

**Regulatory Branch** 

SUBJECT: Permit Application Number NAN-2020-00311-EHA by Titan Golf LLC for Tam O'Shanter Country Club

Titan Golf LLC Attn: Robert Weiss 41 Bayard Street New Brunswick, New Jersey 08901

Dear Mr. Weiss:

On March 27, 2020, the New York District of the U.S. Army Corps of Engineers received a request for a Department of the Army jurisdictional determination for the above referenced project. This request was made by VHB Engineering, Surveying and Landscape Architecture, P.C. (VHB), as consultant for Titan Golf LLC. The site consists of approximately 151 acres, in the Lower Hudson-Long Island watershed, at 74 Fruitledge Road, Glen Head, in the Town of North Hempstead, Nassau County, New York. The proposed project would involve residential development.

In the letter received on March 27, 2020, your office submitted a proposed delineation of the extent of waters of the United States within the project boundary. The USACE concurs with the delineation report prepared by VHB Engineering, Surveying, Landscape Architecture and Geology, and dated March 27, 2020.

Based on the material submitted, the area within the project boundary has been determined to contain no jurisdictional waters of the United States.

The waters shown within the project boundary on the drawing entitled "Topographic Plan", prepared by VHB, dated December 5, 2018, and last revised March 20, 2020 do not meet the current criteria of waters of the United States under Section 404 of the Clean Water Act. The area within the project boundary is the approximately 151-acre area encompassed by the property line on the above referenced drawing.

This determination regarding the delineation shall be considered valid for a period of five years from the date of this letter unless new information warrants revision of the determination before the expiration date.

This determination was documented using the Approved Jurisdictional Determination Form (Interim) Navigable Water Protection Rule, promulgated by the Corps of Engineers in June 2020. As documented on that form, five wetlands (Wetland 1-approximately 0.54 acres, Wetland 2-approximately 0.56 acres, Wetland 3approximately 0.81 acres, Wetland 4-approximately 1.71 acres and Wetland 5SUBJECT: Permit Application Number NAN-2020-00311-EHA by Titan Golf LLC for Tam O'Shanter Country Club

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approximately 0.46 acres) were determined to be excluded from Clean Water Act jurisdiction. A copy of that document is enclosed with this letter, and will be posted on the New York District website at:

http://www.nan.usace.army.mil/Missions/Regulatory/JurisdictionalDeterminations/Recentures/LurisdictionalDeterminations.aspx

This delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed is a combined Notification of Appeal Process (NAP) and Request For Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the North Atlantic Division Office at the following address:

James W. Haggerty, Regulatory Program Manager, CENAD-PD-OR North Atlantic Division, U.S. Army Engineer Division Fort Hamilton Military Community General Lee Avenue, Building 301 Brooklyn, New York 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Park 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by . It is not necessary to submit an RFA form to the Division Office if

you do not object to the determination in this letter.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

It is strongly recommended that the development of the site be carried out in such a manner as to avoid as much as possible the discharge of dredged or fill material into the delineated waters of the United States. If the activities proposed for the site involve such discharges, authorization from this office may be necessary prior to the initiation of the proposed work. The extent of such discharge of fill will determine the level of authorization that would be required. SUBJECT: Permit Application Number NAN-2020-00311-EHA by Titan Golf LLC for Tam O'Shanter Country Club

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In order for us to better serve you, please complete our Customer Service Survey located at <u>http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx</u>.

If any questions should arise concerning this matter, please contact Naomi Handell, of my staff, at (917) 790-8523.

Sincerely,

Ronald R. Pinzon Chief, Eastern Section

Enclosures



### I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 10/15/2020 ORM Number: NAN-2020-00311-EHA Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE).

Review Area Location<sup>1</sup>: State/Territory: NY City: Brookville County/Parish/Borough: Nassau Center Coordinates of Review Area: Latitude 40.811646N Longitude -73.553440W

### **II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- □ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- □ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- □ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

### B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>

§ 10 Name	§ 10 Size	)	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A	N/A.	N/A.

### C. Clean Water Act Section 404

Territorial Seas	s and Trad	itional Nav	igable Waters ((a)(1	I) waters): <sup>3</sup>
(a)(1) Name	(a)(1) Siz	e	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)	)(2) waters	):		
(a)(2) Name	(a)(2) Siz	e	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Lakes and por	onds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Siz	e	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.	

Adjacent wetla	nds ((a)(4)	) waters):		
(a)(4) Name	(a)(4) Siz	e	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

<sup>&</sup>lt;sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>&</sup>lt;sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>&</sup>lt;sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



### D. Excluded Waters or Features

Excluded waters (	(b)(1) - (b)	(12)):4		
Exclusion Name	Exclusion		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Pond 1	0.54	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non- jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Artificially created pond for golf course.
Pond 2	0.56	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non- jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Artificially created pond for golf course.
N/A.	0.81	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non- jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Artificially created pond for golf course.
N/A.	1.71	acre(s)	(b)(8) Artificial lake/pond constructed or	Artificially created pond for golf course.

<sup>&</sup>lt;sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area. <sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion four sub-categories of (b)(1) exclusions are not

exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



Excluded waters (	(b)(1) - (b)	)(12)): <sup>4</sup>		
Exclusion Name	Exclusior	n Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
			excavated in upland or a non- jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	
N/A.	N/A.	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non- jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Artificially created pond for golf course.

### **III. SUPPORTING INFORMATION**

**A.** Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☑ Information submitted by, or on behalf of, the applicant/consultant: Wetland Delineation Report for Tam O'Shanter Country Club prepared by VHB dated March 27, 2020. Drawings entitled "Topographic Plan", prepared by VHB, dated December 5, 2018, and last revised March 20, 2020.

This information is sufficient for purposes of this AJD.

Rationale: N/A or describe rationale for insufficiency (including partial insufficiency).

Data sheets prepared by the Corps: Title(s) and/or date(s).

Photographs: Aerial and Other: Various aerial photos in Wetland Delineation Report; Site photos dated February 12, 2020

- $\Box$  Corps site visit(s) conducted on: Date(s).
- Previous Jurisdictional Determinations (AJDs or PJDs): ORM Number(s) and date(s).
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.
- USDA NRCS Soil Survey: Title(s) and/or date(s).
- USFWS NWI maps: NWI Map generated May 5, 2020.
- ☑ USGS topographic maps: NY 130809 1949

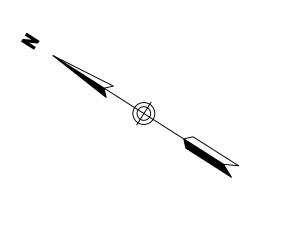
### Other data sources used to aid in this determination:

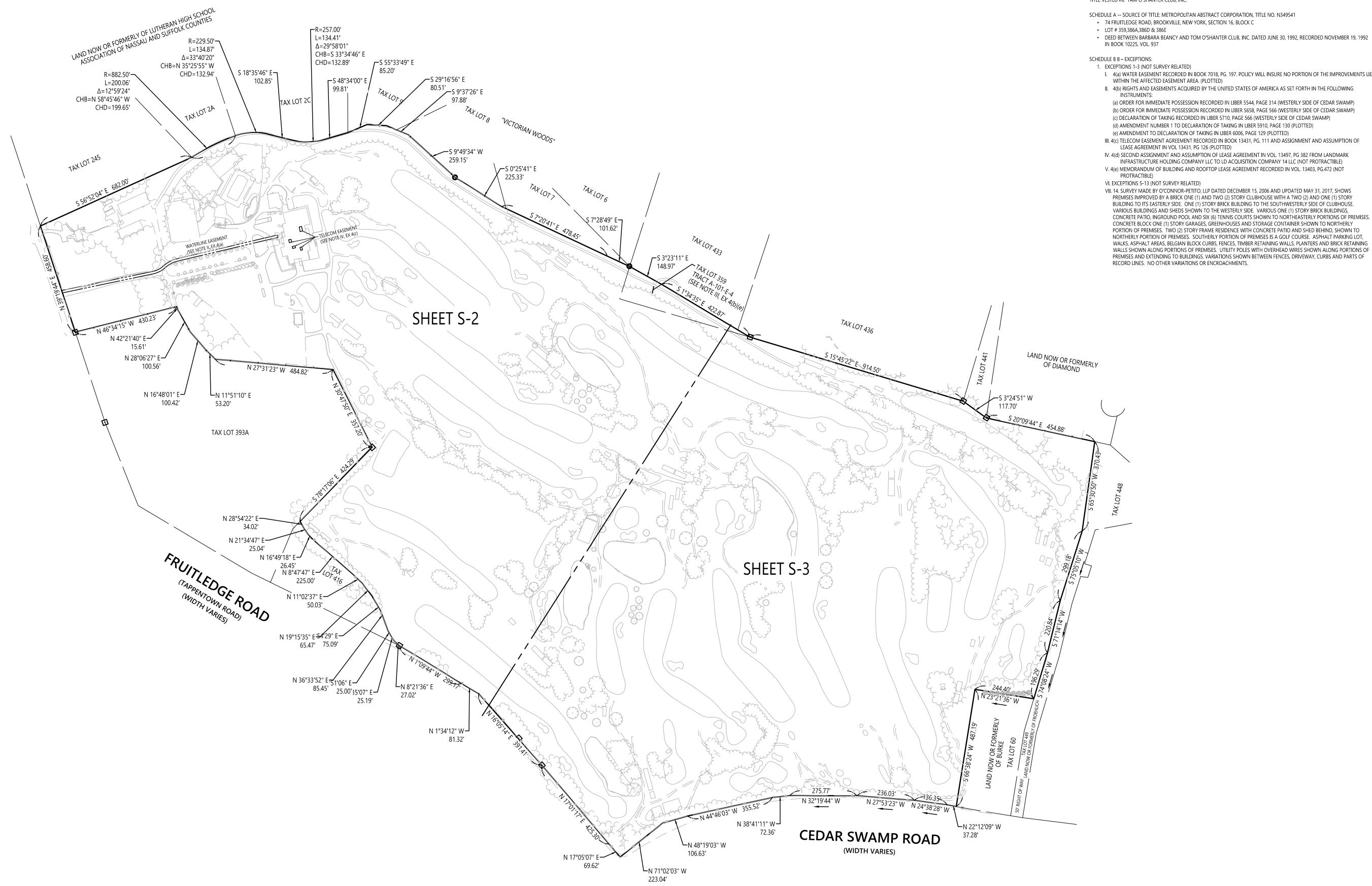
Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.

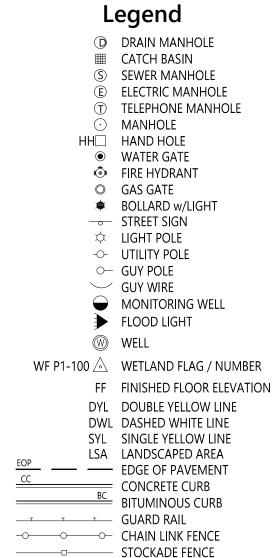


Data Source (select)	Name and/or date and other relevant information
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- **B.** Typical year assessment(s): N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.
- **C.** Additional comments to support AJD: From the Wetland Delineation Report, "Ponds 1 through 5 are artificial features constructed between 1957 and 2006, in association with site usage as a golf course. As the primary purpose of the ponds is irrigation, the ponds are lined, periodically replenished with well water and are connected via sub-grade pipes and pumps. The five artificial ponds are otherwise isolated from other surface waters and wetlands in the general surrounding area."







– онw — · · · · — OVERHEAD WIRE TREE LINE

# **General Notes:**

- THIS SURVEY IS BASED UPON FIELD INVESTIGATIONS AND SURVEYS CONDUCTED BY VHB ENDING ON OCTOBER, 2018 AND UPDATED ON 2/29/2020 BY AND/OR UNDER THE DIRECT SUPERVISION OF THE SIGNED LICENSED SURVEYOR. 1. THE HORIZONTAL DATUM IS THE NORTH AMERICAN DATUM OF 1983 (CORS – EPOCH 2011) ) THE PROJECTION IS NEW
- YORK LONG ISLAND (3104). 2. THE VERTICAL DATUM IS THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
- 3. ALL UNITS SHOWN HEREON ARE US SURVEY FEET, IN WHOLE OR DECIMAL VALUES. 1 METER = 39.37/12 SURVEY FEET. 4. THE SYMBOLS SHOWN ON THIS SURVEY, INCLUDING TREES, ARE REPRESENTATIONAL BASED UPON A SINGLE SURVEY POINT AND DO NOT REPRESENT THE ACTUAL DIMENSION OF THE OBJECT.
- 5. THE PROPERTY IN QUESTION (PIQ) IS LOCATED OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS DEPICTED ON THE FIRMS 36059C0133G & 36059C0145G EFFECTIVE DATE 9/11/2009 (NOT PRINTED)
- 6. WETLAND BOUNDARY AS DELINEATED BY VHB ENGINEERING, SURVEYING, LANDSCAPE ARCHITECTURE AND GEOLOGY, P.C., ON FEBRUARY 12, 2020. SURVEYD ON FEBRUARY 24, 2020 BY VHB.

# **Boundary Notes:**

- THIS SURVEY IS HEREBY CERTIFIED TO:
- TITAN TAM, LLC, A NEW JERSEY LIMITED LIABILITY COMPANY, • SEGME TAM LLC, A NEW JERSEY LIMITED LIABILITY COMPANY, • INTERIM ASSET FUNDING LLC, ITS SUCCESSORS AND/OR ASSIGNS,
- METROPOLITAN ABSTRACT CORPORATION, • GIORDANO AND HALLERAN & CIESLA, P.C.
- CERTIFICATE OF TITLE: METROPOLITAN ABSTRACT CORPORATION, TITLE NO. N349541

TITLE VESTED IN: TAM O'SHANTER CLUB, INC.

SCHEDULE A -- SOURCE OF TITLE: METROPOLITAN ABSTRACT CORPORATION, TITLE NO. N349541

• 74 FRUITLEDGE ROAD, BROOKVILLE, NEW YORK, SECTION 16, BLOCK C

- DEED BETWEEN BARBARA BEANCY AND TOM O'SHANTER CLUB, INC. DATED JUNE 30, 1992, RECORDED NOVEMBER 19, 1992 IN BOOK 10225, VOL. 937
- 1. EXCEPTIONS 1-3 (NOT SURVEY RELATED)
- I. 4(a) WATER EASEMENT RECORDED IN BOOK 7018, PG. 197. POLICY WILL INSURE NO PORTION OF THE IMPROVEMENTS LIE WITHIN THE AFFECTED EASEMENT AREA. (PLOTTED) II. 4(b) RIGHTS AND EASEMENTS ACQUIRED BY THE UNITED STATES OF AMERICA AS SET FORTH IN THE FOLLOWING INSTRUMENTS:
- (a) ORDER FOR IMMEDIATE POSSESSION RECORDED IN LIBER 5544, PAGE 314 (WESTERLY SIDE OF CEDAR SWAMP) (b) ORDER FOR IMMEDIATE POSSESSION RECORDED IN LIBER 5658, PAGE 566 (WESTERLY SIDE OF CEDAR SWAMP) (c) DECLARATION OF TAKING RECORDED IN LIBER 5710, PAGE 566 (WESTERLY SIDE OF CEDAR SWAMP) (d) AMENDMENT NUMBER 1 TO DECLARATION OF TAKING IN LIBER 5910, PAGE 130 (PLOTTED) (e) AMENDMENT TO DECLARATION OF TAKING IN LIBER 6006, PAGE 129 (PLOTTED)
- III. 4(c) TELECOM EASEMENT AGREEMENT RECORDED IN BOOK 13431, PG. 111 AND ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT IN VOL 13431, PG 126 (PLOTTED) IV. 4(d) SECOND ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT IN VOL. 13497, PG 382 FROM LANDMARK INFRASTRUCTURE HOLDING COMPANY LLC TO LD ACQUISITION COMPANY 14 LLC (NOT PROTRACTIBLE) V. 4(e) MEMORANDUM OF BUILDING AND ROOFTOP LEASE AGREEMENT RECORDED IN VOL. 13403, PG.472 (NOT
- PROTRACTIBLE) VI. EXCEPTIONS 5-13 (NOT SURVEY RELATED)
- VII. 14. SURVEY MADE BY O'CONNOR-PETITO, LLP DATED DECEMBER 15, 2006 AND UPDATED MAY 31, 2017, SHOWS PREMISES IMPROVED BY A BRICK ONE (1) AND TWO (2) STORY CLUBHOUSE WITH A TWO (2) AND ONE (1) STORY BUILDING TO ITS EASTERLY SIDE. ONE (1) STORY BRICK BUILDING TO THE SOUTHWESTERLY SIDE OF CLUBHOUSE. VARIOUS BUILDINGS AND SHEDS SHOWN TO THE WESTERLY SIDE. VARIOUS ONE (1) STORY BRICK BUILDINGS, CONCRETE PATIO, INGROUND POOL AND SIX (6) TENNIS COURTS SHOWN TO NORTHEASTERLY PORTIONS OF PREMISES. CONCRETE BLOCK ONE (1) STORY GARAGES, GREENHOUSES AND STORAGE CONTAINER SHOWN TO NORTHERLY PORTION OF PREMISES. TWO (2) STORY FRAME RESIDENCE WITH CONCRETE PATIO AND SHED BEHIND, SHOWN TO NORTHERLY PORTION OF PREMISES. SOUTHERLY PORTION OF PREMISES IS A GOLF COURSE. ASPHALT PARKING LOT, WALKS, ASPHALT AREAS, BELGIAN BLOCK CURBS, FENCES, TIMBER RETAINING WALLS, PLANTERS AND BRICK RETAINING

FOR BOUNDARY PERIMETER DETAIL AND SITE IMPROVEMENTS SEE SHEETS 2 AND 3

PARCEL	DATA

= 6,482,509 SF/148.82 ACRES

200	0	200	400
	SCALE	IN FEET	

AREA

Designed by	Checked by
	Dete
ssued for	Date
	December 5, 2018
Drawing Title	
<b>Overall Boundary</b>	
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Dra	awing Number
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Project Number

26747.00

J R LEMUEL MORRISON

NYS LIC. NO. 50404

Survey of Property of Tam O'Shanter Golf Course Situated at, Inc. Village of Brookville Town of Oyster Bay Nassau County, New York N.C.T.M. NO. SEC.16 BLK.C LOTS 386A, 386D, 386E and 359

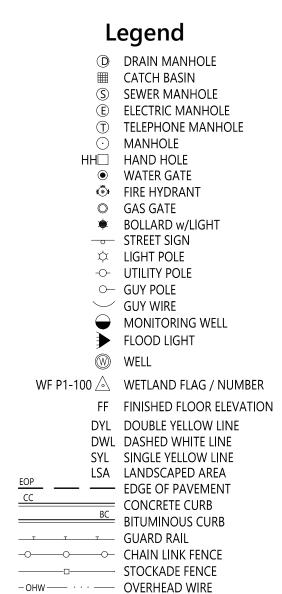
74 Fruitledge Rd Glen Head, NY 11545

Engineering, Surveying, Landscape Architecture and Geology, PC 100 Motor Parkway Suite 135 Hauppauge, NY 11788 631.787.3400 NEW YORK STATE CERTIFICATE OF AUTHORIZATION # 001389 UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY IS A VIOLATION OF SECTION 7209 OF THE NEW YORK STATE EDUCATION LAW. COPIES OF THE SURVEY MAP NOT BEARING THE LAND SURVEYOR'S SIGNATURE AND INKED SEAL OR EMBOSSED SEAL SHALL NOT BE CONSIDERED TO BE VALID TRUE COPIES.

15 OÇT 2020

# FRUITLEDGE ROAD (TAPPENTOWN ROAD) (WIDTH VARIES)



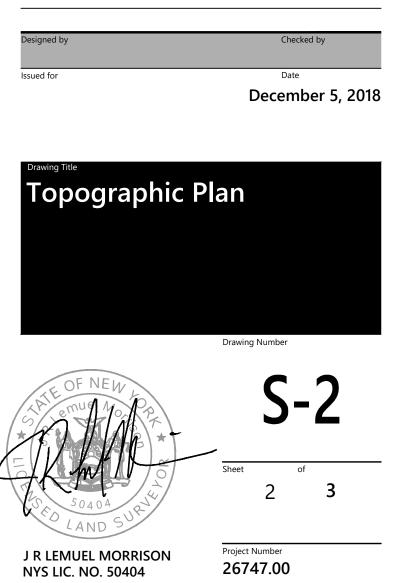


TREE LINE

# USACE FILE: NAN-2020-00311-EHA

MATCH LINE SEE SHEET S-3

100 200 100 SCALE IN FEET



Golf Course Situated at, Inc. Village of Brookville Town of Oyster Bay Nassau County, New York N.C.T.M. NO. SEC.16 BLK.C LOTS 386A, 386D, 386E and 359 74 Fruitledge Rd Glen Head, NY 11545

March 20, 2020

1 Added Wetlands / Misc Topo / Notes

Survey of Property of Tam O'Shanter

Engineering, Surveying, Landscape Architecture and Geology, PC 100 Motor Parkway Suite 135 Hauppauge, NY 11788 631.787.3400 NEW YORK STATE CERTIFICATE OF AUTHORIZATION # 001389 UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY IS A VIOLATION OF SECTION 7209 OF THE NEW YORK STATE EDUCATION LAW. COPIES OF THE SURVEY MAP NOT BEARING THE LAND SURVEYOR'S SIGNATURE AND INKED SEAL OR EMBOSSED SEAL SHALL NOT BE CONSIDERED TO BE VALID TRUE COPIES.





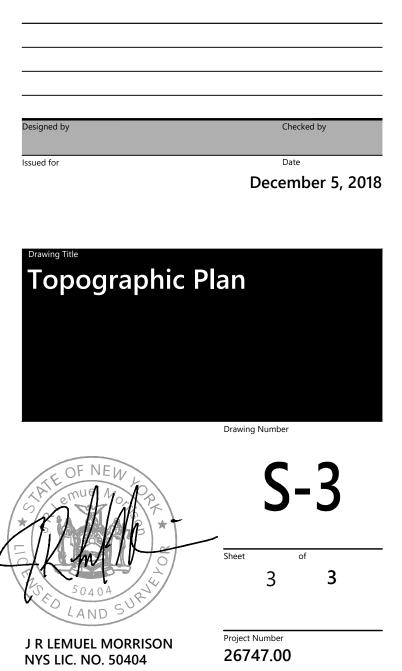
Legend	
D	DRAIN MANHOLE
0	CATCH BASIN
Ś	
Ē	ELECTRIC MANHOLE
Ť	TELEPHONE MANHOLE
$\overline{\odot}$	MANHOLE
HH	HAND HOLE
۲	WATER GATE
٢	FIRE HYDRANT
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*	BOLLARD w/LIGHT
<u> </u>	
	LIGHT POLE
	UTILITY POLE
	GUY POLE
	GUY WIRE
	MONITORING WELL
	FLOOD LIGHT
	WELL
WF P1-100 🛆	WETLAND FLAG / NUMBER
FF	FINISHED FLOOR ELEVATION
DYL	DOUBLE YELLOW LINE
DWL	DASHED WHITE LINE
SYL	
EOP	LANDSCAPED AREA
CC	EDGE OF PAVEMENT
BC	CONCRETE CURB
	BITUMINOUS CURB
	CHAIN LINK FENCE
0	STOCKADE FENCE

 — П
 STOCKADE FENCE

 - ОНW
 OVERHEAD WIRE

 ТПЕЕ LINE

MATCH LINE SEE SHEET S-2



Golf Course Situated at, Inc. Village of Brookville Town of Oyster Bay Nassau County, New York N.C.T.M. NO. SEC.16 BLK.C LOTS 386A, 386D, 386E and 359 74 Fruitledge Rd Glen Head, NY 11545

Survey of Property of Tam O'Shanter

