

Disclaimer

These minutes reflect the actions taken by the Commission during its August 12, 2022 meeting. Although these minutes have been approved by the Commission, no action authorized by the Commission during this meeting, as reflected in these minutes, shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of these minutes has been delivered to the Governor for review, unless prior to expiration of the review period the governor approves same, in which case the action shall become effective upon such approval. These minutes were delivered to the Governor on August 19, 2022.

PINELANDS COMMISSION MEETING

MINUTES
August 12, 2022

All participants were either in-person or present via Zoom conference and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=ToM8RgXlgBY>

Commissioners Participating in the Meeting

Alan W. Avery Jr., John Holroyd, Jerome H. Irick, Theresa Lettman, Mark Lohbauer, Davon McCurry, Jonathan Meade, William Pikolycky, and Chair Laura E. Matos. Also participating were Acting Executive Director Susan R. Grogan, Deputy Attorney General (DAG) Nicolas Seminoff and Governor's Authorities Unit representative Janice Venables.

Commissioners Absent

Dan Christy, Jane Jannarone, Ed Lloyd & Gary Quinn.

Call to Order

Chair Matos called the meeting to order at 9:32 a.m.

DAG Seminoff read the Open Public Meetings Act Statement (OPMA).

Acting Executive Director (ED) Grogan called the roll and announced the presence of a quorum. Nine Commissioners participated in the meeting.

The Commission pledged allegiance to the Flag.

Minutes

Chair Matos presented the minutes from the Commission's July 8, 2022 meeting. Commissioner Irick moved the adoption of the minutes. Commissioner Pikolycky seconded the motion.

The minutes from the July 8, 2022 Commission meeting were adopted by a vote of 9 to 0.

Committee Reports

Commissioner Lohbauer provided a summary of the July 29, 2022 Pinelands Climate Committee Meeting:

The Committee voted to recommend that the Personnel & Budget Committee create an account as part of the FY 2023 budget for expenditures related to energy conservation improvements.

Staff delivered a presentation on potential climate-related Pinelands Comprehensive Management Plan (CMP) amendments.

Chair Matos provided a summary of the July 29, 2022 Policy and Implementation (P&I) Committee meeting:

The Committee was briefed on Pemberton Township Ordinance 11-2022, adopting the Lakehurst Road Redevelopment Plan. The plan allows for 575 units of age-restricted housing in Pemberton's Regional Growth Area, with a 25% Pinelands Development Credit (PDC) requirement. The Committee voted to recommend certification by the full Commission.

The Committee was also briefed on Southampton Township Ordinance 2022-05, adopting the Red Lion Diner Non-Condemnation Redevelopment Plan. The plan permits redevelopment of the existing Red Lion Diner and the two commonly owned parcels adjoining it. All new development must be served by an advanced wastewater treatment system and off-site lands must be preserved. The Committee voted to recommend certification by the full Commission.

Commission Environmental Specialist Branwen Ellis gave a presentation on the NJ Forest Stewardship Task Force, which draws together participants from government agencies, interest groups, and private citizens to reach a consensus on forestry policies for state lands. Key topics include herbicides, invasive species, carbon sequestration, climate change, and landscape diversity. Ms. Ellis noted her participation on three workgroups established by the Task Force: Climate; Ecological Health; and Forestry Legislation. Chuck Horner, Director of Regulatory Programs, then reviewed possible forestry policy proposals for the Committee's consideration.

Acting Executive Director's Report

Acting ED Grogan provided information on upcoming meetings:

- The Personnel & Budget Committee will meet on August 23, 2022 to discuss the FY 2023 Draft budget. The P&I Committee will hold a meeting on August 26, 2022. The PDC Bank will hold a virtual meeting on August 24, 2022. She noted that the Bank's rules are set to expire and the Bank Board must meet to re-adopt its rules.

Acting ED Grogan provided an update on other matters:

- The PDC Bank is in the process of preparing its annual report. Former Commissioner Paul Galletta has chosen to participate in the PDC Program and recently severed credits from his farm in Atlantic County.
- The Kirkwood-Cohansey rules were submitted to the Office of Administrative Law (OAL) and will be published in the New Jersey Register on September 6, 2022, followed by a public hearing in October.

Acting ED Grogan introduced two new staff members that began working at the Commission in July. Johnny Paoline is a new Information Specialist, and he will perform a variety of functions in the Information Systems office. Charleen Cruz was hired to serve as the Commission's new Human Resources Manager.

Chuck Horner, Director of Regulatory Programs, provided information on the following regulatory matters:

- On July 13th, staff met with representatives of the New Jersey Department of Environmental Protection's (NJDEP) Forest Service and Forest Fire Service to discuss two applications from the summer of 2021. One application proposed the spot treatment of herbicide treatment to control invasive species at the Bass River Fire Tower. The other application proposed a 13-mile fuel break and 1,300 acres of forestry activities in Wharton State Forest. Neither application received eight votes to approve or deny. Different application approaches were discussed during the meeting. The NJDEP did raise concerns about fire safety after fighting numerous fires in Wharton State Forest earlier this summer. A pre-application conference is scheduled for next week and one or both applications may be before the Commission for action this fall.
- Earlier this year, the Commission certified a Tabernacle Township ordinance to allow for solar energy facilities. The Commission will be issuing a Certificate of Filing for an 11-acre solar facility application.

As noted in the July Management Report, staff members are reviewing two different applications for cannabis grow facilities and processing facilities.

- A coordination meeting has been scheduled with the New Jersey Department of Transportation (DOT) to discuss if any new measures such as DOT permission need to be put in place when an applicant is proposing development in a DOT right-of-way (ROW). The Commission has seen a recent uptick in development applications in DOT ROWs proposing signage, parking lots and utility extensions.

Commissioner Lohbauer suggested that at the next meeting with NJDEP Forest Fire Service, staff reiterate his objections to the use of glyphosate and concerns about ongoing snake studies in the vicinity of the proposed fuel break.

Commissioner Avery said he would like an assurance that when development occurs in a DOT ROW, no violation of a typical design section occurs. He said each state highway has a designated typical design section and permanent encroachments, other than signs, should not be permitted. He said the typical design section is adopted through a public process and if they are not adhered to, road improvements are much more costly.

Paul Leakan, Communications Officer, provided an update on the following:

- The 6th Annual Pinelands Summer Short Course was held on July 21st, and it was a success. He said 100% of the attendees who responded to the online, event evaluation survey said they would return next year. Staff is looking to hold the event on a Friday next year to generate more attendees.
- The Pinelands Orientation for Newly Elected Official was held on July 26th. Staff delivered three presentations, which can be viewed on the Commission's YouTube channel.
- Channel 6 Action News filmed a segment about the Jersey Devil in our exhibit area on August 11th. Mr. Leakan said he was interviewed during the segment, which will air closer to Halloween.

Public Development Projects and Other Permit Matters

Chair Matos introduced a resolution for the creation of a grassland conservation and management area on a parcel in Atlantic County.

Commissioner Irick made a motion Approving With Conditions an Application for Public Development (Application Number 1984-1078.008) (See Resolution # PC4-22-27). Commissioner Pikolycky seconded the motion.

Ernest Deman of the Regulatory Programs office displayed an aerial of the site. He said the parcel is located in Hamilton Township, not far from the Atlantic City Expressway. He said South Jersey Transportation Authority (SJTA) was required by the amended Memorandum of Agreement to create 62 acres of critical habitat for two endangered bird species. He said structures from the parcel have already been removed. He noted that a good portion of the grassland management area is already grass habitat but a number of trees need to be

removed from other areas. Some phragmites will be controlled and additional grassland planting will occur. The actual area seen outlined in red is 102 acres because the two bird species will not utilize habitat within 50 meters of a forest or tall structure.

Commissioner Lohbauer asked about the status of the frosted elfin butterfly habitat at the airport.

Stacey Roth, Chief, Legal & Legislative Affairs said SJTA has planted 9,000 wild indigo plants adjacent to the existing frosted elfin butterfly colony. She noted that it may be necessary for the United States Department of Agriculture biologists to hand carry the butterflies over to the new colony to get it acclimated.

The resolution was adopted by a vote of 9 to 0.

Chair Matos introduced a resolution for the construction of a twelve-space municipal parking lot in the Town of Hammonton.

Commissioner Irick made a motion Approving With Conditions an Application for Public Development (Application Number 1986-0944.008) (See Resolution # PC4-22-28). Commissioner Lohbauer seconded the motion.

Director Horner noted that the parking lot will be adjacent to the municipal building.

The resolution was adopted by a vote of 9 to 0.

Chair Matos introduced a resolution for the reconstruction of the existing main spillway at the Lake Lenape Dam.

Commissioner Irick made a motion Approving With Conditions an Application for Public Development and Certificate of Appropriateness (Application Number 1990-0421.015) (See Resolution # PC4-22-29). Commissioner Lohbauer seconded the motion.

Director Horner said the Commission approved an application for the reconstruction of a secondary spillway associated with a former powerhouse a few months ago. He said the secondary spillway will be used as a temporary dam during the construction of the dam associated with this application.

Staff worked diligently with Atlantic County officials and NJDEP staff on the required freshwater wetlands general permit.

The resolution was adopted by a vote of 8 to 0. Commissioner Meade abstained from the vote.

Planning Matters

Chair Matos introduced a resolution related to a Pemberton Township Ordinance and Redevelopment Plan.

Commissioner Pikolycky made a motion Issuing an Order to Certify Pemberton Township Ordinance 11-2022, Adopting the Lakehurst Road Redevelopment Plan. Commissioner Lohbauer seconded the motion.

Acting ED Grogan said the ordinance and redevelopment plan were discussed at length at last month's P&I Committee meeting. She said the redevelopment plan will permit a maximum of 575 age-restricted homes, which will all be constructed in the Regional Growth Area (RGA). She said the plan also includes a large portion of the Forest Area that will remain as open space. The redevelopment plan includes an open space requirement, a PDC requirement and an affordable housing requirement. She said this is an improved and simplified version of a 30-year-old zoning ordinance that never functioned. She said the number of units has decreased, as has the PDC obligation, and both are more realistic for the development to come to fruition and for PDCs to actually be redeemed.

She said another requirement of the plan is that all development must be designed to maximize passive solar heat gain. She said homeowners will have the option to install rooftop solar where appropriate. She added that she hopes to see other municipalities include similar energy efficiency requirements.

Commissioner Irick said he would be abstaining from the vote because he has concerns about the loss of trees associated with the development. He also said that PDCs are very important to Atlantic County and this application reduced the number of PDCs to be used. He said he would like to see other portions of Pemberton Township's RGA pick up the lost PDC opportunity caused by the redevelopment plan.

Acting ED Grogan offered some clarification related to PDCs in Pemberton Township and said staff remains comfortable that the redevelopment plan is consistent with the CMP. She said over the past 10 years Pemberton Township has adopted new RGA zoning and redevelopment plans that permit new housing and new PDC opportunities. An example is the old Rowan College at Burlington County site. She did note that the PDCs have not been replaced for a 1-to-1 ratio. She said 30 years ago the only opportunity for PDCs in Pemberton Township was the site subject of the redevelopment plan. It wasn't equitable or realistic. She said PDCs have been reduced as part of the redevelopment plan but the likelihood of PDCs being purchased by the developer and PDCs being redeemed at the site has increased.

She said the old zoning allowed for cluster development on the 300 acres in the Forest Area. Under the redevelopment plan, it will remain open space.

Commissioner Irick said his understanding is that some of the lost PDCs on this site have been picked up in other areas of Pemberton Township.

Acting ED Grogan said yes, some of the PDCs have been accommodated through the adoption of other redevelopment plans. She said it's important to note that PDCs are a

mandatory requirement in these other redevelopment plans, just as they would be in the new Lakehurst Road Redevelopment Area.

Commissioner Lettman said she will be abstaining due to the loss of PDCs. She would have liked to have seen tables in the report related to potential PDC loss.

Acting ED Grogan said it's important that staff understand the precise concerns of Commissioners in order to gather the necessary information to share at the next meeting.

Commissioner Irick asked if the ordinance and redevelopment plan could be tabled today. He asked if staff could request that Pemberton Township increase PDC use at the redevelopment site.

Acting ED Grogan said that if the Commission voted to require such a change, that would be conveyed to the Township. She said the ordinance amendment and certification process would then need to be restarted. She noted that the PDC requirement in the redevelopment plan calls for 25% of 575 units. Staff continues to believe the PDC requirements in the redevelopment plan are consistent with the CMP.

Commissioner McCurry said that based on the discussion, he is not prepared to vote on the matter.

Acting ED Grogan asked Commissioners to please provide their questions in advance of the August 26th P&I Committee meeting. She said there are very specific timelines that are defined in the CMP for review and action on municipal ordinances. She said staff will prepare a chart to show the PDC calculation comparing the old and new zoning. She said the chart will show a decrease in PDC opportunities. She again emphasized that the PDC numbers associated with the old zoning were neither mandatory nor realistic. The new redevelopment plan requires significant PDC use at a more realistic level.

Commissioner Lohbauer asked if there is a developer for the site.

Acting ED Grogan confirmed that the Township has been working with a specific redeveloper.

Commissioner Lohbauer requested that the following questions be addressed at the August P&I Committee meeting. He asked for confirmation that there is adequate water and sewer to serve the development. He asked if there are any traffic studies that Commissioners should be aware of. Lastly, he asked about the secondary access road, if it is proposed in an open space portion of the site and if any trees would need to be cut down.

Commissioner Avery said it's important to note that the PDC program was strictly voluntary 30 years ago, and there was no guarantee that a developer would choose to increase density through the use PDCs. He said he supports the mandatory use of PDCs through redevelopment plans. He said this redevelopment plan will result in the purchase of PDCs, and that is necessary for the PDC program to work and will ultimately lead to the redemption of PDCs in Pemberton Township.

Acting ED Grogan said the PDC Bank Annual Report will demonstrate Commissioner Avery's point. The PDC program has become more successful and active through the mandatory PDC obligations defined in redevelopment plans.

Acting ED Grogan responded to Commissioner Lohbauer's questions. She said this is an actual, previously approved project and the developer has been working with the town for a number of years. She said staff will confirm the availability of water and sewer supply. She said the Township may require traffic studies. She said the access road is not something that is required by the Commission, but should it ever be developed, all CMP environmental standards would apply.

Acting ED Grogan stated that based on the discussion, there were not enough votes in favor of the Pemberton Township Ordinance and Redevelopment plan. The matter will be placed on the September 9th Commission meeting agenda for action. Staff will provide additional details regarding PDC opportunities in other portions of Pemberton Township's RGA at the August P&I Committee meeting. Chair Matos requested that if Commissioners have questions related to the redevelopment plan, they should reach out prior to the August P&I Committee meeting. A vote on the matter was not called.

Chair Matos introduced a resolution regarding the Red Lion Diner Redevelopment Plan.

Commissioner Lohbauer made a motion Issuing an Order to Certify Southampton Township Ordinance 2022-05, Adopting the Redevelopment Plan for the Red Lion Diner Redevelopment Area (See Resolution # PC4-22-30). Commissioner Irick seconded the motion.

Acting ED Grogan said this redevelopment plans consists of a 20-acre area in Southampton Township's Rural Development Area (RDA) along Route 70. The development will consist of the expansion of the Red Lion Diner and unknown commercial development on the adjacent two lots, all of which are located in the Highway Commercial Zone. All of the development is contingent on the replacement of the existing septic system with the use of an advanced wastewater treatment system, which will improve water quality significantly. She noted that because this plan is slightly modified from what the CMP permits, the redeveloper must identify and preserve other lands in Southampton's RDA. A deed restriction on those lands must be in place before any development can occur.

Acting ED Grogan said the redevelopment plan will improve water quality, direct commercial development along the circle and includes a land preservation component. Staff have been working with the town for a number of years and are recommending approval.

Commissioner McCurry said he would be abstaining because the future commercial businesses at the site have not been determined.

The resolution was adopted by a vote of 8 to 0. Commissioner McCurry abstained.

Commissioner McCurry left the meeting at 10:38 a.m.

Public Comment on Development Applications and Items Where the Record is Open

Chair Matos read the list of Public Development and Waiver of Strict Compliance applications.

No one from the public provided comment.

Ordinances Not Requiring Commission Action

Acting ED Grogan read the list of Ordinances not requiring Commission action.

Commissioners did not raise any questions.

Presentation- Brotherton Reservation

Tony McNichol, a Commission Cultural Resources Planner, delivered a presentation on archaeological investigations at a portion of the 18th century Brotherton Reservation site in Shamong Township. The PowerPoint presentation and accompanying lecture provided a historic context for the establishment (and subsequent abandonment) of the reservation. In addition, Mr. McNichol provided details about a ground penetrating radar survey that was conducted at the site in late 2018, as well as preliminary trenching within areas of archaeological sensitivity in late April 2022. (See attached presentation slides.)

General Public Comment

Daniel Hornickel, who is the Pemberton Township Business Administrator, said the 2008 recession halted the development of the Lakehurst residential project. He said the town spent a lot of time working on the redevelopment plan and it's a shame it was not approved. He said Pemberton Township does not have any housing complexes dedicated to senior citizens. He said the Township recently met with the New Jersey Forest Fire Service to discuss the use of smart materials and fire breaks at the redevelopment site.

He said Pemberton Township supports Pinelands initiatives, but the wetlands encompass approximately 4,000 acres of Pemberton and when you add in the wetlands buffer, it becomes difficult to develop. He noted that the Commission's definition of wetlands is broader than NJDEP's. He suggested the Commission permit buffer averaging in the Regional Growth Area so that smart growth can occur. He said Pemberton Township needs handicap-accessible trails for the hundreds of disabled veterans who live in the municipality. He expressed frustration with attempting to get things done in Pemberton Township as a result of the Commission's regulations.

Shaun Giberson of Berlin Borough said he was seeking assistance with changing the zoning on a parcel along the White Horse Pike to preclude the development of a Dollar General store.

Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Irick seconded the motion. The Commission agreed to adjourn at 11:50 a.m.

Certified as true and correct:



Date: August 19, 2022



“PRELIMINARY
ARCHAEOLOGICAL
TRENCHING AT A
PORTION OF THE
BROTHERTON SITE”

An Eighteenth
and Early
Nineteenth
Century Lenape
Community in
Shamong
Township,
Burlington County

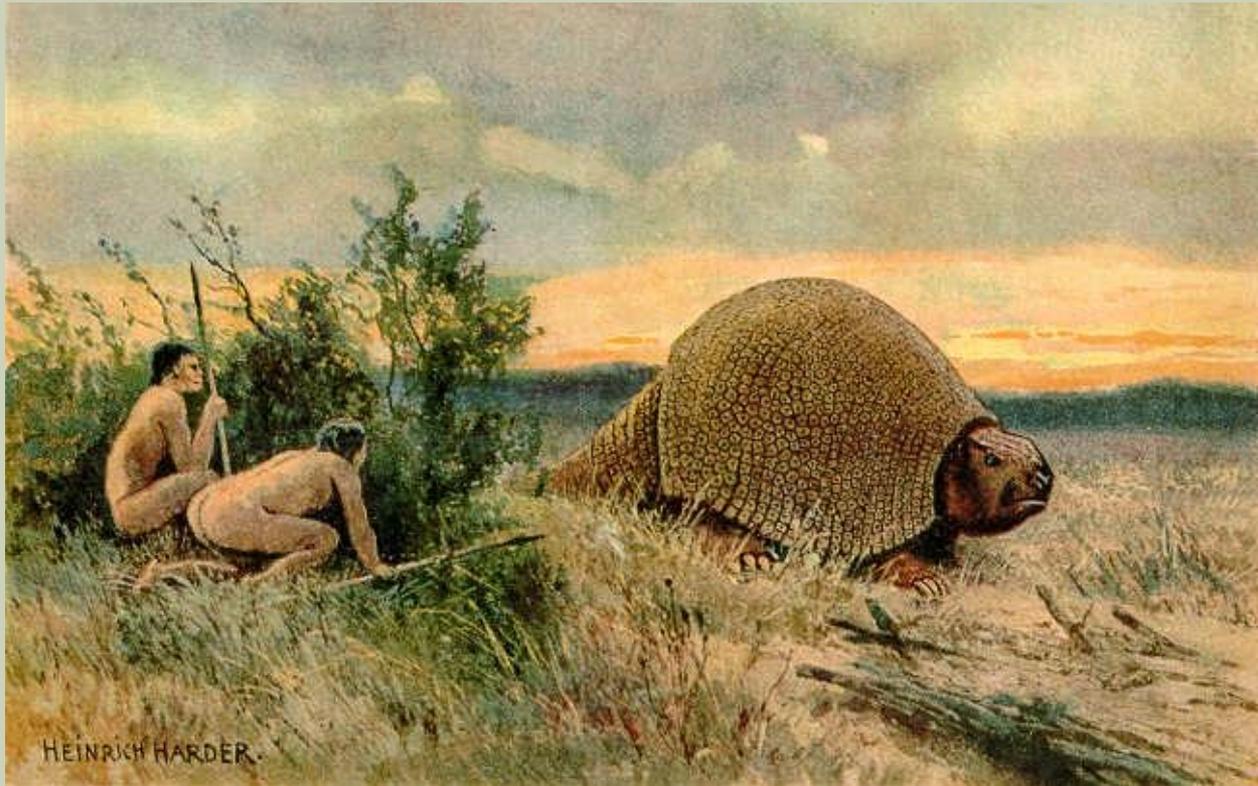
NEW JERSEY PREHISTORIC CHRONOLOGY

- **Paleo-Indian (12,000BP-8,000BP)**
- **Archaic Period (8,000BP-3,000BP) Early, Middle and Late**
- **Woodland (3,000BP-500BP) Early, Middle and Late**
- **Contact Period (European Encounters Increase In Frequency and Duration)**

'FLUTED' PALEO-INDIAN PROJECTILE POINT-NEW JERSEY SHORE



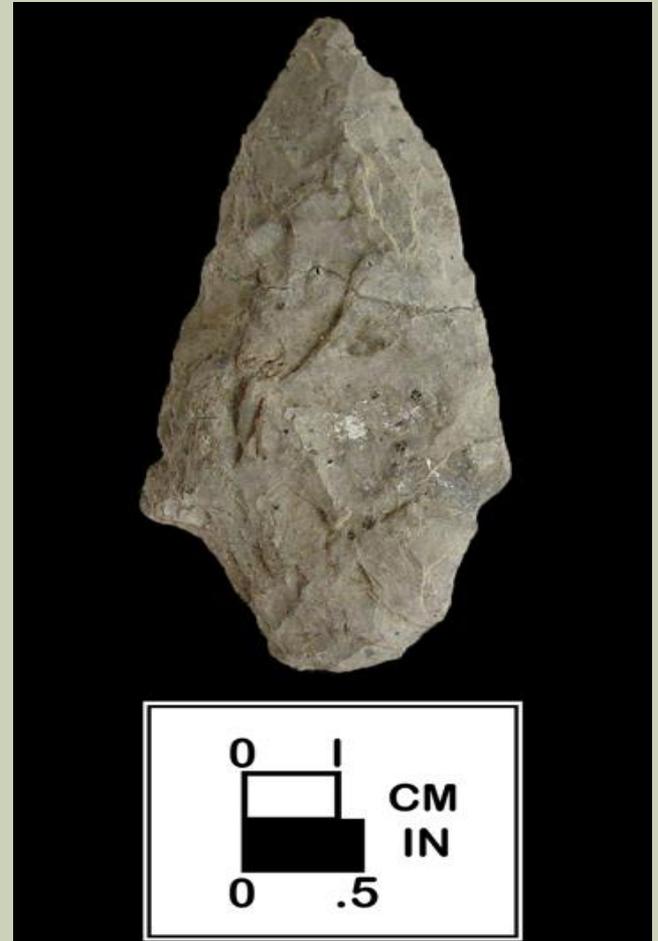
PALEO-INDIAN BIG GAME HUNTING



VERA CRUZ JASPER BOULDER/EMMAUS, PA



SOAPSTONE (STEATITE) VESSELS AND BROADSPEAR POINTS



LATE WOODLAND CERAMICS AND LEVANNA POINTS



GIOVANNI DA VERRAZZANO



DUTCH MASSACRE OF LENAPE AT HOBOKEN



MASSACRE OF INDIANS AT HOBOKEN.

THE GREAT AWAKENING-1730'S-1740'S



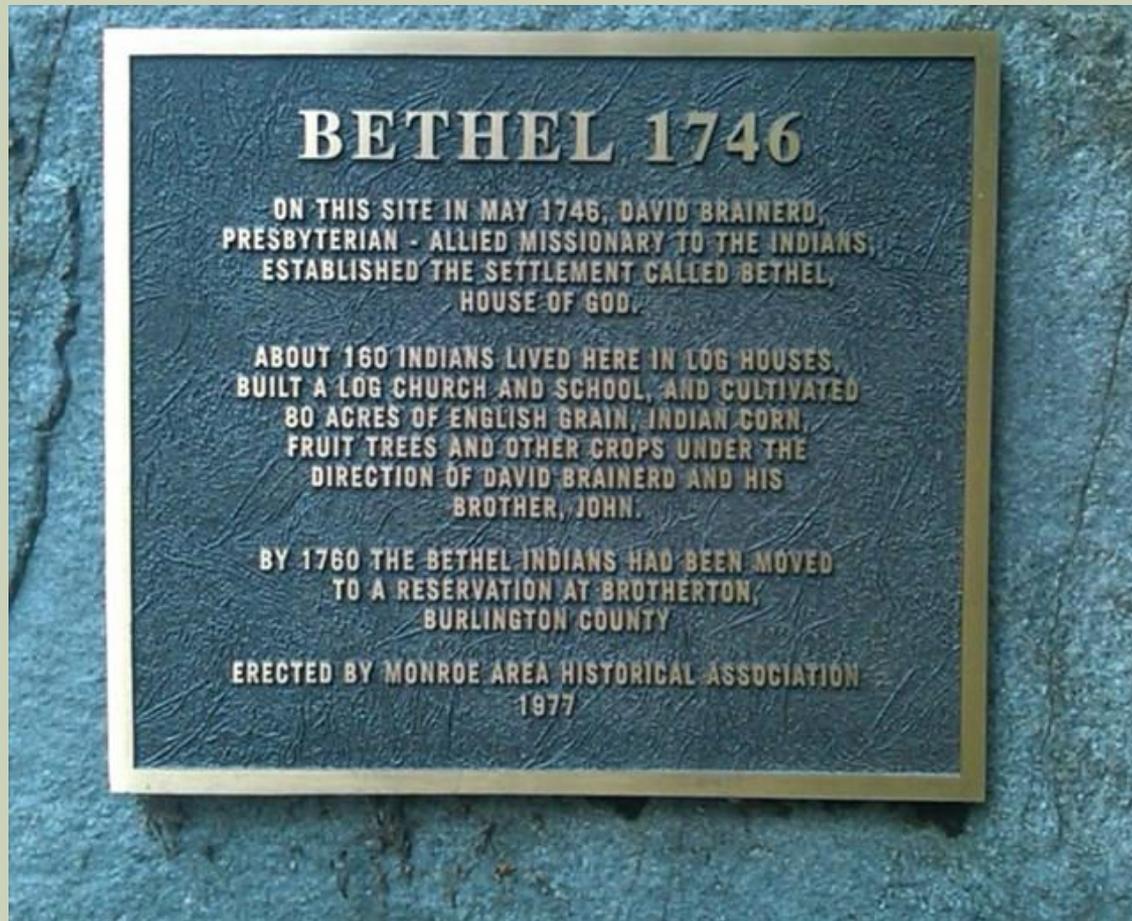
DAVID BRAINERD-1718-1747



DAVID BRAINERD MINISTERING TO THE MAHICAN



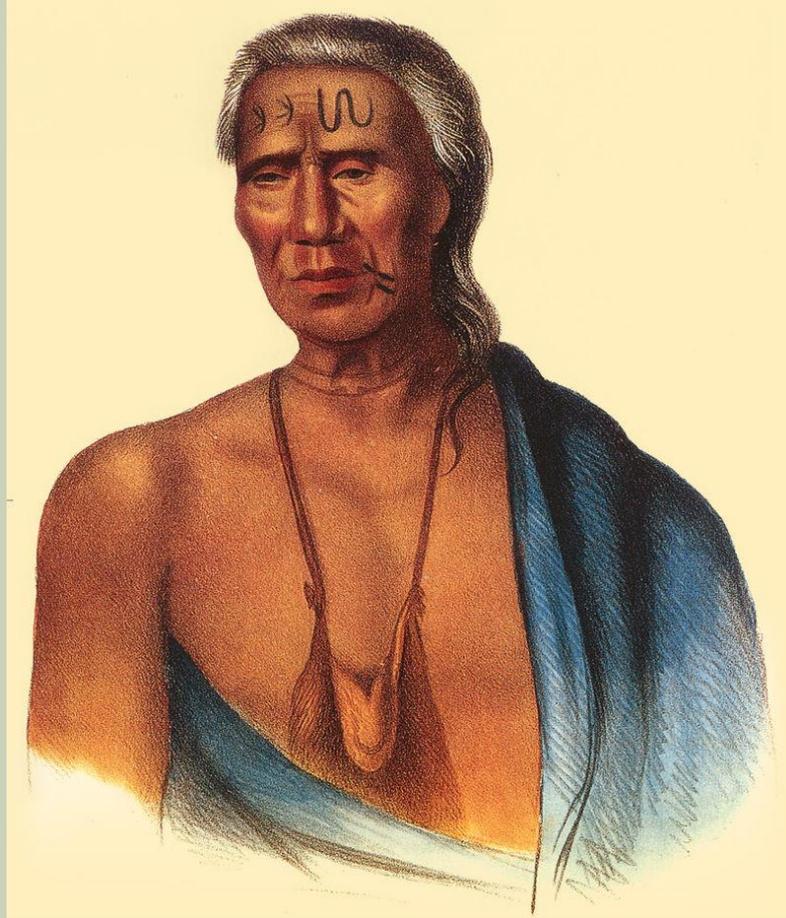
COMMEMORATIVE PLAQUE AT THE SITE OF THE INDIAN TOWN, BETHEL



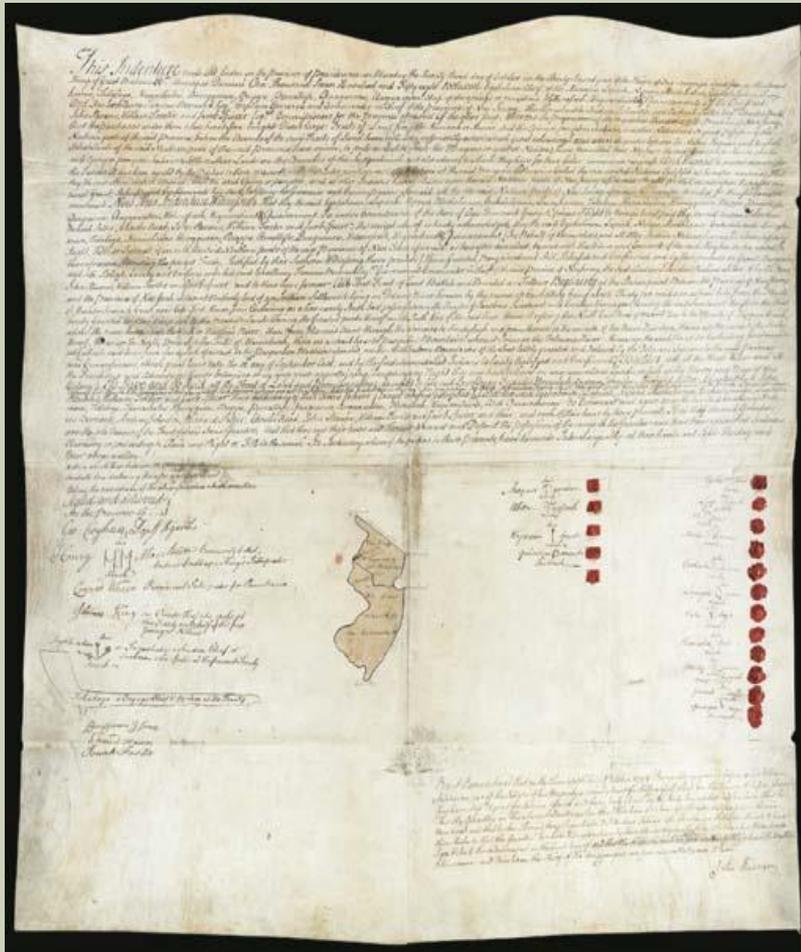
FRENCH AND INDIAN WAR/SEVEN YEARS WAR-1754-1763



LAPOWINSA-LENAPE CHIEF/GUSTAVUS HESSELIUS 1735



THE TREATY OF EASTON-1758



ORIGINAL SURVEY MAP OF BROTHERTON RESERVATION-1759



LEAVING BROTHERTON FOR STOCKBRIDGE



FEDERALLY RECOGNIZED LENAPE GROUPS

- Delaware Nation-Anadarko- Oklahoma
- Delaware Tribe of Indians- Bartlesville, Oklahoma
- Stockbridge Munsee Community- Bowler, Wisconsin



Because of the importance of this site to the Lenape, the Commission reached out to tribal representatives to ensure their participation in any decision-making vis a vis identification and testing strategies proposed on the parcel.

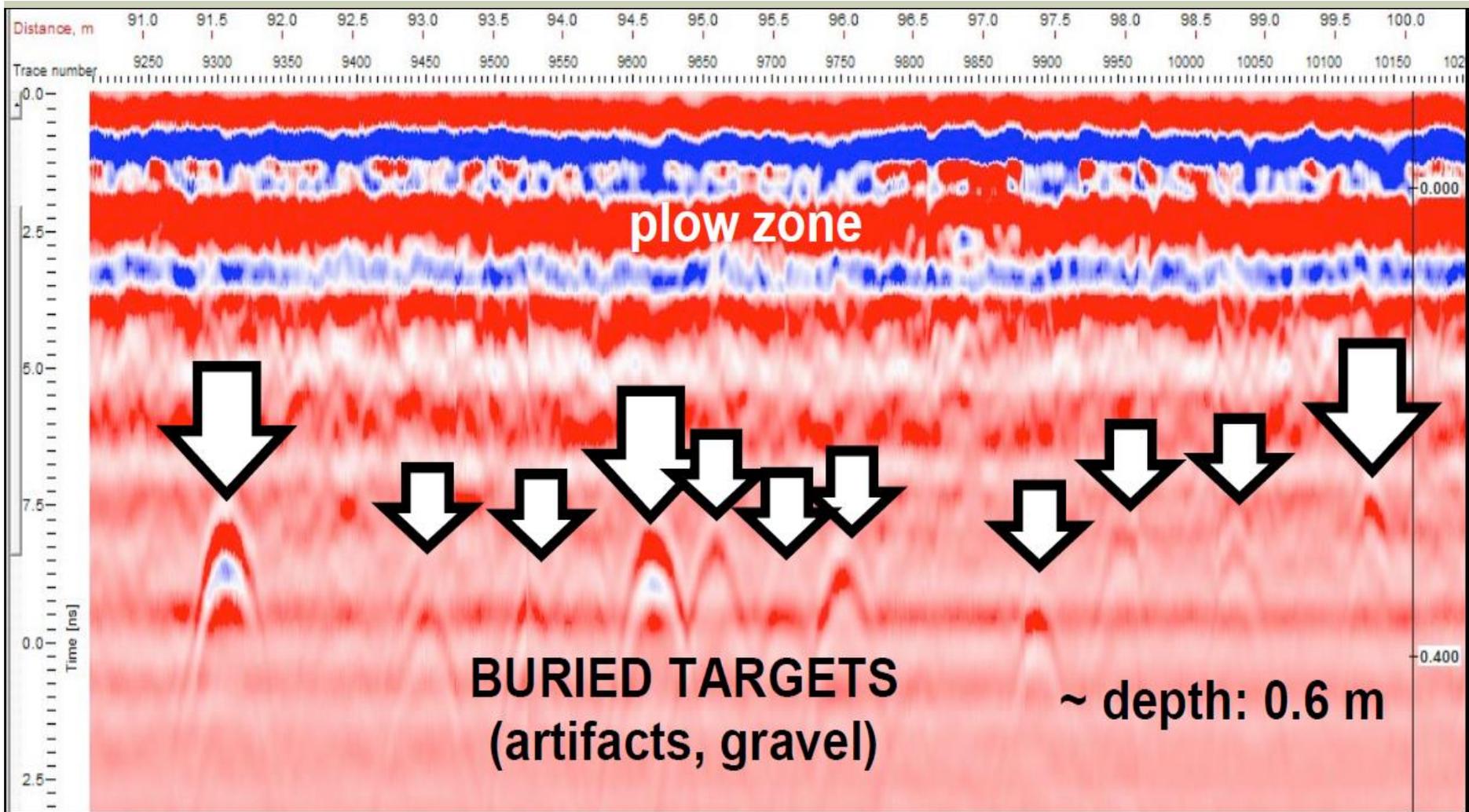
ARRANGEMENT OF CABIN LOTS EXTRAPOLATED FROM 18TH CENTURY SURVEY



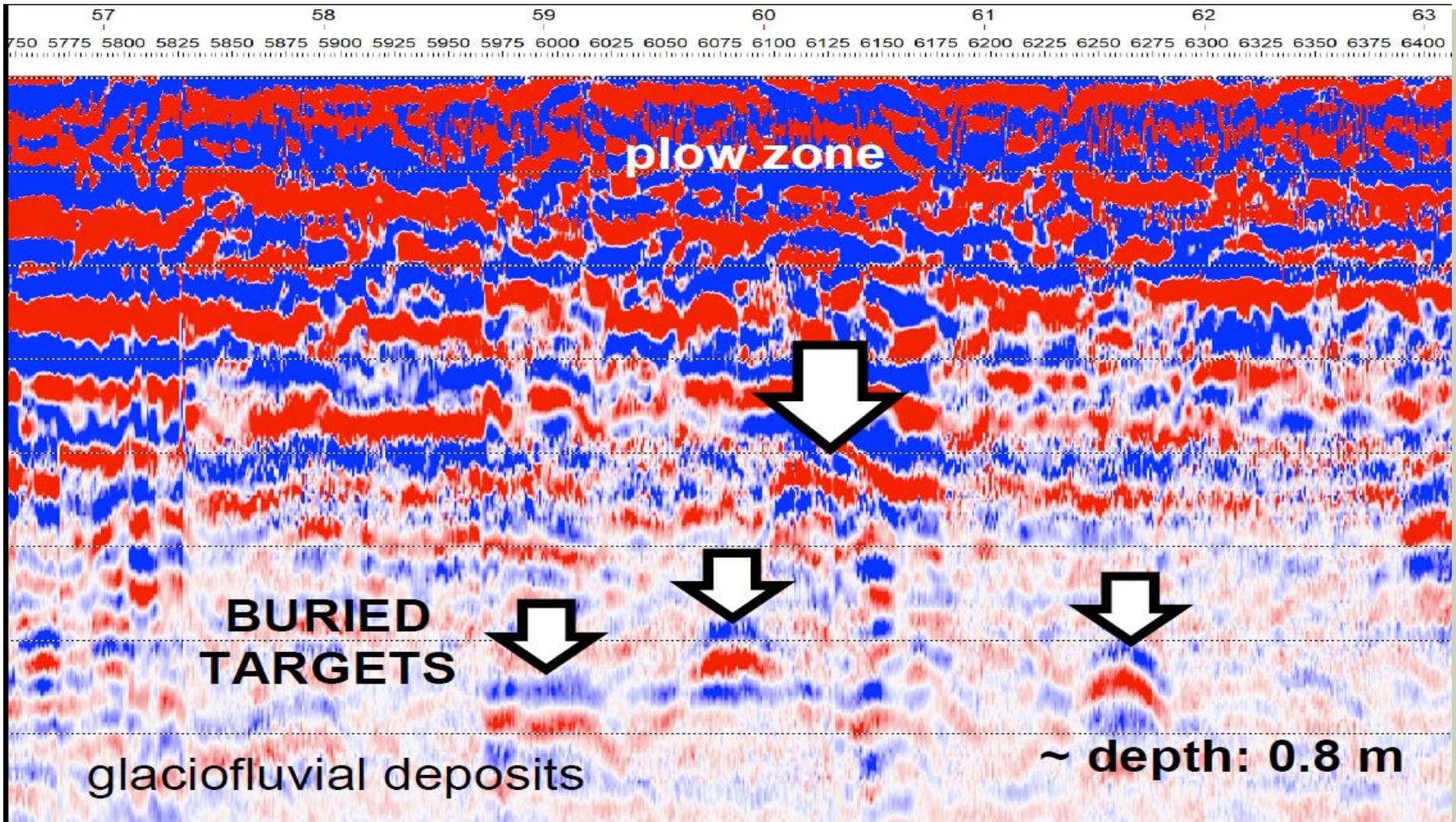
GPR WORK AT BROTHERTON



SUBSURFACE HYPERBOLA-NE FIELD



SUBSURFACE HYPERBOLA-SE FIELD



BROTHERTON PARCEL-VIEW WEST



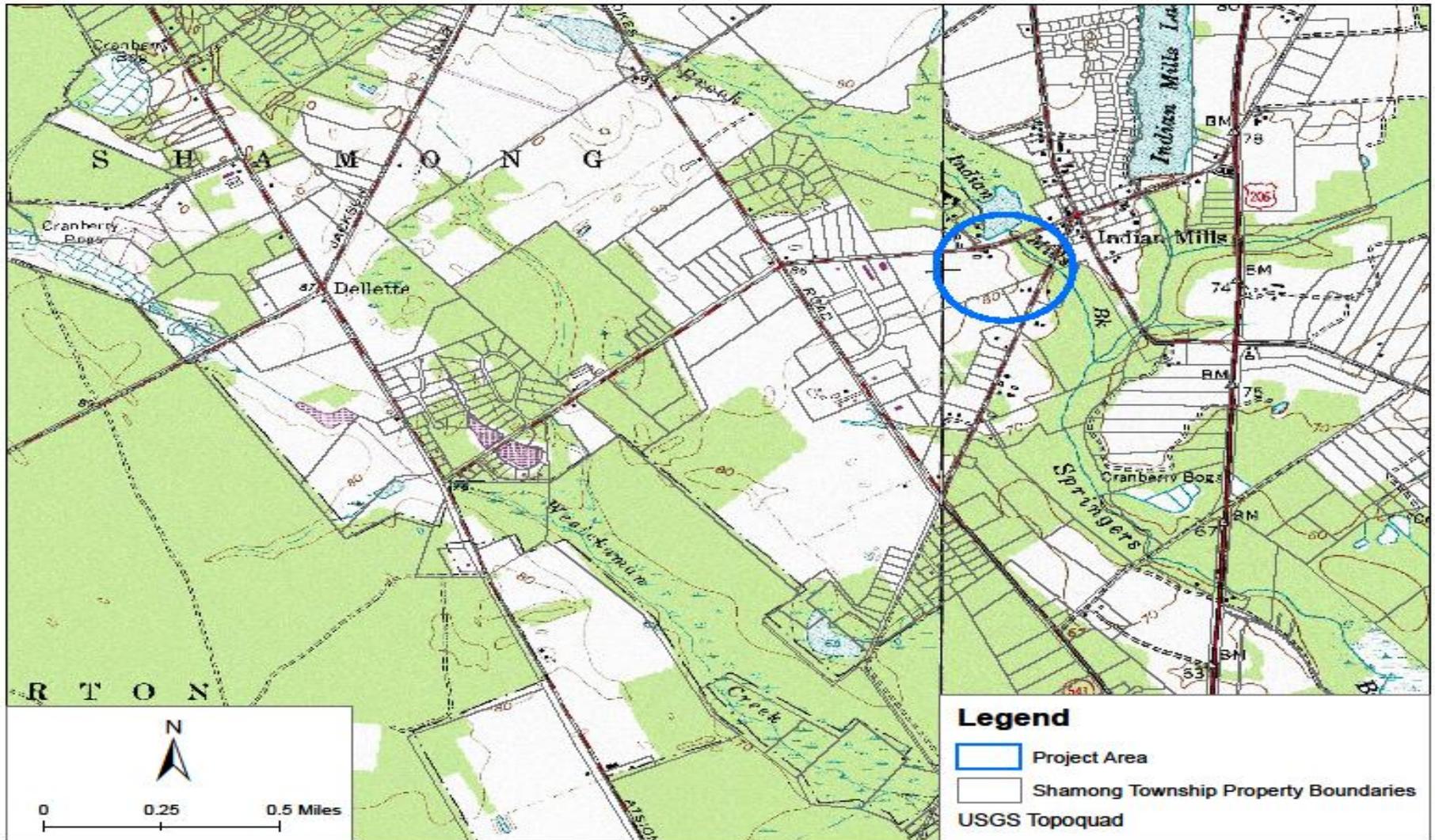
GPR ANOMALY MARKERS



SUNSET AT THE PROJECT AREA



PROJECT AREA-GENERAL LOCATION



LOCATION OF TEST TRENCHES 1-6



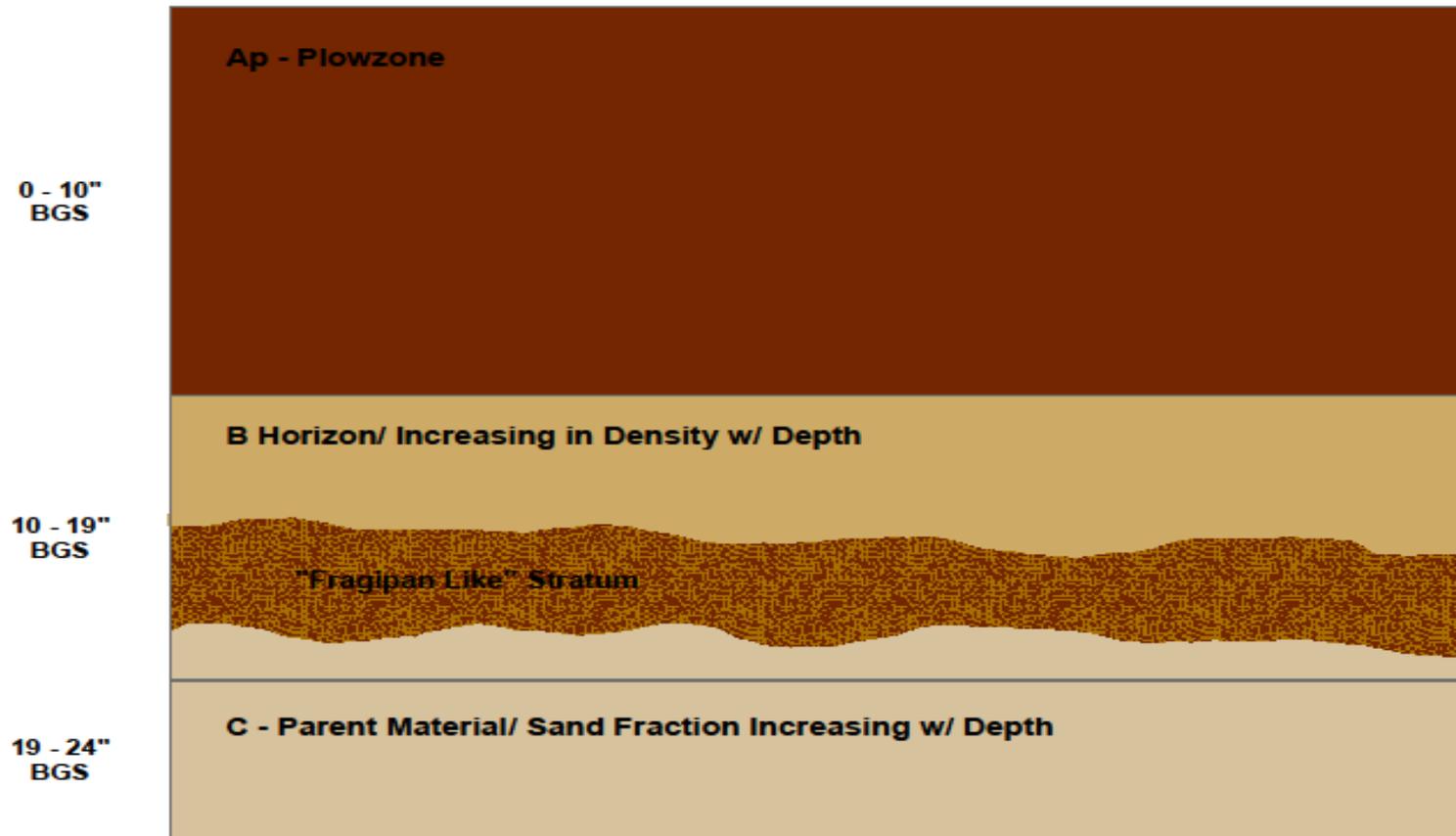
INDIAN MILLS ELEMENTARY SCHOOL



INDIAN MILLS ELEMENTARY SCHOOL



GENERALIZED SITE SOIL PROFILE



Generalized Soil Profile for Trenches 1 - 6

OLD WIZENED DATUM TREE



REBAR SITE DATUM



SPRINGERS BROOK



SITE FENCING AND TRENCHING AREA



BACKHOE WITH FLAT BLADE



TRENCH 3-OPENING EXCAVATION



TRENCH 3-PLOWZONE REMOVAL



TRENCHES 1-3 IN PROGRESS



TRENCH 6-IN FARM ROAD SOUTH



TRENCH 6-INITIAL EXCAVATION



FEATURE 4-INITIAL DISCOVERY



TRENCH 2-IN PROGRESS



TRENCH 2-FEATURE 3



MAPPING IN FEATURES



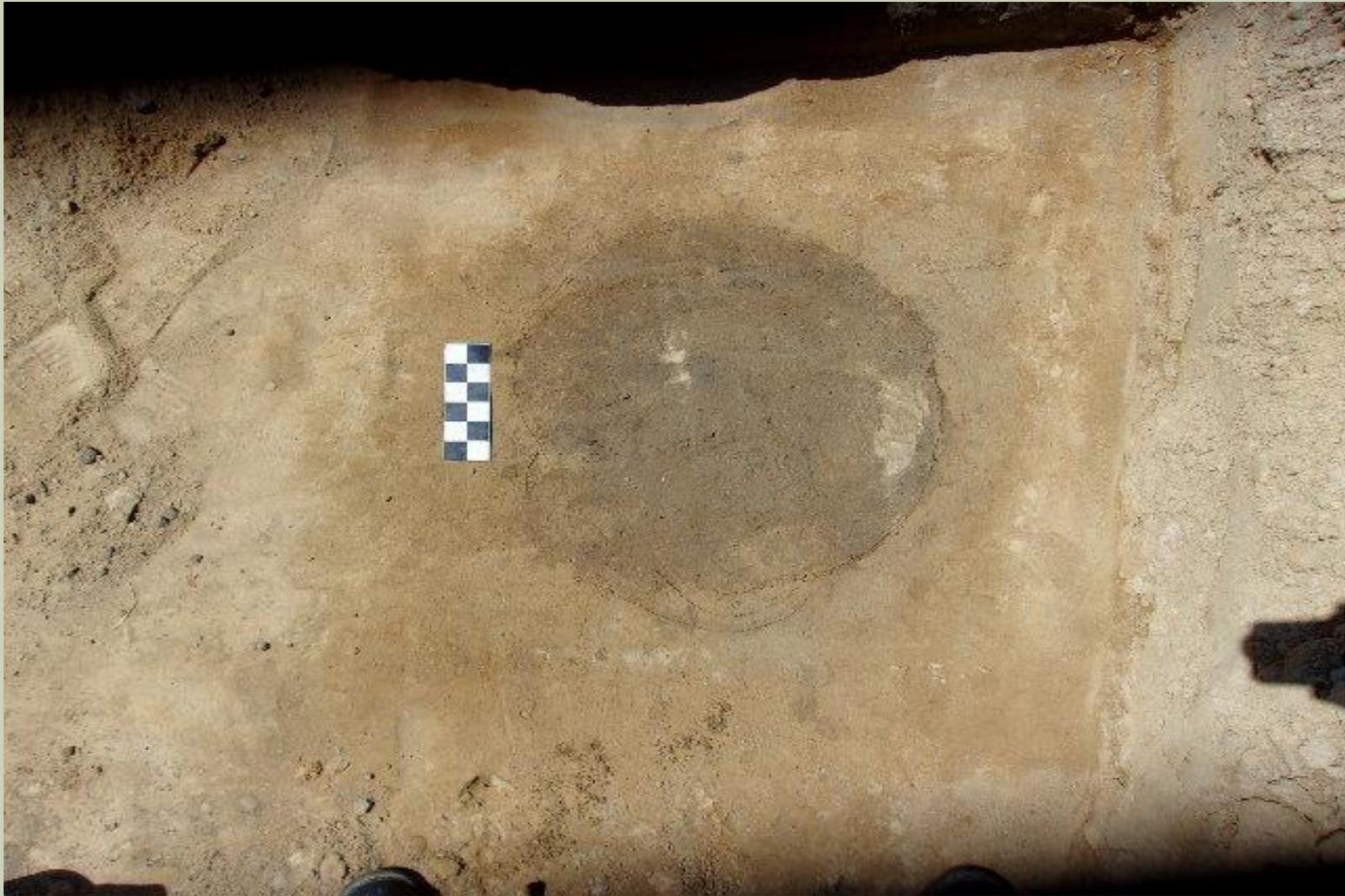
TRENCH 1-FEATURE 1



TRENCH 2-FEATURE 2



TRENCH 2-FEATURE 2



STRUCTURAL STAIN-ST. AUGUSTINE FLA.



TRENCH 2-FEATURE 3



TRENCH 5-FEATURE 4



TRENCH 5-FEATURE 4



MY FIELD BAG AS IRONIC STATEMENT ON EXISTENTIAL ENNUI AND CLOSURE



BACKFILLING OF TRENCHES

