

CITY OF MILLERSBURG, OREGON

for the construction of the
TRANSITION PARKWAY AND LINEAR PARK

VOLUME 4
PERMITS AND REQUIREMENTS

Project No. 2022-006

Bid Documents

JACOBS

Corvallis, Oregon

May 2024

This project was funded in part with a financial award from the Special Public Works Fund, funded by the Oregon State Lottery and administered by the Oregon Infrastructure Finance Authority.

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Project No. D3395316

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PERMITS AND REQUIREMENTS

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3. USACE National Historic Preservation Act Section 106 Compliance (TBD)
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5. Oregon Department of Environmental Quality (DEQ) CWA Section 401 Water Quality Certification (#2021-494)

1. Oregon DEQ 1200-C Permit (TBD)

**2. U.S. Army Corps of Engineers (USACE) Rivers and Harbors Act
Section 10/Clean Water Act (CWA) Section 404 (TBD)**

**3. USACE National Historic Preservation Act Section 106 Compliance
(TBD)**

4. Oregon Department of State Lands Removal-Fill Permit (DSL No. 64515-RF)

Department of State Lands
775 Summer Street, Suite 100
Salem, OR 97301-1279
503-986-5200

Permit No.:	<u>64515-RF – Modified</u>
Permit Type:	<u>Removal/Fill</u>
Waters:	<u>Wetland</u>
County:	<u>Linn</u>
Expiration Date:	<u>January 17, 2025</u>

CITY OF MILLERSBURG

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE REFERENCED APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder must obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action, which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. Employees of the Department of State Lands (DSL) and all duly authorized representatives of the Director must be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
6. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
7. In issuing this permit, DSL makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390, and related administrative rules.
8. Permittee must defend and hold harmless the State of Oregon, and its officers, agents and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.
9. Authorization from the U.S. Army Corps of Engineers may also be required.

NOTICE: If removal is from state-owned submerged and submersible land, the permittee must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 to 274.940 if you want a transfer of title; public rights to such filled lands are not extinguished by issuance of this permit. This permit does not relieve the permittee of an obligation to secure appropriate leases from DSL, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact Department of State Lands, 503-986-5200.

Charles Redon, Aquatic Resource Coordinator
Aquatic Resource Management
Oregon Department of State Lands

**Charles P.
Redon**

Digitally signed by Charles
P. Redon
Date: 2024.05.17 14:21:49
-07'00'

Authorized Signature

ATTACHMENT A

Permit Holder: City of Millersburg

Project Name: Transition Parkway

Special Conditions for Removal/Fill Permit No. 64515-RF Modified

READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT.

The project site may be inspected by the Department of State Lands (DSL) as part of our monitoring program. A copy of this permit must be available at the work site whenever authorized operations are being conducted.

1. **Responsible Party:** By signature on the application, Janelle Booth is acting as the representative of City of Millersburg. By proceeding under this permit, City of Millersburg agrees to comply with and fulfill all terms and conditions of this permit, unless the permit is officially transferred to another party as approved by DSL. In the event information in the application conflicts with these permit conditions, the permit conditions prevail.
2. **Authorization to Conduct Removal and/or Fill:** This permit authorizes 1.13 acres of wetland impact(s) with associated removal and fill of material in T10S R03W Section 20, 28, Tax Lot(s) 100, 101, and ROW, in Linn County, as referenced in the application, map and drawings (See Attachment B for project location(s)), dated August 24, 2023, and the Revised application with a slight reduction to wetland impacts received March 24, 2024.
3. **Changes to the Project or Inconsistent Requirements from Other Permits:** It is the permittee's responsibility to ensure that all state, federal and local permits are consistent and compatible with the final approved project plans and the project as executed. Any changes made in project design, implementation or operating conditions to comply with conditions imposed by other permits resulting in removal-fill activity must be approved by DSL prior to implementation.
4. **DSL May Halt or Modify:** DSL retains the authority to temporarily halt or modify the project or require rectification in case of unforeseen adverse effects to aquatic resources or permit non-compliance.
5. **DSL May Modify Conditions Upon Permit Renewal:** DSL retains the authority to modify conditions upon renewal, as appropriate, pursuant to the applicable rules in effect at the time of the request for renewal or to protect waters of this state.

Pre-Construction

6. **Stormwater Management Approval Required Before Beginning Work:** Prior to the start of construction, the permittee must obtain a National Pollution Discharge Elimination System (NPDES) permit from the Oregon Department of Environmental Quality (DEQ), if one is required by DEQ.
7. **Authorization to Use Property for Linear Projects:** For linear facility projects, the removal-fill activity cannot occur until the person obtains:
 - a. The landowner's consent;
 - b. A right, title or interest with respect to the property, that is sufficient to undertake the removal or fill activity; or

c. A court order or judgment authorizing the use of the property.

8. **Pre-construction Resource Area Fencing or Flagging:** Prior to any site grading, the boundaries of the avoided wetlands, waterways, and riparian areas adjacent to the project site must be surrounded by noticeable construction fencing or flagging. The marked areas must be maintained during construction of the project and be removed immediately upon project completion.

General Construction Conditions

9. **Water Quality Certification:** The Department of Environmental Quality (DEQ) may evaluate this project for a Clean Water Act Section 401 Water Quality Certification (WQC). If the evaluation results in issuance of a Section 401 WQC, that turbidity condition will govern any allowable turbidity exceedance and monitoring requirements.
10. **Erosion Control Methods:** The following erosion control measures (and others as appropriate) must be installed prior to construction and maintained during and after construction as appropriate, to prevent erosion and minimize movement of soil into waters of this state.
- a. All exposed soils must be stabilized during and after construction to prevent erosion and sedimentation.
 - b. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures must be used to prevent movement of soil into waterways and wetlands.
 - c. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, must be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
 - d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian and wetland areas must use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities must be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after completion of the work, they must be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.
 - e. Where vegetation is used for erosion control on slopes steeper than 2:1, a tackified seed mulch must be used so the seed does not wash away before germination and rooting.
 - f. Dredged or other excavated material must be placed on upland areas having stable slopes and must be prevented from eroding back into waterways and wetlands.
 - g. Erosion control measures must be inspected and maintained as necessary to ensure their continued effectiveness until soils become stabilized.
 - h. All erosion control structures must be removed when the project is complete, and soils are stabilized and vegetated.
11. **Fuels, Hazardous, Toxic, and Waste Material Handling:** Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint, material treated with leachable preservatives or other deleterious waste materials must not be allowed to enter waters of this state. Machinery and equipment staging, cleaning, maintenance, refueling, and fuel storage must be at least 150 feet

from OHW or HMT and wetlands to prevent contaminants from entering waters of the state. Refueling is to be confined to a designated area to prevent spillage into waters of this state. Barges must have containment system to effectively prevent petroleum products or other deleterious material from entering waters of this state. Project-related spills into waters of this state or onto land with a potential to enter waters of this state must be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.

12. **Archaeological Resources:** If any archaeological resources, artifacts or human remains are encountered during construction, all construction activity must immediately cease. The State Historic Preservation Office must be contacted at 503-986-0674. You may be contacted by a Tribal representative if it is determined by an affected Tribe that the project could affect Tribal cultural or archeological resources.
13. **Construction Corridor:** There must be no removal of vegetation or heavy equipment operating or traversing outside the designated construction corridor.
14. **Raising or Redirecting Water:** The project must not cause water to rise or be redirected and result in damage to structures or property on the project site as well as adjacent, nearby, upstream, and downstream of the project site.
15. **Trenching in Wetlands:** During trenching or excavation, the top layer of soil must be separated from the rest of the excavated material and put back on top when the trench or pit is back-filled. If the native underlying soils are not used as bedding material and a coarser, non-native soil or other material is used, preventative measures such as clay or concrete plugs must be used so that underground hydraulic piping does not dewater the site and adjacent wetlands.
16. **Temporary Ground Disturbances:** All temporarily disturbed areas must be returned to original ground contours at project completion.

Compensatory Mitigation

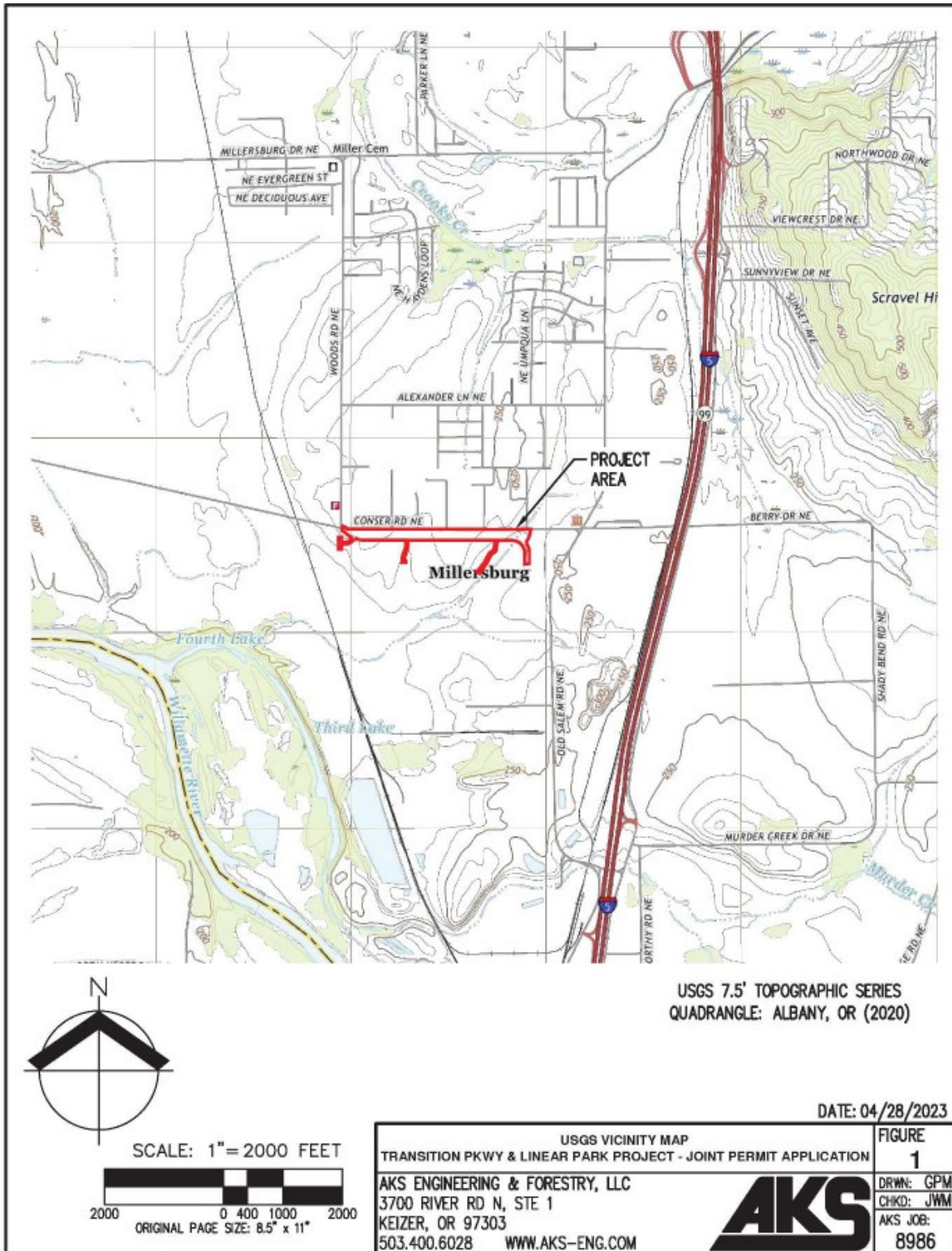
17. **Mitigation Bank Credit Purchase:** Mitigation for the unavoidable loss of 1.13 acres of PEM/Slopes wetland has been accomplished via purchase of .059 credits from the Long Tom Wetland Mitigation Bank, and purchase of 1.071 credits from the South Santiam Wetland Mitigation Bank, per the proofs of purchase.

ATTACHMENT B

Permit Holder: City of Millersburg

Project Name: Transition Parkway

Maps and Drawings for Removal/Fill Permit No. 64515-RF



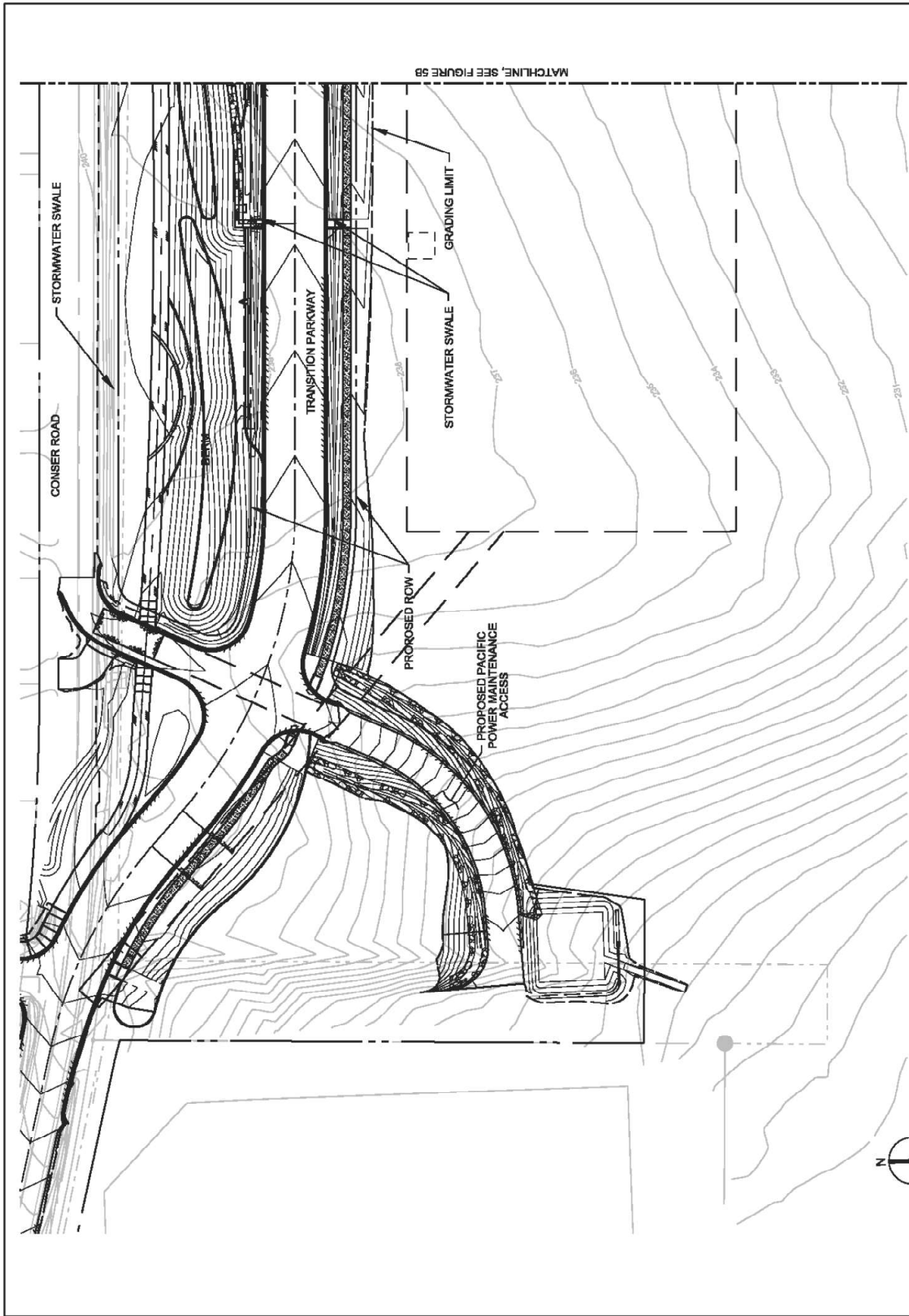
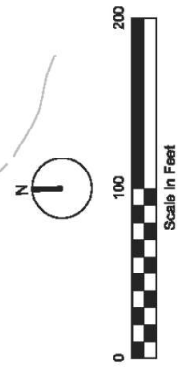


FIGURE 5A
SITE PLAN
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG



D3395316



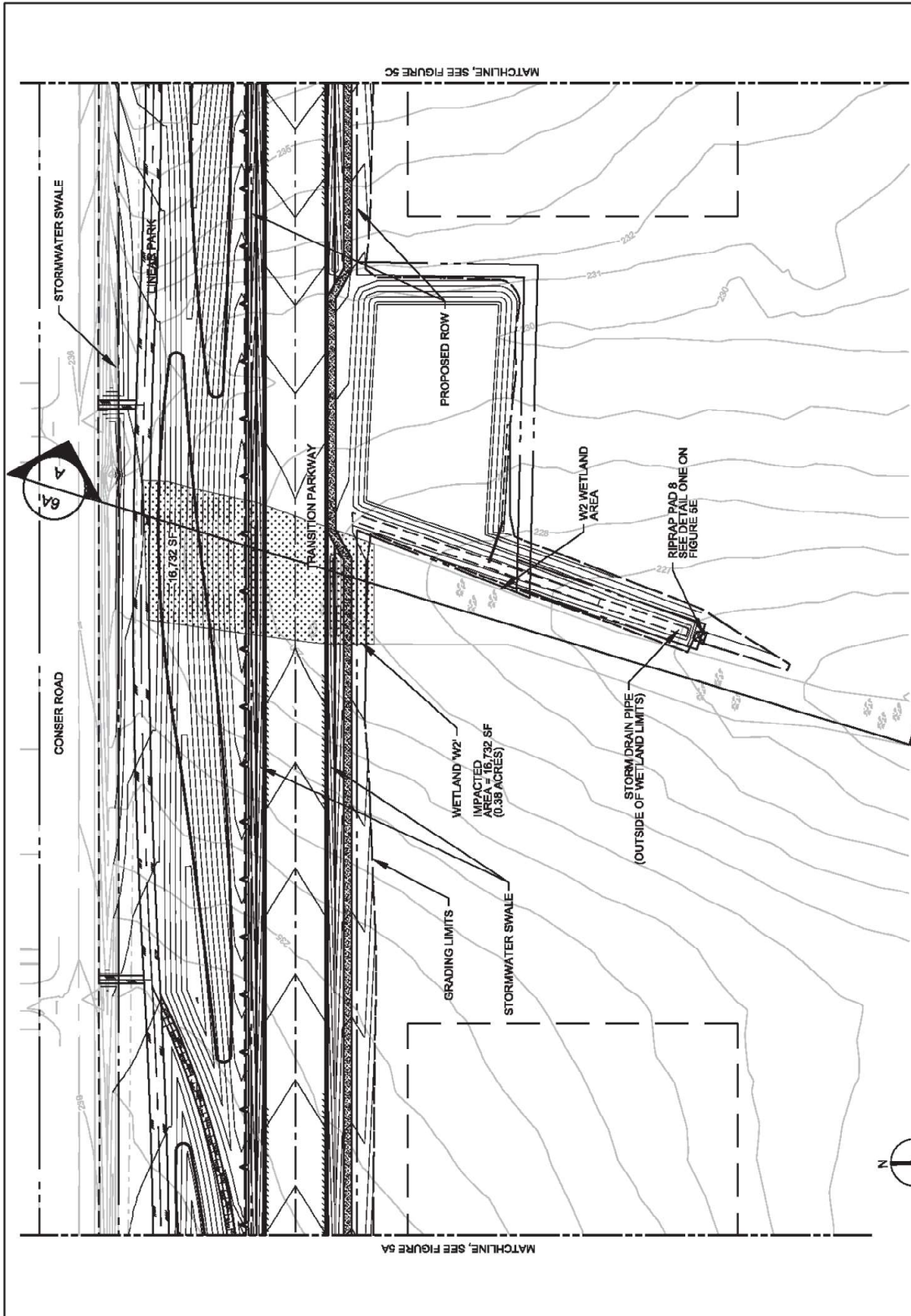
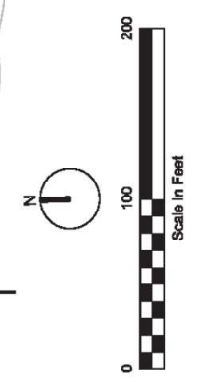


FIGURE 5B
SITE PLAN
TRANSITION PARKWAY AND LINEAR PARKWAY
CITY OF MILLERSBURG



D3395316



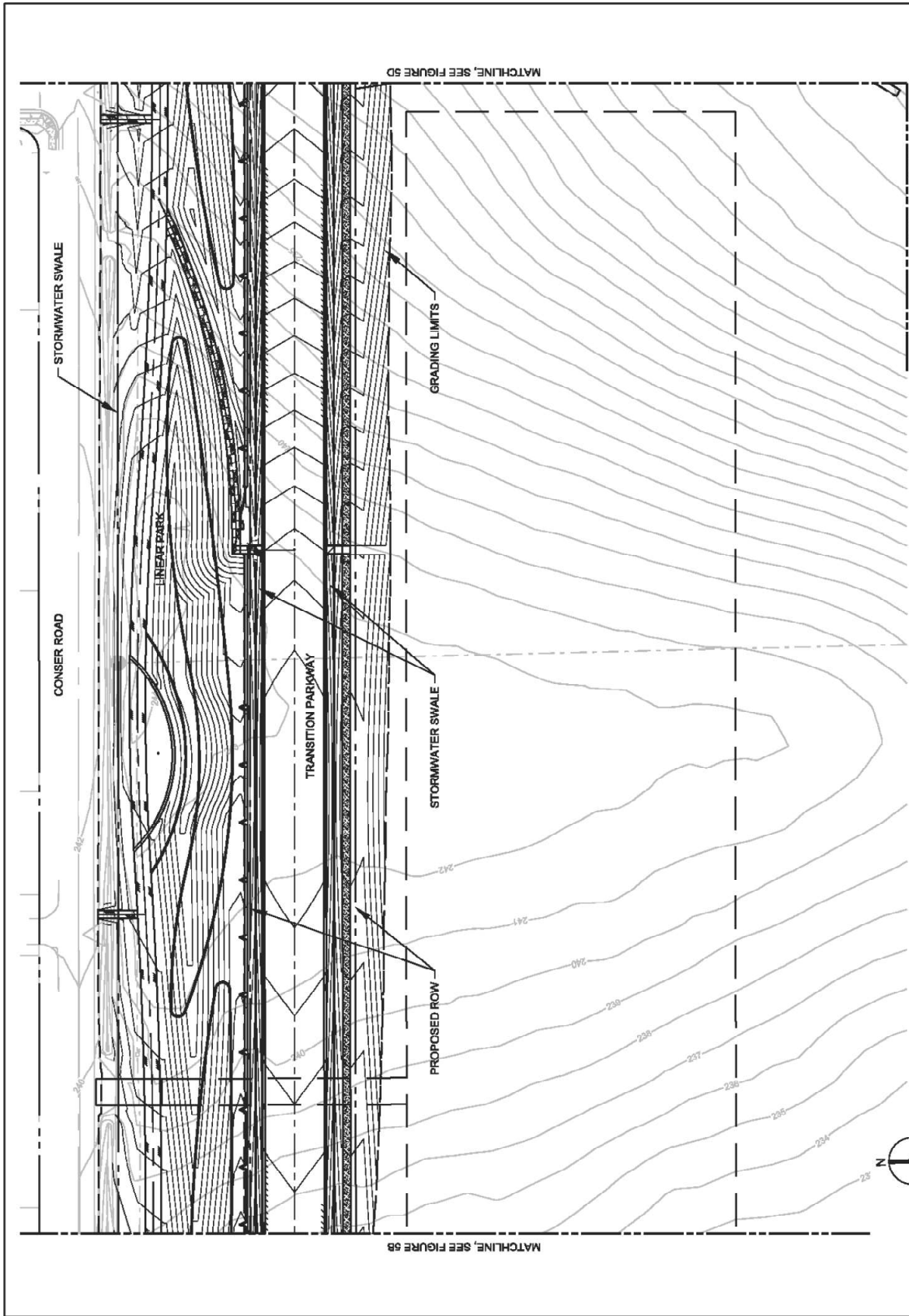
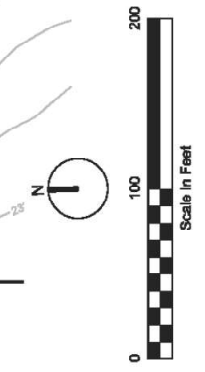


FIGURE 5C
SITE PLAN
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG



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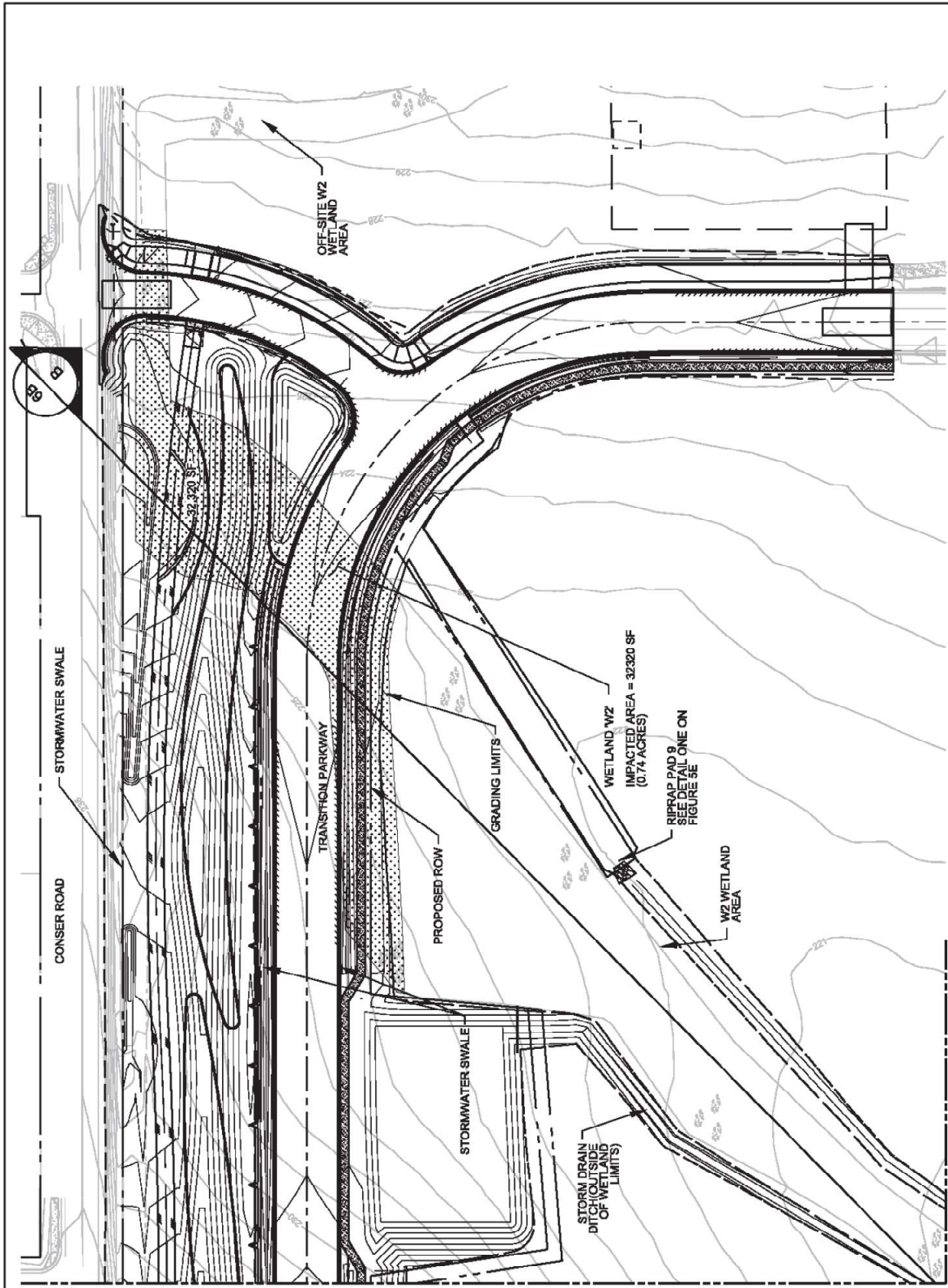
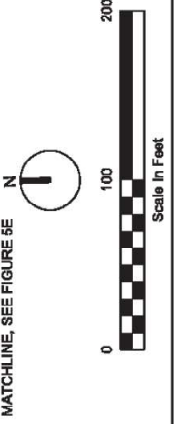
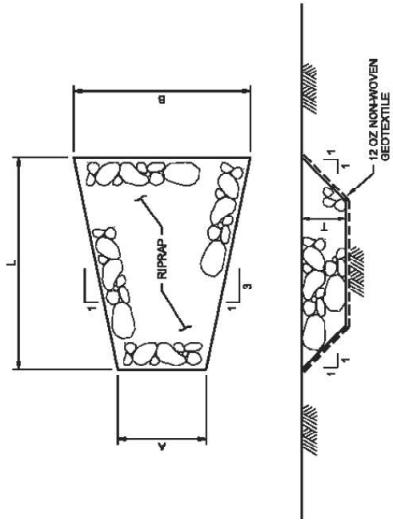
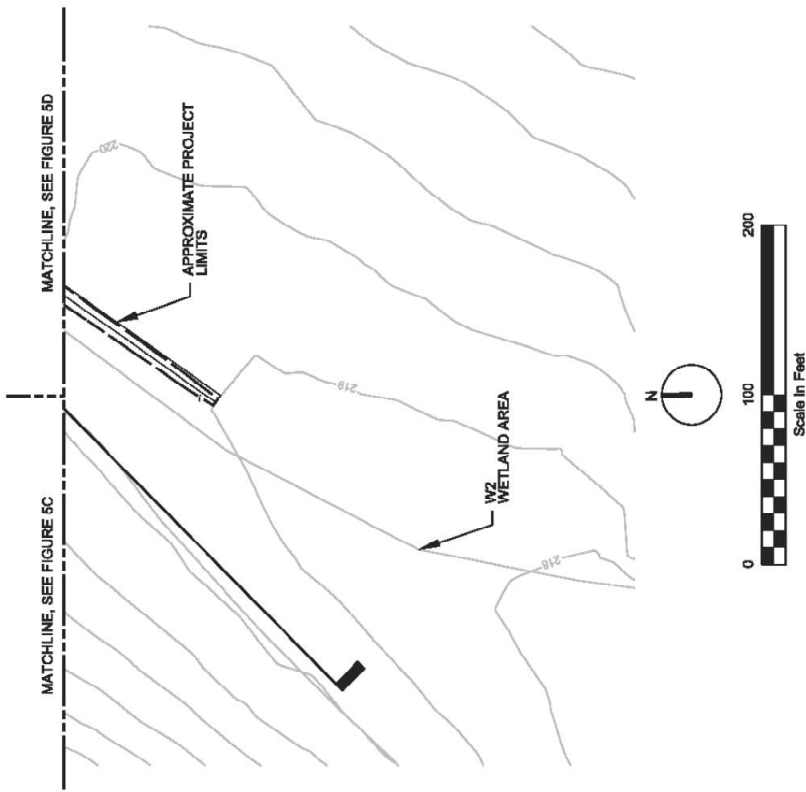


FIGURE 5D
SITE PLAN
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG



D3395316





RIPRAP PAD NO #	ODOT CLASS #	L APRON LENGTH (FEET)	A APRON WIDTH (FEET)	B APRON WIDTH (FEET)	T APRON THICKNESS (IN)	COMMENT
PAD 1	50	4	3	6	27.00	NO FLARE
PAD 2	50	4	3	6	27.00	NO FLARE
PAD 3	50	4	3	6	27.00	NO FLARE
PAD 4	50	4	3	6	27.00	NO FLARE
PAD 5	50	4	3	6	27.00	NO FLARE
PAD 6	50	4	3	6	27.00	NO FLARE
PAD 7	50	4	3	6	27.00	NO FLARE
PAD 8	50	4	3	6	27.00	NO FLARE
PAD 9	50	12	8	13	27.00	NO FLARE

* REFER TO 2021 ODOT STANDARD SPECIFICATION, SECTION 03390.

1 RIPRAP PAD TYPICAL SECTION
NTS

FIGURE 5E
SITE PLAN AND DETAIL
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG



Joint Permit Application

This is a joint application, and must be sent to all agencies (Corps, DSL, and DEQ). Alternative forms of permit applications may be acceptable; contact the Corps and DSL for more information.



	U.S. Army Corps of Engineers Portland District		Oregon Department of State Lands		Oregon Department of Environmental Quality
Action ID Number NWP-2021-494		Number 64515-RF			

(1) TYPE OF PERMIT(S) IF KNOWN (check all that apply)

Corps: Individual Nationwide No.: __ Regional General Permit _____ Other (specify):

DSL: Individual GP Trans GP Min Wet GP Maint Dredge GP Ocean Energy No Permit Waiver

(2) APPLICANT AND LANDOWNER CONTACT INFORMATION

	Applicant	Property Owner (if different)	Authorized Agent (if applicable) <input checked="" type="checkbox"/> Consultant <input type="checkbox"/> Contractor
Name (Required)	Janelle Booth		Julie Wirth-McGee, PWS
Business Name	City of Millersburg		AKS Engineering & Forestry
Mailing Address 1	4222 NE Old Salem Road		3700 River Road N
Mailing Address 2			Suite 1
City, State, Zip	Albany, OR 97321		Keizer, OR 97303
Business Phone	458-233-6300		503-400-6028
Cell Phone			971-707-3783
Fax			
Email	jbooth@cityofmillersburg.org		wirthmcgee@aks-eng.com

(3) PROJECT INFORMATION

A. Provide the project location.

Project Name
Transition Parkway and Linear Park Project

Latitude & Longitude*
44.680800, -123.070645

Project Address / Location	City (nearest)			County
3800 NE Old Salem Rd	Millersburg			Linn
Township	Range	Section	Quarter / Quarter	Tax Lot
10S	03W	28		Portion of 100 and 101, and ROW
10S	03W	20		Portion of ROW
10S	03W	20	DD	Portion of ROW

Brief Directions to the Site:
Head south on I-5 and take Exit 238. Turn right onto Old Salem Road NE. In about 1.5 miles, turn right onto Conser Road NE. Project site will be on your left in approximately 0.50 miles.

B. What types of waterbodies or wetlands are present in your project area? (Check all that apply.)

River / Stream Non-Tidal Wetland Lake / Reservoir / Pond

Estuary or Tidal Wetland Other Pacific Ocean

Waterbody or Wetland Name** Wetland W2	River Mile N/A	6 th Field HUC Name Truax Creek Willamette River	6 th Field HUC (12 digits) 170900030610
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* In decimal format (e.g., 44.9399, -123.0283)

** If there is no official name for the wetland or waterbody, create a unique name (such as "Wetland 1" or "Tributary A").

C. Indicate the project category. (Check all that apply.)		
<input type="checkbox"/> Commercial Development	<input type="checkbox"/> Industrial Development	<input type="checkbox"/> Residential Development
<input type="checkbox"/> Institutional Development	<input type="checkbox"/> Agricultural	<input checked="" type="checkbox"/> Recreational
<input checked="" type="checkbox"/> Transportation	<input type="checkbox"/> Restoration	<input type="checkbox"/> Bridge
<input type="checkbox"/> Dredging	<input checked="" type="checkbox"/> Utility lines	<input type="checkbox"/> Survey or Sampling
<input type="checkbox"/> In- or Over-Water Structure	<input type="checkbox"/> Maintenance	<input type="checkbox"/> Other:

(4) PROJECT DESCRIPTION

A. Summarize the overall project including work in areas both in and outside of waters or wetlands.

This application has been submitted as a request to modify DSL Permit #64515-RF and provide updated volume calculations and figures prior to the issuance of USACE Permit NWP-2021-494. The City's engineer on this project has modified the design slightly to account for changes in the required stormwater management, that have resulted in changes to the removal/fill calculations associated with the project. The only slight change in the wetland impact acreage is a slight decrease in impact area due to all stormwater outfalls now being constructed in uplands. All March 2024 changes to this permit application are provided in red to make changes more easily identifiable. Updated permit figures are provided in Attachment 1 (Figures 4-6B); no changes to any other attachments were required.

The proposed project involves the extension of Transition Parkway from its current terminus just north of the new City of Millersburg (City) fire station westward to the existing Conser Road/Woods Road intersection. The project will also include the construction of a new maintenance access road from Transition Parkway to the existing Pacific Power substation, and a new linear park and multi-use pathway to the north of the roadway. The typical section for Transition Parkway will include two 12-foot travel lanes, a center left-turn lane, 5-foot-wide bicycle lanes in both directions, and a separated sidewalk on the south side of the roadway. Public utilities (storm, telecommunications, power, gas, and water lines) will be installed within the right-of-way. Conser Road will be closed to through traffic but will remain in place to provide existing residents with access to their homes. Two additional roadway segments will be constructed off Conser Road to provide area residents vehicular access to Transition Parkway. The new linear park will be a passive park comprised primarily of landscaping, a 12-foot-wide multi-use path, and sidewalk connections to nearby roadways. The park will include a retaining wall and an 8-foot-tall, vegetated berm that will provide a buffer between residentially zoned lands to the north and industrial lands to the south.

Though the project area is relatively flat with only minimal vegetation cover, earthwork (i.e. clearing and grading) will be required to ensure proper storm drainage and to facilitate roadway and park construction. This will include rough grading and final grading. Temporary stockpile/staging locations have been identified within existing uplands for temporary storage of excavated materials onsite.

Post-construction stormwater treatment will be provided via several bioswales along the new roadway. Curb inlets and storm lines will be installed to collect and convey runoff from impervious areas to the facilities. The new facilities will provide biological uptake and absorption as well as filtration through media per accepted industry standards. Post-construction stormwater treatment has been designed consistent with the National Marine Fisheries Service (NMFS), City, and Oregon Department of Environmental Quality (DEQ) water quality and quantity treatment standards. A pre-filing request was submitted to the DEQ on February 27, 2023 (see Attachment 6). A copy of the Joint Permit Application will be submitted to DEQ along with the required 401 Certification documentation concomitant with the US Army Corps of Engineers (USACE) submittal.

The project will require permanent impacts to one Palustrine emergent (PEM), farmed wetland as discussed in further detail in Section B below. The project will result in greater than 50 cubic yards of removal and fill within waters of the state, and greater than 0.20 acres of wetland will be impacted. As a result, the project will require an Individual Permit from the Oregon Department of State Lands (DSL).

Further, project impacts exceed the threshold requirements for Nationwide Permit 14, so the project will require an individual permit from USACE.

B. Describe work within waters and wetlands.

Permanent, direct impacts to Wetland W2 will be required during the extension of Transition Parkway, installation of public utilities, and grading for the new linear park and vegetated berms. All Permit Maps and Figures, including site plans and cross-sections, are provided in Attachment 1.

Roadway Construction Impacts – The extension of Transition Parkway from its current terminus to the Conser Road/Woods Road intersection and construction of the new roadway segment that will align with Castillo Drive will require 26,636 square feet (0.61 acres) of permanent impacts to two areas within Wetland W2.

- Western Impact Area – 8,462 square feet, 326 cubic yards removal, 375 cubic yards fill
- Eastern Impact Area – 18,174 square feet, 387 cubic yards removal, 548 cubic yards fill

Impacts will be initiated when native material is excavated from within the wetland area to facilitate construction of the roadway fill prism. Once the area has been prepared, geotextile fabric, aggregate subgrade, asphalt and concrete will be placed within the wetland area to construct the roadway surface, embankments, and sidewalk.

Utility Installation Impacts – Several public utilities will be installed roughly 3 to 5 feet below Transition Parkway. The impact area has been accounted for as part of the roadway construction activities; however, additional removal and fill activities will be required to trench and install the new utility lines. An estimated 152 cubic yards of native soil will be excavated along the utility lines. Once the desired grades have been established, bedding material will be placed along the bottom of the trench, the utility lines placed inside, and the area backfilled with engineered fill. An estimated 123 cubic yards of engineered fill will be placed to stabilize and secure the new utility lines below the roadway surface.

Park Grading Impacts – Construction of the new linear park, City-required vegetated berm, and new multi-use path will require 22,416 square feet (0.51 acres) of permanent impacts to two areas within Wetland W2.

- Western Impact Area – 8,270 square feet, 695 cubic yards removal, 1,856 cubic yards fill
- Eastern Impact Area – 14,146 square feet, 934 cubic yards removal, 2,403 cubic yards fill

Construction of the new park amenities will not require removal of native soil; however, grading for the new vegetated berm and multi-use path will require the placement of fill within Wetland W2. Estimated fill materials include aggregate and asphalt for the multi-use path, and structural fill and soil for the vegetated berm. The contractor will likely elect to use borrowed materials excavated elsewhere on-site for the vegetated berm to minimize trucking and disposal costs.

Stormwater Outfall Impacts – The project has been redesigned to remove all stormwater outfalls from the wetland area. Additional grading is proposed outside of the wetland area to facilitate flow from the stormwater outfalls towards the wetland areas. As a result, no impacts are proposed for the stormwater outfalls.

C. Construction Methods. Describe how the removal and/or fill activities will be accomplished to minimize impacts to waters and wetlands.

Construction equipment for the project will be specific to the selected contractor but will likely include dump trucks, backhoes/excavators, graders, paving machines, roller compactors, water trucks, and cement trucks. All construction staging and stockpiling will only occur in uplands and approved wetland impact areas, and construction access will be provided from existing roadways and gravel construction entrances. Construction entrances and staging areas are shown on attached Figure 5.

Pre-Construction Minimization

Some of the elements to be implemented prior to construction to minimize resource impacts are as follows:

- Inform the contractor of all permit conditions.
- Erosion and sediment control best management practices (BMPs) will be used to prevent any sediment or sediment-laden water from leaving the site. The contractor will install the BMPs prior to initiating ground disturbance. Anticipated BMPs include sediment fencing, wattles, inlet protection, gravel construction entrances, and a designated concrete washout area.
- Clearly demarcate all no-work zones with orange construction fencing or similar material.
- Confirm that emergency erosion control and spill response materials are on-site prior to construction.

Minimization Measures During Construction

All equipment will be operated from existing impervious areas, uplands, and approved wetland impact areas, and the contractor will be required to monitor and maintain all erosion controls measures throughout the project to ensure that they are working properly. Similarly, the contractor will clean and inspect all machinery when working near the on-site resources to confirm that it is free of weeds, leaks, and grease.

Post-Construction Stormwater

The project’s stormwater quality treatment systems were designed to meet the City’s, DEQ, and NMFS stormwater treatment and detention requirements. All contributing impervious areas associated with the project will be treated on site. Pollutants of concern post-construction include suspended solids, nutrients, heavy metals, and hydrocarbons. These contaminants will be treated within the new facility. A Stormwater Management Plan (SWMP) is currently being prepared and will be submitted to USACE and DEQ under separate cover once the SWMP is complete.

D. Describe source of fill material and disposal locations if known.

Construction materials will be imported as necessary, though sources are currently unidentified. Native material removed from the site will be disposed of at an off-site upland location.

E. Construction timeline.

What is the estimated project start date? May 2024
 What is the estimated project completion date? June 2025
 Is any of the work underway or already complete? Yes No
 If yes, please describe.

F. Removal Volumes and Dimensions

Wetland / Waterbody Name *	Removal Dimensions					Time Removal is to remain**	Material***
	Length (ft.)	Width (ft.)	Depth (ft.)	Area (ac.)	Volume (c.y.)		
Wetland W2	~412'	82-315'	0.29-2'	0.62	2,494	Permanent	Native soil

G. Total Removal Volumes and Dimensions

Total Removal to Wetlands and Other Waters	Length (ft.)	Area (ac.)	Volume (c.y.)
Total Removal to Wetlands	~412'	0.62	2,494
Total Removal Below Ordinary High Water	--	--	--
Total Removal Below Highest Measured Tide	--	--	--
Total Removal Below High Tide Line	--	--	--
Total Removal Below Mean High Water Tidal Elevation	--	--	--

H. Fill Volumes and Dimensions

Wetland / Waterbody Name*	Fill Dimensions					Time Fill is to remain**	Material***
	Length (ft.)	Width (ft.)	Depth (ft.)	Area (ac.)	Volume (c.y.)		
Wetland W2	~412'	82-315'	0.29-9'	1.13	5,305	Permanent	Aggregate/Engineered Fill/Concrete/Asphalt/Native Soil

I. Total Fill Volumes and Dimensions			
Total Fill to Wetlands and Other Waters	Length (ft.)	Area (ac.)	Volume (c.y.)
Total Fill to Wetlands	~412'	1.13	5,305
Total Fill Below Ordinary High Water	--	--	--
Total Fill Below Highest Measured Tide	--	--	--
Total Fill Below High Tide Line	--	--	--
Total Fill Below Mean High Water Tidal Elevation	--	--	--
*If there is no official name for the wetland or waterbody, create a unique name (such as "Wetland 1" or "Tributary A").			
**Indicate whether the proposed area of removal or fill is permanent or, if you are proposing temporary impacts, specify the days, months or years the fill or removal is to remain.			
*** Example: soil, gravel, wood, concrete, pilings, rock etc.			

(5) PROJECT PURPOSE AND NEED

Provide a statement of the purpose and need for the overall project.

The overall project purpose is to provide a safe and efficient multi-modal transportation corridor within the central portion of the City to handle current and future traffic loads more efficiently, while providing a buffer for existing residential zoned land to the north. The need for the project is driven by two factors including the City's historic and continued rapid population growth. A September 18, 2022, article in the Albany Democrat-Herald reported that according to the Portland State University Research Center, the City's population was 651 in 2000. From 2000 to 2020, the population increased to 2,919 (2020 US Census data) for a total increase of 450 percent, and the City's current population estimate, as determined by Portland State University, is 3,093. A housing needs analysis performed by ECONorthwest for the City, projects that by 2041, the City's population will have increased to 4,883 (750 percent increase from 2000). The historic population growth has already increased traffic loads beyond the carrying capacity on Conser Road, and the issue will be exacerbated by future population growth, thereby necessitating the need to upgrade the east-west transportation corridor in this area of the City.

The second factor is related to the need to provide safe and efficient transportation corridors to support future traffic needs due to the proposed new I-5 interchange that will eventually provide motorists with access to a new highway on- and off-ramp in the location of the existing Transition Parkway/Old Salem Road intersection¹. Increased average daily traffic (ADT) counts, in addition to increased truck traffic to and from the Mid-Willamette Valley Intermodal Facility, that will inevitably result from future I-5 freeway and interchange modifications must be accommodated by providing safe multi-modal transportation corridors that are designed to more stringent City standards.

Currently, the only east-west corridor in this area of the City is Conser Road, which is not sufficient for future capacity needs and does not include necessary bicycle and pedestrian facilities, in part because it is built to county, not City standards. Currently traffic moving north-south on Old Salem Road, and east-west on Conser Road, is routed through a dangerous intersection with limited sight distance (accidents resulting in fatalities have occurred). Traffic must be routed away from this dangerous intersection to ensure safe and efficient multi-modal transportation, and the new corridor alignment must be connected to existing transportation infrastructure. The extension of Transition Parkway from its current terminus to the Conser Road/Woods Road intersection is the most practicable alternative to carry current and future east-west and north-south traffic through this area of the City.

The proposed new linear park and vegetated berm will serve as a buffer between residentially zoned properties to the north and industrially zoned properties to the south. A buffer is needed between residential and industrial areas to comply with the goals of the City's *Comprehensive Plan* (Industrial Policies 3, 10, Natural Vegetation Policy 10, Noise Policy 4, and 5, Open Space Policies 4, and 8e, and Parks Policy 4) and *Development Code* (Section 3.09.010, 3.07.040, 5.05.060) while addressing livability. Because Conser Road must be maintained as a local street to provide existing residences with access to their homes, the linear park and vegetated berm must be sited between Transition Parkway and Conser Road to buffer the existing residential development north of Conser Road from increased ADT and any future industrial development to the south. Minimizing the impacts of the adjacent industrial zoning

¹ I-5 Reconnaissance Study: Delaney Road to OR 34, prepared for Oregon Department of Transportation, December 2021

through separation (buffers) and trees (screening) will increase the livability of this area and comply with the policies of the *Comprehensive Plan* and requirements of the *Development Code*.

The proposed linear park and vegetated berm between Conser Road and Transition Parkway is designed to meet these objectives, provide an amenity to the community and businesses, and facilitate pedestrian and bicycle traffic by implementing the planned trails from the *Park System Master Plan* and the *Transportation System Plan*. Accommodating pedestrian and bicycle traffic is a priority and is required by both the City and the State of Oregon with construction of new transportation facilities. The State has passed recent rules that require the City to prioritize addressing gaps in non-vehicular paths of travel. The current rural design of Conser Road has no sidewalks or bike paths. The linear park will function to address this gap in pedestrian and bicycle connectivity by providing a safe pathway north of Transition Parkway. Thus, the parkway and the linear park are functionally related. To address safety concerns, the linear park's multi-use path will be separated from the anticipated heavy traffic on Transition Parkway. Bike lanes and a sidewalk on the south side of Transition Parkway will provide direct access to those who reach the area from the south. The new park is also intended to connect the multi-modal trail in the linear park with other planned multi-modal trails currently being designed along Woods Road.

The location of Transition Parkway and the new linear park are fixed and identified on the City's most-recent *Transportation System Plan*. Since Wetland W2 consists of two linear swales within the project area that run roughly north-south, and their northern limits intersect the Conser Road fill slope, impacts to the wetland are unavoidable. The new roadway and linear park are required to provide a safe transportation corridor and buffer between zoning districts and have been designed to avoid impacts to Wetland W2 to the most practicable extent.

(6) DESCRIPTION OF RESOURCES IN PROJECT AREA

A. Describe the existing physical, chemical, and biological characteristics of each wetland or waterbody. Reference the wetland and waters delineation report if one is available. Include the list of items provided in the instructions.

The project site was assessed for the presence of wetlands and waters by Jacobs Engineering Group Inc. (Jacobs) on April 15, 2020. During the site visit, five wetlands (referred to as Wetlands W1, W2, W3, W4, and W5) and two streams (referred to as Streams S1 and S2) were delineated within the vicinity of the project. Only Wetland W2, however, was determined to be within the project area. No Aquatic Resources of Special Concern exist within the project site or within the immediate vicinity. The Wetland Delineation Report was prepared and submitted to DSL, receiving concurrence on June 28, 2021, under DSL File WD2020-0688 (Attachment 2). A copy of the full delineation report is provided in Attachment 3 (USACE application only).

Wetland W2 is a PEM wetland located within the central portion of the project area. Jacobs originally classified the wetland within the Riverine Hydrogeomorphic (HGM) Class in their delineation report; however, AKS believes the impacted wetland areas belong in the Slopes HGM Class as the wetland is primarily fed by lateral subsurface flow or discharging groundwater and secondarily by runoff and direct precipitation. The wetland is actively farmed, so vegetation within the wetland varies depending on what has been seeded. Within the project area, Wetland W2 consists of two narrow strips of wetland that are in slight topographic swales that extend from the Conser Road fill slope southward outside the project area. The wetland areas eventually connect outside of the project area where the wetland directly abuts Streams S1 and S2 that are unnamed tributaries to Fourth Lake and ultimately the Willamette River. The entirety of Wetland W2 is 13.22 acres in size; however, only 1.13 acres of Wetland W2 falls within the project area.

Existing Wetland Function and Value Assessment: A wetland function and value assessment was conducted using the Oregon Rapid Wetland Assessment (ORWAP v3.1) for the impacted portions of Wetland W2. Two assessments were conducted for the western and eastern portions of Wetland W2 that will be impacted during construction (Assessment Area 1 and Assessment Area 2, respectively). Due to the similarities between the two assessment areas, the scores were the same. The Wetland W2 ORWAP Summary Table illustrating the results of the grouped function and value scores for the two Assessment Areas is provided below. Copies of the required maps and Excel data sheets are provided in Attachment 4.

Wetland W2 ORWAP Summary Table

GROUPS	Selected Function	Function Rating	Rating Break Proximity	Values Rating	Rating Break Proximity
Hydrologic Function	Water Storage & Delay (WS)	Moderate		Moderate	
Water Quality Support	Phosphorus Retention (PR)	Moderate		Higher	MH
Fish Habitat	Anadromous Fish Habitat (FA)	Lower		Lower	
Aquatic Habitat	Waterbird Feeding Habitat (WBF)	Moderate		Higher	
Ecosystem Support	Pollinator Habitat (POL)	Moderate		Higher	

Cultural Resources: there are no existing homes or aboveground structures within the project area. Further, no below-ground cultural resources are expected to be present during soil disturbing activities. The site has historically been used for agricultural purposes. Therefore, significant cultural resources are not expected to be present in the project area. If cultural remains are encountered during the project, all construction activities will cease, and the Oregon Historic Preservation Office (SHPO) will be notified to evaluate the discovery and recommend subsequent courses of action.

Changes in Hydrologic Characteristics: The project is not expected to result in upstream or downstream flooding or erosion as the project, and impacted wetland areas, are not located in a mapped floodplain.

Rare, Threatened, and Endangered Species: According to US Fish and Wildlife Service’s (USFWS) Information for Planning and Consultation (IPaC) website, there are four avian species, three plant species, and one insect that have the potential to be present within the project area. Based on existing site conditions and species-specific habitat requirements, no suitable habitats for the eight listed species are present within the project area, as discussed below. As a result, this project will not result in adverse impacts to any rare, threatened, or endangered species.

- **Marbled Murrelet (*Brachyramphus marmoratus*), Threatened:** Marbled murrelets nest in forested areas with characteristics associated with old-growth or mature forests. These forests contain large trees, multistoried stands and moderate to high canopy closure. These forests also need large branches for nest platforms. Existing site conditions at the project site do not contain potentially suitable habitat to support this species. The closest designated critical habitat is located roughly 12 miles to the west with potentially suitable habitat located about 8 miles away. Due to the lack of suitable habitat within the project vicinity, proposed construction activities will have no effect on this species.
- **Northern Spotted Owl (*Strix occidentalis caurina*), Threatened:** Similar to marbled murrelets, the northern spotted owl also depends on old-growth and mature forests. This owl’s suitable habitat is associated with tree height diversity and density, canopy cover, snag volume and density and high volume of woody debris. The owl can also be found in younger forests with some structural characteristics or legacy features of old forests. Due to existing site conditions and the location of the proposed project, potentially suitable habitat to support this species is not present within 8 miles of the project site and the closest designated critical habitat for this species is roughly 23 miles southwest of the project site. Due to the lack of suitable habitat within the project vicinity, proposed construction activities will have no effect on this species.
- **Streaked Horned Lark (*Eremophila alpestris*), Threatened:** Streaked horned larks are found in areas with a percentage of bare ground of 16 or greater, with sparse low-stature vegetation primarily composed of grasses and forbs. Specifically, this species prefers large and intact habitats that are roughly 300 acres in size although it can utilize smaller areas that provide visual access to open areas. While the project site is located within a sizable farm field where the site characteristics may meet breeding and or wintering habitat requirements for this species during a portion of the year, the entire project site, and area immediately to the south, is situated within 100 meters (330 feet) of a hard edge (trees or buildings), making the area undesirable to streaked horned larks. The nearest designated critical habitat is located roughly 7 miles north of the project site at the Ankeny National Wildlife Refuge and potentially suitable habitat can be found about 5 miles northwest of the project site. Due to the lack of suitable habitat within the project vicinity, proposed construction activities will have no effect on this species.
- **Yellow-billed Cuckoo (*Coccyzus americanus*), Threatened:** This species breeds primarily in large stands of dense willow and cottonwood species in river floodplains and tends to prefer streamside habitat

over wetlands. No critical habitat is mapped in the state of Oregon and the closest critical habitat mapped is found in California. Because existing site conditions do not contain any stands of willow or cottonwood and there is no streamside habitat within the project area, it is unlikely for the yellow-billed cuckoo to be found on site. Due to the lack of suitable habitat within the project vicinity, proposed construction activities will have no effect on this species.

- **Kincaid's Lupine (*Lupinus sulphureus ssp. kincaidii*), Threatened:** Kincaid's lupine is typically found in fragmented upland prairie habitats between grasslands and forests with a preference for well-drained soils. The nearest designated critical habitat for Kincaid's Lupine located about 15 miles southeast of the project site. Because the project site does is regularly disturbed for agricultural purposes and contains no upland prairie habitat suitable to support this species, proposed construction activities will have no effect on the species.
- **Nelson's Checker-mallow (*Sidalcea nelsoniana*), Threatened:** In the Willamette Valley, this species is known to inhabit wet prairies and stream sides. Although occasionally this species occurs in the understory of *Fraxinus latifolia* woodlands or among woody shrubs, populations usually occupy open habitats supporting early seral plant species. These native prairie remnants can be found at the margins of sloughs, ditches, and streams, along roadsides and fence row, and within fallow fields; however, no individual species were observed within the project site. Based on active agricultural activities within the project site and an absence determination during site surveys, proposed construction activities will have no effect on this species.
- **Willamette Daisy (*Erigeron decumbens*), Endangered:** Critical habitat units have been designated for this species in Benton, Lane, Linn, Marion and Polk Counties, but do not include the project site. The primary constituent element of critical habitat is early seral upland prairie, wet prairie, or oak savanna habitat with a mosaic of low-growing grasses, forbs, and spaces to establish seedlings or new vegetative growth; an absence of dense canopy vegetation; and undisturbed subsoils. Due to the lack of suitable habitat on the project site to support this species, proposed construction activities will have no effect on this species.
- **Fender's Blue Butterfly (*Icaricia icarioides fenderi*), Endangered:** Habitat requirements for Fender's blue butterfly include lupine host plants and native wildflowers for adult nectar food sources. At least 12 acres of high-quality habitat are necessary to support a population of Fender's blue butterflies, with even larger areas of degraded and low-quality habitat likely necessary to support a viable butterfly population. This species has limited dispersal ability, with adult butterflies typically remaining within close proximity to their natal lupine patch. Critical habitat units for this species have been designated in Benton, Lane, Polk and Yamhill Counties, but do not include the project site. The closest unit is roughly 13 miles to the southwest of the project site. Due to the lack of lupine host plants and native wildflower populations on the project site, suitable habitat is not present to support Fender's blue butterfly. As a result, proposed construction activities will have no effect on this species.

Wildlife Species Use: The project site is surrounded by urban development to the north; however, it is primarily located in a rural area within the City limits. The project site could provide habitat for common resident and migratory songbirds and common, small mammals such as raccoons, skunks, opossums, etc. Large mammals, such as deer, could also use the project site, as there are potentially suitable wildlife corridors within the surrounding area.

DEQ Clean-up Site: A portion of the project area is a part of the Teledyne Wah Chang Superfund Site. The main Superfund site is located approximately a mile south of the project area (CERCLA permit number is 050955848, EPA contact is Chan Pongkamsing, and DEQ contact is Margaret Oscilia). The portion of the superfund site within the project area is known as the Soil Amendment Area (SAA).

In 1975 and 1976, Wah Chang (now ATI) obtained solid waste permits from the Oregon Dept. of Environmental Quality to use solids from the primary wastewater treatment experimentally as a soil amendment. The solids were applied to the soils at the Site once in 1976. The solids contained low levels of metals, radionuclides, and organic compounds. The Remedial Investigation of the Wah Chang Superfund Site indicated that the radionuclide contamination in the Soil Amendment Area could result in an unacceptable risk from radon inhalation in buildings constructed on this area in the future, and organic compounds are above levels that would allow unrestricted use of the Site. There is currently a consent decree on the property that prohibits residential development on the property and requires certain measures be taken if enclosed

structures are constructed. ATI is currently working with OHA (with support from EPA and ODEQ) on the process of removing the SAA from ATI's operating license.

B. Describe the existing navigation, fishing and recreational use of the waterbody or wetland.

Wetland W2 is located on public property currently owned by the City; however, Wetland W2 provides the public with no navigational, fishing, or recreational opportunities.

(7) PROJECT SPECIFIC CRITERIA AND ALTERNATIVES ANALYSIS

Describe project-specific criteria necessary to achieve the project purpose. Describe alternative sites and project designs that were considered to avoid or minimize impacts to the waterbody or wetland.*

Project-Specific Criteria: The goal of this project is to provide a safe and efficient multi-modal transportation corridor within the central portion of the City to handle current and future traffic loads more efficiently, while providing a buffer for existing residential zoned land to the north. To achieve the necessary goals of the project, the following project-specific criteria must be met:

- Construct a new east-west roadway that will adequately service users and provide a safe transportation corridor for vehicles/bicyclists/pedestrians between Woods Road and Old Salem Road
- Ability to connect to existing transportation infrastructure and minimize off-site transportation improvement requirements
- Ability to provide safe and efficient travel corridors during and after construction
- Ability to maintain livability for current residents located north of Conser Road
- Ability to stay within programmed and available funding limits

No-Build Alternative – Population within the City has been steadily climbing and this trend is expected to continue. The existing transportation system does not provide a safe and efficient east-west route from Woods Road to Old Salem Road that meets the long-term needs of existing or future residents. To ensure that the residents within this area have a safe travel corridor and to avoid overloading the existing transportation system, a new roadway designed to current City standards is required. As a result, the no-build alternative was not considered a viable option as it does not meet the project-specific criteria.

Onsite Avoidance Alternatives – The following two design alternatives were considered during the planning phase of this project to avoid impacts to Wetland W2.

- *Widen Conser Road to the North (Figure 7):* The option to widen Conser Road to the north was evaluated during the planning phase of this project to avoid impacts to Wetland W2. If the existing road were widened to the north, it would need to be built to the more stringent City standards and would require widening of the right-of-way by 20 feet. As depicted in Figure 7, widening of the roadway to the north would impact 22 residential properties, and could result in the displacement of up to eight residences. Since the City does not own these properties, they would need to either buy out the homeowners, if they were willing sellers, and/or condemn the properties where the owners are not willing to sell. Going to this extreme would be unusual and hard to justify and defend, and it would be difficult for the City to raise enough money to accomplish this. Further, the costs of relocating residents would be significant and far exceed the available funding allotted for this project. Finally, temporary road and/or lane closures would require traffic to be rerouted onto surrounding local streets that may not be designed to accommodate the increased traffic levels, resulting in potentially unsafe transportation corridors for the travelling public during construction. This option would also not accomplish the project criteria of providing a buffer to residential areas to the north; it would worsen the existing conflicts by bringing traffic closer to the existing residences. As a result, the option to widen existing Conser Road to the north was not considered a viable option for this project as it does not meet the project specific criteria.

* Not required by the Corps for a complete application but is necessary for individual permits before a permit decision can be rendered.

- *Bridge Construction:* Two bridges could be constructed to span both segments of Wetland W2 within the proposed Transition Parkway alignment; however, even the simplest bridge structures would be significantly more expensive and far exceed the programmed funds for this project. Further, the existing grades at the Transition Parkway stub, Woods Road intersection, and Castillo Drive intersections are all fixed. To avoid indirect impacts (i.e., shading) to the wetland areas, the bridge soffit elevation would need to be at least 8 feet above the existing wetland grade. This would result in a roadway with a finish grade that is almost 10 feet higher than the Conser Road finish grade. A roadway at this elevation would require significant embankments outside of the bridge limits. Further, it would require reconstruction of the Conser Road/Castillo Road intersection, resulting in further costs to the project. Given these constraints, the option to span the wetland areas with new bridge structures was not considered a viable option for this project as it does not meet the project specific criteria.

Onsite Minimization Alternatives – The following three design alternatives were considered during the planning phase of this project to minimize impacts to Wetland W2.

- *Construct Culvert Crossings:* The option to construct culvert crossings was considered during the design phase to minimize wetland impacts. It became apparent early in the evaluation process that using a culvert to cross the wetland areas was not a practicable alternative for this project for two reasons. The culverts would need to be approximately 100 feet and 125 feet wide for the western and eastern wetland areas, respectively. This would essentially require that the culverts be a bottomless culvert (concrete or other material) that is supported by footings. The cost to construct this large of a culvert crossing would substantially increase project costs and would exceed the programmed funding limit for this project. Finally, the culvert would result in indirect, permanent impacts to the wetland (shading impacts) and would not minimize wetland impacts. As a result, the option to construct culvert crossings was not explored further.
- *Widen Conser Road to the South:* A possible option was to widen Conser Road to the south. This alternative would result in improvements roughly 120 feet south of the existing right-of-way rather than 180 feet as currently proposed. Those improvements would include extending the right-of-way 20 feet to the south to bring the existing roadway up to City standards and constructing the 100-foot-wide linear park, multi-use path, and vegetated berm. This option would result in 25,934 square feet (0.60 acres) of wetland impact, decreasing overall impacts by less than half. Though the City owns a large portion of the area required to widen Conser Road to the south, right-of-way acquisition would still be required on one parcel, and significant improvements to the Old Salem Road/Conser Road intersection would be required, making this alternative cost prohibitive. Further, as discussed in the widening to the north alternative, this would likely require traffic to be rerouted during temporary road/lane closures, resulting in potentially unsafe transportation corridors for the travelling public during construction. Finally, this alternative puts a roadway that will see a substantial increase in ADT in the future directly adjacent to existing residences, thereby decreasing livability for those residents. Due to these limitations and issues, this alternative was not considered a viable option for this project.
- *Narrow Crossings:* The possibility of making the section of Transition Parkway that crosses Wetland W2 narrower was considered. This would require that pedestrians and bicyclists be mixed in with vehicular traffic to cross Wetland W2 when using this roadway. Because this alternative does not allow for the project to provide for a safe transportation corridor for vehicular traffic, pedestrians, and bicyclists, post-construction, it was not considered a viable option.

Preferred Alternative (Figures 5-5D) – The proposed site plan is the least environmentally damaging practicable alternative that meets project criteria. It provides a new east-west roadway that will adequately service current and future users and will provide a safe multi-modal transportation corridor. The proposed alignment allows the new roadway section to connect easily to existing transportation infrastructure, and it allows existing traffic to utilize Conser Road during construction, thereby eliminating temporary road/lane closures and potential vehicular safety concerns during construction. Further, the proposed site plan provides a linear park and vegetated berm that will provide a buffer between existing residences north of Conser Road and anticipated high volume traffic on Transition Parkway and eventual industrial development to the south. Impacting the northern/uphill extent of Wetland W2 will better serve the rapidly growing City population while meeting the goals and project-specific criteria outlined above. The proposed project will leave intact the majority of Wetland W2, and compensatory mitigation will be provided for the impacted wetland areas. The purchase of wetland mitigation

bank credits to preserve higher functioning wetlands in the local watershed presents the most practical and logistical alternative for the site plan.

(8) ADDITIONAL INFORMATION

- Are there [state](#) or [federally](#) listed species on the project site? Yes No Unknown
- Is the project site within designated or proposed critical habitat? Yes No Unknown
- Is the project site within a national [Wild and Scenic River](#) ? Yes No Unknown
- Is the project site within a [State Scenic Waterway](#)? Yes No Unknown
- Is the project site within the [100-year floodplain](#)? Yes No Unknown

If yes to any above, explain in Block 6 and describe measures to minimize adverse effects to those resources in Block 7.

- Is the project site within the [Territorial Sea Plan \(TSP\) Area](#)? Yes No Unknown

If yes, attach TSP review as a separate document for DSL.

- Is the project site within a designated [Marine Reserve](#)? Yes No Unknown

If yes, certain additional DSL restrictions will apply.

- Will the overall project involve ground disturbance of one acre or more? Yes No Unknown

If yes, you may need a 1200-C permit from the Oregon Department of Environmental Quality (DEQ).

- Is the fill or dredged material a carrier of contaminants from on-site or off-site spills? Yes No Unknown

- Has the fill or dredged material been physically and/or chemically tested? Yes No Unknown

If yes, explain in Block 6 and provide references to any physical/chemical testing report(s).

- Has a cultural resource (archaeological and/or built environment) survey been performed on the project area? Yes No Unknown

- Do you have any additional archaeological or built environment documentation, or correspondence from tribes or the State Historic Preservation Office? Yes No Unknown

If yes, provide a copy of the survey and/or documentation of correspondence with this application to the Corps only. Do not describe any resources in this document. Do not provide the survey or documentation to DSL.

Is the project part of a DEQ Cleanup Site? No Yes Permit number ECSI Site ID: 315, CERCLIS (EPA ID: 050955848

DEQ contact. Margaret Oscilia

- Will the project result in new impervious surfaces or the redevelopment of existing surfaces? Yes No

If yes, the applicant must submit a post-construction stormwater management plan as part of this application to DEQ's 401 WQC program for review and approval, see <https://www.oregon.gov/deq/FilterDocs/401wqcertPostCon.pdf>

Identify any other federal agency that is funding, authorizing or implementing the project.

Agency Name	Contact Name	Phone Number	Most Recent Date of Contact
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List other certificates or approvals/denials required or received from other federal, state or local agencies for work described in this application.

Agency	Certificate / approval / denial description	Date Applied
DEQ	401 Certification	To be submitted with JPA
NMFS	SLOPES V Approval	To be submitted with JPA

Other DSL and/or Corps Actions Associated with this Site (Check all that apply.)

Work proposed on or over lands owned by or leased from the Corps (may require authorization pursuant to 33 USC 408). These could include the federal navigation channel, structures, levees, real estate, dikes, dams, and other Corps projects.

- | | | |
|--|-----------------------|-------------------|
| <input type="checkbox"/> State owned waterway | DSL Waterway Lease #: | |
| <input type="checkbox"/> Other Corps or DSL Permits | Corps # | DSL # |
| <input type="checkbox"/> Violation for Unauthorized Activity | Corps # | DSL # |
| <input checked="" type="checkbox"/> Wetland and Waters Delineation | Corps # | DSL # WD2020-0688 |

Submit the entire delineation report to the Corps; submit only the concurrence letter (if complete) and approved maps to DSL. If not previously submitted to DSL, send under a separate cover letter

(9) IMPACTS, RESTORATION/REHABILITATION, AND COMPENSATORY MITIGATION

A. Describe unavoidable environmental impacts that are likely to result from the proposed project. Include permanent, temporary, direct, and indirect impacts.

The project will require a total of **49,052** square feet (1.13 acres) of direct permanent impacts to Wetland W2, a PEM wetland within the Slopes HGM classification system. The impacts are associated with the extension of Transition Parkway, installation of public utilities, grading for the new linear park, multi-use path, and vegetated berm, and construction of two stormwater outfall dissipator pads. A summary of proposed direct permanent impacts is as follows:

- Roadway Construction Impacts – 0.61 acres, **713** cubic yards removal, **923** cubic yards fill
- Utility Installation Impacts – **152** cubic yards removal, **123** cubic yards fill
- Park Grading Impacts – 0.51 acres, **1,629 cubic yards removal, 4,259** cubic yards fill

No indirect impacts to the remaining Wetland W2 are anticipated post-construction because the proposed impacts are located upslope of the remaining wetland area, and the wetland is primarily fed by a seasonally high groundwater table that will not be impacted by the extension of Transition Parkway. Further, the remaining wetland area will continue to receive hydrology input from direct precipitation and runoff from adjacent uplands, and the treated stormwater from the roadway that does not infiltrate into the ground will be discharged into the wetland. As a result, no indirect impacts to downslope wetlands will occur as a result of this project.

No temporary impacts to jurisdictional waters, including wetlands, are proposed as a component of this project.

B. For temporary removal or fill or disturbance of vegetation in waterbodies, wetlands or riparian (i.e., streamside) areas, discuss how the site will be restored after construction to include the timeline for restoration.

No temporary wetland impacts are proposed as a component of this project. Additionally, no impacts to vegetated waterbodies or their adjacent riparian areas will be required. As a result, no restoration activities are proposed.

Compensatory Mitigation

C. Proposed mitigation approach. Check all that apply:

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Permittee-responsible Onsite Mitigation | <input type="checkbox"/> Permittee-responsible Offsite mitigation | <input checked="" type="checkbox"/> Mitigation Bank or In-Lieu Fee Program | <input type="checkbox"/> Payment to Provide (not approved for use with Corps permits) |
|--|---|--|---|

D. Provide a brief description of proposed mitigation approach and the rationale for choosing that approach. If you believe mitigation should not be required, explain why.

The project will result in a total of 1.13 acres of permanent impacts to the one farmed PEM wetland (Wetland W2) within the Slopes HGM Class. Using the Draft Compensatory Mitigation Eligibility and Accounting

Determination Form (see Attachment 5), the applicant is proposing to purchase 1.13 acres of Legacy Credits from either the Long Tom and/or Mary's River Mitigation Bank to mitigate for the unavoidable wetland impacts.

DSL's Principal Objectives: The project's ability to meet the principal objectives listed under OAR-141-085-0680 are described below.

Replace Lost Functions and Values: Wetland mitigation will be in-kind with respect to the Cowardin and HGM classification. The impacted wetland areas are categorized as PEM wetlands belonging to the Slope HGM Classification. Both mitigation banks provide credits for PEM/Slope wetlands; therefore, wetland impacts will be mitigated in-kind. Wetlands within the mitigation banks provide functions and values to the same or better level than the wetland areas to be impacted. The functions and values impacted at the project site will be more than replaced through the purchase of mitigation bank credits. In addition, only the northern/uphill extent of Wetland W2 will be impacted during construction, so the functions and values that this wetland provides will still be intact after construction is complete. The location and nature of the partial impacts will not degrade the overall wetland quality and functional capacity of Wetland W2.

Local Replacement for Locally Important Functions and Values: The on-site PEM wetland does not provide any locally important functions and values. Because the project will only impact a portion of Wetland W2, the remaining wetland area will continue to provide functions and values. Wetland mitigation will be conducted in proximity to the impacted wetlands. The impacted wetlands are within the service area for the proposed bank(s). The mitigation bank sites provide local replacement for important functions and values that have been lost in the region. The purchase of the mitigation bank credits will replace the wetland functions and values lost at the project site.

Mitigation Project is Self-Sustaining and Minimized Maintenance Needs: The mitigation bank sites are located within the appropriate landscape with respect to the topography and natural hydrology sources. These settings ensure the mitigation will be self-sustaining and have minimal maintenance needs.

Mitigation Project is Sited in an Ecologically Suitable Location: The mitigation banks are approved facilities that were sited in an ecologically suitable location to meet the needs and priorities of locally important functions and values. The large size of the mitigation banks contributes to meaningful mitigation in the landscape context and provides connectivity to other habitats.

Minimized Temporal Loss of Wetland and Waters Functions and Values: The purchase of mitigation bank credits will occur prior to project construction, which will avoid temporary loss to local wetland functions.

Mitigation Bank / In-Lieu Fee Information:

Name of mitigation bank or in-lieu fee project: Long Tom and/or Mary's River
 Type and amount of credits to be purchased: 1.13 PEM/Slope

If you are proposing permittee-responsible mitigation, have you prepared a compensatory mitigation plan?
 Yes. Submit the plan with this application and complete the remainder of this section.
 No. A mitigation plan will need to be submitted (for DSL, this plan is required for a complete application).

Mitigation Location Information (Fill out only if permittee-responsible mitigation is proposed)

Mitigation Site Name/Legal Description	Mitigation Site Address	Tax Lot #	
County	City	Latitude & Longitude (in DD.DDDD format)	
Township	Range	Section	Quarter/Quarter

(10) ADJACENT PROPERTY OWNERS FOR PROJECT AND MITIGATION SITE

Pre-printed mailing labels <input type="checkbox"/> of adjacent property owners attached	Project Site Adjacent Property Owners	Project Site Adjacent Property Owners
--	--	--

LOWTHER, LOUANN
4134 NE Castillo Dr
Albany, OR 97321

PACIFICORP
825 NE Multnomah St, Suite 1900
Portland, OR 97232

PERLENFEIN DEVELOPMENT LLC
2858 NW Pineview Dr
Albany, OR 97321

LATIMER, KYLE & ASHLEY
PO Box 310
Lebanon, OR 97355

STACKHOUSE, BEN & RACHEL
2573 Conser Rd NE
Albany, OR 97321

JOHNSTON, WILLIAM D., JR &
PATRICIA F.
3914 Santiam Pass Way 101
Salem, OR 97305

HOLSWORTH REVOCABLE
TRUST HOLSWORTH BARRY 3
& ANNIS C.
4231 NE Woods Rd
Albany, OR 97321

CHARTRAW, MICHAEL
2621 NE Conser Rd
Albany, OR 97321

MARTIN, JACQUELINE L. ESTATE
OF TERRY M. LANIG TRUST AGT
4150 NE Waverly Dr
Albany, OR 97321

LAIRSON, KENNETH D.
4321 Waverly Dr NE
Albany, OR 97321

BRONS, CHRISTOPHER S. & DARCY K.
4151 NE Waverly Dr
Albany, OR 97321

MCKIBBIN, MARK D.
2721 NE Conser Rd
Albany, OR 97322

AMANDA LANE LLC
32865 Peoria Rd
Corvallis, OR 97333

WINN, JACOB & RHONDA
4170 NE Bain St
Albany, OR 97321

HAGNER, BERNICE M.
4171 NE Bain St
Albany, OR 97321

FRY, PEGGY L. TRUSTEE
2917 NE Conser Rd
Albany, OR 97321

MARILYN J. MCCUTCHEON LIVING
TRUST
2945 NE Conser Rd
Albany, OR 97321

LUCKEY, DARRELL L. & HEIDI L.
4136 NE Katelyn Way
Albany, OR 97321

GILBERT, STEVE W. & MARIA L.
2995 NE Conser Rd
Albany, OR 97321

**(11) CITY/COUNTY PLANNING DEPARTMENT LAND USE AFFIDAVIT
(TO BE COMPLETED BY LOCAL PLANNING OFFICIAL)**

I have reviewed the project described in this application and have determined that:

- This project is not regulated by the comprehensive plan and land use regulations
- This project is consistent with the comprehensive plan and land use regulations
- This project is consistent with the comprehensive plan and land use regulations with the following:
 - Conditional Use Approval
 - Development Permit
 - Other Permit (explain in comment section below)
- This project is not currently consistent with the comprehensive plan and land use regulations. To be consistent requires:
 - Plan Amendment
 - Zone Change
 - Other Approval or Review (explain in comment section below)

An application or variance request has has not been filed for the approvals required above.

Local planning official name (print)	Title	City / County
Signature		Date
Comments:		

(12) COASTAL ZONE CERTIFICATION

If the proposed activity described in your permit application is within the [Oregon Coastal Zone](#), the following certification is required before your application can be processed. The signed statement will be forwarded to the Oregon Department of Land Conservation and Development (DLCD) for its concurrence or objection. For additional information on the Oregon Coastal Zone Management Program and consistency reviews of federally permitted projects, contact DLCD at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301 or call 503-373-0050 or click [here](#).

CERTIFICATION STATEMENT

I certify that, to the best of my knowledge and belief, the proposed activity described in this application complies with the approved Oregon Coastal Zone Management Program and will be completed in a manner consistent with the program.

Print /Type Applicant Name Not Applicable	Title
Applicant Signature	Date

(13) SIGNATURES

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and, to the best of my knowledge and belief, this information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities. By signing this application I consent to allow Corps or DSL staff to enter into the above-described property to inspect the project location and to determine compliance with an authorization, if granted. I hereby authorize the person identified in the authorized agent block below to act in my behalf as my agent in the processing of this application and to furnish supplemental information in support of this permit application. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the permits requested before commencing the project. I understand that payment of the required state processing [fee](#) does not guarantee permit issuance.

To be considered complete, the fee must accompany the application to DSL. The fee is not required for submittal of an application to the Corps.

Fee Amount Enclosed

\$1,343

Applicant Signature (required) must match the name in Block 2

Print Name

Janelle Booth

Title

City Engineer

Signature

Date

Authorized Agent Signature

Print Name

Julie Wirth-McGee, PWS

Title

Sr. Environmental Specialist

Signature

Date

Landowner Signature(s)*

Landowner of the Project Site (if different from applicant)

Print Name

Title

Signature

Date

Landowner of the Mitigation Site (if different from applicant)

Print Name

Title

Signature

Date

Department of State Lands, Property Manager (to be completed by DSL)

If the project is located on [state-owned submerged and submersible lands](#), DSL staff will obtain a signature from the Land Management Division of DSL. A signature by DSL for activities proposed on state-owned submerged/submersible lands only grants the applicant consent to apply for a removal-fill permit. A signature for activities on state-owned submerged and submersible lands grants no other authority, express or implied and a separate proprietary authorization may be required.

Print Name

Title

Signature

Date

* Not required by the Corps.

(14) ATTACHMENTS

- Drawings
 - Location map with roads identified
 - U.S.G.S topographic map
 - Tax lot map
 - Site plan(s)
 - Plan view and cross section drawing(s)
 - Recent aerial photo
 - Project photos
 - Erosion and Pollution Control Plan(s), if applicable
 - DSL / Corps Wetland Concurrence letter and map, if approved and applicable – (Attachments 2-3)
- Pre-printed labels for adjacent property owners (Required if more than 30)
- Incumbency Certificate if applicant is a partnership or corporation
- Restoration plan or rehabilitation plan for temporary impacts
- Mitigation plan
- Wetland functional assessments, if applicable – (Attachment 4)
 - Cover Page
 - Score Sheets
 - ORWAP OR, F, T, & S forms
 - ORWAP Reports
 - Assessment Maps
 - ORWAP Reports: Soils, Topo, Assessment area, Contributing area
- Stream Functional Assessments, if applicable
 - Cover Page
 - Score Sheets
 - SFAM PA, PAA, & EAA forms
 - SFAM Report
 - Assessment Maps
 - Aerial Photo Site Map and Topo Site Map (Both maps should document the PA, PAA, & EAA)
- Compensatory Mitigation (CM) Eligibility & Accounting [Worksheet](#)
 - Matching Quickguide sheet(s)
 - CM Eligibility & Accounting sheet – (Attachment 5)
- Alternatives analysis
- Biological assessment (if requested by the Corps project manager during pre-application coordination)
- Stormwater management plan (may be required by the Corps or DEQ)
- Other
 - Please describe:

(14) ATTACHMENTS

List of Attachments

Attachment 1: Permit Maps and Figures
Attachment 2: WD2020-0688 DSL Concurrence
Attachment 3: Wetland Delineation Report (USACE Application Only)
Attachment 4: ORWAP Maps and Data Sheets
Attachment 5: Compensatory Mitigation Eligibility & Accounting Determination Form
Attachment 6: DEQ Pre-Filing Request Documentation

For U.S. Army Corps of Engineers send application to:

USACE Portland District
ATTN: CENWP-ODG-P
PO Box 2946
Portland, OR 97208-2946
Phone: 503-808-4373
portlandpermits@usace.army.mil

Counties:

Baker, Benton, Clackamas, Clatsop, Columbia, Gilliam, Grant, Hood River, Jefferson, Lincoln, Linn, Malheur, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Wheeler, Yamhill

U.S. Army Corps of Engineers
ATTN: CENWP-ODG-E
211 E. 7th AVE, Suite 105
Eugene, OR 97401-2722
Phone: 541-465-6868
portlandpermits@usace.army.mil

Counties:

Coos, Crook, Curry, Deschutes, Douglas, Jackson, Josephine, Harney, Klamath, Lake, Lane

For Department of State Lands send application to:

West of the Cascades:
Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
Phone: 503-986-5200

East of the Cascades:
Department of State Lands
1645 NE Forbes Road, Suite 112
Bend, Oregon 97701
Phone: 541-388-6112

For Department of Environmental Quality e-mail application to:

ATTN: DEQ 401 Certification Program
Water Quality
700 NE Multnomah St, Suite 600
Portland, OR 97232
401applications@deq.state.or.us

Attachment 1: Permit Maps and Figures

CIVIL LEGEND

EXISTING	THIS CONTRACT	
		PROPERTY LINE
		CENTER LINE, BUILDING, ROAD, ETC.
		STAGING OR WORK AREA LIMITS
		ASPHALT CONCRETE PAVEMENT
		GRAVEL SURFACING
		CONCRETE PAVEMENT
		WETLAND AREA
		IMPACTED WETLAND AREA
		FILL AREA
		CUT AREA
		CURB
		CURB AND GUTTER
		SINGLE SWING GATE
		DOUBLE SWING GATE
		SLIDING GATE
		CHAIN LINK FENCE
		ARCHITECTURAL FENCE
		WIRE FENCE
		ROW
		TREE
		EXISTING CONTOURS
		EXISTING ELEVATION LABELS
		PROPOSED CONTOURS

GENERAL NOTE:

1. THIS IS A STANDARD LEGEND SHEET. THEREFORE, NOT ALL OF THE INFORMATION SHOWN MAY BE USED ON THIS PROJECT.

JPA SHEET LEGEND

TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG



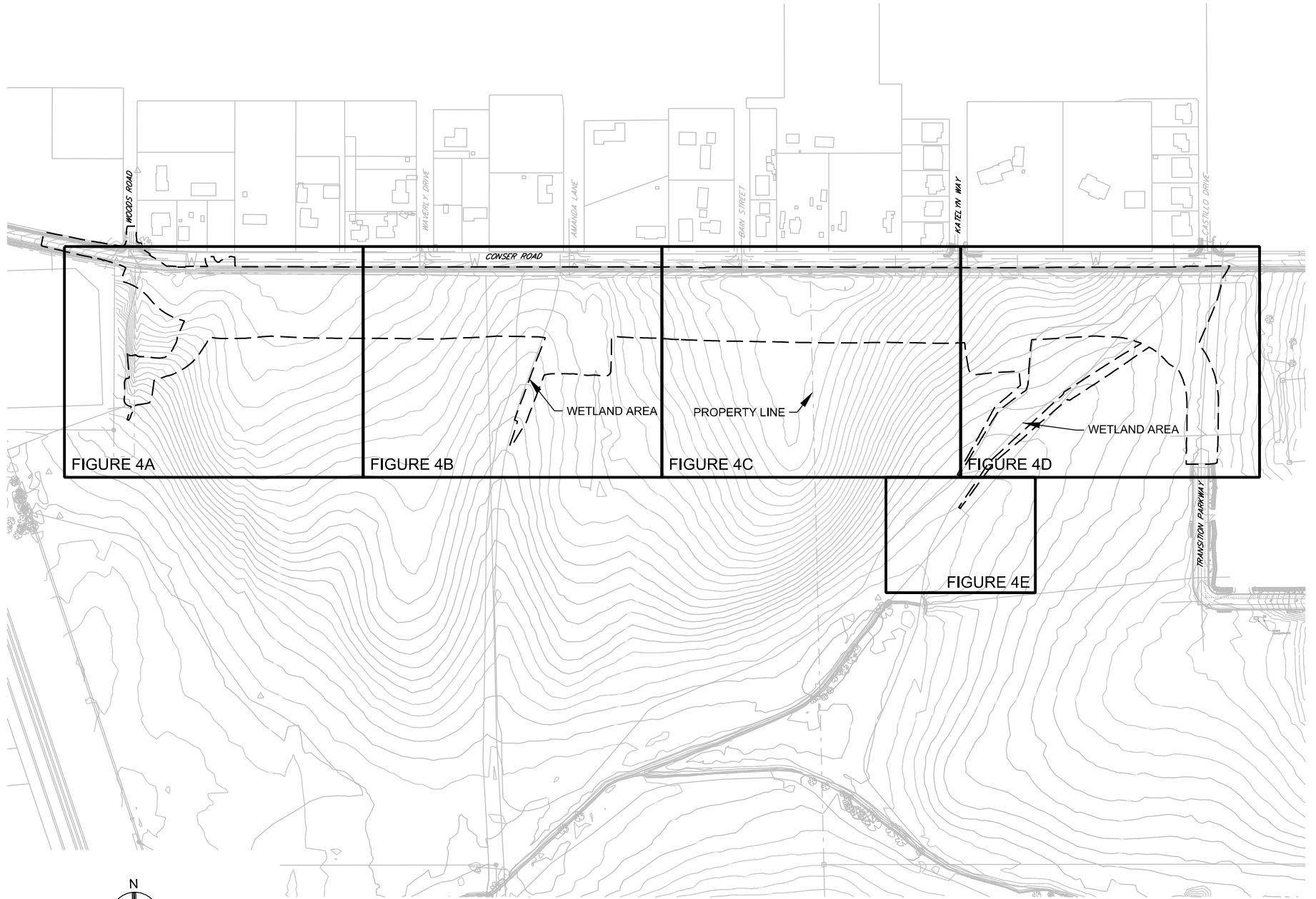


FIGURE 4 KEY PLAN
EXISTING CONDITIONS
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG

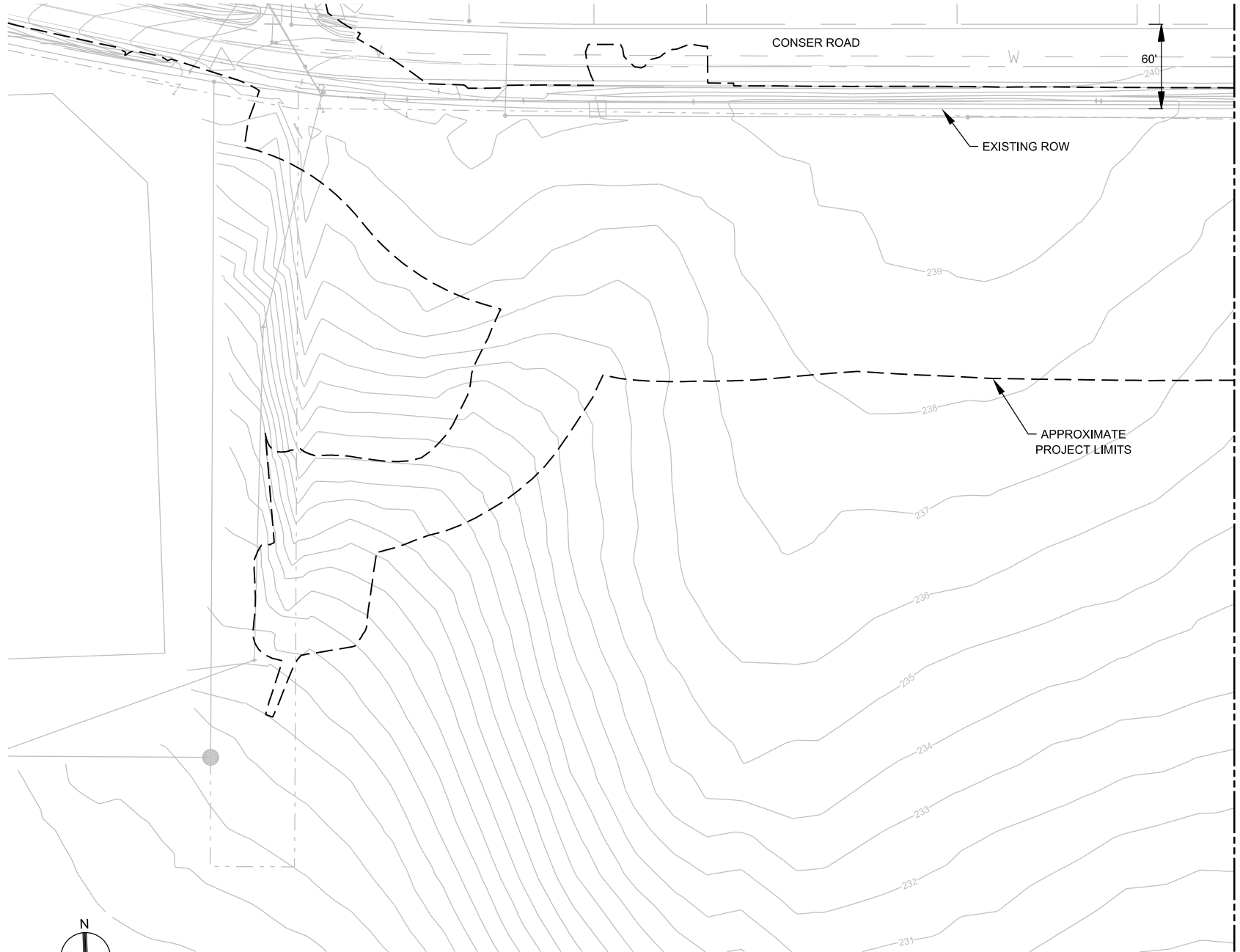


FIGURE 4A
EXISTING CONDITIONS PLAN
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG

PLOT TIME: 10:32:55 AM

PLOT DATE: 03/19/2024

FILENAME:

MATCHLINE, SEE FIGURE 4A

MATCHLINE, SEE FIGURE 4C

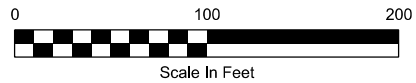
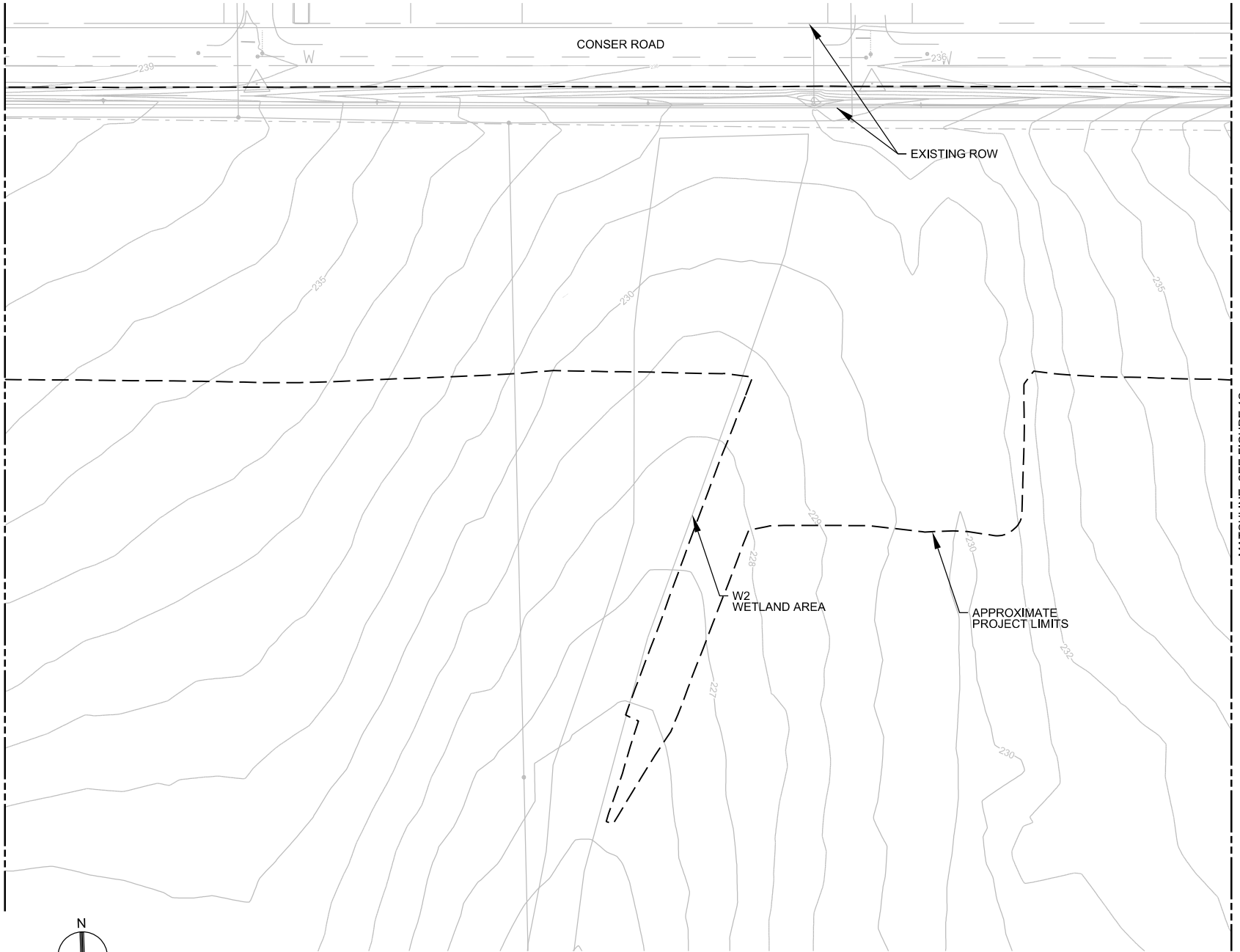


FIGURE 4B
EXISTING CONDITIONS PLAN
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG

D3395316



PLOT TIME: 10:34:12 AM

PLOT DATE: 03/19/2024

FILENAME: ANS1_AHR.dgn

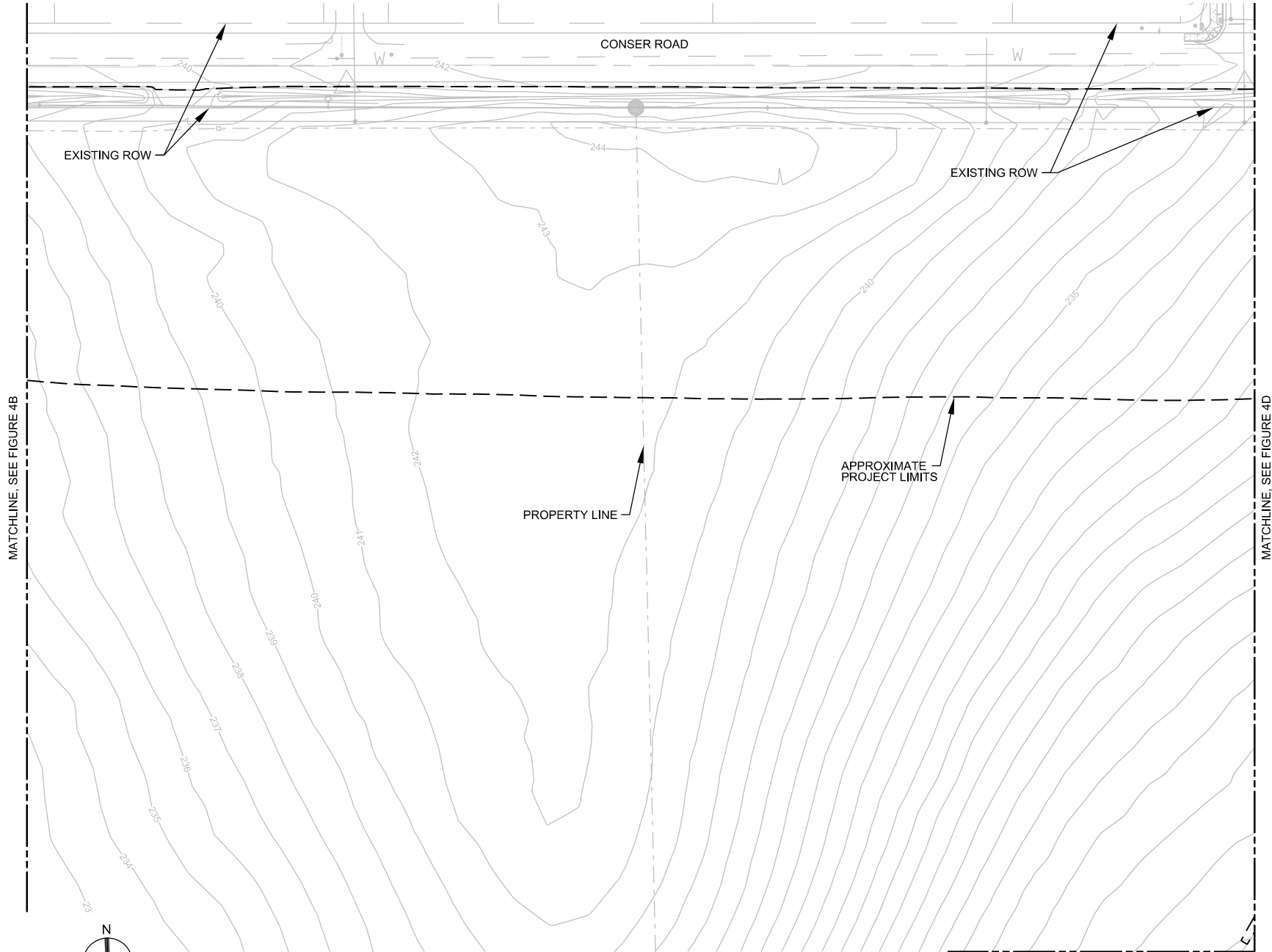


FIGURE 4C
EXISTING CONDITIONS PLAN
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG

D3395316



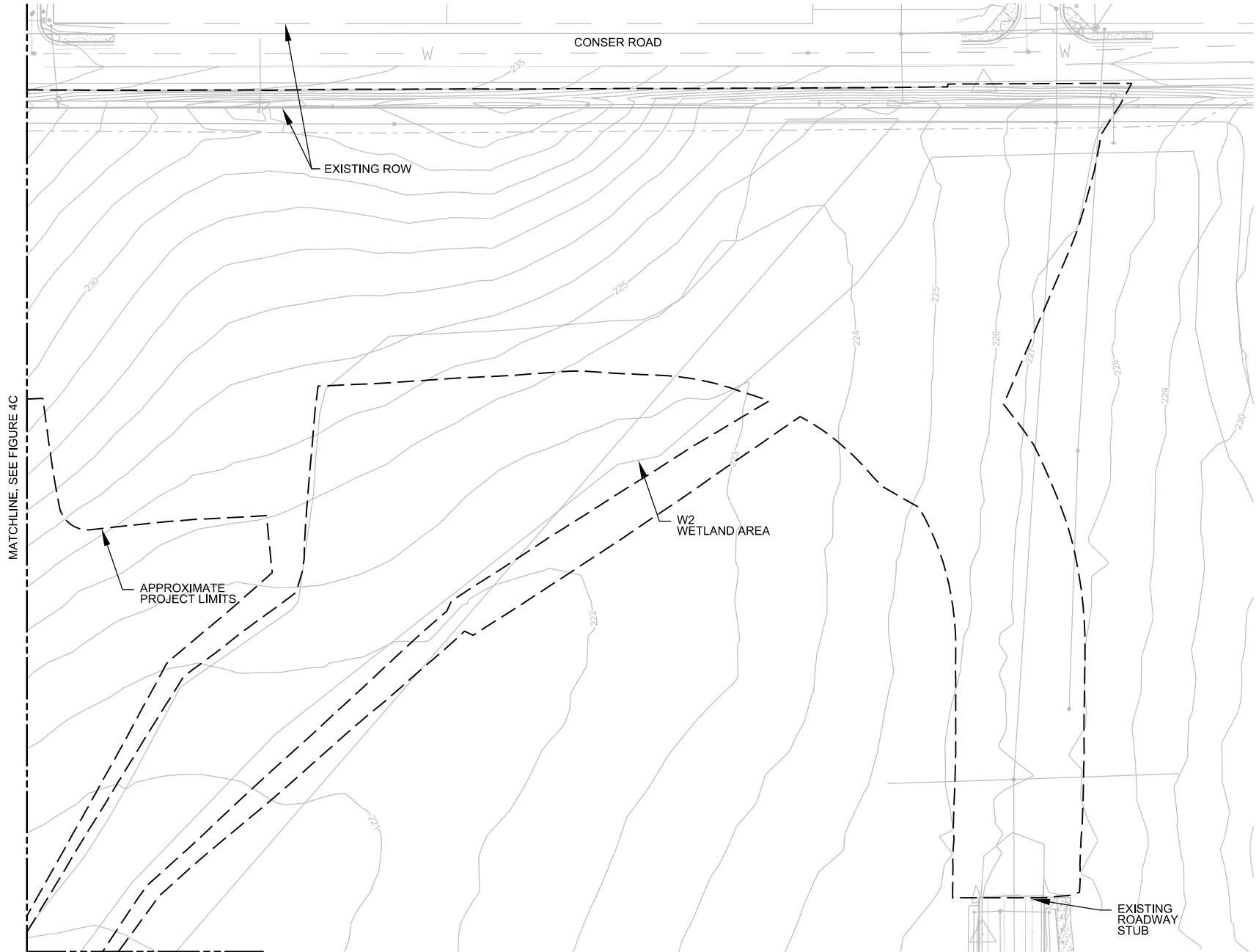


FIGURE 4D
EXISTING CONDITIONS PLAN
 TRANSITION PARKWAY AND LINEAR PARK
 CITY OF MILLERSBURG

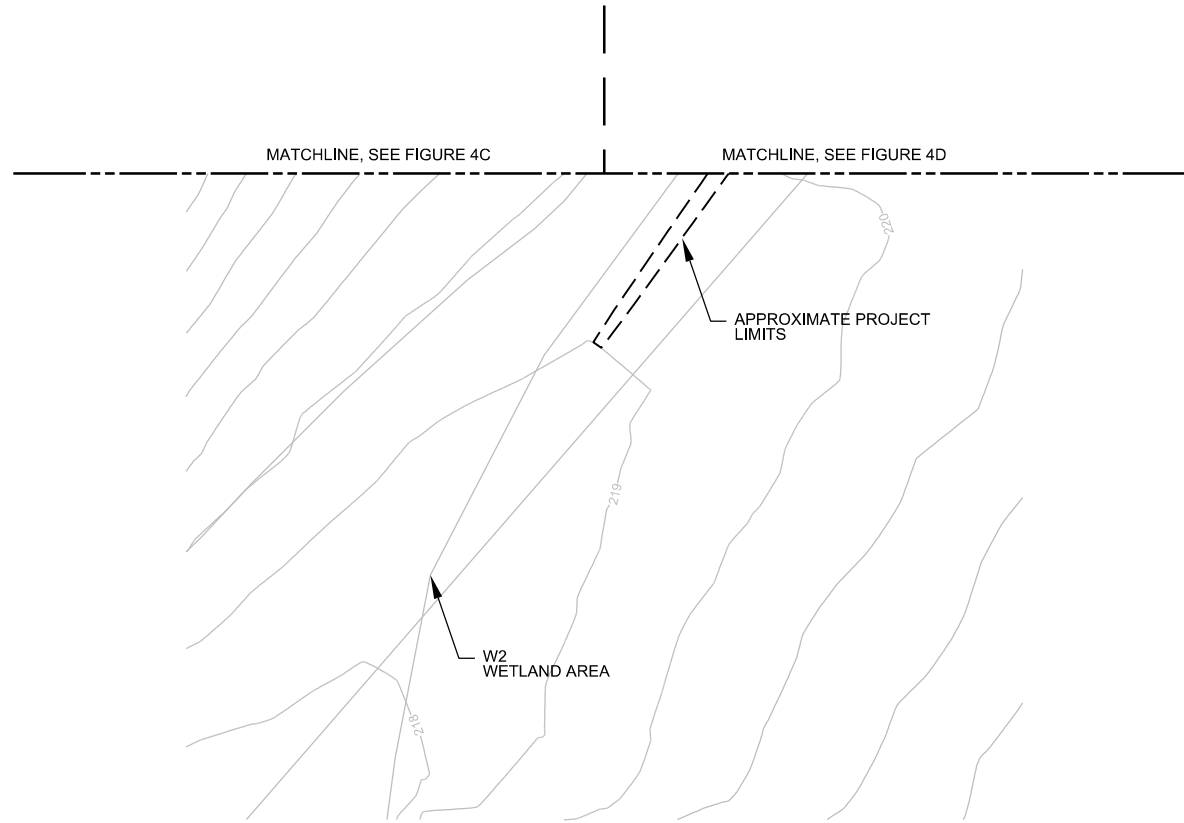
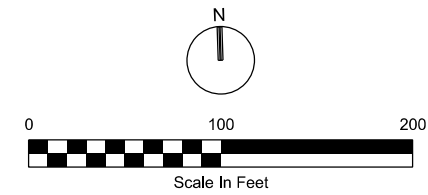


FIGURE 4E
EXISTING CONDITIONS PLAN
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG

GENERAL NOTES

1. PROPOSED FINISH GRADE CONTOURS NOT DISPLAYED HERE FOR CLARITY, REFER TO FIGURES 5A, 5B, 5C AND 5D FOR MORE INFORMATION.
2. PROPOSED STAGING AREAS AND CONSTRUCTION ACCESS AREAS ARE SHOWN FOR GENERAL PURPOSES. CONTRACTOR SHALL RELOCATE AS NECESSARY THROUGHOUT CONSTRUCTION. AREAS SHOWN ARE AS FOLLOWS:

A: STAGING AREA
 B: CONSTRUCTION ACCESS/ENTRANCE

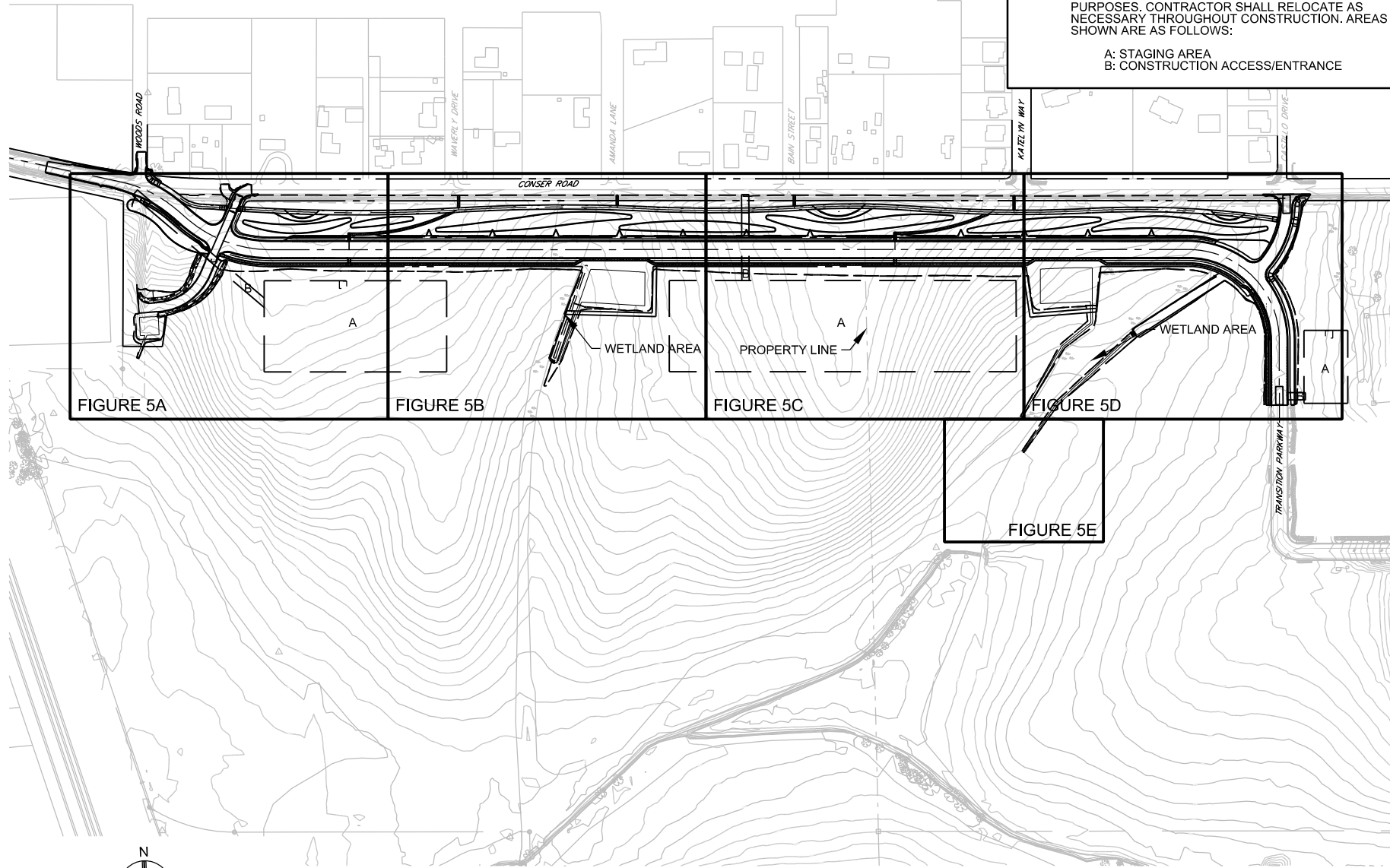
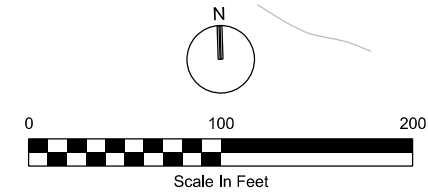


FIGURE 5 KEY PLAN
PROPOSED IMPROVEMENTS
 TRANSITION PARKWAY AND LINEAR PARK
 CITY OF MILLERSBURG



D3395316

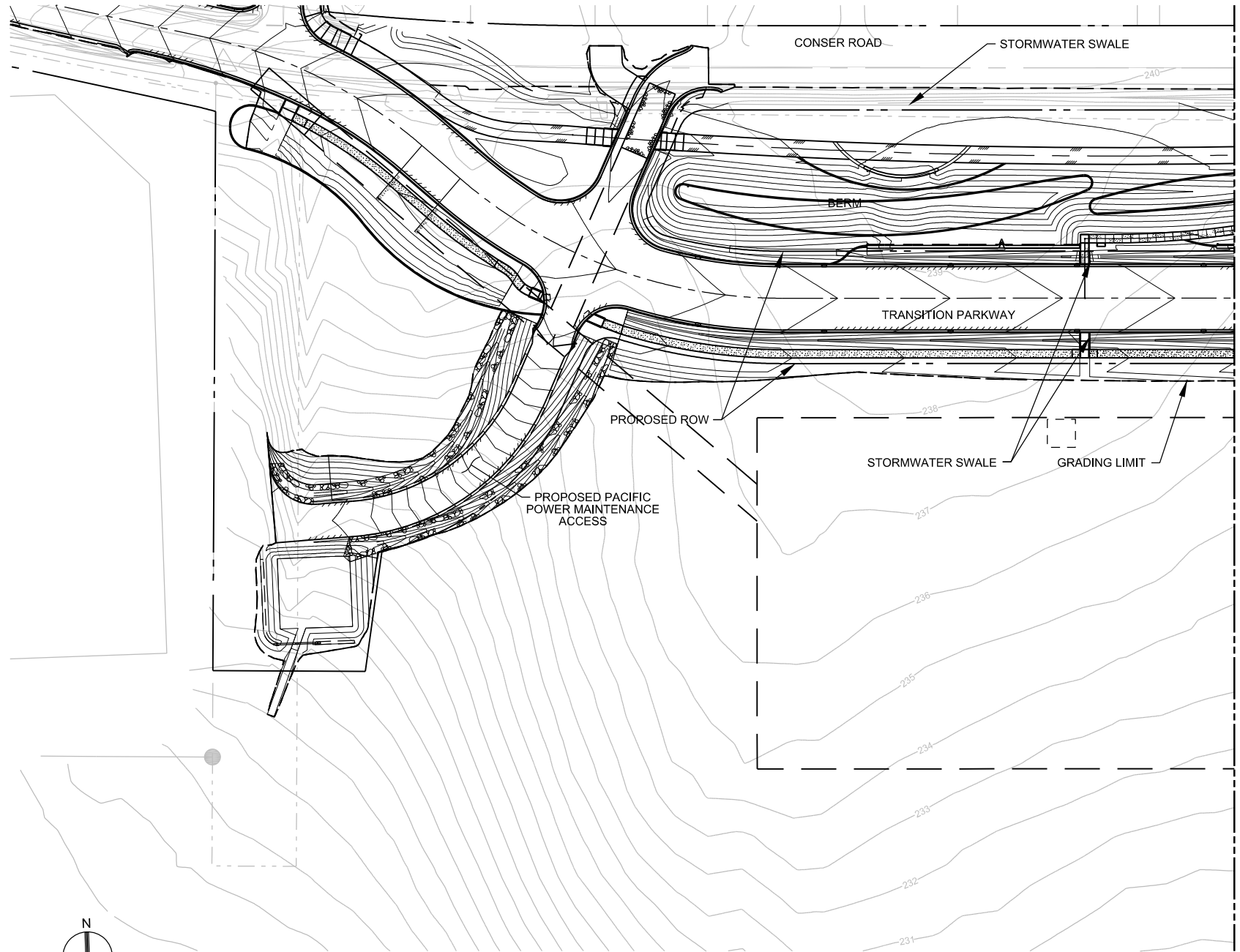
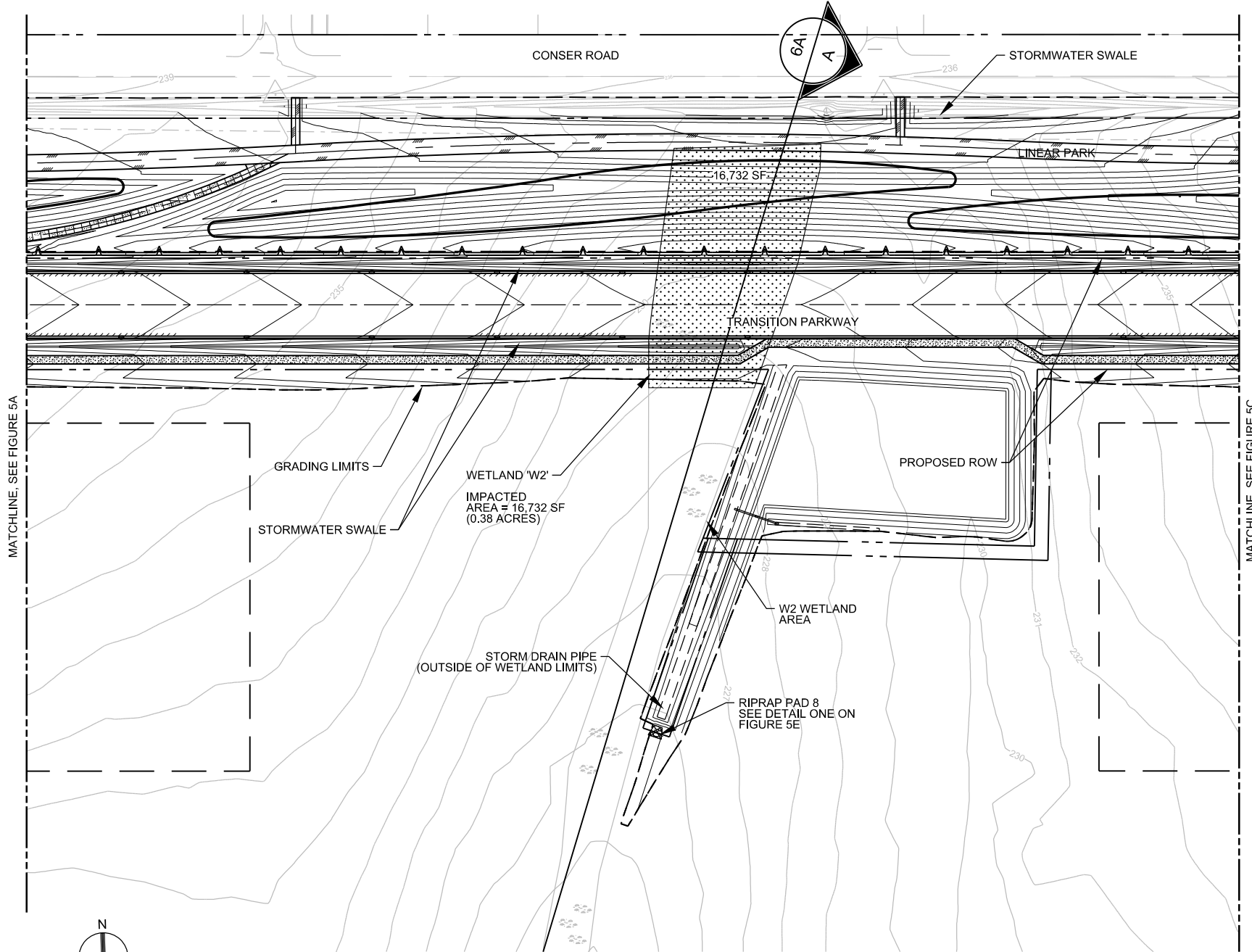


FIGURE 5A
SITE PLAN
 TRANSITION PARKWAY AND LINEAR PARK
 CITY OF MILLERSBURG

PLOT TIME: 11:00:18 AM

PLOT DATE: 03/19/2024

FILENAME: ANSL_AHR.dgn



MATCHLINE, SEE FIGURE 5A

MATCHLINE, SEE FIGURE 5C



FIGURE 5B
SITE PLAN
 TRANSITION PARKWAY AND LINEAR PARKWAY
 CITY OF MILLERSBURG

D3395316



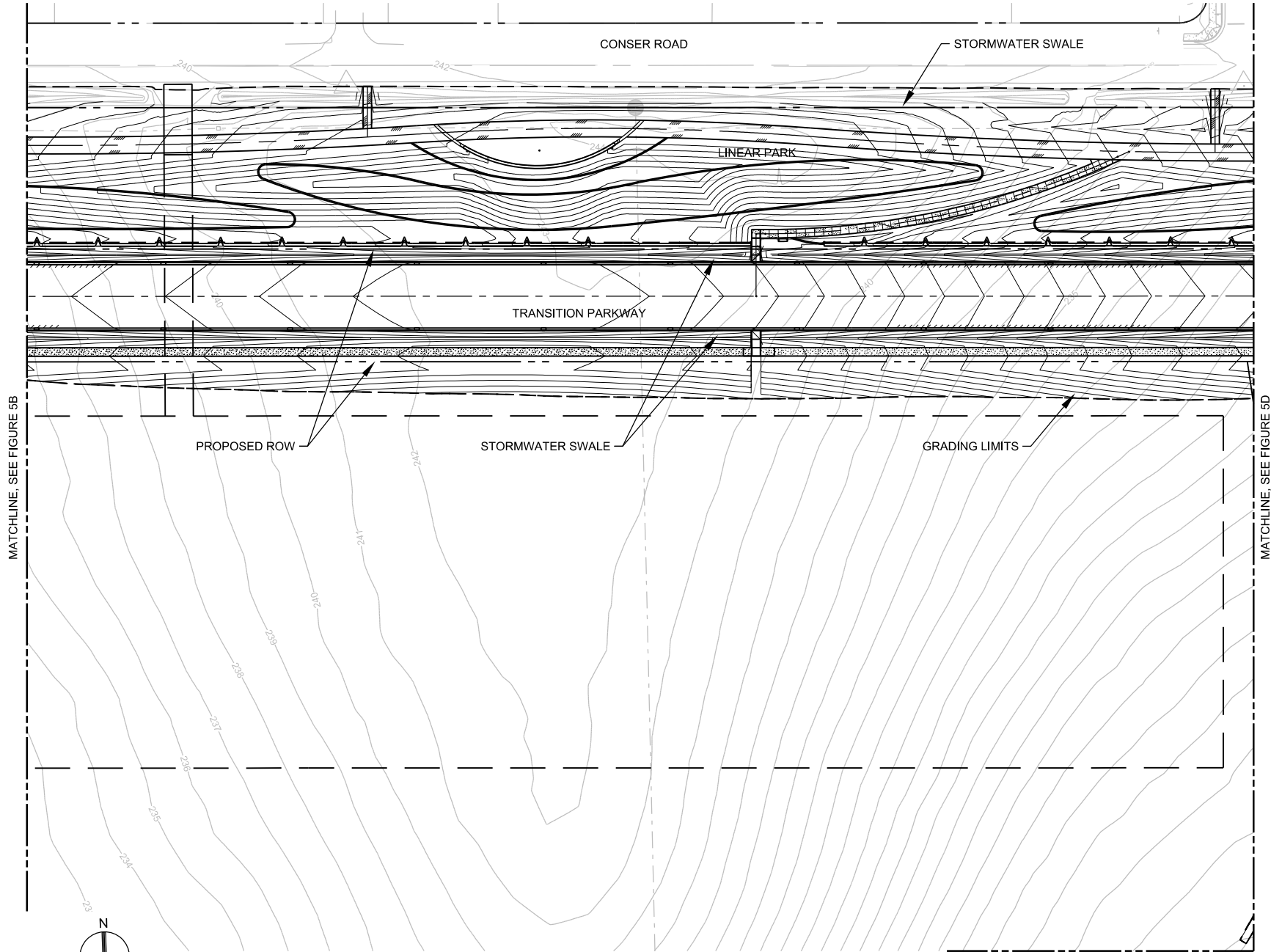


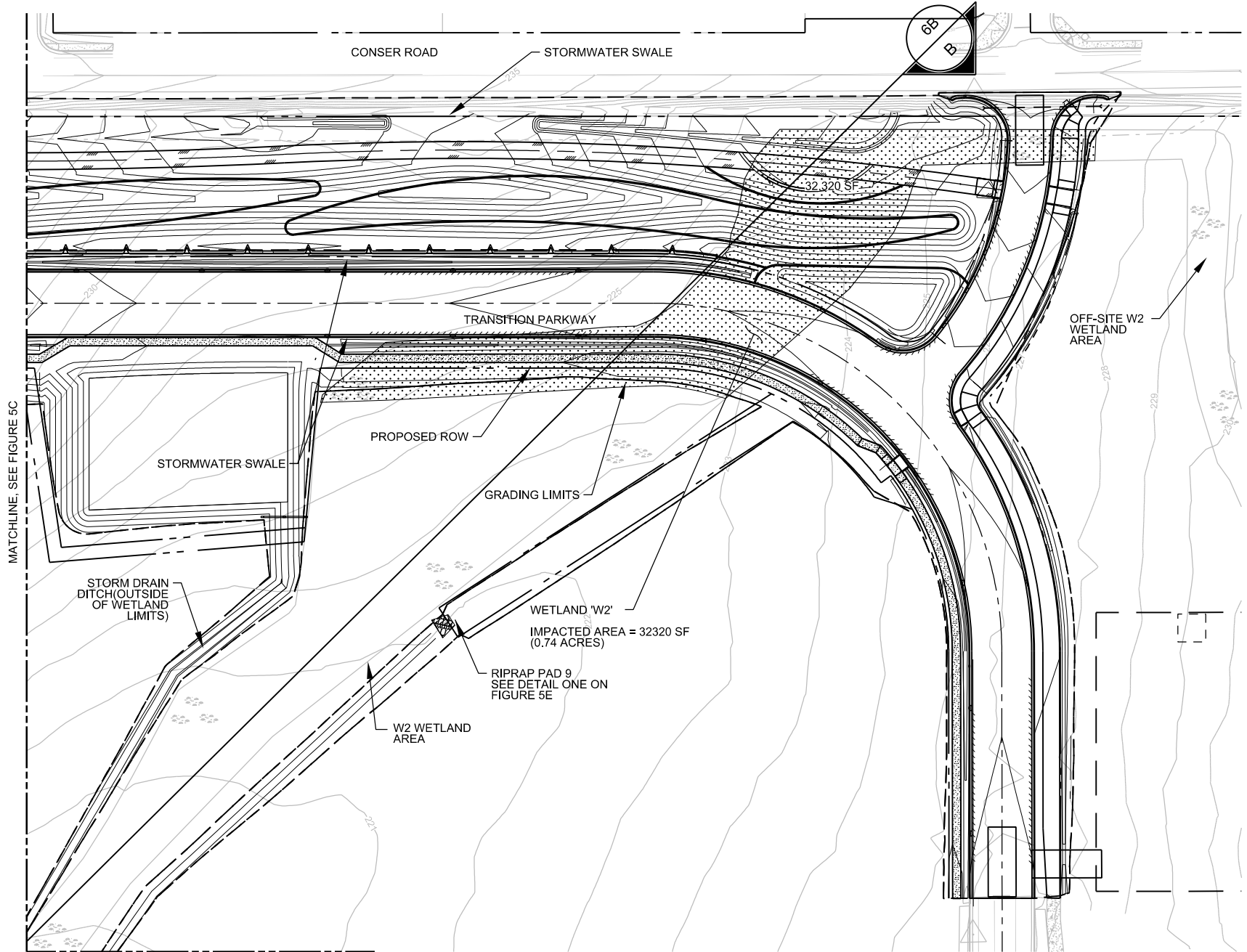
FIGURE 5C
SITE PLAN
 TRANSITION PARKWAY AND LINEAR PARK
 CITY OF MILLERSBURG

MATCHLINE, SEE FIGURE 5E

PLOT TIME: 11:03:12 AM

PLOT DATE: 03/19/2024

FILENAME: ANS1_AHR.dgn



MATCHLINE, SEE FIGURE 5E



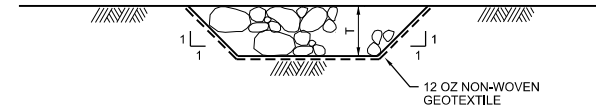
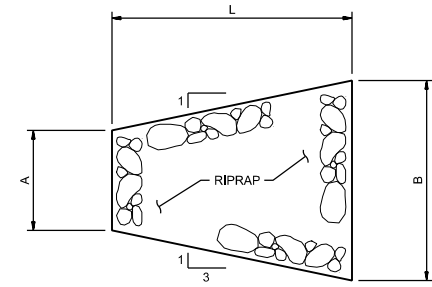
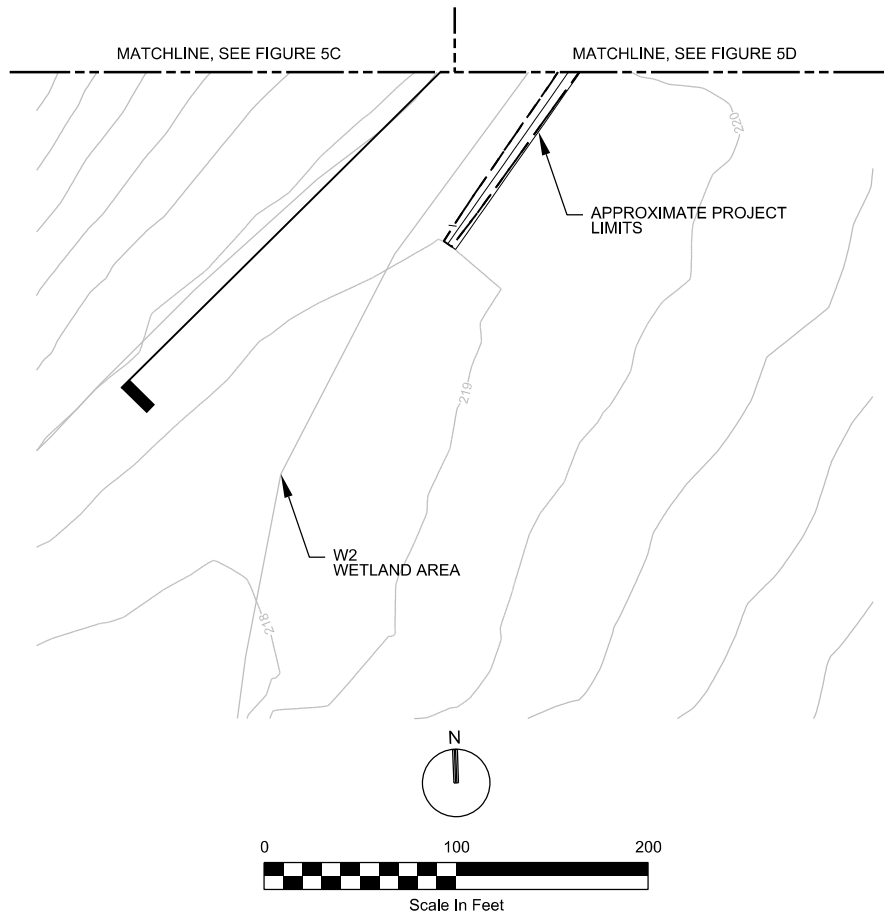
Scale In Feet

FIGURE 5D SITE PLAN

TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG

D3395316



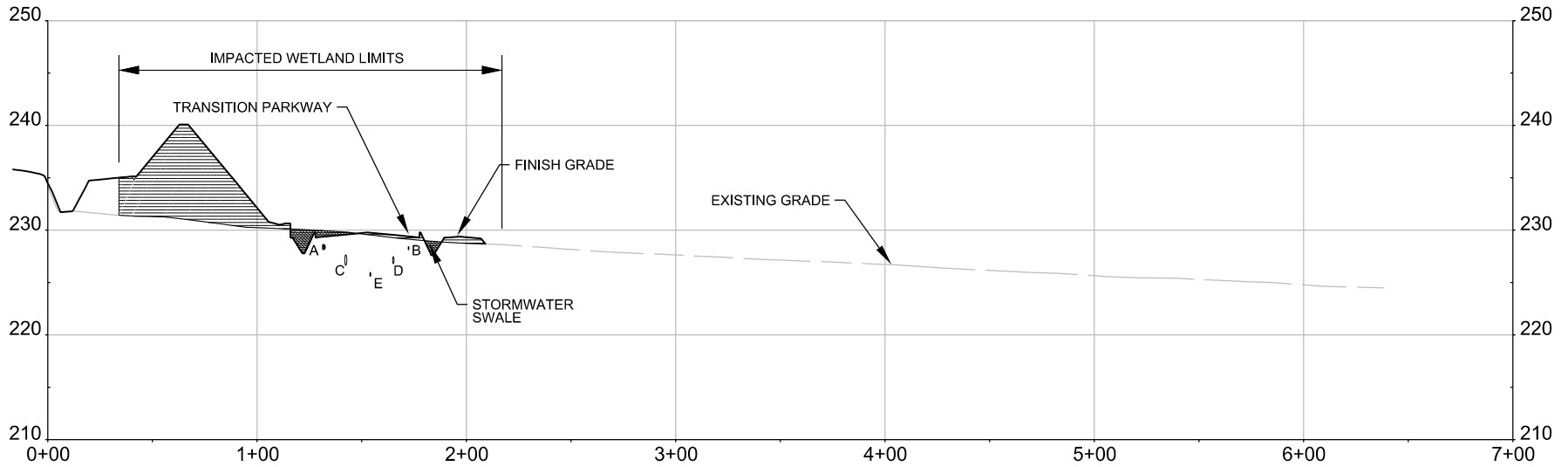


RIPRAP PAD NO *	ODOT CLASS *	L APRON LENGTH (FT)	A APRON WIDTH (FT)	B APRON WIDTH (FT)	T APRON THICKNESS (IN)	COMMENT
PAD 1	50	4	3	5	27.60	-
PAD 2	50	4	3	5	27.60	NO FLARE
PAD 3	50	4	3	5	27.60	NO FLARE
PAD 4	50	4	3	5	27.60	NO FLARE
PAD 5	50	4	3	5	27.60	-
PAD 6	50	4	3	5	27.60	-
PAD 7	50	5	4	7	27.60	-
PAD 8	50	8	6	10	27.60	-
PAD 9	50	12	9	12	27.60	-

* REFER TO 2021 ODOT STANDARD SPECIFICATION, SECTION 00390.

1 RIPRAP PAD TYPICAL SECTION
NTS

FIGURE 5E
SITE PLAN AND DETAIL
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG



A SECTION A
1" = 80'-0"

UTILITY CORRIDOR TABLE	
A:	GAS, TV, TEL, POWER
B:	GAS (ASSUMED 4")
C:	STORM PIPE (ASSUMED 12")
D:	WATER PIPE (ASSUMED 8")
E:	SANITARY PIPE (NO ASSUMED SIZE)

NOTE:
IMPACTED WETLAND AND WETLAND LIMITS SHOWN ARE ALONG SECTION LINE ON FIGURE 5B

IMPACT AREA VOLUMES	
<u>GRADING</u>	
CUT:	695 CY
FILL:	1856 CY
NET:	1161 CY (FILL)
<u>ROADWAY CONSTRUCTION</u>	
CUT:	326 CY
FILL:	375 CY
NET:	49 CY (CUT)
<u>UTILITIES</u>	
CUT:	75 CY
FILL:	62 CY
NET:	13 CY (CUT)

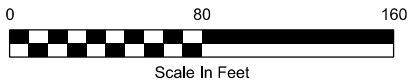
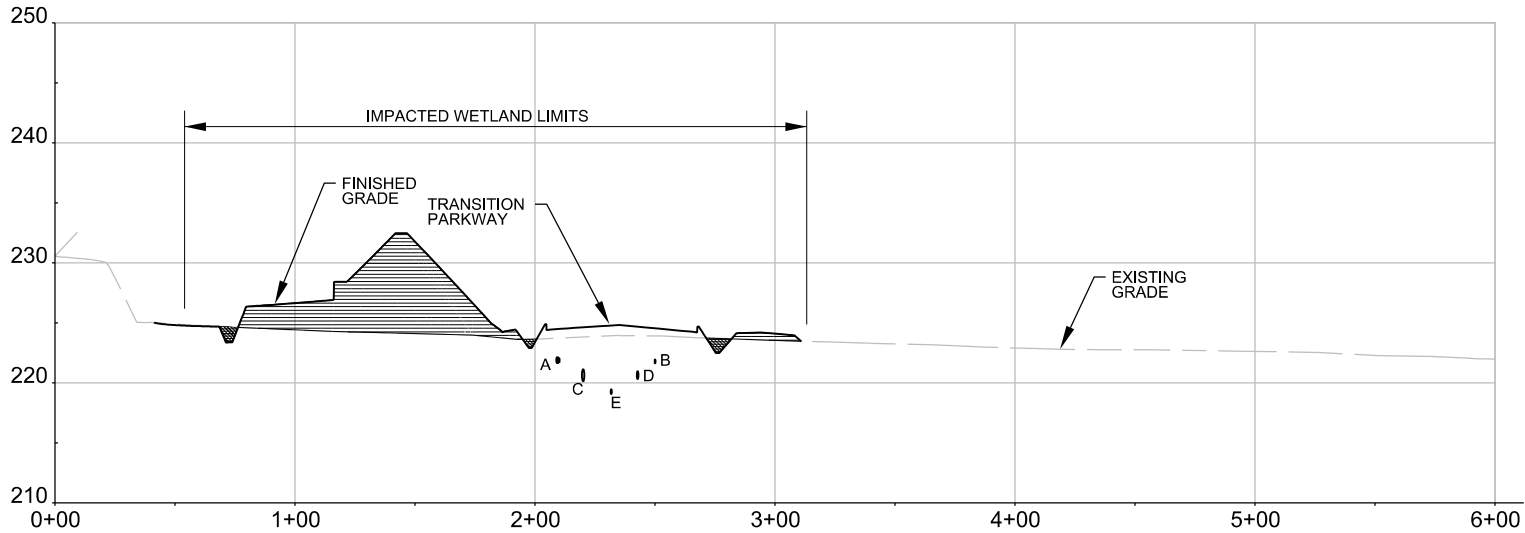


FIGURE 6A
WETLANDS AREA SECTIONS
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG



B SECTION B
1" = 80'-0"

UTILITY CORRIDOR TABLE

- A: GAS, TV, TEL, POWER
- B: GAS (ASSUMED 4")
- C: STORM PIPE (ASSUMED 12")
- D: WATER PIPE (ASSUMED 8")
- E: SANITARY PIPE (NO ASSUMED SIZE)

NOTE:

IMPACTED WETLAND AND WETLAND LIMITS SHOWN ARE EQUIVALENT IN THIS SECTION. LIMITS SHOWN ARE ALONG SECTION LINE ON FIGURE 5D

IMPACT AREA VOLUMES

GRADING

CUT: 934 CY

FILL: 2403 CY

NET: 1469 CY (FILL)

ROADWAY CONSTRUCTION

CUT: 387 CY

FILL: 548 CY

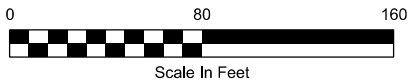
NET: 161 CY (FILL)

UTILITIES

CUT: 77 CY

FILL: 61 CY

NET: 16 CY (CUT)



D3395316

FIGURE 6B
WETLANDS AREA SECTIONS
TRANSITION PARKWAY AND LINEAR PARK
CITY OF MILLERSBURG

Attachment 2: WD2020-0688 DSL Concurrency



Attachment 3: Wetland Delineation Report (USACE Application Only)

Attachment 4: ORWAP Maps and Data Sheets

Attachment 5: Compensatory Mitigation Eligibility & Accounting Determination Form

Attachment 6: DEQ Pre-Filing Request Documentation (USACE Application Only)

**5. Oregon Department of Environmental Quality (DEQ) CWA Section
401 Water Quality Certification (#2021-494)**



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Northwest Region Portland Office/Water Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5263
FAX (503) 229-6957
TTY 711

March 1, 2024

Janelle Booth
City of Millersburg
4222 NE Old Salem Road
Albany, OR 97321

RE: 2021-494; Transition Parkway and Linear Park Project 401 Water Quality Certification

The Department of Environmental Quality (DEQ) has reviewed the U.S. Army Corps of Engineers (USACE) Permit application # 2021-494 (Department of State Lands [DSL] # 64515), pursuant to a request for a Clean Water Act Section 401 Water Quality Certification (WQC) received on December 6, 2023. DEQ's 401 WQC public comment opportunity was circulated from January 22, 2024 to February 26, 2024 and no comments were received.

According to the application, City of Millersburg ("the Applicant") proposes to impact wetlands in order to extend Transportation Parkway and construct multi-modal transportation corridor with stormwater facilities. The project is located on wetlands adjacent to the Willamette River, in Millersburg, in Linn County, Oregon (Sections 20 and 28, Township 10S, Range 3W).

Project Description: The Applicant proposes to impact approximately 1.13 acres of wetlands by excavating approximately 1,668 cubic yards and discharging approximately 4,150 cubic yards of fill material, creating approximately 6.79 acres of new impervious surface area on a 15.2 acre site in the Willamette River basin. The project includes a two lane road for traffic, with a center turn lane, a maintenance access road from Transition Parkway to an existing substation, and a new linear park. Mitigation will be provided through the purchase of 1.071 credits from the South Santiam Mitigation Bank and 0.059 credits from the Long Tom Mitigation Bank.

Status of Affected Waters of the State: The Willamette River between the Middle Fork Willamette River to Luckiamute River is classified as water quality limited under the Federal Clean Water Act with an Environmental Protection Agency Approved Total Maximum Daily Load (TMDL) developed for the parameters of dioxin (2,3,7,8-TCDD) and methylmercury; and is listed on the Section 303(d) list of impaired water bodies for the parameters of dissolved oxygen, biocriteria, temperature, iron, chlordane, and aquatic weeds.

The above listed parameters impair the following beneficial uses in the Willamette River: aesthetic quality, boating, fish and aquatic life, fishing, private domestic water supply, and public domestic water supply. Additional beneficial uses include: industrial water supply, irrigation, livestock watering, wildlife and hunting, and water contact recreation.

Certification Decision: Based on the information provided by the Applicant, DEQ is reasonably assured that implementation of the project will be consistent with applicable provisions of Sections 301, 302, 303, 306 and 307 of the federal Clean Water Act, state water quality standards set forth in Oregon Administrative Rules Chapter 340 Division 41 and other appropriate requirements of state law, provided the following conditions are incorporated into the USACE permit and strictly adhered to by the Applicant.

GENERAL CONDITIONS

- 1) **Responsible parties:** This 401 WQC applies to the Applicant. The Applicant is responsible for the work of its contractors and subcontractors, as well as any other entity that performs work related to this 401 WQC.

Rule: OAR 340-048-0015

Justification: DEQ must be aware of responsible parties to ensure compliance.

- 2) **Work Authorized:** Work authorized by this Order is limited to the work described in the Joint Permit Application signed on May 26, 2023 and additional application materials (hereafter “the permit application materials”), unless otherwise authorized by DEQ. If the project is operated in a manner that’s not consistent with the project description contained in the permit application materials, the Applicant is not in compliance with this Order and may be subject to enforcement.

Rule: OAR 340-048-0015

Justification: To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.

- 3) **Duration of Certificate:** This 401 WQC for impacts to waters, including dredge and fill activities, is valid for five years from the date of issuance of the USACE 404 permit. A new or modified 401 WQC must be requested before any modification of the USACE 404 permit. Post construction stormwater facilities must be maintained for the life of the facility.

Rule: OAR 340-048-0015

Justification: Certification is required for any license or permit that authorizes an activity that may result in a discharge.

- 4) **Modification:** Any approved modifications to this certification, including a change of ownership, will incur a Tier 1 fee of \$985 at a minimum. A higher fee may be assessed for complex modifications.

Rule: OAR 340-048-0050

Justification: To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.

- 5) **Notification:** The Applicant must notify DEQ of any change in ownership or control of this project within 30 days and obtain DEQ review and approval before undertaking any change to the project that might affect water quality.

Rule: OAR 340-048-0050

Justification: To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.

- 6) **401 WQC on Site:** A copy of this 401 WQC letter must be kept on the job site and readily available for reference by the Applicant and its contractors and subcontractors, as well as by DEQ, US Army Corps of Engineers, National Marine Fisheries Service, Oregon Department of Fish and Wildlife and other state and local government inspectors.

Rule: OAR 340-012

Justification: All parties must be aware of and comply with the 401 WQC, including on-site contractors.

- 7) **Project Changes:** DEQ may modify or revoke this certification, in accordance with Oregon Administrative Rules 340-048-0050, if the project changes or project activities are having an adverse impact on state water quality or beneficial uses, or if the Applicant violates any of the conditions of this certification.

Rule: OAR 340-048-0050

Justification: To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.

- 8) **Access:** The Applicant and its contractors must allow DEQ access to the project site with or without prior notice, including staging areas, and mitigation sites to monitor compliance with these certification conditions, including:
- Access to any records, logs, and reports that must be kept under the conditions of this certification;
 - To inspect best management practices, monitoring or equipment or methods; and
 - To collect samples or monitor any discharge of pollutants.

Rule: OAR 340-012

Justification: DEQ must inspect facilities for compliance with all state rules and laws.

- 9) **Enforcement:** Failure of any person or entity to comply with this order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

Rule: OAR 340-012

Justification: If the project is not being constructed or operated as proposed, it may not be consistent with water quality requirements.

CONSTRUCTION SPECIFIC CONDITIONS

- 10) **Erosion Control:** During construction, erosion control measures must be implemented to prevent soil from reaching waters of the state. The Applicant is required to develop and implement an effective erosion and sediment control plan. Refer to DEQ's Oregon Sediment and Erosion Control Manual, February, 2021 at:
<https://www.oregon.gov/deq/wq/Documents/wqpBMPManual.pdf>

A project that disturbs one acre or more may be required to obtain a National Pollutant Discharge Elimination System 1200-C construction stormwater general permit. Contact the DEQ Stormwater Program for more information at:

<https://www.oregon.gov/deq/wq/wqpermits/Pages/Stormwater-Construction.aspx>

In addition, the Applicant, unless otherwise authorized by DEQ in writing must:

- a. Maintain an adequate supply of materials necessary to control erosion at the construction site
- b. Prohibit erosion of stockpiles. Deploy compost berms, impervious materials, or other effective methods during rain or when stockpiles are not moved or reshaped for more than 48 hours.
- c. Inspect erosion control measures daily and maintain erosion control measures as often as necessary to ensure the continued effectiveness of measures. Erosion control measures must remain in place until all exposed soil is stabilized;
 - i. If monitoring or inspection shows that the erosion and sediment controls are ineffective, the Applicant must act immediately to make repairs, install replacements, or install additional controls as necessary.
 - ii. If sediment has reached a third of the exposed height of a sediment or erosion control, the Applicant must remove the sediment to its original contour.
- d. Use removable pads or mats to prevent soil compaction at all construction access points through, and staging areas in, riparian or wetland areas to prevent soil compaction, unless otherwise authorized by DEQ.
- e. Flag or fence off wetlands not specifically authorized to be impacted to protect from disturbance and/or erosion.
- f. Place dredged or other excavated material on upland areas with stable slopes to prevent materials from eroding back into waterways or wetlands.
- g. Place clean aggregate at all construction entrances, and utilize other best management practices, including, but not limited to truck or wheel washes, when earth-moving equipment is leaving the site and traveling on paved surfaces. Vehicles are prohibited from tracking sediment off site.
- h. This certification does not authorize the placement of best management practices into waters of the state unless specifically outlined in the application and authorized by DEQ.
- i. Upon completion of construction activities, stormwater facilities must be inspected and adequately prepared for post-construction stormwater treatment.
- j. Upon completion of construction activities, stormwater facilities must be tested to ensure they are working and adequately prepared for post-construction stormwater treatment.

Rule: OAR 340-041-0007(8), ORS 468B.050, CWA Section 402, OAR 340-045

Justification: DEQ must ensure that pollution does not enter waterways.

- 11) **Deleterious waste materials:** The Applicant is prohibited from placing biologically harmful materials and construction debris where they could enter waters of the state, including wetlands (wetlands are waters of the state). This includes but is not limited to: petroleum products; chemicals; cement cured less than 24 hours; welding slag and grindings; concrete saw cutting by-products; sandblasted materials; chipped paint; tires; wire; steel posts; asphalt; and waste concrete.

The Applicant must:

- a. Cure concrete, cement, or grout for at least 24 hours before any contact with flowing waters;
- b. Use only clean fill, free of waste and polluted substances;
- c. Employ all practicable controls to prevent discharges of spills of harmful materials to surface or groundwater;
- d. Maintain at the project construction site, and deploy as necessary, an adequate supply of materials needed to contain deleterious materials during a weather event;
- e. Remove all foreign materials, refuse, and waste from the project area; and
- f. Employ general good housekeeping practices at all times.

Rule: OAR 340-041-0007(8), ORS 468B.050, CWA Section 402

Justification: DEQ must ensure that pollution does not enter waterways.

12) **Spill Prevention:** The Applicant must have a spill prevention and control plan. The Applicant must fuel, operate, maintain, store vehicles, and equipment, and construction materials, in areas that will not disturb native habitat directly or result in potential discharges. In general, reasonable precautions and controls must be used to prevent any discharges of petroleum products or other harmful or toxic materials from entering the water as a result of any in-water activities. In addition, the following specific requirements apply:

- a. Vehicle and motorized equipment staging, cleaning, maintenance, refueling, and fuel storage must take place in a vehicle staging area 150 feet or more from any waters of the state. DEQ may approve in writing exceptions to this distance if all practical prevention measures are employed and this distance is not possible because of any of the following site conditions:
 - i. Physical constraints that make this distance not feasible (e.g., steep slopes, rock outcroppings)
 - ii. Natural resource features would be degraded as a result of this setback
 - iii. Equal or greater spill containment and effect avoidance is provided even if staging area is less than 150 feet away from waters of the state.
- b. If staging areas are within 150 feet of any waters of the state, as allowed under subsection (a)(iii) of this condition, full containment of potential contaminants must be provided to prevent soil and water contamination, as appropriate.
- c. All vehicles operated within 150 feet of any waters of the state must be inspected daily for fluid leaks before leaving the vehicle staging area. Any leaks detected in the vehicle-staging area must be repaired before the vehicle resumes operation.
- d. Before operations begin and as often as necessary during operation, equipment must be steam cleaned (or undergo an approved equivalent cleaning) until all visible oil, grease, mud, and other visible contaminants are removed if the equipment will be used below the bank of a waterbody.
- e. All stationary power equipment (e.g., generators, cranes, stationary drilling equipment) operated within 150 feet of any waters of the state must be covered by an absorbent mat to prevent leaks, unless other suitable containment is provided to prevent potential spills from entering any waters of the state.

- f. An adequate supply of materials (such as straw matting/bales, geotextiles, booms, diapers, and other absorbent materials) needed to contain spills must be maintained at the project construction site and deployed as necessary.
- g. All equipment operated in state waters must use bio-degradable hydraulic fluid.
- h. A maintenance log documenting equipment maintenance inspections and actions must be kept on-site and available upon request.

Rule: ORS 466.645(1); OAR 340-142-0030(1)(b)(B), OAR 340-041

Justification: DEQ must ensure that pollution does not enter waterways and must be protective of beneficial uses, including fish.

13) **Spill & Incident Reporting:**

- a. In the event that petroleum products, chemicals, or any other harmful materials are discharged into state waters, or onto land with a potential to enter state waters, the Applicant must report the discharge to the Oregon Emergency Response System (800-452-0311) within 24 hours. The Applicant must immediately begin containment and complete cleanup as soon as possible.
- b. If the project operations cause a water quality problem which results in distressed or dying fish, the operator must immediately: cease operations; take appropriate corrective measures to prevent further environmental damage; collect fish specimens and water samples; and notify DEQ, Oregon Department of Fish and Wildlife and other appropriate regulatory agencies.

Rule: ORS 466.645(1); OAR 340-142-0030(1)(b)(B), OAR 340-041

Justification: DEQ must ensure that pollution does not enter waterways and must be protective of beneficial uses, including fish.

14) **Vegetation Protection and Restoration:**

- a. The Applicant must protect riparian, wetland, and shoreline vegetation in the authorized project area (as defined in the permit application materials) from disturbance through one or more of the following:
 - i. Minimization of project and impact footprint
 - ii. Designation of staging areas and access points in open, upland areas
 - iii. Fencing and other barriers demarcating construction areas
 - iv. Use of alternative equipment (e.g., spider hoe or crane)
- b. If authorized work results in vegetative disturbance and the disturbance has not been accounted for in planned mitigation actions, the Applicant must successfully reestablish vegetation to a degree of function equivalent or better than before the disturbance. The standard for success is 80 percent cover for native plant species. The vegetation must be reestablished by the completion of authorized work and include:

- i. Restoring damaged streambanks to a natural slope, pattern, and profile suitable for establishment of permanent woody vegetation, unless precluded by pre-project conditions (e.g., a natural rock wall)
- ii. Replanting or reseeding each area requiring revegetation before the end of the first planting season following construction
- iii. Planting disturbed areas with native plants and trees in all cases except where the use of non-native plant materials may be essential for erosion control
- iv. The use of invasive species to re-establish vegetation is prohibited
- v. Herbicides, pesticides and fertilizers must be applied per manufacturer's instructions, and only if necessary for vegetation establishment. If chemical treatment is necessary, the Applicant is responsible for ensuring that pesticide application laws, including with the National Pollutant Discharge Eliminations System 2300-A general permit are met. Please review the information on the following website for more information:
<https://www.oregon.gov/deq/wq/wqpermits/Pages/Pesticide.aspx>

Additionally:

1. Unless otherwise approved in writing by DEQ, applying surface fertilizer within stormwater treatment facilities or within 50 feet of any stream channel is prohibited.
 2. Other than spot application to cut stems, no herbicides are allowed within stormwater treatment facilities or within 150 feet of waters of the state. Mechanical, hand, or other methods may be used to control weeds and unwanted vegetation within stormwater treatment facilities or within 150 feet of waters of the state; and
 3. No pesticides may be used within stormwater treatment facilities or within 150 feet of waters of the state.
- vi. Install wildlife-friendly fencing as necessary to prevent access to revegetated sites by livestock or unauthorized persons
 - vii. Minimize soil compaction, especially in areas that are designated for replanting. If soils are compacted, decompact staging areas and work construction areas prior to replanting. Leave topsoil when possible. Chip materials from clear and grub operation and spread on soil surface, unless cleared areas contained invasive species.

Rule: OAR 340-041, OAR 340-012, OAR 340-041-0033

Justification: Riparian, wetland, and shoreline vegetation help ensure excess sediment does not enter a waterway, and helps offset potential temperature impacts. DEQ must ensure that pollution does not enter waterways.

- 15) **Buffers:** The Applicant shall avoid and protect from harm, all wetlands and provide a 50 foot buffer to waters of the state, unless proposed, necessary, and approved as part of the project. If a local jurisdiction has a more stringent buffer requirement, that requirement will override this certification requirement.

Rule: OAR 340-041, OAR 340-012

Justification: Riparian, wetland, and shoreline buffers help ensure excess sediment does not enter a waterway, and helps offset potential temperature impacts. DEQ must ensure that pollution does not enter waterways.

- 16) **Previously Contaminated Soil and Groundwater:** If any contaminated soil or groundwater is encountered, it must be handled and disposed of in accordance with the soil and groundwater management plan for the site, as well as local, state and federal regulations. The Applicant must notify Margaret Oscilia in the Environmental Cleanup Section of DEQ at 503-726-6522.

Rule: OAR 340-041, OAR 340-012, OAR 340-122, OAR 340-040

Justification: DEQ must ensure that pollution does not enter waterways. As sediments are disturbed, pollutants could become redistributed.

- 17) **Notification to DEQ:** The Applicant must provide pre-construction notification to DEQ one week before construction starts. Contact information can be found at the end of the certification.

Rule: OAR 340-012

Justification: DEQ must inspect facilities for compliance with all state rules and laws.

SPECIFIC CONDITIONS FOR POST-CONSTRUCTION STORMWATER MANAGEMENT

- 18) **Post Construction Stormwater Management:** The Applicant must implement and comply with the terms of the approved post-construction stormwater management plan, which describes best management practices to prevent or treat pollution in stormwater anticipated to be generated by the project, in order to comply with state water quality standards. The Applicant must implement best management practices as proposed in the stormwater management plan, including construction, operation, and maintenance, dated October 13, 2023. If proposed stormwater facilities change due to site conditions, the Applicant must receive approval in writing from DEQ to make changes.

Water quality facilities include four bioswales that are placed at the downstream of the stormwater controls. Bottom elevation dimensions of Raingarden 1 is approximately 51 feet (ft) x 50 ft. Raingarden 2 bottom elevation dimensions are approximately 160 ft x 92 ft. Raingarden 4 bottom elevation dimensions are approximately 142 ft x 93 ft. Raingardens 1-3 will use vegetated ditches (800 linear feet (lf) x 5 ft) to convey runoff. Raingarden 4 will used a 400 lf 12-inch pipe followed by a 450 lf by 5-ft wide vegetated ditch. *If groundwater is encountered during construction, then a liner must be incorporated to prevent the facilities from intercepting sub-surface flow.*

Within 30 days of project completion, the Applicant must submit a copy of the “as-builts” or red-lined construction drawings showing all stormwater management facilities.

Rule: ORS 468B.050, OAR 340-045, OAR 340-041

Justification: DEQ must ensure that pollution does not enter waterways.

- 19) **Stormwater Management & System Maintenance:** The Applicant is required to implement effective operation and maintenance practices for the lifetime of the proposed facility. These include but are not limited to:
- a. Protecting stormwater treatment facilities from degradation during construction.
 - b. Monitoring facilities for signs of groundwater interception, and reconstructing the facilities as needed to prevent interception of sub-surface flow.
 - c. Maintenance techniques and frequency for each system component must follow appropriate recommendations in accepted manuals.
 - d. Long-term operation and maintenance of stormwater treatment facilities will be the responsibility of the Applicant unless and until an agreement transferring that responsibility to another entity is submitted to DEQ.

Rule: OAR 340-041, OAR 340-012, OAR 340-045

Justification: DEQ must ensure that pollution does not enter waterways.

- 20) **Corrective Action May Be Required:** DEQ retains the authority to require corrective action in the event the stormwater management facilities are not built or performing as described in the plan.

Rule: OAR 340-041, OAR 340-012

Justification: DEQ must ensure that pollution does not enter waterways.

If the Applicant is not satisfied with the conditions contained in this certification, a contested case hearing may be requested in accordance with Oregon Administrative Rule 340-048-0045. Such requests must be made in writing to the DEQ Office of Compliance and Enforcement at 700 NE Multnomah St, Suite 600, Portland Oregon 97232 within 20 days of the mailing of this certification.

The DEQ hereby certifies this project in accordance with the Clean Water Act and state rules, with the above conditions. If you have any questions, please contact Haley Teach at haley.teach@deq.oregon.gov, by phone at (503) 229-5051, or at the address on this letterhead.

Sincerely,


Theresa Burcsu

Theresa Burcsu (Mar 1, 2024 15:51 PST)

Theresa Burcsu,
WQ Manager
Northwest Region

ec: Kristin Hines, USACE
Charles Redon, DSL
Julie Wirth-McGee, AKS Engineering & Forestry