

Public Improvement Variance – Pike Nursery, 1016 Devore Lane

DATE: April 6, 2016

FROM: Jay Camp

Background/Issue:

During the design and permitting phase of development of the Pike Nursery site, Burton Engineering discovered that calculations were incorrect regarding the location of the building and parking footprints in relation to the two SWIM Buffers present on either side of the development footprint. As a result, Pike Nurseries requests Public Improvement Variances to allow encroachment into the upland zone of the SWIM Buffers. The encroachment would be about 8' along the Northeast Parkway side of the site for the parking lot and about 10' nearest the Levine Center to allow the building footprint to be built as planned. Each encroachment would feature a 3'-5' tall retaining wall. Exhibits attached to this memo describe in more detail the buffer encroachments and area to be filled and disturbed. Although County Water Quality is not in favor of the variance, Planning Board recommended approval by a vote of 6-1 with the condition that the applicant work with the County on a mitigation plan. The applicant proposes to install 38 new trees and 16 new shrubs as mitigation. About 37% of the site is composed of buffer areas according to the engineer.

Proposal/Solution:

Due to the various constraints this property presents for development, staff remains confident that Pike Nurseries is a good end user for the property. Planning Board, despite concerns over these minor buffer disturbances, ultimately felt that it would be difficult to find a better user for the site and was comfortable with the plans presented at their meeting.

Financial Impact:

None

Related Town Goal(s) and/or Strategies:

Quality of Life

Economic Development/Land Use Planning

Recommended Motion/Action:

Approve Public Improvement Variance Requests for encroachment into two SWIM Buffers at 1016 Devore Lane.

March 18, 2016

Re: Variance from Design Standards for Surface Water Improvement and Management (SWIM) Buffers on approximately 4.15 acres located on the east side of Northeast Parkway, south of DeVore Lane and north of Matthews Township Parkway designated by Tax Parcel Nos. 193-521-10 and 193-521-11 (the "Site").

Dear :

We represent Armstrong Garden Centers, Inc. (the "Applicant") in requesting a variance from adherence to the application of the S.W.I.M. buffer requirements described below at two discrete locations on the Site.

The Site contains approximately 4.15 acres located on the east side of Northeast Parkway, south of DeVore Lane and north of Matthews Township Parkway designated by Tax Parcel Nos. 193-521-10 and 193-521-11. Applicant owns the Site, which is zoned B-1 (CD). The Site and the immediately surrounding parcels and road network are more particularly depicted on the tax map attached to this letter as **Exhibit A**. The Site is unimproved, and as indicated on the site plan (the "Site Plan") submitted in connection with Pike Nurseries' rezoning application (2015-635), approved in December 2015, the owner intends to develop and operate a commercial nursery with greenhouses on the Site.

The Applicant requests a variance from adherence to the application of applicable S.W.I.M. buffer requirements at two discrete locations on the Site. This variance is necessary to permit the Applicant to use the Site in the manner depicted on the Site Plan. The S.W.I.M. buffers required for the Site—in confluence with the buffers on each of the other sides of the Site—restrict the developable area on the Site, meaning the Applicant will be unable to develop the Site as depicted on the Site Plan. Pursuant to UDO Sections 155.704.2(F)(2) and 155.712, the Applicant requests a variance from Section 155.704.2(C)(1) that would allow it to enlarge its S.W.I.M. buffer impacts in the locations and the manner more particularly depicted on **Exhibits B-C**.

- At the corner of Highway NC 51 and Northeast Parkway, as depicted on **Exhibit B**, the Applicant seeks a variance that would allow it to place a 3'-5' high retaining wall inside the buffer, along with an accompanying 768 SF of fill area in the upland zone. This variance will allow for development of a complete allotment of parking (both in terms of spaces and islands) as depicted on the Site Plan. As discussed below, the Applicant has mitigated the extent of the variance requested herein in by redesigning parking for the Site.
- At the rear of the property, as depicted on **Exhibit C**, the Applicant seeks a variance that would allow it to place a 3'-5' high retaining wall, along with an accompanying 1,955 SF of fill area and 982 SF of asphalt area in the upland zone. Allowing this variance will enable the Applicant to devote a full 30,000 SF to a greenhouse (including outdoor storage of plants on gravel surface), which is the target area for storage of plants as depicted on the Site Plan.

Granting this variance will allow the Applicant to develop the Site in a manner that achieves adequate developable area, in light of the unique topographical challenges presented by this property. The Applicant proposes to mitigate the impact of the Site Plan's S.W.I.M.

buffer disturbances by installing 38 new trees (no evergreens, minimum of 6 different species) and 16 shrubs (minimum of 3 different species) in the locations depicted on **Exhibit D**.

Strict application of Section 155.704.2(C)(1) would mean the Applicant would be unable to make reasonable use of the property and to develop the parcel in a manner that allows it to maintain 30,000 SF of greenhouse space. The variance requested is the minimum variance necessary to provide relief. First, as to the encroachment requested at the corner of Matthews Township Pkwy and Northeast Parkway, the Applicant's engineers already have modified the parking plan to minimize the extent of the encroachment requested at this location. As to the encroachment at the rear of the parcel the engineers have tried to impact the buffer as little as possible while still preventing site runoff and preserving as much naturally vegetated area as possible.

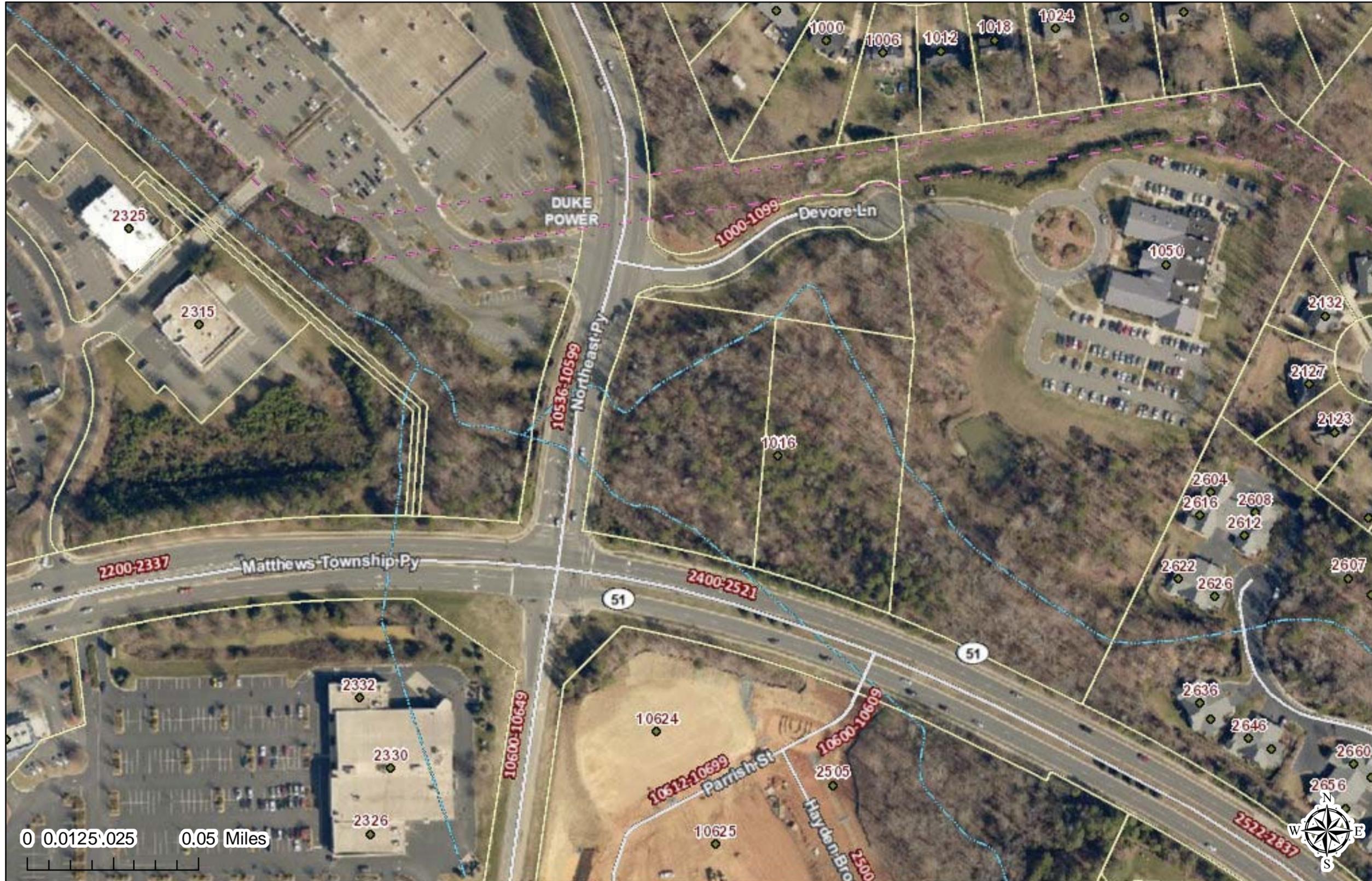
The hardship of which the Applicant complains results from circumstances peculiar to the property. The topography, combined with the buffers required on each side of the Site, severely limits the developable area. The total acreage of various Buffers is 37% of the Site. Hence, the Site Plan devised for the property seeks to make productive use of the full extent of the developable area. This hardship is the result of the relevant requirements of the UDO and the development challenges presented by the unique characteristics of the Site.

Finally, because of the mitigation measures the Applicant proposes to undertake, the requested variance is consistent with the spirit of the Ordinance and its intent. Allowing the Applicant this variance will not endanger the public safety or adversely impact adjoining properties. The rear encroachment the Applicant requests is in large part to accommodate storage of plants on a gravel surface, not an additional structure. And, as noted above, the encroachment proposed at the corner of Matthews Township Pkwy and Northeast Parkway has been mitigated by the engineer's modification to the parking plan for the Site.

We welcome the opportunity to speak with you about this matter and to answer any additional questions you have.

Polaris 3G Map – Mecklenburg County, North Carolina

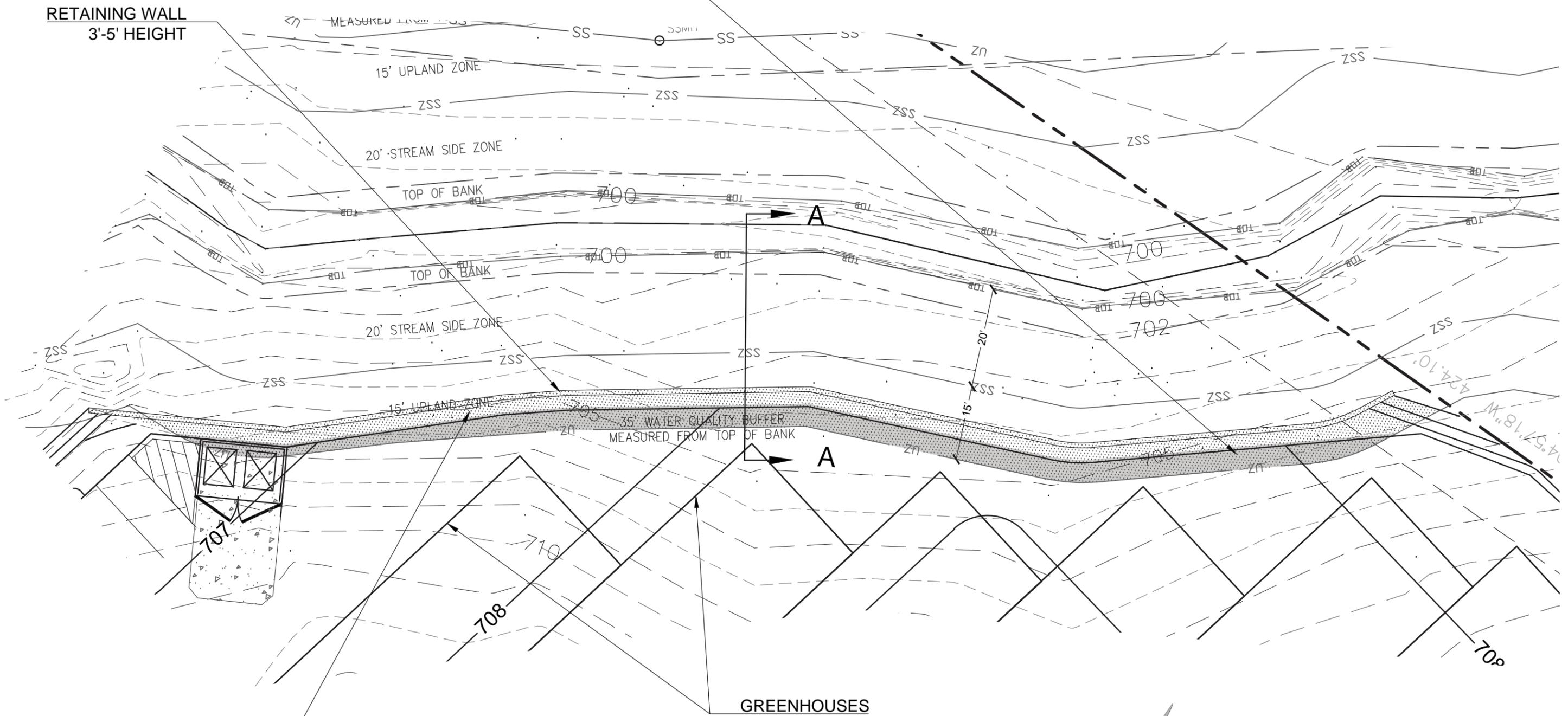
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This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

AREA OF ASPHALT IN
UPLAND ZONE: 982 SF

RETAINING WALL
3'-5' HEIGHT

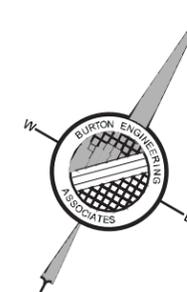


AREA OF FILL IN
UPLAND ZONE: 1,955 SF

GREENHOUSES



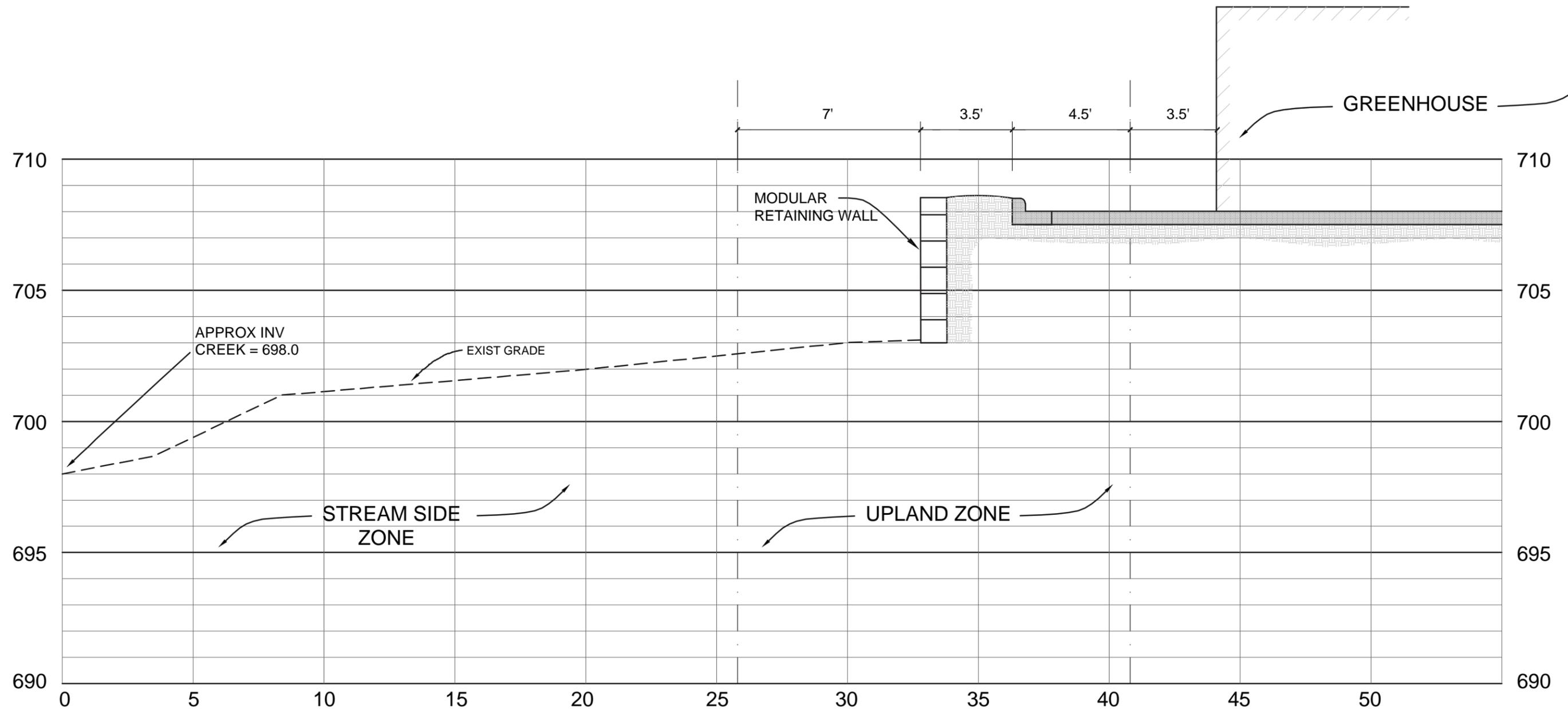
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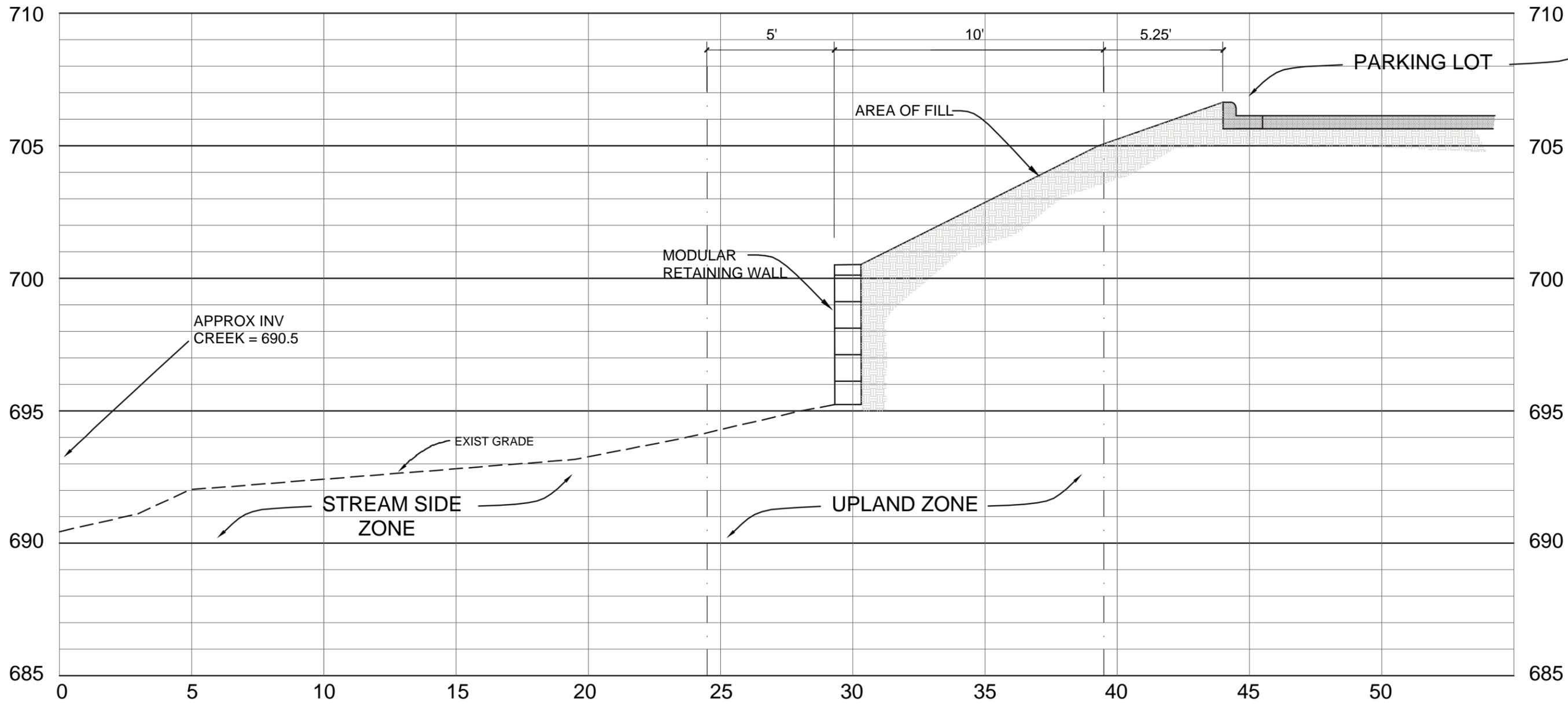
SCALE: 1"=20' DATE: 03/15/16

ENLARGEMENT OF BUFFER IMPACT

PIKE NURSERIES
1016 DEVORE LANE, MATTHEWS, NC



CROSS SECTION OF IMPACT



CROSS SECTION OF IMPACT

