATION: The project site is located in Section 11, Township 9 North, Range 21 East. The parcels are located north of Highland Road and east of Green Bay Road in the City of Mequon, Ozaukee County, Wisconsin. Latitude 43.25393, Longitude -89.97238.

DESCRIPTION OF PROJECT: The project intends to provide residential development around a 20-acre man-made pond in the City of Mequon. A total of four approximate 10,000 square foot homes are proposed on the southern side of the pond, each lot is 5 acres in size. Of the four homes proposed, three are proposing wetland fill to construct the building pad to support the home. The building pads are proposed to be constructed in late 2022 and the homes would be constructed in 2023 or 2024. The proposed activities would result in the discharge of dredged and fill material into 29,911 square feet (0.687 acres) of wet meadow wetlands. Specifically, the project would result in the loss of 9,997 square feet of Wetland 13 and 19,914 of Wetland 14. Each of the three building pads would have a 5,000 square foot footprint.

QUANTITY, TYPE, AND AREA OF FILL: The project would result in the permanent discharge of dredged and fill material into 29,911 square feet (0.687 acres) of wetland associated with placement of clay for three building pads and associated grading to support three single family homes. The fill material would consist of dredged material and clay. The clay would be obtained from large berms that were placed on the property following excavation of the large pond to the north many years ago. The western most building pad would be placed at a max depth of 3.4 feet and the volume would be 915 cubic yards. The middle building pad would be placed at a max depth of 5 feet and the volume would be 1,095 cubic yards. The eastern most building pad would be placed at a max depth of 4.2 feet and the volume would be 1,581 cubic yards.

VEGETATION IN AFFECTED AREA: According to a wetland delineation report completed on the site by Stantec Consulting Service Inc. in 2018, the wetland community of Wetland 13 and 14 totals 3.76 acres. The vegetation within Wetland 13 and 14 includes Weeping willow, Eastern cottonwood, Silky willow, Common buckthorn, Narrow-leaf cattail, Green ash, Sandbar willow, Gray willow and Reed canary grass. No tree clearing would occur associated with the proposed project, the trees are outside of the project area. The proposed seed mix to be used following construction would be Wisconsin Department of Transportation Seed Mix #40.

SOURCE OF FILL MATERIAL: The source of fill material would be clean clay from an on-site berm that was placed with dredged material obtained from excavating the large pond north of the project area.

SURROUNDING LAND USE: The surrounding land use consists of residential development (including a man-made pond), upland forests, and agriculture fields.

THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE: Fuel, hydraulic fluid, lubricants, coolant and other fluids commonly used by construction equipment would be expected to be present for construction of the project.

THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT: The project would be conducted with best management practices to prevent sediments from leaving the site during and after construction, silt fences would be utilized.

MITIGATION: The applicant has not proposed compensatory mitigation for wetland impacts.

3. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT

None were identified by the applicant or are known to exist in the permit area. However, Ozaukee County is within the known or historic range of the following Federally-listed species:

Northern Long-Eared Bat	Hibernates in caves and mines – swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.
Red Knot	Coastal areas along Lake Michigan.
Hines Emerald Dragon Fly	Calcareous (high in calcium carbonate) spring-fed marshes and sedge meadows overlying dolomite bedrock.
Monarch Butterfly	Milkweed plants.
Eastern Prairie Fringed Orchid	Grassy habitat with full sun and little or no woody encroachment.

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments they may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

4. JURISDICTION

This application is being reviewed in accordance with the practices for documenting Corps jurisdiction under Sections 9 & 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

5. STATE SECTION 401 WATER QUALITY CERTIFICATION

Valid Section 404 permits cannot be issued for any activity unless water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The Section 401 authority for this project is The Wisconsin Department of Natural Resources (WDNR). A Department of the Army permit will not be granted until the WDNR has issued or waived Section 401 WQC certification and the U.S. Environmental Protection Agency (USEPA) neighboring jurisdiction process is completed. Corps Section 404 Clean Water Act decisions may not be finalized until after the USEPA completes this process.

6. HISTORICAL/ARCHAEOLOGICAL

The Corps will review information on known cultural resources and/or historic properties within and adjacent to the project area. The Corps will also consider the potential effects of the project on any properties that have yet to be identified. The results of this review and the Corps' determination of effect will be coordinated with the State Historic Preservation Officer independent of this public notice. Any adverse effects on historic properties will be resolved prior to the Corps authorization, or approval, of the work in connection with this project.

The latest versions of the Wisconsin Historic Preservation Database have been consulted and no listed properties (known to be eligible for inclusion, or included in the Register) are located within, or adjacent to, the project area.

7. PUBLIC HEARING REQUESTS

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, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

8. PUBLIC INTEREST REVIEW

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values,

flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers 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 of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment 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.

9. COASTAL ZONE MANAGEMENT.

This Public Notice has been sent to the agency responsible for Coastal Zone Management and is considered by the District Engineer to constitute valid notification to that agency for a Coastal Zone Consistency determination.

REPLIES/COMMENTS

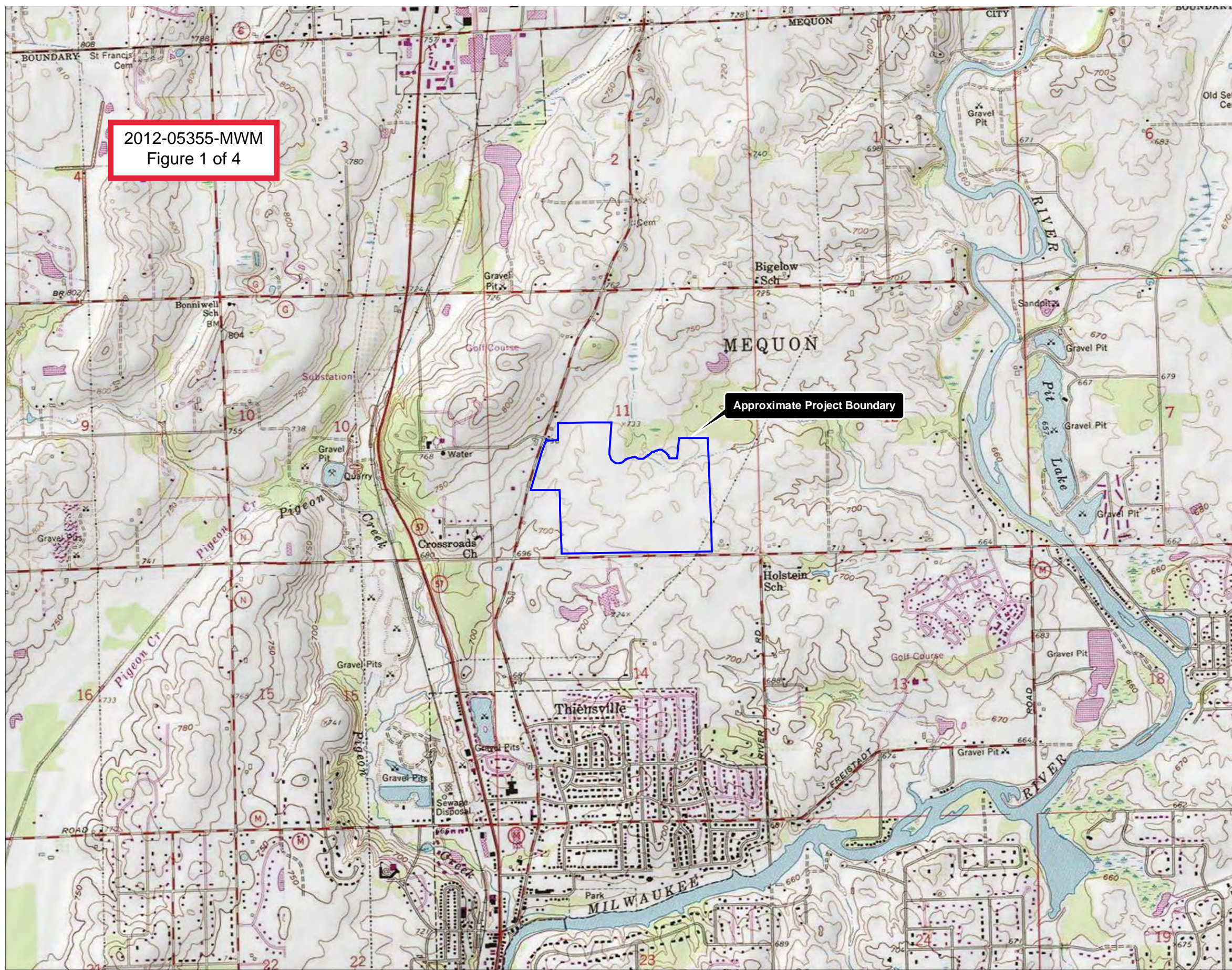
Interested parties are invited to submit to this office written facts, arguments, or objections by the expiration date indicated above. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be sent to Morgan Wirth-Murray at Morgan.M.Wirth-Murray@usace.army.mil

IF YOU HAVE QUESTIONS ABOUT THE PROJECT, contact Morgan Wirth-Murray at the Brookfield Office at 651-290-5855 or Morgan.M.Wirth-Murray@usace.army.mil.

To receive Public Notice notifications, go to: <https://www.mvp.usace.army.mil/Contact/RSS/> and subscribe to the RSS Feed for which you would like to receive Public Notices.

Enclosures:
MVP-2012-05355-MWM Project Drawings



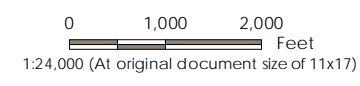
2012-05355-MWM
Figure 1 of 4

Approximate Project Boundary

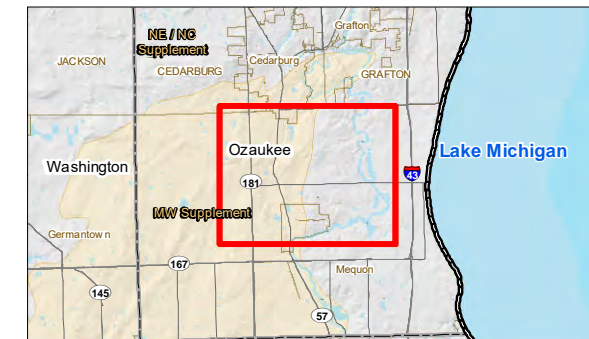
Figure No.
1
Title
Project Location and Topography

Client/Project
Kellner-Klug LLC
Highland Road Parcel
Wetland Delineation

Project Location 193706333
T9N, R21E, S11, Prepared by AJS on 2018-08-24
C. of Mequon, Technical Review by JM on 2018-08-24
Ozaukee Co., WI Independent Review by BSL on 2018-09-20



Legend
[Blue outline box] Approximate Project Boundary



Notes
1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803 Feet
2. Data Sources include: Stantec, WisDOT, WDNR
3. Background: USGS 7.5 Topographic Quadrangles



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2012-05355-MWM
Figure 2 of 4

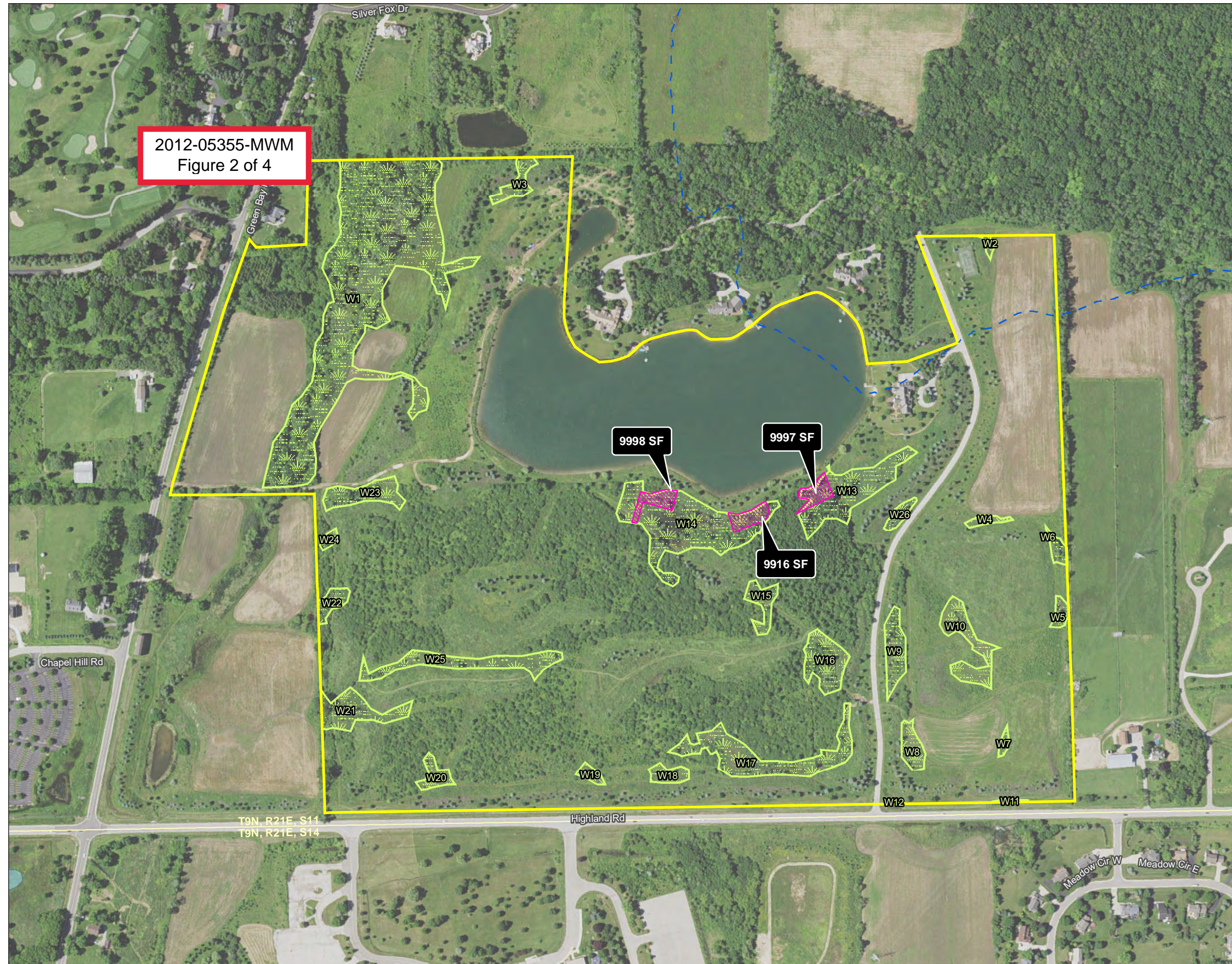
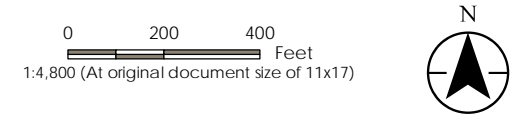


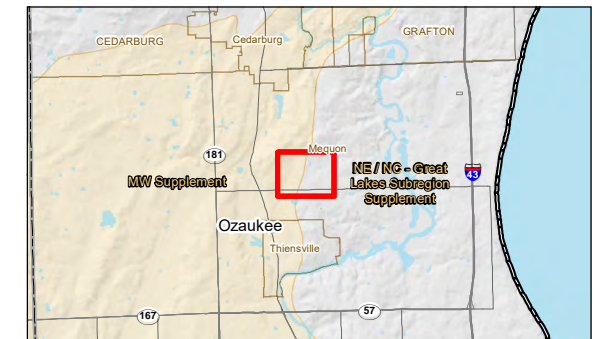
Figure No.
1
Title
Wetland Fill Permit Impact Areas

Client/Project
Kellner-Klug LLC
Highland Road Parcel
Wetland Delineation

Project Location 193708023
T9N, R21E, S11, Prepared by AJR on 2022-01-31
C. of Mequon, Technical Review by BSL on 2022-01-31
Ozaukee Co., WI Independent Review by XXX on XXX-XX-XX



- Legend**
- Approximate Project Boundary
 - 2ft Elevation Contour
 - Field Delineated Wetland
 - Wetland Fill Areas - 29,911 SF
 - DNR 24k Hydrography
 - Perennial Stream
 - Intermittent Stream
 - Waterbody



- Notes**
1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803 Feet
 2. Data Sources Include: Stantec, Ozaukee Co., WsDOT, WDNR
 3. Orthophotography: NAIP 2017



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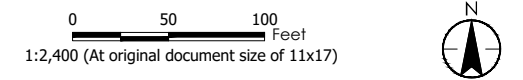
2012-05355-MWM
Figure 3 of 4

Figure No. **1**
Title
Preliminary Lot Layout Plan

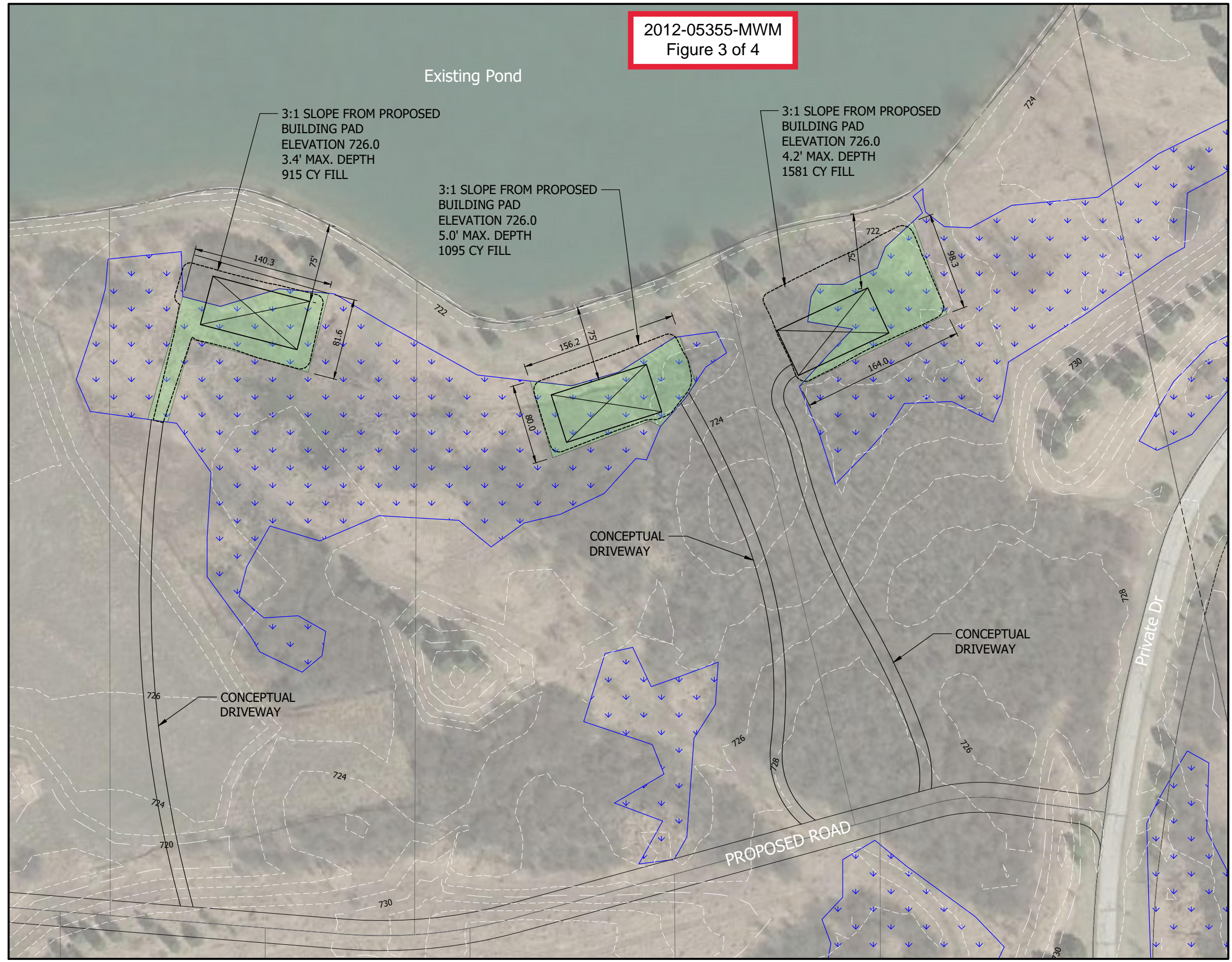
Client/Project
Ted Kellner
Highland Road Parcel

Project Location
T9N, R21E, S11
C. of Mequon
Ozaukee Co., WI

193708023
Prepared by AJR on 2022-04-04
Technical Review by BSL on 2022-04-04
Independent Review by EG on 2022-04-04



- Legend**
- Existing 2 Foot Contours
 - Existing Parcels
 - Proposed Parcels
 - Proposed 5,000 sq.ft. Building Pad
 - Wetlands delineated by Stantec - 2018
 - Proposed Wetland Fill - 29,915 sq.ft.



- Notes**
1. Coordinates System: NAD27 Wisconsin State Planes, South Zone(4803), US Foot
 2. Data Sources Include: Ozaukee County GIS, LIDAR, Site Survey
 3. Orthophotography: Google Earth



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