US Army Corps
of Engineers
Seattle District

Public Notice of Application for Permit

Regulatory Branch
Post Office Box 3755
Seattle, Washington 98124-3755
Telephone (206) 764-3495
ATTN: Kristina Tong, Project Manager

Public Notice Date: 24 September 2004
Expiration Date: 24 October 2004
Reference: 200201251
Name: Johnson, Leon et al.

Interested parties are hereby notified that an application has been received for a Department of the Army permit in accordance with Section 404 of the Clean Water Act for certain work described below and shown on the enclosed drawings.

APPLICANT - Leon Johnson et al.
17010 - 9th Avenue Southeast
Mill Creek, Washington 98012
Telephone: (206) 730-6745

AGENT - Talasaea Consultants, LLC
15020 Bear Creek Road Northeast
Woodinville, Washington 98072
ATTN: Mr. Bill Shiels
Telephone: (425) 861-7550

LOCATION – 17010, 17108, 17120, 17226 – 9th Avenue Southeast at Mill Creek, Washington.

WORK - Place fill in 0.6 of an acre of wetlands (for the construction of a setback levee), drain 4.7 acres of wetlands behind the levee (as a result of the levee), excavate 0.03 of an acre of wetlands (to widen a ditch), and enhance 5.9 acres of wetlands.

PURPOSE – to provide flood protection to the subject properties

ADDITIONAL INFORMATION – This permit action is the result of a proposal to resolve a violation of Section 404 of the Clean Water Act. On the subject properties, the applicant excavated a ditch and placed the excavated material into wetlands without obtaining a permit from the U.S. Army Corps of Engineers (Corps). Part of this proposal is to fill in the unauthorized ditch and remove the unauthorized fill material in wetlands.

The subject properties are frequently flooded by North Creek on the west side of the properties and by Nickel Creek on the east side of the properties. The setback levee will be located an average of 250 feet from the ordinary high water of North Creek. As a consequence of the setback levee, wetlands behind the levee will be drained. Widening of the 9th Avenue ditch is necessary to enhance the capacity of the ditch to intercept and convey floodwaters from Nickel Creek. The subject properties contain homes, offices, covered storage areas, equipment storage areas, and an equestrian boarding and training facility.

MITIGATION – The applicant proposes to create 0.8 of an acre of wetlands and enhance 5.9 acres of pasture wetlands. The existing pasture wetlands will be excavated, graded, and planted with native wetland vegetation to create forested, scrub-shrub, and emergent wetlands adjacent to North Creek.

ENDANGERED SPECIES - The Endangered Species Act (ESA) of 1973 requires assessment of potential impacts to listed and proposed species. The Puget Sound chinook, Puget Sound bull trout, and bald eagles may occur in the proposed project area. The Corps will evaluate the potential impacts to these species and will initiate the appropriate consultation with National Marine Fisheries Service and U.S. Fish and Wildlife Service

ESSENTIAL FISH HABITAT - The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). EFH for Pacific salmon occurs in the project area. If the Corps determines that the proposed action may adversely affect EFH for federally managed fisheries in Washington waters, the Corps will initiate EFH consultation with the NMFS. The Corps' final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

CULTURAL RESOURCES - The District Engineer has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties: there are no recorded historic properties within the permit area. The permit area has been so extensively modified by modern development that little likelihood exists for the proposed project to impinge upon an undisturbed historic property.

The District Engineer invites responses to this public notice from Native American Nations or tribal governments, Federal, State, and local agencies, historical and archeological societies, and other parties likely to have knowledge of or concerns with historic properties in the area.

PUBLIC HEARING - Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

EVALUATION - The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Federal, Native American Nations or tribal governments, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

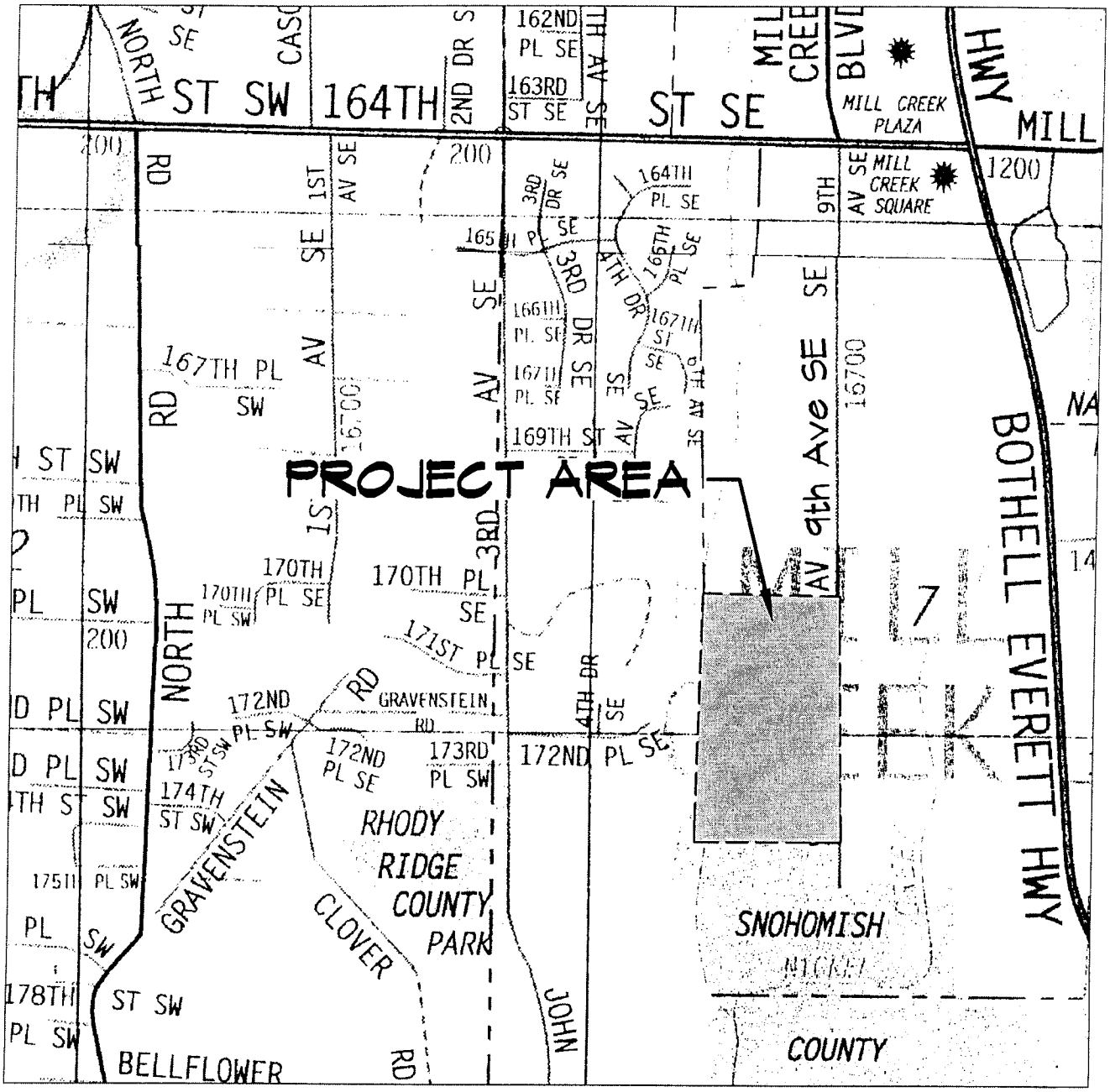
The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. This evaluation will include an alternatives analysis.

ADDITIONAL EVALUATION - The State of Washington is reviewing this work for consistency with the approved Washington Coastal Zone Management Program and for compliance with the applicable State and Federal water quality standards pursuant to Section 401 of the Clean Water Act. This proposal is the subject of Shorelines Substantial Development review by the City of Mill Creek.

COMMENT AND REVIEW PERIOD – Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. All e-mail comments should be sent to Kristina.G.Tong@nws02.usace.army.mil. Conventional mail comments should be sent to U.S. Army Corps of Engineers, Regulatory Branch, Ms. Kristina Tong, Post Office Box 3755, Seattle, Washington, 98124-3755. Both conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commentor's name, address, and phone number. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number:

Leon, Johnson et al.; 200201251

Encl
Drawings (5)



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Purpose: Provide flood protection to subject properties
Adjacent Property Owners: List in Corps file

Proposed: Place fill in 0.6 of an acre of wetlands for the construction of a setback levee, drain 4.7 acres of wetlands behind the levee, excavated 0.03 of an acre of wetlands to widen an existing ditch, create 0.8 of an acre of wetlands, and enhance 5.9 acres of wetlands

At Mill Creek, Snohomish Co., WA

NORTH

SOURCE: The Thomas Guide 2001; Metropolitan Puget Sound

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Resource & Environmental Planning
15020 Bear Creek Road Northeast
Woodinville, Washington 98077
Bus (425)861-7550 - Fax (425)861-7549

FIGURE 1:

Vicinity Map
Leon Johnson and Adjacent Property Owners
Mill Creek, Washington

DESIGN	DRAWN	PROJECT
	LW	679

SCALE NTS
DATE 11 AUG 04
REVISED

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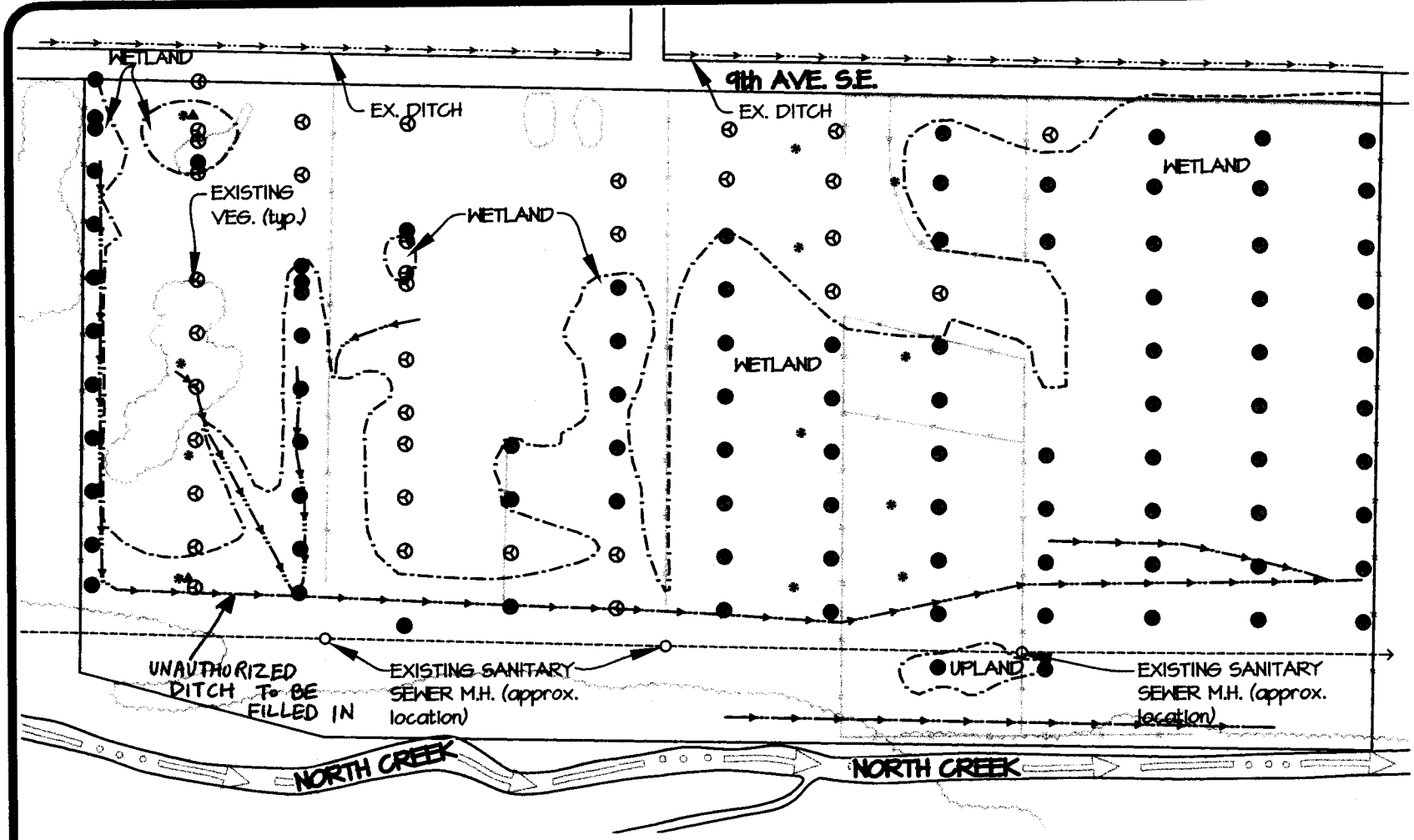

NORTH

LEGEND

APPROXIMATE WETLAND BOUNDARY
APPROXIMATE LOCATION OF DRAINAGE DITCHES
WETLAND TEST PLOT LOCATION (Reconnaissance conducted between 26 FEB and 30 MAR 2004. See Sheet W1.0 of Conceptual Plan for reference numbers.)
APPROXIMATE WELL LOCATION
APPROXIMATE PIZOMETER LOCATION
APPROXIMATE LOCATION OF EXISTING VEGETATION

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0 75 150 300

NOTE:

Base information provided by ESM Consulting Engineers, (425) 415-6144. Location of North Creek provided by KCM, (206) 443-2771

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FIGURE 2:
Preliminary Delineation Plan
Leon Johnson and Adjacent Property Owners
Mill Creek, Washington

DESIGN	DRAWN	PROJECT
BS/JW	LW,CL	679

SCALE 1" = 150'
DATE 10 AUG 04
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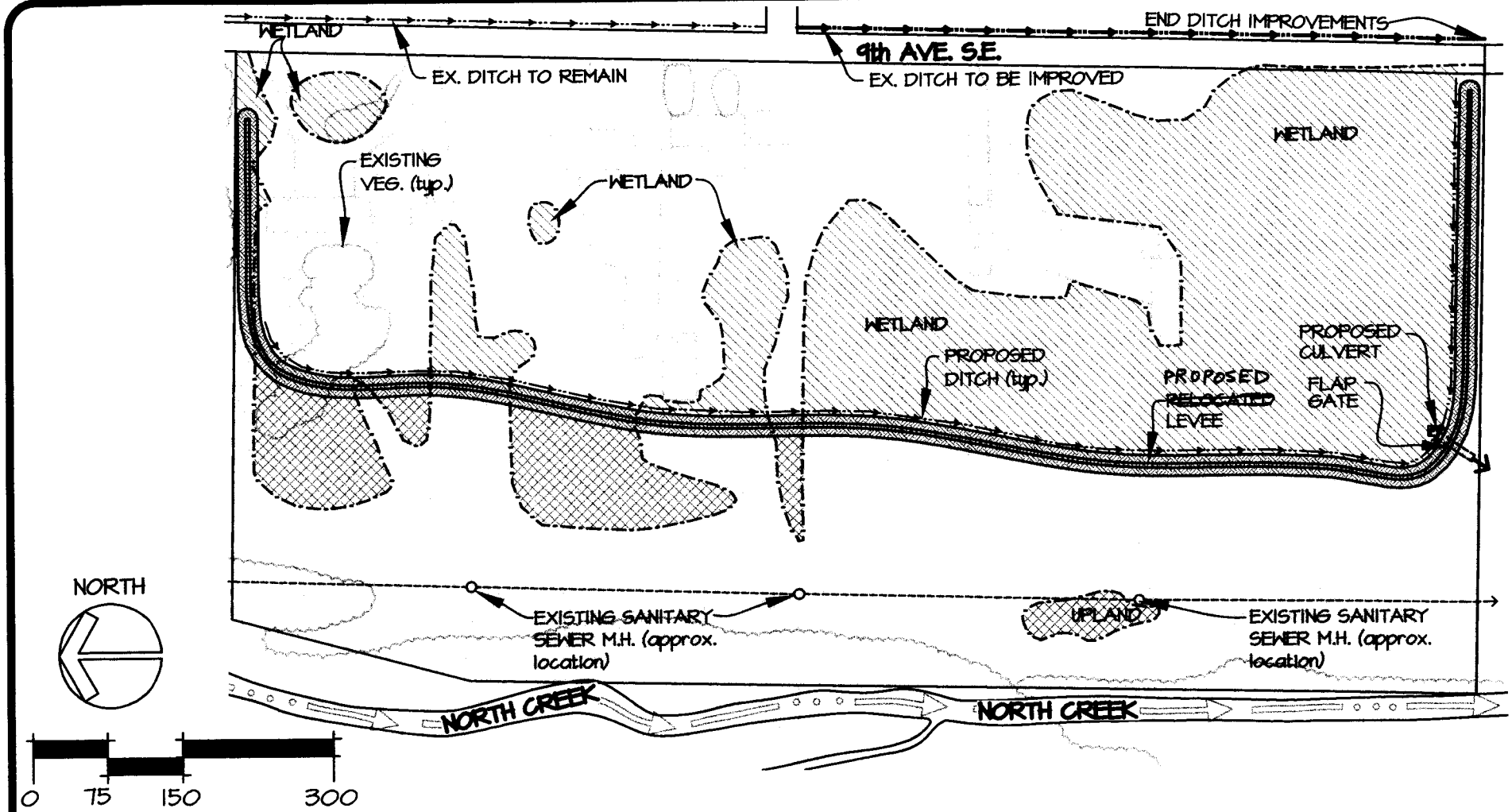

PLAN LEGEND

- APPROXIMATE WETLAND BOUNDARY
- APPROXIMATE LOCATION OF EXISTING VEGETATION

WETLAND IMPACTS LEGEND

- EFFECTIVELY DRAINED WETLAND DUE TO PROVISION OF LEVEE- 4.7 ac
- WETLAND IMPACT AT LEVEE FOOTPRINT- 0.6 ac

DITCH IMPROVEMENTS: 0.03 ac

WETLAND MITIGATION LEGEND

- WETLAND CREATION - 0.8 ac.
- ENHANCED EXISTING WETLAND - 5.9 ac.

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FIGURE 3:
Overview Plan
Leon Johnson and Adjacent Property Owners
Mill Creek, Washington

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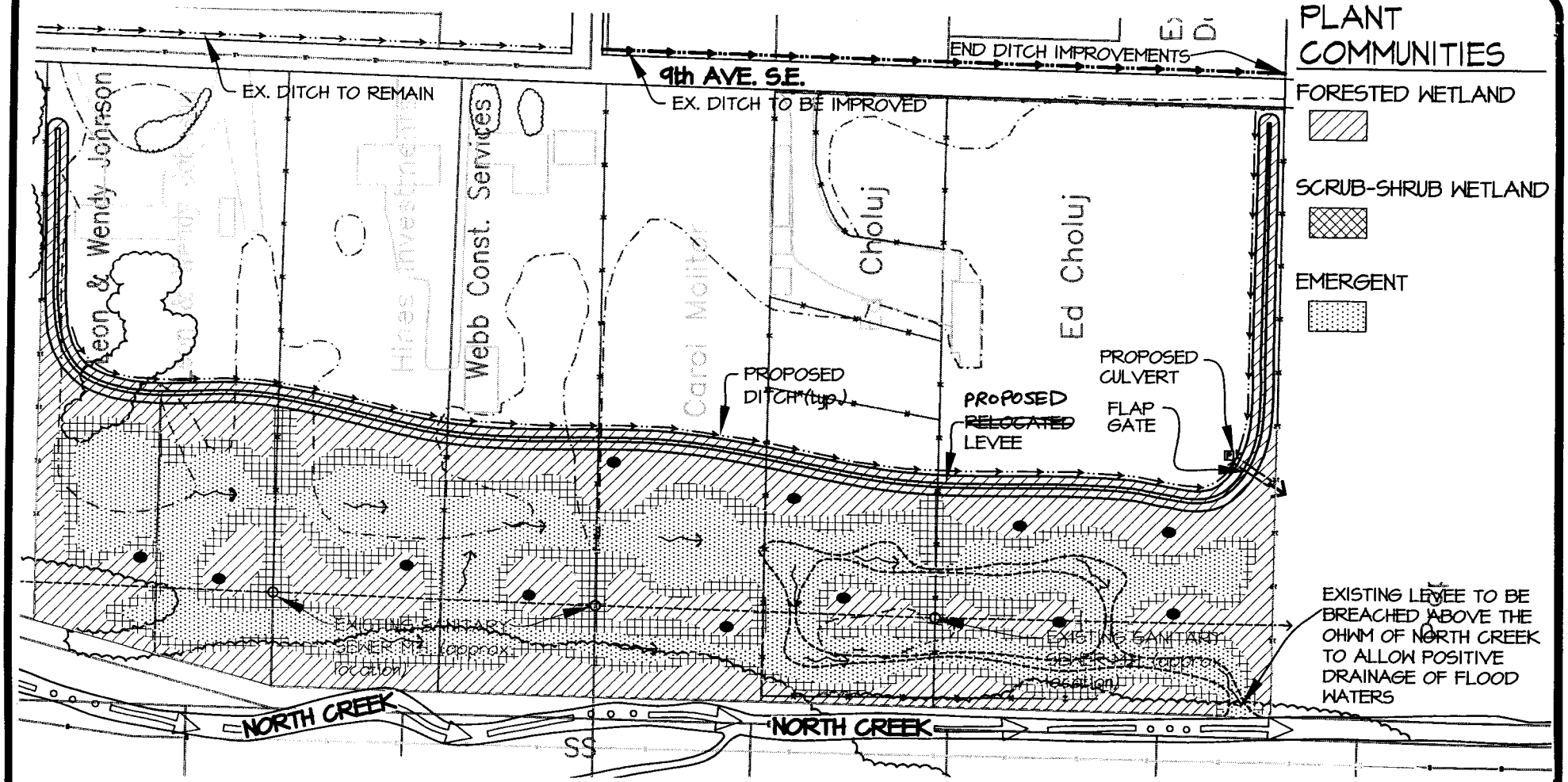

LEGEND

- APPROXIMATE EXISTING WETLAND BOUNDARY
- APPROXIMATE LOCATION OF EXISTING VEGETATION
- EXCAVATED AREA TO PROVIDE POSITIVE DRAINAGE TO NORTH CREEK
- PROPOSED BRUSH PILE, HABITAT FEATURE CREATED FROM ON SITE WOODY DEBRIS

NORTH

0 75 150 300

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NOTE:

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FIGURE 4:
Conceptual Planting and Grading Plan
Leon Johnson and Adjacent Property Owners
Mill Creek, Washington

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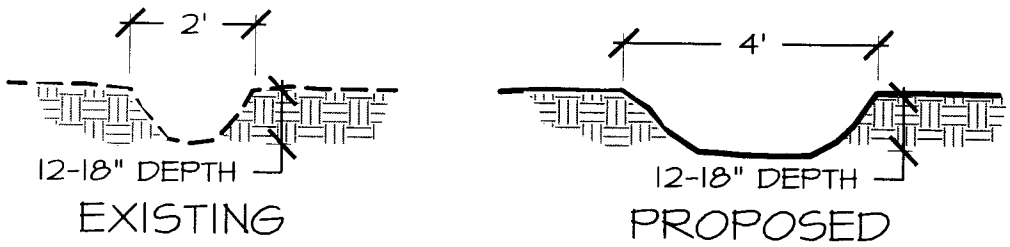
NOTE:

AREA OF DITCH IMPROVEMENT IS
APPROXIMATELY 1300 SF (.03 ACRES), IN WETLANDS
SEE FIGURE 4 FOR LOCATION OF WORK.



PROPOSED 9TH AVE. DITCH IMPROVEMENTS

N.T.S.

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FIGURE 5:
Ditch Detail
Leon Johnson and Adjacent Property Owners
Mill Creek, Washington

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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Notice of Application for
Water Quality Certification
and for
Certification of Consistency with the
Washington Coastal Zone Management Program

Date: September 24, 2004

Notice is herby given that a request has been filed with the Department of Ecology, pursuant to the requirements of Section 401 of the federal Clean Water Act of 1977 (PL 95-217), to certify that the project described in the U.S. Army Corps of Engineers Public Notice No. 200201251 will comply with the Sections 301, 302, 303, 306, and 307 of the Act, and with applicable provisions of State and Federal water pollution control laws.

Notice is herby given that a request has been filed with the Department of Ecology, pursuant to the requirements of Section 307© of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451), to certify that the above referenced project will comply with the Washington State Coastal Zone Management Program and that the project will be conducted in a manner consistent with that program.

Any person desiring to present views on the project pertaining to the project on either or both (1) compliance with water pollution control laws or (2) the project's compliance or consistency with the Washington State Coastal Zone Management Program may do so by providing written comments within 30 days of the above publication date to:

Federal Permit Coordinator
Department of Ecology
SEA Program
Post Office Box 47600
Olympia, Washington 98504-7600