

U.S. Army Corps
of Engineers
Baltimore District
PN-2061

Public Notice



In Reply to Application Number
NAB-2016-61875 (ST CHARLES WETLAND MITIGATION BANK)

Comment Period: September 24, 2020 to October 24, 2020

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM INTERESTED PARTIES CONCERNING THE PROSPECTUS FOR DEVELOPMENT OF A PRIVATE COMMERCIAL COMPENSATORY MITIGATION BANK.

The Baltimore District, U.S. Army Corps of Engineers (Corps) and the Maryland Department of the Environment (MDE) have received a complete prospectus for the St. Charles Wetland Mitigation Bank (Bank) pursuant to the 2008 Mitigation Rule (33 CFR 332) proposing to establish a compensatory mitigation bank ("Bank") and generate mitigation credits to offset unavoidable impacts to waters of the United States (U.S.) authorized under Section 404 of the Clean Water Act (33 USC 1344). In addition, the Bank is proposed to generate mitigation credits to offset unavoidable impacts to waters of the State of Maryland authorized under Title 5 and Environment Article Annotated Code of Maryland. On 25 June 2013, the Corps issued joint Public Notice (PN) 13-42 for the original Bank prospectus submitted December 2012 by Bank Sponsor (Sponsor), St. Charles Community, LLC. Comments received in response to the PN were provided to the Sponsor concurrent with the Corps initial evaluation letter for consideration during the development of the Bank banking instrument. Since greater than five years has passed from the date of the initial PN, and in consideration that the Sponsor is continuing to develop their final draft instrument, the Corps believes a second Public Notice to allow for submittal of any additional comments is appropriate. Comments submitted in response to the original Public Notice do not need to be resubmitted, as the Bank prospectus attached to PN-13-42 has not changed, and all previously submitted comments are already part of the record. Comments received in response to this PN will be provided to the Sponsor for consideration in their continued development of the Bank draft instrument. The proposed Bank may also provide alternative types of mitigation for Corps of Engineers civil works projects as well as mitigation in connection with resolving Clean Water Act enforcement cases.

BANK SPONSOR: St. Charles Community, LLC
A subsidiary of US Home Corporation
7035 Albert Einstein Drive, Suite 200
Columbia, Maryland 21046
Attn: Matthew Wineman

WATERWAY AND LOCATION OF THE PROPOSED BANK: The proposed 13-acre compensatory mitigation Bank is located at 5305 Piney Church Road, on an unnamed tributary to the Zekiah Swamp near Waldorf, Charles County, Maryland with the center of the site located approximately at Latitude:38.564'N, Longitude: -76.909'W. The Bank is located within the 8-digit U.S. Geological Survey Hydrologic Unit Code (USGS HUC), 02-07-01-11.

OVERALL PROJECT PURPOSE: The Sponsor proposes to establish, design, construct, operate, and maintain a 13-acre private commercial wetland compensatory mitigation bank

to be known as St. Charles Wetland Bank (Bank). The proposed Bank will provide off-site compensatory mitigation for unavoidable impacts to wetlands and other waters of the United States authorized by a Department of the Army (DA) permit within the proposed geographic service area described below.

The attached prospectus provides a summary of the development of the proposed Bank and initiates the Corps' review associated with establishment of this Bank, including the development of an approved mitigation banking instrument (MBI). A draft MBI may be prepared by the Sponsor following the Corps' review of the comments received in response to this public notice and determination that the proposed Bank site has potential for providing appropriate compensatory mitigation for activities authorized by DA permits. An approved MBI is the legal document for the establishment, operation, use, and maintenance of the Bank in a way that complies with the regulations governing compensatory mitigation for activities authorized by Department of the Army permits granted by the U.S. Army Corps of Engineers.

Pursuant to 33 CFR 332.8(d)(4), the Corps has posted a full copy of the subject prospectus online so that it is available for review by the public. The prospectus may be downloaded from the Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS) at web address:

https://ribits.ops.usace.army.mil/ords/f?p=107:10:::NO::P10_BANK_ID:2877

PROJECT DESCRIPTION: The proposed establishment of this 13-acre Bank site involves the creation, enhancement and preservation of aquatic resources. It is proposed that ecological lift associated with establishment of this mitigation bank, including wildlife habitat, water quality and education would generate wetland and/or stream credits that are to provide off-site compensatory mitigation for activities authorized under a Department of the Army permit. Specifically, the following is a list of project objectives as described by the Sponsor:

- Establish approximately 3.89 acres of palustrine forested (PFO) wetlands;
- Enhancement 0.51 acres of palustrine open water (POW) to PFO wetlands through grading and planting;
- Enhancement 0.27 acres of POW to palustrine scrub-shrub (PSS) wetlands through grading and planting;
- Enhancement of 0.26 acres of POW to palustrine emergent (PEM) wetlands through grading and planting;
- Enhance of 2.22 acres of PEM wetlands to PFO wetlands with planting only;
- Enhancement of 0.23 acres of POW to PEM wetlands with minimal grading and planting;
- Preservation of 2.18 acres of PEM wetlands;
- Preservation of 0.57 acres of PSS wetlands;
- Preservation of 0.22 acres of PFO wetlands; and 1.98 acres of upland buffer.
- The Bank is proposed to be protected in perpetuity via recordation of a real estate instrument such as a conservation easement or restrictive covenant.
- Upon Bank closure, the bank is proposed to be managed long term by the sponsor.

PROPOSED SERVICE AREA: The service area of a bank is a geographic area, such as

a watershed or ecoregion, within which the mitigation bank is authorized to provide compensatory mitigation required by Department of the Army permits. The proposed primary service area for the Bank would include the Lower Potomac River Basin Watershed, 8 digit USGS HUC: 02-07-00-11. The proposed secondary service area would include the Middle Potomac-Anacostia-Occoquan sub-basin 8 digit USGS HUC 02-07-00-10. The use of the secondary service area would be considered by the Corps only when credits are not available from another approved mitigation bank within the primary service area and the applicant demonstrates that the mitigation credits will replace the lost aquatic functions and services at the impact site. Impacts to coastal and tidal aquatic resources would be excluded from mitigating at this nontidal Bank.

MITIGATION BANK APPROVAL AND PERMITTING PROCESSES: This Bank may be one of a number of practicable options available to applicants to compensate for unavoidable impacts associated with permits issued under the authority of Section 404 of the Clean Water Act. Released mitigation bank credits are generally the preferred option for compensatory mitigation because banks consolidate resources, involve more financial planning and scientific expertise, and must meet certain performance standards, thereby reducing risks associated with mitigation projects. Approval to use an approved Bank site to offset impacts for a specific project is the decision of the Corps pursuant to Section 404 of the Clean Water Act. The Corps provides no guarantee that any particular individual or general permit will be granted authorization to use an approved Bank site to compensate for unavoidable impacts associated with a proposed permit. Authorization by the MDE may also be required to use this Bank to offset specific impacts regulated by the Maryland.

Issuance of a public notice regarding proposed compensatory mitigation bank sites is required pursuant to 33 C.F.R. § 332.8(d)(4) and 40 C.F.R. § 230.98(d)(4). The proposed establishment of the compensatory mitigation Bank will be evaluated pursuant to the 2008 Mitigation Rule (33 CFR Part 332).

The Sponsor must obtain the appropriate federal, state, and local permits required to implement the Bank restoration activities. The Sponsor would submit an application for a Corps permit should the Bank mitigation activities involve a discharge of dredge or fill material within waters of the U.S. or work within navigable waters of the U.S. and receive Corps authorization prior to initiating construction activities. The Corps would complete consultation, if appropriate, under the Endangered Species Act, the National Historic Preservation Act and other applicable federal laws, prior to any DA permit authorization for construction of the Bank site.

Based upon a preliminary review of the prospectus, the proposed work to develop the compensatory mitigation Bank site may result in temporary and/or permanent impacts to waters of the U.S. or work within navigable waters of the U.S. No permit application has been submitted to date for the proposed construction activities associated with development of the Bank. A preliminary review indicates that the proposed work may qualify for Corps authorization under the Nationwide Permit (NWP) #27 (Aquatic Habitat Restoration, Enhancement, and Establishment Activities) or State Programmatic General Permit (SPGP). Both the SPGP and NWP #27 have undergone a full public interest review as required by Corps regulations (33 CFR 320.4(a)), and NEPA documentation has been prepared that addresses environmental considerations.

Please refer to the table below for a summary of approximate aquatic resource impacts to construct the compensatory mitigation bank.

EFFECTS ON AQUATIC RESOURCES:

Activity (i.e. culvert)	Stream Impact (lf)	Wetland Impact (Sq. Ft.)	Authority (Section 10/404/408)
Ecological restoration	0	96,703 Square feet	Section 404

In addition, the proposed work would impact approximately 122,464 square feet of State regulated nontidal wetland buffer.

LEAD FEDERAL AGENCY: The U.S. Army Corps of Engineers, as the lead federal agency, is responsible for all coordination pursuant to applicable federal authorities.

The Interagency Review Team (IRT) responsible for review, approval, and oversight of the proposed mitigation bank includes representatives from the Corps, the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service and MDE. The Baltimore District of the U.S. Army Corps of Engineers (Corps) chairs the IRT and MDE co-chairs the IRT.

ENDANGERED SPECIES: A preliminary review of this prospectus indicates that the proposal will have no effect Federally-listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH), including species of concern, life cycle habitat, or Habitat Areas of Particular Concern. The project site does not lie in or adjacent to EFH as described under MSFCMA for managed species under the MSFCMA. The Baltimore District has made a preliminary determination that the project will have no effect on EFH. The Baltimore District has made a preliminary determination that mitigative measures are not required to minimize adverse effects on EFH at this time. This determination may be modified if additional information indicates otherwise.

HISTORIC RESOURCES:

Pursuant to Section 106 of the National Historic Preservation Act of 1966 and applicable guidance, the Corps has reviewed the latest published version of the National Register of Historic Places and initially determined that no properties listed or eligible for inclusion, in the National Register of Historic Places, are located at the site of the proposed Bank. The Corps has made the preliminary determination that the proposed project would have no effect on historic properties. The Corps final eligibility and effect determination will be based on coordination with the State Historic Preservation Office as appropriate and

required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps' identified permit area.

TRIBAL RESOURCES: Section 106 of the National Historic Preservation Act also requires federal agencies to consult with federally-recognized American Indian tribes that attach religious and cultural significance to historic properties that may be affected by the agency's undertaking. Corps Tribal Consultation Policy mandates an open, timely, meaningful, collaborative, and effective deliberative communication process that emphasizes trust, respect, and shared responsibility. The policy further emphasizes that, to the extent practicable and permitted by law, consultation works toward mutual consensus and begins at the earliest planning stages, before decisions are made and actions taken. The Corps final eligibility and effect determination will be based on coordination with interested tribes, in accordance with the Corps current tribal standard operating procedures as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on tribal resources.

MODIFICATION OF CIVIL WORKS PROJECTS: 33 USC 408 (SECTION 408): All Section 408 proposals will be coordinated internally at USACE. The Section 408 decision will be issued along with the Section 404 and/or Section 10 decision. Please see the following link for more information regarding Section 408:
<https://www.nab.usace.army.mil/section408/>.

The applicant must obtain any State or local government permits which may be required.

NOTE: This public notice is being issued based on information furnished by the Bank Sponsor. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

SUBMISSION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties to help inform the Corps and the IRT as to the overall merits of the proposed Bank, the scope of the proposed mitigation bank, the delineation of the proposed service area, the ecological suitability of the Bank site to achieve restoration of waters of the U.S., and to identify project aspects that should be addressed during the development of final MBI. Any comments received will be considered by the Corps of Engineers to determine whether the proposal has the potential to provide mitigation opportunities for project proponents (permittees) authorized to impact waters of the U.S. under Section 404 of the Clean Water Act as a means of resolving Section 404 enforcement actions. Comments provided will become part of the public record for this action and are subject to release to the public through the Freedom of Information Act.

Written comments concerning the proposed Bank must be received by the U.S. Army Corps of Engineers, Baltimore District within the comment period specified above through postal mail at the address below or electronic submission to the project manager's email address below. All comments should reference the Application Number 2016-61875.

Mr. Steve Harman
(steve.harman@usace.army.mil)
U.S. Army Corps of Engineers, Baltimore District
Regulatory Branch
2 Hopkins Plaza
Baltimore, MD 21201-2930

Ms. Kelly Neff, MDE
(kelly.neff@maryland.gov)
MDE, Mitigation and Technical Assistance Section
1800 Washington Boulevard, Suite 430
Baltimore, Maryland 21230-1708

Please share this information concerning the proposed work with any persons known by you to be interested, who did not receive a copy of this notice.

General information regarding the Corps' permitting and mitigation processes can be found on our website at <https://www.nab.usace.army.mil/Missions/Regulatory.aspx>. This public notice has been prepared in accordance with Corps implementing regulations at 33 CFR 325.3. If you have any questions concerning this specific project, or would like to request a paper copy of this public notice, please contact Mr. Steve Harman, Baltimore District, Corps, at 410.962.6082 (steve.harman@usace.army.mil) or by contacting Ms. Kelly Neff, MDE, Wetlands and Waterways Program at 410.537.4018 (kelly.neff@maryland.gov). This public notice is issued by the Chief, Regulatory Branch.

ST.CHARLES WETLAND MITIGATION BANK



PROSPECTUS



J U L Y 2 0 2 0



Whitman, Requardt & Associates, LLP
Engineers · Architects · Environmental Planners Est. 1915

PROSPECTUS

ST. CHARLES WETLAND MITIGATION BANK

5305 Piney Church Road

CHARLES COUNTY, MARYLAND 20602

(Coordinates 38.564⁰ N - 76.909⁰W)

U.S. HOME CORPORATION

C/O ST. CHARLES COMMUNITY, LLC

Prepared by:

Whitman Requardt and Associates, LLP

801 South Caroline Street

Baltimore, Maryland 21231

July, 2020

INTRODUCTION

- A. The St. Charles Community, LLC (hereinafter, the Sponsor) proposes to establish the St. Charles Wetland Mitigation Bank (hereinafter, the Bank) to provide compensation for future authorized wetland and waterway permit mitigation requirements where impacts to waters of the United States in the Lower Potomac River drainage basin have been determined to unavoidable and appropriately mitigated on a watershed basis and per current federal mitigation guidance. This prospectus proposes to develop a 13-acre Bank located in the headwaters of Zekiah Swamp, a tributary to Wicomico River, in Charles County, Maryland (**See USGS Vicinity Map in Appendix A**). The purpose of the Bank is to provide off-site compensation for the unavoidable loss of wetlands as a result of impacts from development project authorized under Section 401 and 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and the Maryland Nontidal Wetlands Act and associated Code of Maryland Regulations, provided that such impacts have meet all applicable requirements and are approved by the respective permitting agencies. The proposed Bank was presented to the agencies on numerous dates between June 29, 2009 and June 1, 2020.
- B. This Mitigation Banking Prospectus was developed based on Federal regulations (33CFR 332.8(d)(d)/ 40 FR 230.98 (d)(2)). This prospectus will provide information at a sufficient level of detail to support informed public and regulatory comment. For public notice mailing, the names and addresses of adjacent property owners are included in **Appendix E: List of Adjacent Property Owners**.
- C. The proposed Bank is located west of Piney Church Road, approximately one half mile south of the intersection of Piney Church Road and Billingsley Road (**See Location Map in Appendix A**). The Bank would be located adjacent to the proposed Fairway High School.

The site has been disturbed for sand and gravel mining, so the presence of intact buried resources is unlikely. According to the MD Merlin website, the closest Federal or State historic resource is greater than one mile from the site. The Maryland Historical Trust stated on May 20, 2016 that there are no historic properties affected by this undertaking. MD Merlin also indicates that a MDNR Sensitive Species Project Review Area is located approximately 750 feet to the northwest of the project site. The MDNR Wildlife and Heritage Service stated on May 2, 2013 that there are no State or federal records for rare, threatened or endangered species within the boundaries of the project site. However, the project site falls within the drainage of Zekiah Swamp which is known to support rare, threatened or endangered species. MDNR encourages stringent adherence to all appropriate best management practices for sediment and erosion control to ensure that nearby hydrology is not adversely affected during construction. The U.S. Fish and Wildlife's online portal (IPaC) indicates that other than the Northern Long-eared Bat (NLEB) and except for the occasional transient individual, no federally listed threatened or endangered species are known to exist in the project area. Effects on NLEB would be considered if a project requires a federal action and include tree clearing that is equal to or greater than 15 acres.

I. GOALS AND OBJECTIVES

The goal of the proposed Bank is to establish approximately 10.35 acres of diverse, self-sustaining, functional wetlands to replace the functional values and acreage adversely affected by authorized projects within the proposed service area through preservation, enhancement and creation. In doing so, the Bank will satisfy a portion of the existing and prospective demand for compensation within the service area. Some of the targeted functions include improvements to wildlife habitat, water quality, and education.

A. Design Objectives – The specific design objectives for this site include:

- Creation of 3.89 acres of palustrine forested (PFO) wetlands;
- Enhancement of 0.51 acres of palustrine open water (POW) to PFO wetlands through grading and planting;

- Enhancement 0.27 acres of POW to palustrine scrub-shrub (PSS) wetlands through grading and planting;
- Enhancement of 0.26 acres of POW to palustrine emergent (PEM) wetlands through grading and planting;
- Enhancement of 2.22 acres of PEM wetlands to PFO wetlands with planting only;
- Enhancement of 0.23 acres of POW to PEM wetlands with minimal grading and planting;
- Preservation of 2.18 acres of PEM wetlands;
- Preservation of 0.57 acres of PSS wetlands;
- Preservation of 0.22 acres of PFO wetlands; and,
- 1.98 acres of upland buffer.

B. Wetland Functions and Values – The site will provide the following wetland functions and values:

- 1) **Wildlife Habitat** – The mixture of open water, emergent, shrub/scrub and forested wetlands, with an upland buffer, is a diverse habitat, which will support a wide range of wildlife. The existing open water and emergent wetlands support breeding and wintering ducks, Common Snipe (*Gallinago gallinago*), Red-winged Blackbird (*Agelaius phoeniceus*), and American Bittern (*Botaurus lentiginosus*). The proposed mitigation plan will preserve and enhance the existing open water and wetlands while significantly increasing the area of wetlands and the diversity of wetland communities at this site.
- 2) **Water Quality Improvement** – The proposed mitigation site will improve the quality of surface water discharging from the site into the Zekiah Swamp watershed through settling, filtration, and biological uptake.
- 3) **Education** – The location of the proposed mitigation site within the St. Charles Community, and more specifically within the grounds of a high school, provides opportunity for direct and indirect public awareness, education and appreciation about the values of wetlands.

II. ESTABLISHMENT AND OPERATION

A Mitigation Banking Instrument (MBI) will be developed by the Sponsor to establish the Bank. The development of the MBI and the operation of the Bank will be in accordance with the “Compensatory Mitigation for Losses of Aquatic Resources: Final Rule, 33 CFR 332” and follow the most current version of the Mitigation Banking Instrument template provided by the Baltimore District, U.S. Army Corps of Engineers.

The Sponsor will also obtain all other documentation, permits and other authorizations required to establish and maintain the Bank, such as County grading permits.

After approval of the Prospectus, Sponsor shall submit a Bank Development Plan for consideration by the Interagency Review Team (IRT). The detailed content of the Bank Development Plan will be determined in consultation with the IRT.

A. Bank Development Plan Elements – The Bank Development Plan will include the following elements, as required by the Final Mitigation Rules:

- 1) **Objectives** – Description of the resources types, amounts, methods and anticipated functions provided by the Bank.
- 2) **Site Selection** – Description of factors considered and practicality of accomplishing ecologically self-sustaining compensation at the Bank.

- 3) **Site Protection Instrument** – Description of the legal arrangements and instruments to ensure long-term protection of the Bank.
- 4) **Baseline Information** – A description of the ecological characteristics of the proposed Bank.
- 5) **Determination of Credits** – A description of the number of credits generated and the rationale for this determination.
- 6) **Mitigation Work Plan** – Design plans and specifications to include grading, planting, water control, invasive species control, sequencing, soil management and erosion control.
- 7) **Maintenance Plan** – A description and schedule for maintenance requirements after construction is completed.
- 8) **Performance Standards** – Performance standards that will be used to determine if Bank is achieving its objectives.
- 9) **Monitoring Requirements** – A description of the monitoring requirements required to measure the performance standards, include monitoring and reporting schedules.
- 10) **Long-term Management Plan** – A strategy to manage the Bank after performance standards have been met, including financing mechanisms, and responsible parties.
- 11) **Adaptive Management Plan** – A strategy to address unforeseen changes in the Bank and the responsible parties.
- 12) **Financial Assurances** – A description of the financial assurances that will be provided to assure successfully completion of the Bank in accordance with its performance standards.

B. Additional Operational Elements – Additional operational elements of the Bank include:

- 1) The Bank will establish and maintain an accounting system (i.e. ledger) which documents credits and debits to the Bank account. Each time an approved debit or credit transaction occurs, the Bank will submit a statement to the permitting agencies. The Bank will also generate an annual ledger report to be submitted to all members of the IRT.
- 2) Availability of credits from the Bank will be made based on the schedule of credit release contained in the MBI.
- 3) Debits from the Bank will be based on the permit requirements of authorized projects.
- 4) Any monies received for purchase of wetland mitigation credits prior to completion of construction will be deposited in an escrow account, the details of which are to be agreed to in the MBI.
- 5) The prices charged for wetland mitigation credits will be determined solely by Sponsor.

III. GEOGRAPHIC SERVICE AREA

The proposed geographic service area for this Bank shall be consistent with Federal Banking Guidance. The proposed primary geographic service area is the Lower Potomac River Basin (USGS hydrologic unit code 02070011). The proposed primary geographic service area would include portions of Charles County, Prince George's County, and St. Mary's County, Maryland. The proposed secondary geographic service area will include the Middle Potomac-Anacostia-Occoquan sub-basin (HUC 02070010) to the Piedmont Physiographic Region break. The proposed secondary geographic service area contains similar geographic, soil and vegetation characteristics and is within the same Potomac drainage basin as the primary service area. A service area map for the Bank is provided in **Appendix B**.

IV. GENERAL NEED AND TECHNICAL FEASIBILITY OF MITIGATION SITE

- A. General Need** – The proposed Bank will provide wetland mitigation credits to third parties in need of compensation for whom this would be the most practicable alternative for impacts to regulated water resources within the proposed geographic service area. The Bank would also provide

water quality and wildlife benefits to the Zekiah Swamp watershed, which is considered a high priority for conservation.

B. Technical Feasibility – The technical feasibility of the proposed Bank has been documented in detail in the Conceptual Mitigation Plan (July 2020), which has been provided to the MDE and COE. Technical studies conducted to evaluate the technical feasibility of the Bank to support a wetland mitigation site include groundwater wells, soil analysis, geotechnical borings, water budgets, and rainfall analysis. The results of these evaluations are summarized below:

- 1) **Historic Conditions** – The proposed Bank site, as well as a large portion of the general area including the 33.5 acre drainage area, was used in the past for sand/gravel mining. Review of USGS maps and soil surveys indicate there is no evidence of wetlands prior to operation of this site as a sand/gravel mine. The original soils at this site (*Charles County Soil Survey, 1974*) included Beltsville, Bourne sandy clay loam, Gravelly Land, Evesboro loamy sand, and some Rumford loamy sand and Sassafras sandy loam. The soil map indicates that there was an intermittent channel on the site, but that hydric soils were not present. The soils were reclassified to be Udorthents, reclaimed gravel pits, 0 to 5 percent slopes. The mining operation extracted the gravels and sands in the Gravelly Land and Evesboro loamy sands.
- 2) **Existing Geological and Soil Conditions** – According to the Geological Map of Charles County, Maryland (1989), the site was underlain with Pliocene-age sands and gravels of fluvial origin, which are the deposits mined at the site. Underneath these deposits is the Miocene-age Calvert Formation, consisting of green silty clay or clayey silt. In 1988, borings by WR&A of the mined areas indicate the possibility of up to 15-25 feet of heterogeneous overburden (i.e. mining spoils) consisting of a mixture of sand, silts, clays, and gravels. To obtain a better understanding of the deeper strata on the site, six geotechnical borings were advanced with a drill rig to a depth of 10 feet. The top of the underlying clay strata was found typically within 4-6 feet of the surface. Immediately above the clay was a 2-5 feet thick strata of sand often mixed with gravel and clay. Portions of the site retained a natural soil stratigraphy while the remainder of the site was composed of mining overburden.
- 4) **Existing Site Conditions** - After completion of mining in 1988, the site was graded and stabilized with typical erosion control grasses. Drainage from the mining site was controlled with a settling pond. The pond has a maximum depth of six feet (170.8 elev.). The earthen berm and riprap spillway of the pond provide the backwater which provides the hydrology for the wetlands that exist on the site. Although the soil survey indicates an intermittent stream channel on site, the mining removed the original channel. The surface runoff from the site is collected by two long ditches which flow into the settling pond. The upland vegetation surrounding the pond and ditches is composed of fescue grasses (*Festuca* spp.), scattered red cedars (*Juniperus virginiana*), scattered Sweetgum (*Liquidambar styraciflua*), and scattered Virginia pines (*Pinus virginiana*).
- 5) **Existing Wetland Condition** – In May 2016, jurisdictional wetlands on the site were identified and surveyed. Wetlands have developed along the drainage ditches and around the perimeter of the settling pond. There are 6.53 acres of non-tidal wetlands, comprised mostly of emergent (PEM) communities with small portions of PFO, PSS, and open water habitat. The extent of wetlands is primarily a function of the backwater from the spillway and beaver dam. Seeps are located in the headwater area of each drainage ditches.
- 6) **Open Water and Groundwater Conditions** – The settling pond developed during the mining operations and retained upon closure of the mine consists of a rectangular pond and two long drainage ditches. The water level in the pond is maintained by precipitation, surface runoff, and groundwater discharge into the pond. The water levels in the pond fluctuate seasonally with the pond full from fall to late spring. There is a significant draw down during the late spring into the summer and early fall with water elevations typically dropping 2-3 feet. This draw down is very similar to the groundwater hydrology of Zekiah Swamp.

A series of groundwater monitoring wells were installed and operated for several years. Based on well data the water table is high during the winter with a period of fluctuating water table during the spring. There is a deep draw down in the summer and fall of up to as much as 5 feet. All wells show rather quick response to large rain events. Drier years (i.e. 2007) exhibit large draw downs, while wetter years show significant recharge during the growing season. The elevation of water in the wells and pond vary together, although the wells show far more variability. Nearly every peak in the groundwater data is mirrored by a peak in the pond data. The direction of ground water flow can be determined by comparing the pond elevation with the ground water elevations in the wells. The 2005 – 2007 data shows that ground water was flowing from the unconfined aquifer into the pond during most of the year. The elevation differences between the water table in the wells and in the pond indicate that groundwater water moves from the uplands toward the pond during the fall through spring, but may flow from the pond into the groundwater during the summer.

The technical studies indicate that there is a reliable water table near the surface under the Bank site. The wetlands proposed for this Bank will experience seasonal fluctuations in water elevations similar to the seasonal fluctuations reported for the Zekiah Swamp. Groundwater and pond elevations will be high from late fall through the spring, with a draw down from the late spring through early fall. This seasonal draw down is particularly suitable to seasonally saturated forested wetlands.

- 6) **Proposed Design** – The proposed design of the Bank is presented in **Appendix C**. The feasibility studies support a mitigation design which would include the following:
- a. Maintaining the existing dam and water level control structure. The water control structure requires minimal maintenance and is not prone to beaver damage or vandalism, but provides the opportunity to control water elevations to optimize site hydrology and plant survival. A ten-foot-wide access road was constructed along the western boundary of the site for the dam maintenance.
 - b. Grading of the western, southern and eastern edges of the site where there are suitable soils to create approximately 3.89 acres of non-tidal forested wetlands (PFO).
 - c. Habitat Enhancement of the created wetland with the addition of large woody debris/material and creation of microtopography. Several areas of open water enhancement will be planted specifically for wood duck habitat.
 - d. Conversion of approximately 2.22 acres of existing non-tidal emergent wetlands (PEM) to PFO/PEM mosaic by planting woody species throughout the PEM wetland.
 - e. Enhancement of approximately 0.51 acres of existing open water by grading and planting woody species.
 - f. Enhancement of approximately 0.76 acres of existing open water by planting deep water aquatic species such as Spatterdock.
 - g. Preserve approximately 2.97 acres of existing wetland to protect the functions and values of existing and created wetlands.
 - h. Preserve approximately 1.98 acres of wetland buffer to further protect the functions and values of the existing and proposed wetlands.
 - i. The mitigation design would also include an educational component, such as signage that allow students and teachers at the adjacent high school to benefit from the site.

V. OWNERSHIP AND LONG-TERM MANAGEMENT STRATEGY

The site of the Bank is currently owned by St. Charles Community, LLC (SCC), and the completed Bank will be owned and operated by SCC. The Sponsor will be responsible for design, construction, operation, monitoring and maintenance of the bank through the post-construction monitoring period. Decisions concerning the operational life of the proposed Bank, long-term monitoring and maintenance, remedial actions, and financial assurances will be made in accordance with Federal Banking Guidance and approved by the IRT.

The Bank will be provided long-term protection in the form of a perpetual legal instrument that is agreeable to the IRT. A restrictive conveyance or conservation easement will be included in the mitigation banking instrument. A mutually agreeable "holder" of the conservation easement will be agreed upon with the IRT and identified in the Mitigation Banking Instrument.

The Sponsor will obtain from adjacent landowners all rights-of-entry, access and easements necessary to perform the required mitigation design, construction, monitoring and maintenance activities. There are no known encumbrances for the subject property. All mortgages have been paid in full and released. An access easement was placed over the dam to provide pathway access for the school.

At a time when the Bank has completed all required post-construction monitoring, and has met all success criteria, and all credits have been utilized, the long-term stewardship of the bank will be transferred to a responsible entity agreeable to the IRT. Sponsor will provide a long term management plan to any future long-term stewards of the Bank Escrow accounts will be developed for the routine and long-term management of the bank. The Sponsor will be responsible for insuring that routine site inspections occur. Details will be included in the mitigation banking instrument.

The Sponsor shall submit a monitoring report, which describes conditions of the Bank and relates those conditions to the success criteria, to the CORPS and MDE for distribution to the other members of the Interagency Review Team. Reports will be submitted by December 31st for performance-based milestone years and contain the following:

1. A U.S. Geological Survey map showing location of the Bank.
2. A detailed narrative summarizing the condition of the Bank.
3. Appropriate topographic maps showing location of sampling plots, permanent photo points, location of transects, etc.
4. Results of hydrology survey.
5. Results of vegetation survey including the following visual estimates of percentage of overall cover and percentage of cover by each vegetation layer, species diversity, percentage of exotic vegetation in each vegetation layer, total percentage of "facultative" and "upland" species in each vegetation layer, and an estimate of plant vigor.
6. Photographic documentation.

The contact information for the Bank is provided below:

Bank Sponsor/Land Owner/
Easement Holder:

St. Charles Wetland Mitigation Bank
c/o U.S. Home Corporation
7035 Albert Einstein Drive, Suite 200
Columbia, Maryland 21046
Attn: Matthew Wineman
Email: Matthew.Wineman@lennar.com

With a copy to:

St. Charles Wetland Mitigation Bank
c/o St. Charles Community, LLC
7035 Albert Einstein Drive, Suite 200
Columbia, MD 21046
Attn: Matthew Destino
Email: Matthew.Destino@lennar.com

Consultant: Whitman, Requardt & Associates, LLC
801 South Caroline Street
Baltimore, MD 21231

Mitigation Lead Designer: Laura Callens
443-224-1633
lcallens@wrallp.com

Additional Contacts: Warren Gray
443-224-1887
wgray@wrallp.com

Robert Britt
443-224-1546
rbritt@wrallp.com

VI. QUALIFICATIONS OF BANK SPONSOR

The Bank will be owned and operated by St. Charles Community, LLC (SCC). SCC has decades of experience in the development and management of property throughout the Waldorf / La Plata region of Charles County, Maryland.

The project is being designed by Whitman Requardt and Associates, LLP, (WRA) an experienced environmental and engineering firm located in Baltimore, Maryland. WRA's technical staff for this project have over two decades of experience in regulatory compliance, civil engineering and mitigation design. WRA staff has completed over 150 acres of wetland mitigation and 5 miles of stream restoration design in the Mid-Atlantic Region.

VII. ECOLOGICAL SUITABILITY OF SITE TO MEET OBJECTIVES

The site is located in the rapidly developing area between U.S. Route 301 and the Zekiah Watershed Rural Legacy Area (ZSWRA). The site is part of the Zekiah Swamp Watershed of the Lower Potomac River Basin, and has a hydrological connection to a perennial stream, which flows into Kerrick Swamp, which then flows into Zekiah Swamp. Zekiah Swamp is a tributary of the Wicomico River, which flows into the Potomac River and ultimately into the Chesapeake Bay. Although the proposed Bank is located outside of the ZSWRA, enhancement and creation of wetlands in this area will contribute to the protection of water quality and continuity of habitat of outlying tributaries. The Bank will preserve existing wetlands and create additional wetlands at the headwaters of a tributary to Zekiah Swamp, thus contributing to the conservation of Zekiah Swamp through improved water quality and wildlife habitat.

The ecological importance of the Zekiah Swamp is substantial. The Swamp is an "Area of Critical State Concern" and the entire Wicomico River/Zekiah Swamp watershed is designated as a "Scenic River" by the Maryland General Assembly. The 1987 Maryland Scenic Rivers Act designated the entire watershed for special environmental and cultural concern. In 1974, the Smithsonian Institute called Zekiah Swamp "one of the most important remaining ecological areas on the East Coast." The Wicomico Scenic River Commission calls it the best example of a non-tidal wetland in Charles County. Zekiah Swamp is the largest hardwood swamp in Maryland, and was rated highest for natural areas within the Chesapeake Bay region by the Smithsonian Institute. The Wicomico Scenic River Study and Management Plan recommends, among other considerations, that conservation efforts in both Charles and St. Mary's Counties be focused on the Wicomico River/Zekiah Swamp watersheds.

The location of the bank site is provided in **Appendix A – Informational Resource Site Maps** showing the site on USGS, Aerial, National Wetlands Inventory, NRCS Soils, and FEMA Floodplain mapping. The Sponsor completed an updated wetland delineation on May 9, 2016 and conducted an agency field

review attended by Kelly Neff, MDE, and Steve Harman, Corps, on May 11, 2016. The wetland boundaries were approved by Mr. Harman during the field review.

The construction of the bank would have minimal temporary impact on existing wetlands and open water. MDE issued a LOA on June 1, 2020 for temporary impacts to 96,703 square feet of emergent nontidal wetlands and 122,464 square feet of 25-foot wetland buffer.

VIII. WATER RIGHTS

The existing wetlands on site are supported by a combination of direct precipitation, runoff from the drainage area, and groundwater. Groundwater is delivered by seeps at the heads of the ditches, and by direct discharge into the pond. These sources of hydrology are then captured and retained on-site by the dam and spillway. The clay layer identified by the geotechnical borings retards infiltration and supports an unconfined water table under the uplands. Well data indicates that there is groundwater flow from the uplands toward the pond and ditches from late fall through spring. This pattern of high water table during the winter and early spring with a significant drawdown are very similar to those reported for the Zekiah Swamp in the U.S. Geological Survey Water Resources Investigations Report 6-4097, "Reconnaissance of the ground water, Surface Water System of Zekiah Swamp Run Basin, Charles County, Maryland" (1986).

Existing wetlands on the site have developed in part due to the groundwater discharge and backwater at the existing dam and spillway. The existing dam and spillway were constructed in 2014 to replace the original dam and spillway, to preserve supporting hydrology associated with existing wetlands and future created wetlands. The dam, spillway and outlet structure require maintenance typical for stormwater facilities and associated structures. A weir water control structure exists and will enable adaptive management of water levels within the wetland system, will require minimal maintenance, and is locked to prevent vandalism. The inlet structure includes a trash rack to minimize potential clogging of the outlet.

The existing drainage area of the proposed mitigation site is approximately 32.7 acres and is characterized by maintained sports fields used by St. Charles High School. Approximately 17.8 acres of the St. Charles High School property and 2.0 acres of the Fieldside Neighborhood property drains to the mitigation bank. Approximately 1.3 acres of the high school property are impervious and are routed through an oversized bioretention basin where runoff is stored and treated using infiltration practices. Approximately 0.5 acres of the Fieldside Neighborhood property is impervious and is routed through a grass swale and a micro-bioretention device where runoff is stored and treated using infiltration practices. The remaining contributing drainage areas include baseball, soccer, football fields, and private yards. The runoff is captured in the upland buffer and discharged through grass prior to sheet flow to the wetlands.

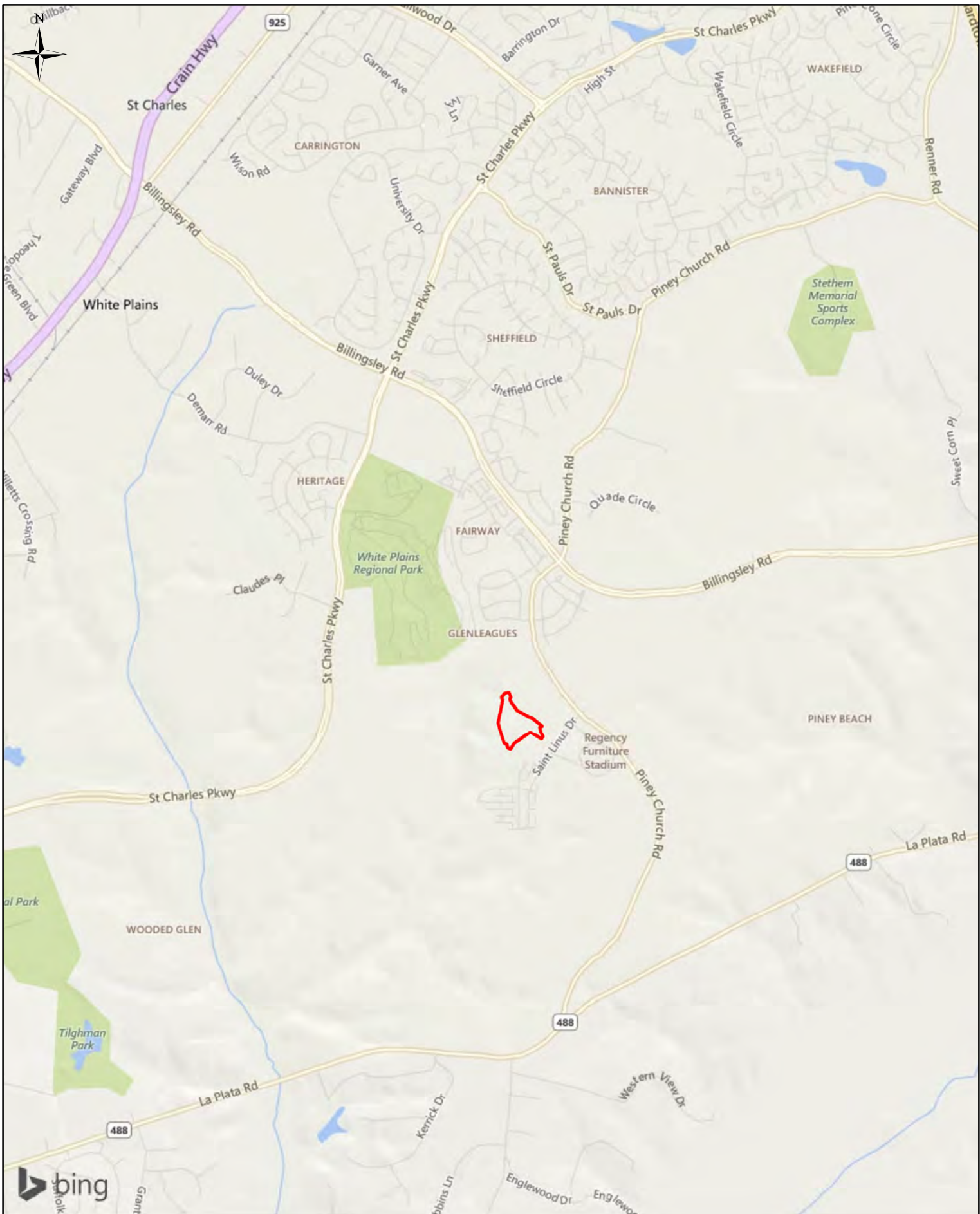
IX. ANTICIPATED SCHEDULE FOR COMPLETION

The Sponsor believes that this prospectus is complete and sufficient for public notice. To facilitate the public notice process, a list of adjacent property owners is provided in **Appendix E**.

The Sponsor plans on diligently pursuing approval of the Bank through the IRT. The Sponsor plans on meeting with the IRT prior to submission of the MBI and Bank Development Plan to further discuss the Bank. The Sponsor anticipates completion of the MBI and Bank Development Plan by fall 2020, with construction initiated by spring 2021.

APPENDIX A

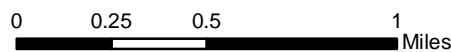
INFORMATIONAL RESOURCE SITE MAPS

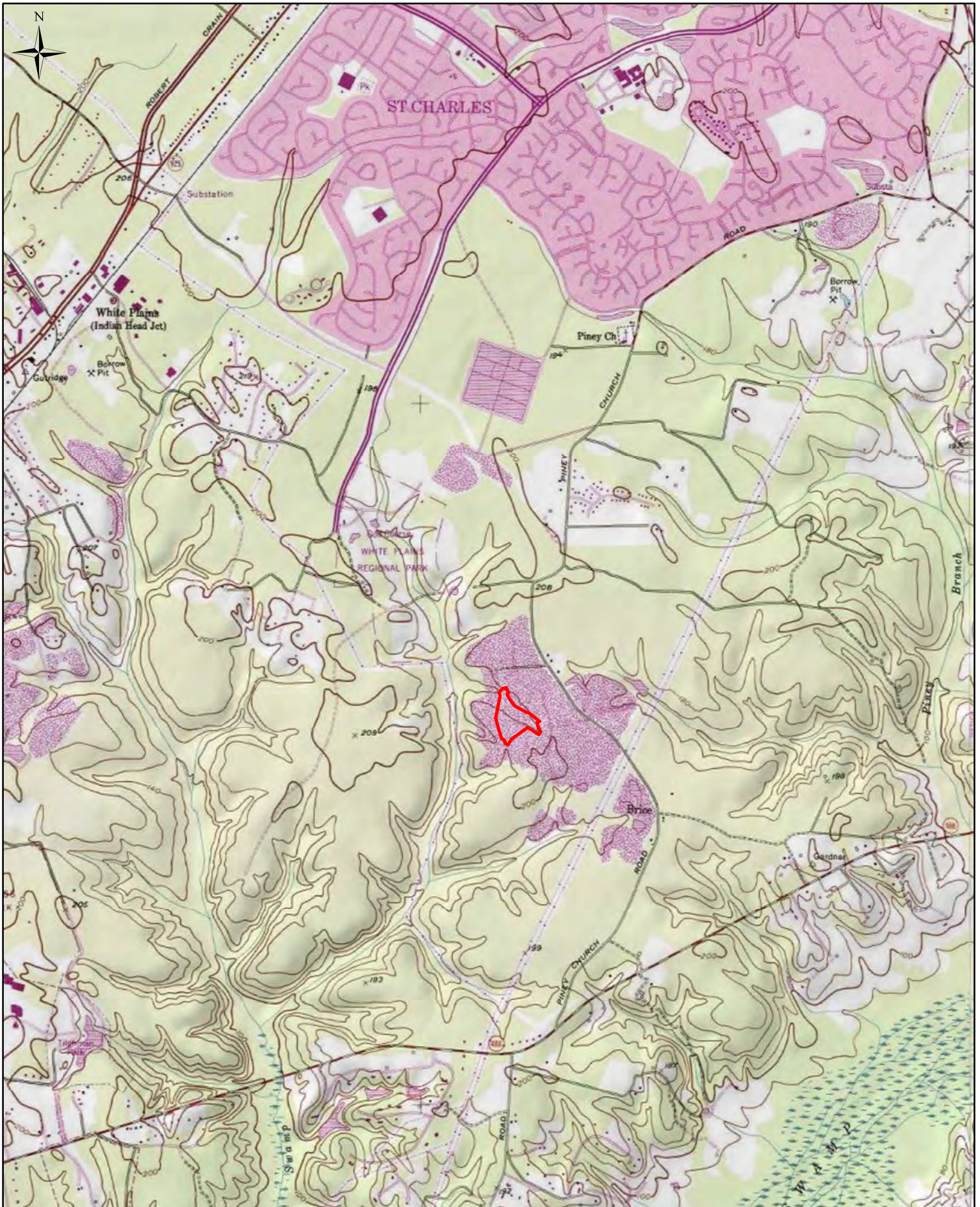


St. Charles Wetland Mitigation Bank

**Project Location Map
July 2020**

 Project Boundary





St. Charles Wetland Mitigation Bank

**USGS Map
July 2020**

 Project Boundary

0 0.25 0.5 1
Miles





St. Charles Wetland Mitigation Bank

**NRCS Soils
July 2020**

— Project Boundary — NRCS Soils

0 250 500 1,000
Feet





St. Charles Wetland Mitigation Bank

**FEMA Floodplains
July 2020**

— Project Boundary

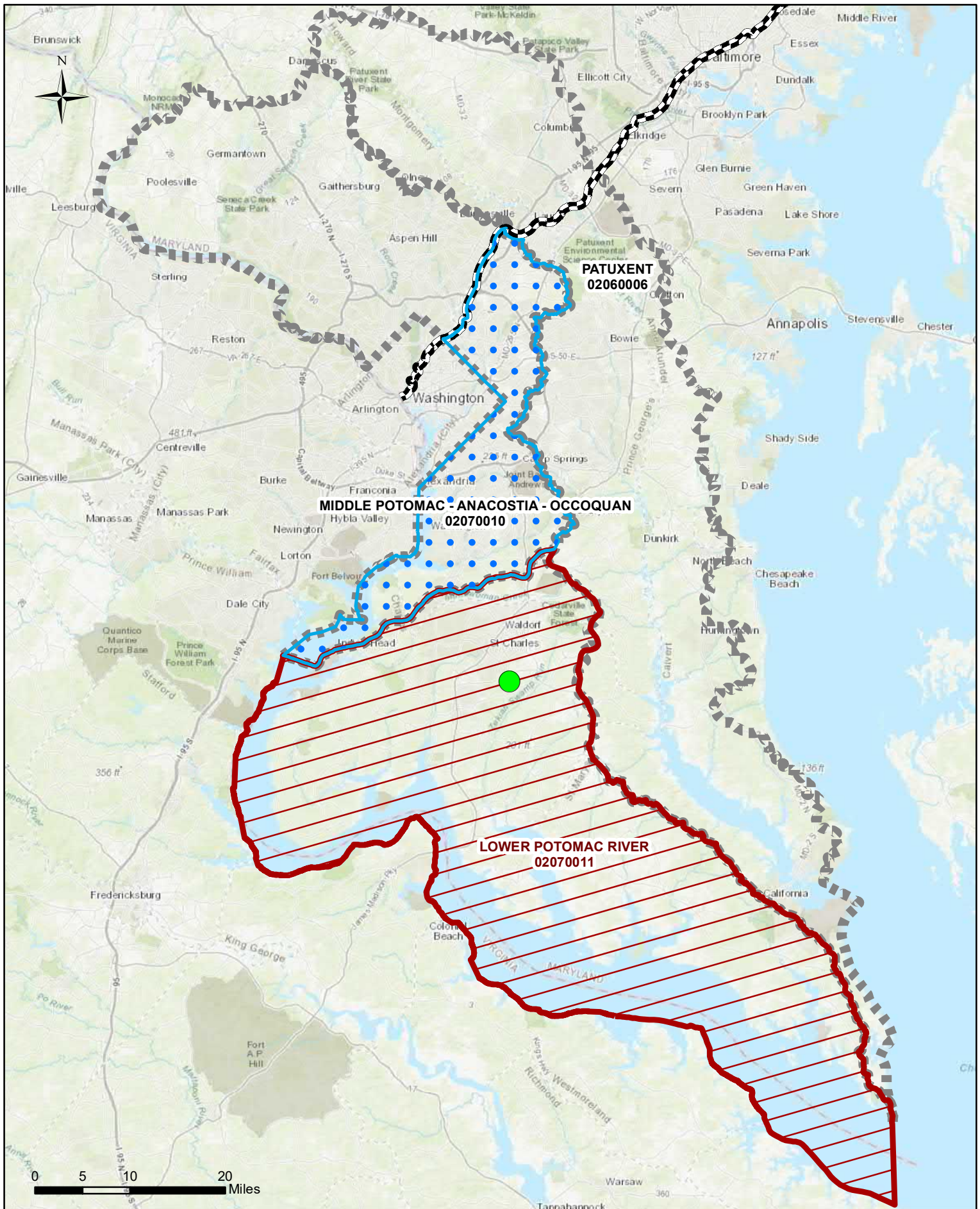
▨ FEMA 100-Year Floodplain

0 250 500 1,000 Feet








APPENDIX B

**WATERSHED AND
PROPOSED SERVICE AREA MAP**



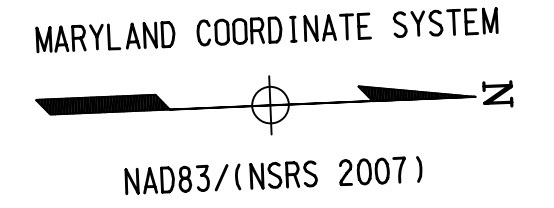
**St. Charles Wetland Mitigation Bank
Mitigation Banking Instrument**

**Service Area Map
December 2017**

-  Primary Service Area
-  Physiographic Region Boundary
-  Secondary Service Area
-  Project Site
-  Subbasin

APPENDIX C

PROPOSED BANK DESIGN



MAP 24, PARCEL 1
ST. CHARLES COMMUNITY, LLC
L2437/F104
FIELDSIDE NEIGHBORHOOD
PARCEL 6
PGM #VR 14-0026
ZONE: PUD

MAP 24, PARCEL 157
CHARLES COUNTY BOARD OF EDUCATION
L7183/F423
FAIRWAY HIGH SCHOOL SITE
PB58/F285
ZONE: PUD

MAP 24, PARCEL 157
CHARLES COUNTY BOARD OF EDUCATION
L7183/F423
FAIRWAY HIGH SCHOOL SITE
PB58/F285
ZONE: PUD

- LEGEND**
- CREATION PFO - 3.89 AC.
 - ENHANCEMENT POW TO PFO - 0.51 AC
 - ENHANCEMENT POW TO PSS - 0.27 AC.
 - ENHANCEMENT POW TO PEM (MAJOR FILL) - 0.26 AC.
 - ENHANCEMENT PEM TO PFO - 2.22 AC.
 - ENHANCEMENT POW TO PEM (MINOR FILL) - 0.23 AC.
 - WETLAND PRESERVATION (PEM, PSS, PFO) - 2.97 AC.
 - UPLAND BUFFER - 1.98 AC.
 - WOOD DUCK HABITAT (PSS)
 - WOODY MATERIAL
 - EXISTING WETLAND BOUNDARY
 - PROPOSED WETLAND BOUNDARY

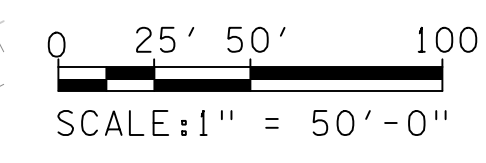
NOT FOR CONSTRUCTION

CHARLES COUNTY GOVERNMENT DEPARTMENT OF PLANNING & GROWTH MANAGEMENT DEVELOPMENT SERVICES DIVISION			
APPROVED FOR:			REMARKS OR CONDITIONS
GRADING	CONSTRUCTION	AS-BUILTS	
ROADS	CONSTRUCTION	AS-BUILTS	
STORM DRAINAGE	CONSTRUCTION	AS-BUILTS	
STORMWATER MANAGEMENT	CONSTRUCTION	AS-BUILTS	
WATER	CONSTRUCTION	AS-BUILTS	
SEWER	CONSTRUCTION	AS-BUILTS	
OTHERS	CONSTRUCTION	AS-BUILTS	THIS PERMIT EXPIRES ON:
SIGNED:	DATE:	DATE:	

NO.	CONSTRUCTION REVISION	DATE

PGM #VC 13-0015

SCALE 1"=50'	SHEET CP-1	DRAWING NO. 1 OF 1	W.O. 41083 FILE 255 07-16-20
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N:\1083-000\CADD\Environment\EN-4083-ConceptPlan-2020.dgn 8/4/2020

WHITMAN, REQUARDT AND ASSOCIATES, LLP
ENGINEERS
801 SOUTH CAROLINE STREET
BALTIMORE, MARYLAND 21231
410-235-3450 FAX 410-243-5716

OWNER:
ST. CHARLES COMMUNITY, LLC
7035 ALBERT EINSTEIN DRIVE, SUITE 200
COLUMBIA, MARYLAND 21046

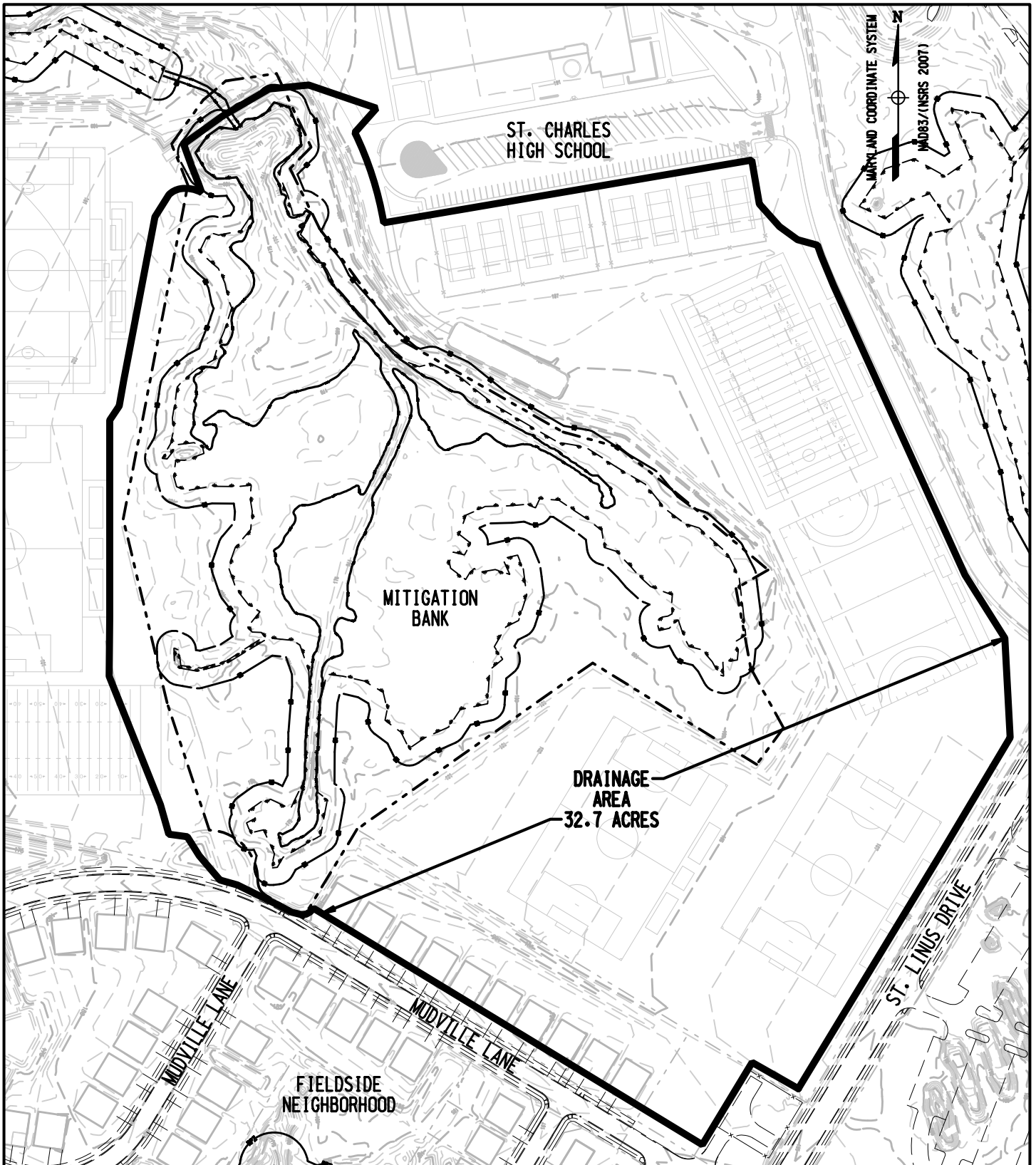
CONTRACT NO. 255

**ST. CHARLES WETLAND MITIGATION BANK
CONCEPT PLAN**

ST. CHARLES COMMUNITIES
CHARLES COUNTY, MARYLAND
ELECTION DISTRICT NO. 8

APPENDIX D

DRAINAGE AREA MAP- POST SCHOOL CONSTRUCTION



St. Charles Wetland Mitigation Bank

**Drainage Area Map –
Post School Construction
July 2020**



APPENDIX E

LIST OF ADJACENT PROPERTY OWNERS

List of Adjacent Property Owners

<u>Map/Parcel</u>	<u>Name</u>	<u>Mailing Address</u>
0024/0157	Board of Education of Charles Co	c/o Gerard J. Barrett P.O. Box 2770 La Plata, MD 20646-2270
0024/0001	St. Charles Community, LLC	Lennar Attn: Controller 7035 Albert Einstein Dr. Suite 200 Columbia, MD 21046