

August 1, 2023

City of Cartersville
Dan Porta, City Manager
330 S. Erwin St
Cartersville, Georgia 30120

RE: **PI# 0016628**

Grassdale Rd from SR 293 to SR3/SR20

Mr. Porta,

Attached is the Relocation Agreement between Georgia Power Company and City of Cartersville for the above referenced project.

Please sign and return to the email address below:

mrkimber@southernco.com

After it has been executed by Georgia Power Company, we will email you a copy.

Both the total estimated cost for relocation and the Payment Amount are valid only for a period of one (1) year following the date set forth on the enclosed estimate. Further, Georgia Power will not commence any work unless, the City executes and returns the enclosed Relocation Agreement and authorizes commencement of the work. Work must commence within 6 months of the executed relocation agreement.

If you have any questions, please contact Scott McCarley at (404) 971-0801.

Sincerely,

Monica R. Kimber

mrkimber@southernco.com

Attachments

Please sign the agreement and send the electronic copy to the email address below:

Monica R. Kimber (mrkimber@southernco.com)

After agreements have been executed by Georgia Power Company, we will email a copy to you for your records.

Please remit any payments to the address below:

Georgia Power Company

96 Annex

Atlanta, GA 30396-0001

(Attn: Ayannes Stodghill)

Please reference invoice and or PI# number on check.

UTILITY RELOCATION AGREEMENT

PROJECT NAME:	Grassdale Rd from SR 293 to SR3/SR20
PROJECT NUMBE	ER:0016628
GDOT PROJECT N	NUMBER: LOCAL LET

THIS AGREEMENT is made and entered into as of the ____day of _____, 20___, by and between CITY of CARTERSVILLE, State of Georgia (hereinafter referred to as the "<u>City</u>"), and **GEORGIA POWER COMPANY** (hereinafter referred to as the "<u>Company</u>"). This Agreement may refer to either City or Company, or both, as a "Party" or "Parties."

WITNESSETH:

WHEREAS, the City proposes under the above written Project to construct Grassdale Rd from SR 293 to SR3/SR20 (hereinafter referred to as the "Project"); and

WHEREAS, due to the construction of the Project, it will become necessary for the Company to remove, relocate or make certain adjustments to the Company's existing facilities (such facilities, including but not limited to overhead and underground electric transmission, distribution and communication lines, towers, frames, poles, facilities, wires, transformers, service pedestals, apparatus, manholes, conduits, fixtures, appliances, cables, protective wires and devices all being hereinafter referred to collectively as the "Facilities" or individually as the "Facility"); and

WHEREAS, the Company, as hereinafter provided, may assert that it has certain property interests and rights and utilized such property interests and rights for the placement of its Facilities prior in time to City's acquisition of the road right(s)-of-way, all as involved in said Project; and

NOW, THEREFORE, in consideration of the promises and the mutual covenants of the Parties hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

Section 1 THE WORK

1.1 <u>Company Facilities</u>

Company, with its regular construction or maintenance crews and personnel, at its standard schedule of wages and working hours (as may be applicable from time to time during the term of this Agreement), and working in accordance with the terms of its agreements with such employees, will remove, relocate or make adjustments to its Facilities in accordance with the scope of work and Estimate (defined below) attached hereto as <a href="Exhibit "A" and incorporated herein by reference (the "Work"). Company shall make all technical decisions concerning the Work and may elect to contract any portion of the Work.

1.2 **Road Right-of-Way**

Prior to Company commencing the Work, City will provide written assurances to Company that it has acquired the necessary new road right-of-way (including information on the property rights acquired).

1.3 **Traffic Control**

Company shall make a reasonable effort to provide signing and other traffic control measures during the Work, in accordance with PART VI of the U. S. Department of Transportation Manual on Uniform Traffic Control Devices, current edition, all at the expense of the City.

Section 2 COSTS AND PAYMENT

2.1 Compensable Property Interests

Company shall perform the Work in accordance with the estimate attached hereto as Exhibit "A" and incorporated herein by reference (the "Total Estimate"). The total amount of the Total Estimate is TWO HUNDRED FIFTY THOUSAND, NINE HUNDRED SIXTY-SEVEN Dollars (\$250,967.00). The amount of the Total Estimate that corresponds to Company's claim that it has compensable property interests with respect to the Project (the "Reimbursement Claim") is ONE HUNDRED NINETY THOUSAND, ONE HUNDRED FIVE Dollars (\$190,105.00), otherwise reflected as seventy-five and seventy-five hundredths percent (75.75%) of the Total Estimate. The Reimbursement Claim is limited to: (a) the costs of removing, relocating or adjusting those Facilities which are physically in place and in conflict with the proposed construction and/or maintenance; (b) where replacement is necessary, the costs of replacement in kind, and any improvements or betterments made necessary by the proposed construction and/or maintenance; and (c) the costs incurred in acquiring additional easements or private rights-of-way, including without limitation easements for lines, access, tree trimming, guy wires, anchors and other devices, appliances and other equipment, and any and all other such easements and property rights as may be reasonably necessary for the Company's installation, operation and maintenance of its Facilities (collectively, the "Relocation Costs").

The cost of any improvements or betterments that are not made necessary by the proposed construction or maintenance shall not be subject to the percentage split contemplated above. Such costs shall be paid as follows: (a) the costs of any improvements or betterments of a Facility being made solely at Company's option (and not being made necessary by the proposed construction and/or maintenance) shall be fully paid by Company; and (b) the costs of any improvements or betterments of a Facility being made solely at City's request (and not being made necessary by the proposed construction and/or maintenance) shall be fully paid by City.

Upon completion by Company of the Work and subject to determination of Company's Prior Rights Claim in accordance with <u>Sections 3 and 4</u> below, City will pay Company a sum equal to the lesser of (a) ONE HUNDRED NINETY THOUSAND, ONE HUNDRED FIVE Dollars (\$190,105.00), otherwise reflected as **seventy-five and seventy-five hundredths percent** (75.75%) of the Total Estimate and representing the aforementioned Reimbursement Claim, or (b) the corresponding percentage of actual Relocation Costs representing Company's

compensable property interests with respect to the Project. City will also pay Company for the costs of any improvements or betterments of a Facility being made solely at City's request and not being made necessary by the proposed construction and/or maintenance.

2.2 **Progress Payments**

If Company chooses to submit invoices for progress payments, City will pay same within thirty (30) days from receipt of the invoice, subject to Verification (as defined below) thereof by the City. Upon completion of the Work, Company shall submit a final bill to City and City shall make a final payment within thirty (30) days from receipt of the final bill, subject to Verification thereof by the City.

2.3 **Change in Scope**

In the event there is a change in the Project, including without limitation a change in scope, design, plans, service, property interests to be acquired, engineering or costs, due to either (a) events or circumstances beyond Company's reasonable control, or (b) City's request, the Parties will negotiate in good faith a mutually acceptable agreement or amendment to this Agreement, in writing, to address such change and any increase in costs above those set forth in the Estimate.

Section 3 DETERMINATION OF COMPENSABLE PROPERTY INTEREST

- 3.1 If Company determines it has compensable property interests with respect to the Project, Company will submit a Reimbursement Claim. The Parties agree that they will in good faith share non-privileged information with each other related to the issue of prior rights for the Project. If City determines that Company's evidence is insufficient to make a determination as to Company's compensable property interests and the percentage of the Relocation Costs to be paid by Company based upon such compensable property interests, City will provide Company with a written basis for such insufficiency and request that Company provide additional information. City will make a determination as to any asserted Reimbursement Claim before the earlier of: (a) the date that is thirty (30) days after receipt of the Reimbursement Claim; and (b) the date on which Company needs to commence the Work in order to prevent a Project delay (the "Commencement Date").
- 3.2 In the event that a determination cannot reasonably be made prior to the Commencement Date, provided that City certifies in writing to Company that the Project is time-sensitive due to construction scheduling with the possibility of damages for delay, safety concerns, or critical funding deadlines, Company will commence the Work without a written determination having been made. In such case, the Party's rights, claims and defenses with regard to the issue of compensable property interests and prior rights will not be waived or affected in any manner. If City does not thereafter make a determination regarding the Reimbursement Claim within six (6) months from the date of City's receipt of same, the Reimbursement Claim will be deemed approved by City.

PI# 0016628 3

Section 4 DISPUTE RESOLUTION

4.1 **Disagreement**

If Company disagrees with City's determination with regard to the Reimbursement Claim and the Parties are unable to settle the issue through informal negotiations, then, at the request of either Party, the Parties agree to escalate the matter pursuant to <u>Section 4.2</u> below.

4.2 **Dispute Notice**

Except as otherwise set forth in this Agreement, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, will be settled: (a) first, by good faith efforts to reach mutual agreement of the Parties; and (b) second, if mutual agreement is not reached within thirty (30) calendar days of a written request by a Party to resolve the controversy or claim (the "Dispute Notice"), each of the Parties will appoint a designated representative who has authority to settle the dispute (or who has authority to recommend to the governing body of such Party a settlement of the dispute) and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives will meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, provided, however, that all reasonable requests for relevant information made by one Party to the other Party will be honored if such information is reasonably available. If within sixty (60) days after issuance of a Dispute Notice (a) the Parties are unable to resolve issues related to the dispute, or (b) City fails to approve any tentative agreement reached, the Parties agree to participate in confidential, non-binding mediation pursuant to Section 4.3 below, it being understood, however, that nothing herein will diminish or relieve either Party of its rights or obligations under this Section 4.

4.3 **Mediation**

If the Parties are unable to resolve a dispute through informal negotiations or pursuant to Section 4.2, the Parties agree to participate in confidential, non-binding mediation by an impartial, third party mediator mutually agreed upon by the Parties, at a mutually convenient location. The Parties agree that a potential mediator's experience in prior rights and real estate law will be relevant factors in selecting a mediator. In the event the Parties are unable to agree on a third party mediator within ninety (90) days of issuance of the Dispute Notice, each Party shall designate a mediation representative, and the two mediator representatives shall in good faith select a third party mediator. Each Party shall be responsible for its own attorneys' fees and expenses and for providing its own information and documentation applicable to the dispute to the mediator. All other agreed upon costs of the mediation will be apportioned equally to each Party. Any dispute not resolved by negotiation, escalation or mediation may then be submitted to a court of competent jurisdiction, and either Party may invoke any remedies at law or in Nothing contained herein, however, will preclude the Parties from first seeking temporary injunctive or other equitable relief. The Parties agree that any statute of limitations, equity or other time-based periods shall be tolled as of and from the date of the Dispute Notice until a complaint, if any, is filed.

Section 5 VERIFICATION

5.1 Material Discrepancy

For purposes of this <u>Section 5</u>, "<u>Verification</u>" means that City has reasonably determined that there is a material discrepancy between Company's invoiced charges and City's calculation of charges owed, which invoiced charges are subject to a bona fide dispute; provided, however, City agrees to provide the Company with written notice, including supporting documentation, illustrating the basis for such bona fide dispute, within sixty (60) days of receipt of the invoice in dispute. Should City fail to provide such documentation within the specified time period, City must pay the disputed amount. City must pay any undisputed portion of the invoice total within thirty (30) days after its receipt of the invoice. City must pay any disputed portion of the invoice total within thirty (30) days of the date the dispute is resolved, to the extent the dispute is resolved in favor of Company.

5.2 Audit

At any time within thirty-six (36) months after the date of final payment, City, at its sole expense, may audit the non-privileged cost records, support documentation and accounts of Company pertaining to this Project to solely assess the accuracy of the invoices submitted by Company and notify Company of any amount of any unallowable expenditure made in the final payment under this Agreement, or, if no unallowable expenditure is found, notify Company of that fact in writing. Any such audit will be conducted by representatives of City or, if applicable, the Georgia Department of Transportation or the Federal Highway Administration, after reasonable advance written notice to Company and during regular business hours at the offices of Company in a manner that does not unreasonably interfere with Company's business activities and subject to Company's reasonable security requirements. As a prerequisite to conducting such audit, City or, if applicable, the Georgia Department of Transportation or the Federal Highway Administration, will sign Company's Nondisclosure Agreement. Company may redact from its records provided to City information that is confidential and irrelevant to the purposes of the audit. Company will reasonably cooperate in any such audit, providing access to Company records that are reasonably necessary to enable City to test the accuracy of the invoices to which the audit pertains, provided that City or, if applicable, the Georgia Department of Transportation or the Federal Highway Administration, may only review, but not copy, such records. Company agrees with the audit results and does not pay any such bill within ninety (90) days of receipt of the bill from City (based on the mutually agreed upon audit results), City may set off the amount of such bill against the amounts owed Company on any then-current contract between Company and City. If, following the audit, the Parties are unable to resolve any dispute concerning the results of the audit through informal negotiation, the provisions of Sections 4.2 and 4.3 will govern the resolution of the dispute. City may not perform an audit pursuant to this Agreement more frequently than once per calendar year and may not conduct audits twice within any six (6) months.

Section 6 CITY AS PARTY

City acknowledges that this Agreement is "proprietary" in nature under applicable Georgia law, as permitted by O.C.G.A. § 36-60-13(j), and not "governmental" or "legislative,"

as prohibited by O.C.G.A. § 36-30-3(a). City further represents and warrants that this Agreement will comply with all applicable laws concerning City actions and approvals and execution of binding agreements. City covenants to undertake all actions necessary to bind City.

Section 7 COMMENCEMENT AND TERMINATION CONDITIONS

Company is not obligated to commence the Work until Parties agree on the removal, relocation and/or adjustment to Company's facilities required by the Project. If City fails to authorize commencement of the Work by August 1, 2024, Company will have no obligation to begin the Work and may terminate this Agreement without penalty by providing City with notice in writing. If City fails to sign and return this Agreement to Company by August 1, 2024, any offer made by Company pursuant to the Agreement is automatically revoked and the agreement is void and of no effect.

Section 8 MISCELLANEOUS PROVISIONS

Duplicate originals of this Agreement will be executed, each of which will be deemed an original but both of which together will constitute one and the same instrument. This Agreement may be modified only by an amendment executed in writing by a duly authorized representative for each Party. This Agreement contains the entire agreement of the Parties, and all prior oral agreements are superseded and integrated into this Agreement. This Agreement will be governed by and construed in accordance with the laws of the State of Georgia. This Agreement shall accrue to the benefit of and be binding upon the successors and assigns of the Parties. The Parties agree that this Agreement shall be deemed to have been executed in Georgia.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Contract in four (4) counterparts, each of which shall be deemed an original in the year and day first above mentioned.

ATTEST:	City of Cartersville, GEORGIA
By:	
Title:	By: Mayor
Witness:	(SEAL)
Notary:(SEAL)	
(GE/IE)	Approved as to Form by:
	City of Cartersville Department of Transportation
ATTEST:	GEORGIA POWER COMPANY
By:	
Title:	
Witness:	Title: Centralized Engineering Svcs Manager
Notary:	Date:
(SEAL)	

[Give proper title of each person executing Agreement. Attach seal as required.]

DOT Prior Rights Research PI# 0016628 Grassdale Road From SR 293 to SR3/SR 20 Bartow County

Prior rights research for the above project is complete. A thorough search has been performed in the Georgia Power Company LIMS GIS database, on the Bartow County Tax Assessors website and on the GSCCCA.org website by Land Lot and Land District, property owners and address. The project is located in Land Lots 55, 90, 127 and 128 of the 4th Land District of Bartow County, Georgia. Road involved is Grassdale Road

Distribution Base Maps: 0255-1440 and 0255-1436

Transmission:

There are no Transmission Lines, Structures or Facilities within the project area.

Distribution:

The reimbursable locations located on the East side of Grassdale Road are covered by an easement acquired from R. L. Knight (PSN# 16653), dated January 30, 1942. The reimbursable locations located on the West side of Grassdale Road are covered by an easement acquired from Kate B. Strickland (PSN# 16654), dated January 30, 1942.

Distribution lines and facilities were constructed outside of State Road, County and City Right of Way. We found no evidence that the State, County or City owned any Right of Way prior to the placement of the reimbursable locations for the distribution lines and facilities in the project area.

EXHIBIT "A" **Bartow County** Grassdale Road from SR 293 to SR3/SR20 PI# 0016628 October 20, 2022 Non-Reimb Reimb Work Loc# Comments Sheet 24-0003 26 X 27 X 33 To/From Location from Location #26 Sheet 24-0004 To/From Location from Location #44 40 To/From Location from Location #45 42 X To/From Location from Location #48 43 X 44 Χ 45 Χ To/From Location from Location #27 47 Sheet 24-0005 48 X 49 X To/From Location from Location #49 50 Χ Sheet 24-0007 Easment from R. L. Knight (PSN# 16553), dated 1/30/42 63 X Esement from Kate B. Strickland (PSN# 16554), dated 1/30/42 64 X Easement from R. L. Knight(PSN# 16553), dated 1/30/42 66 X Easement from Kate B. Strickland (PSN# 16554), dated 1/30/42 67 Χ Sheet 24-0011 Easment from R. L. Knight (PSN# 16553), dated 1/30/42 83 X Easment from R. L. Knight (PSN# 16553), dated 1/30/42 84 X Off Road Right of Way and Easement from R. L. Knight (PSN# 16553), dated 1/30/42 85 X Easment from R. L. Knight (PSN# 16553), dated 1/30/42 X 86 To/From Location from Location #86 88 Χ

the undersigned

timber.

fore set out.

STATE OF GEORGIA

SEO. NO

Said Company shall not be liable for, or bound by, any statement, agreement or understanding not herein expressed. and delivered in the presence of: This easement to be signed in the presence of two (2) witnesses, one of whom should be a Notary Public.

Name of time #+Co-Grassdale- Pd
Name of Line ##CO-Grassdale-Rd Account No. M. F. 820-3-1
$^{\text{M}}_{24} = \frac{820 - 3 - 1}{820 - 3}$
Company, hereinafter called the Company, the sum of
Dollars, (\$
d convey to said Company, its successors and assigns.
across that tract of land owned by the undersigned
44 District, Zu Section ste of Georgia, said lands being bounded on the North
Est by lands of R. W. Knight
Woode Diotest,
tinuously upon said land, its lines (erected on poles) for essary apparatus, fixtures and appliances, including the sary appliances; with the right to permit the attacheson, to said poles; together with the right at all times lines, making repairs, renewals, alterations and extenso cut away and keep clear of said lines all trees and riere or be likely to interfere with the proper operation apany shall remain the property of the owner of said transit the rights, privileges and easements hereinbe-
statement, agreement or understanding not herein ex-
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30 day of -1 Car 1945

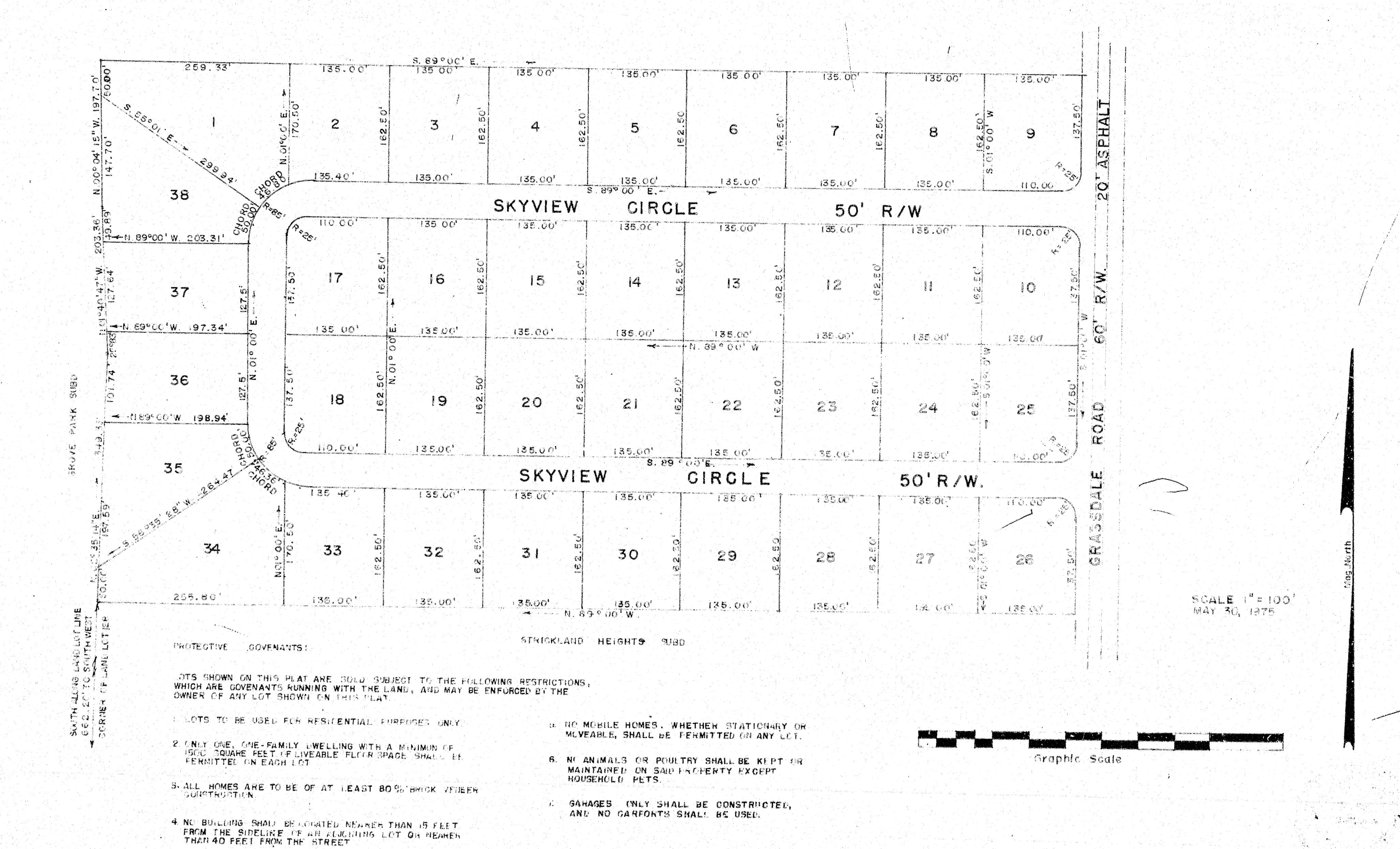
SEQ. NO. EASEME STATE OF GEORGIA. the undersigned. do hereby grant an the right, privilege and easement to go in, upon, along and in Land Lot Number and on the West by lands of together with the right to construct, operate and maintain con transmitting electric current, with poles, wires and other necessity right to stretch communication wires on said poles, with neces nent of the wires and appliances of any other company, or per o enter upon said premises for the purpose of inspecting said ions thereon, thereto or therefrom; together with the right t ther obstructions that may now or hereafter in any way inte f said lines. Any timber cut on said land by or for said Com imber. The undersigned does not convey any land, but merely a ore set out. Said Company shall not be liable for, or bound by, any pressed. IN WITNESS WHEREOF, the said... hand...... and seal....., this. Signed sealed and delivered in the presence of: (SEAL) DEED BOO My Confinition Express 17 (49 4 4, 1948)

NORTH STRICKLAND HEIGHTS

PROPERTY OF

STRICKLAND HEIRS
IN LAND LOT 128, 4TH DISTRICT, 3HD SECTION,
BARTOW COUNTY, GEORGIA.

For Restudion Coverants See Deed BK 277/44



EMACE DALTON, GEORGIA REGISTERED LAND SURVEYOR # 923.

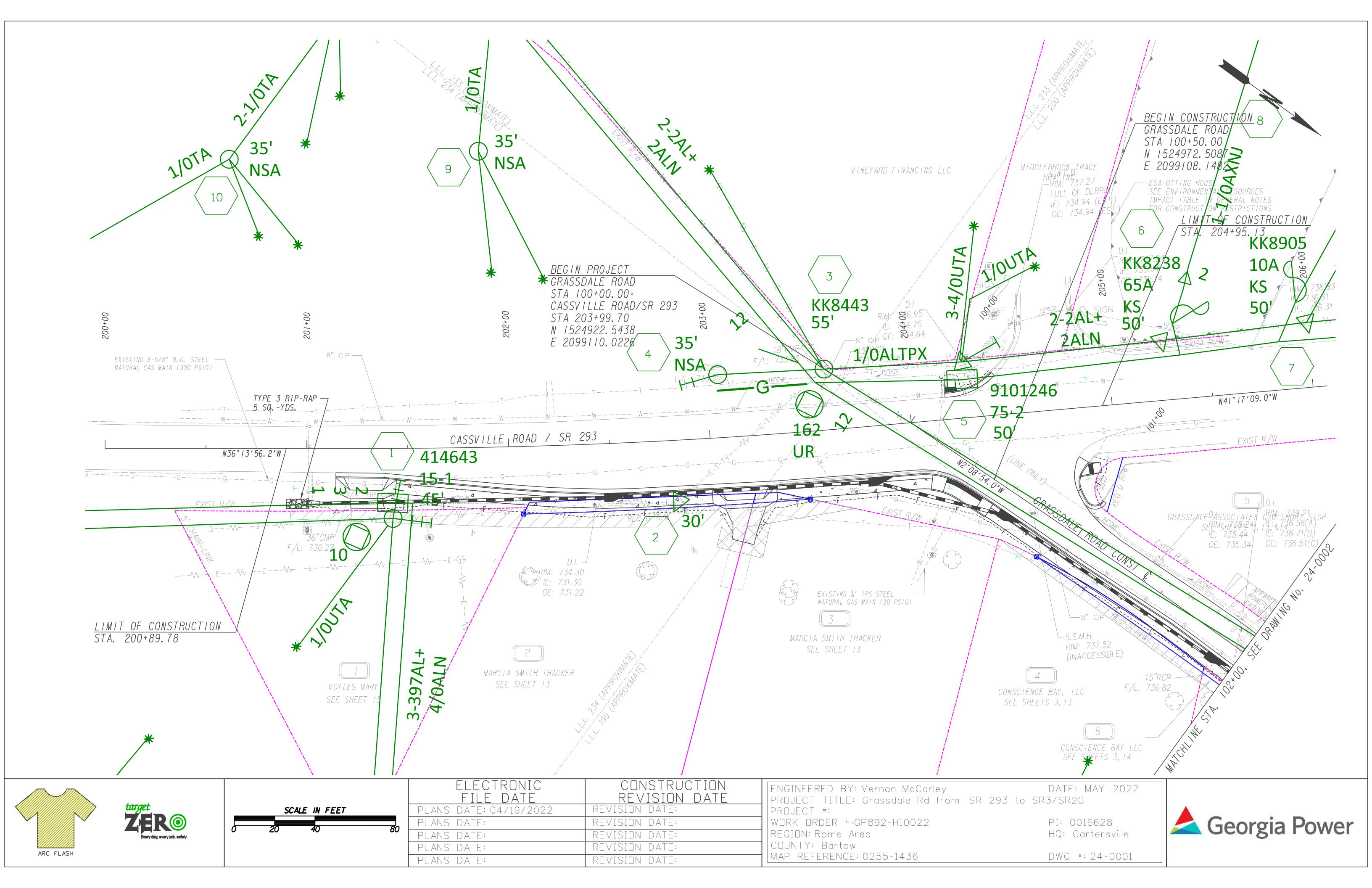
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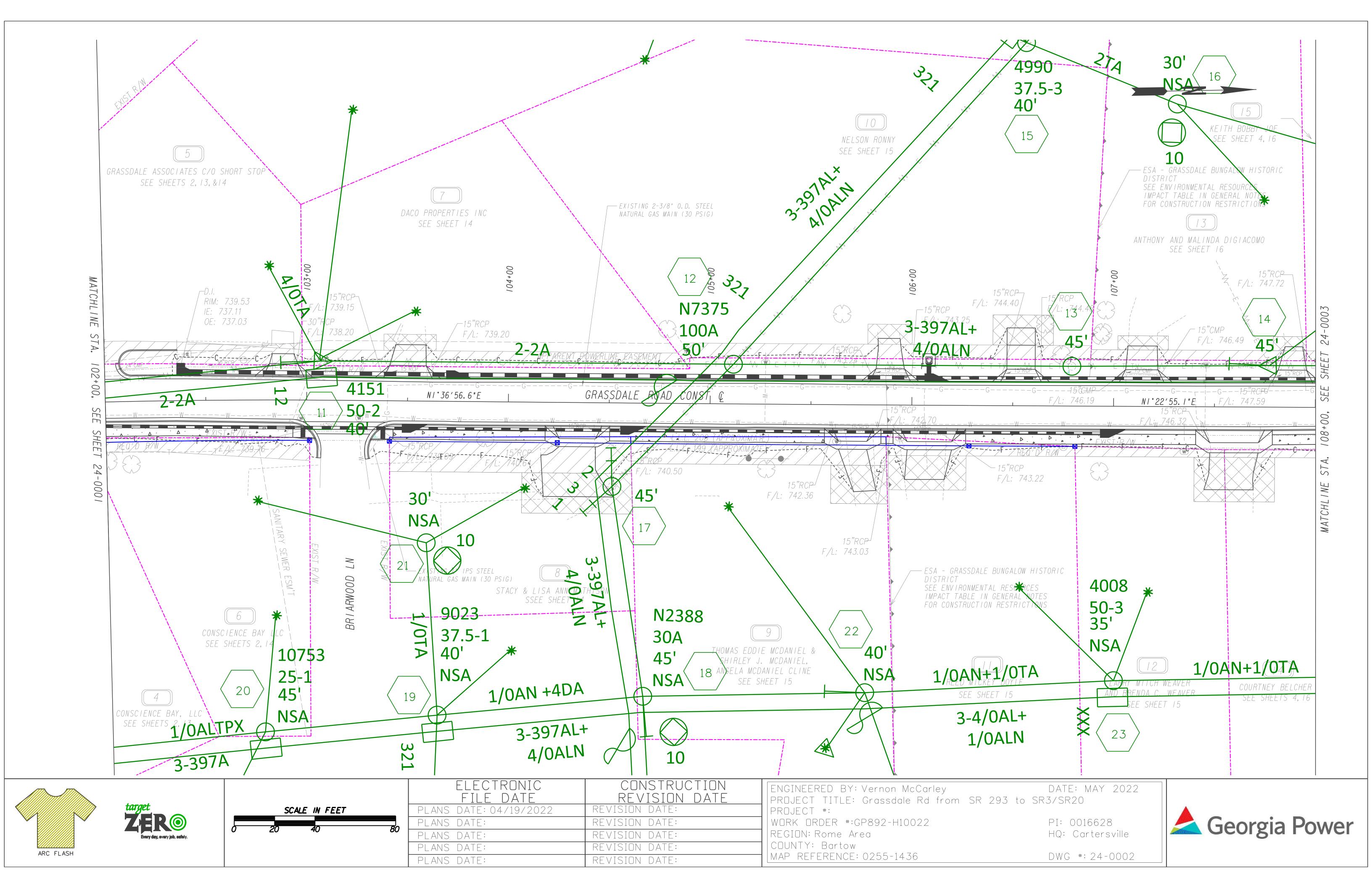
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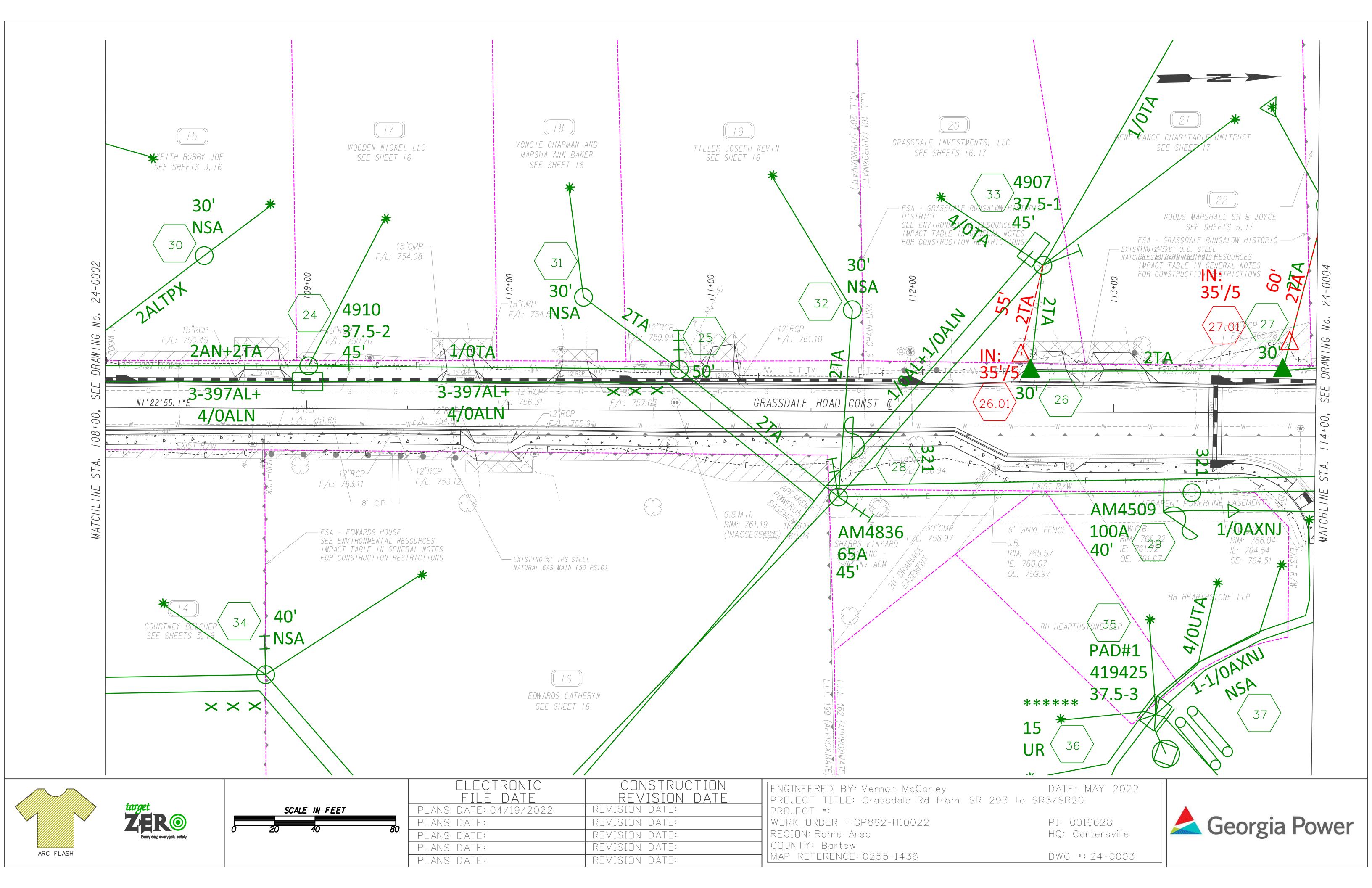
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LI 91 LL 54 LL 55 18 LL163 LL126 LL 54 L. LYING AND BEING IN LAND LOTS 55, 90, & 127 OF THE 4TH DISTRICT AND 3RD SECTION OF BARTOW COUNTY, GEORGIA. IRON PIPES PLACED AT ALL LOT CORNERS SUB-DIVIDED FOR J. WAYNE STEWART, W.B. WOMACK AND BILLY R. WOMACK SUB-DIVIDED BY: WILLIAMS, SWEITZER AND BARNUM ENGINEERS , SURVEYORS JUNE 11 , 1962 ROME GEORGIA 8,000 " = 200" SCALE: FILE BAR -- 160-A

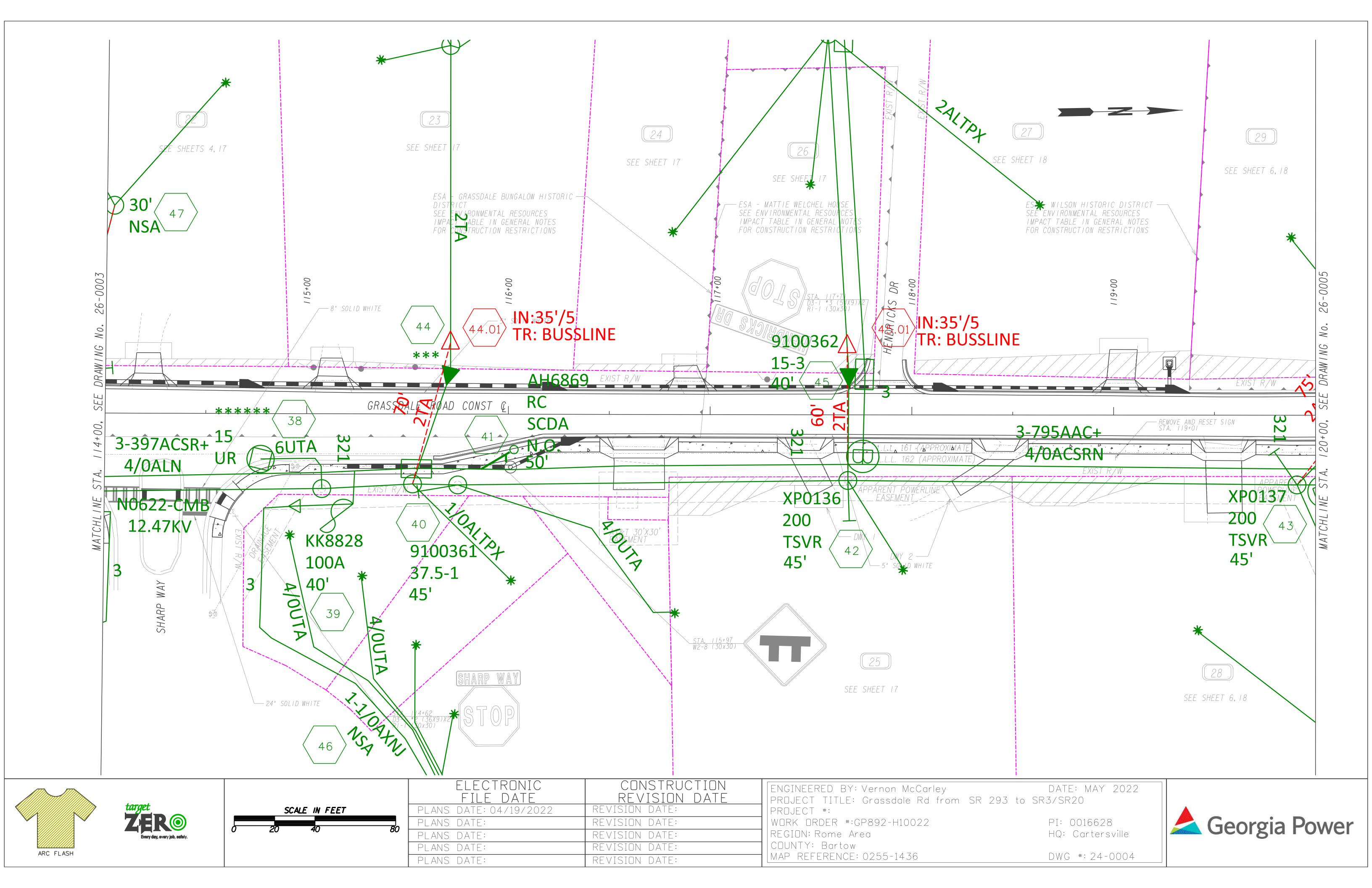
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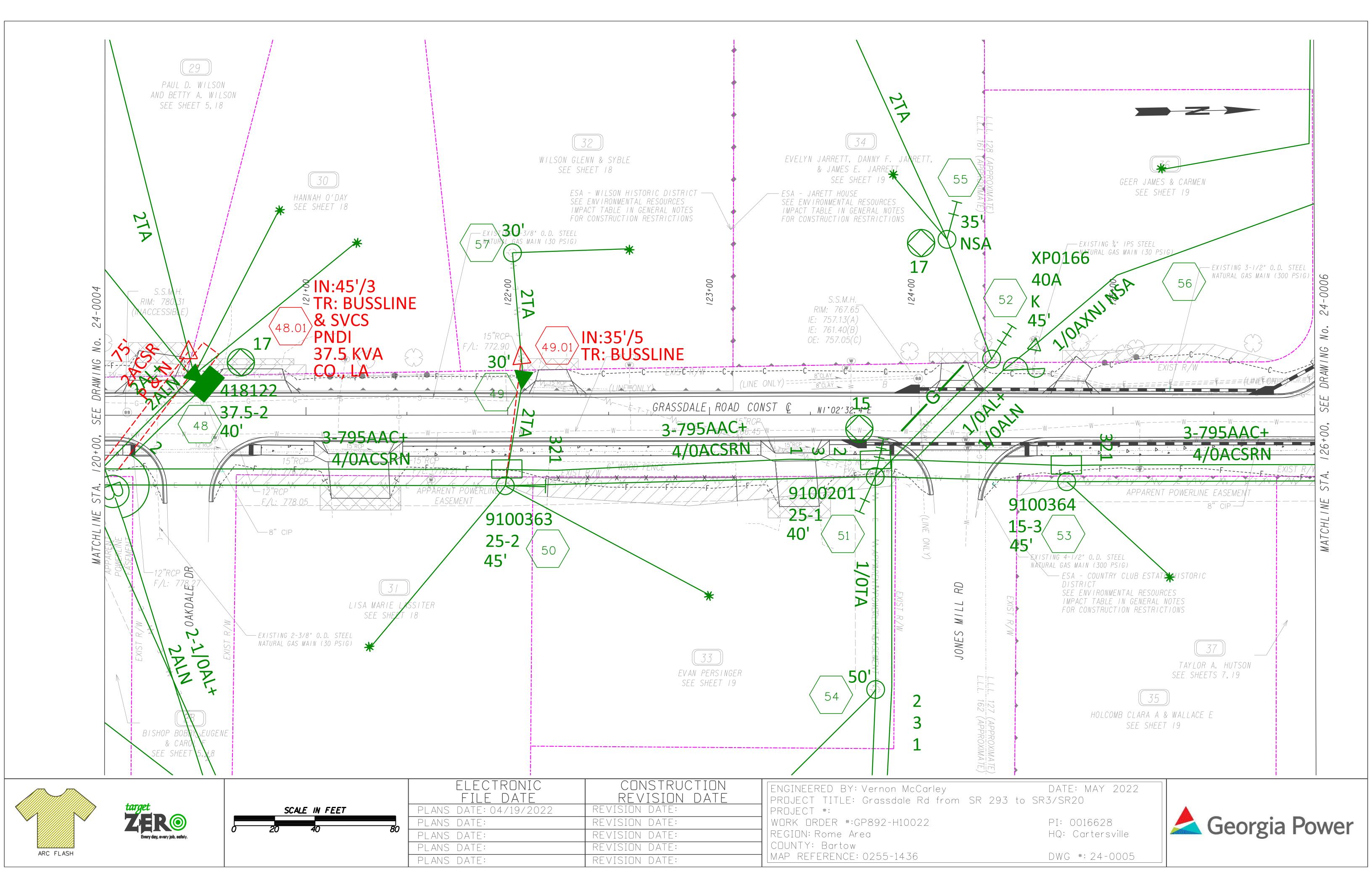
Zi. W. Brakley, Clerk

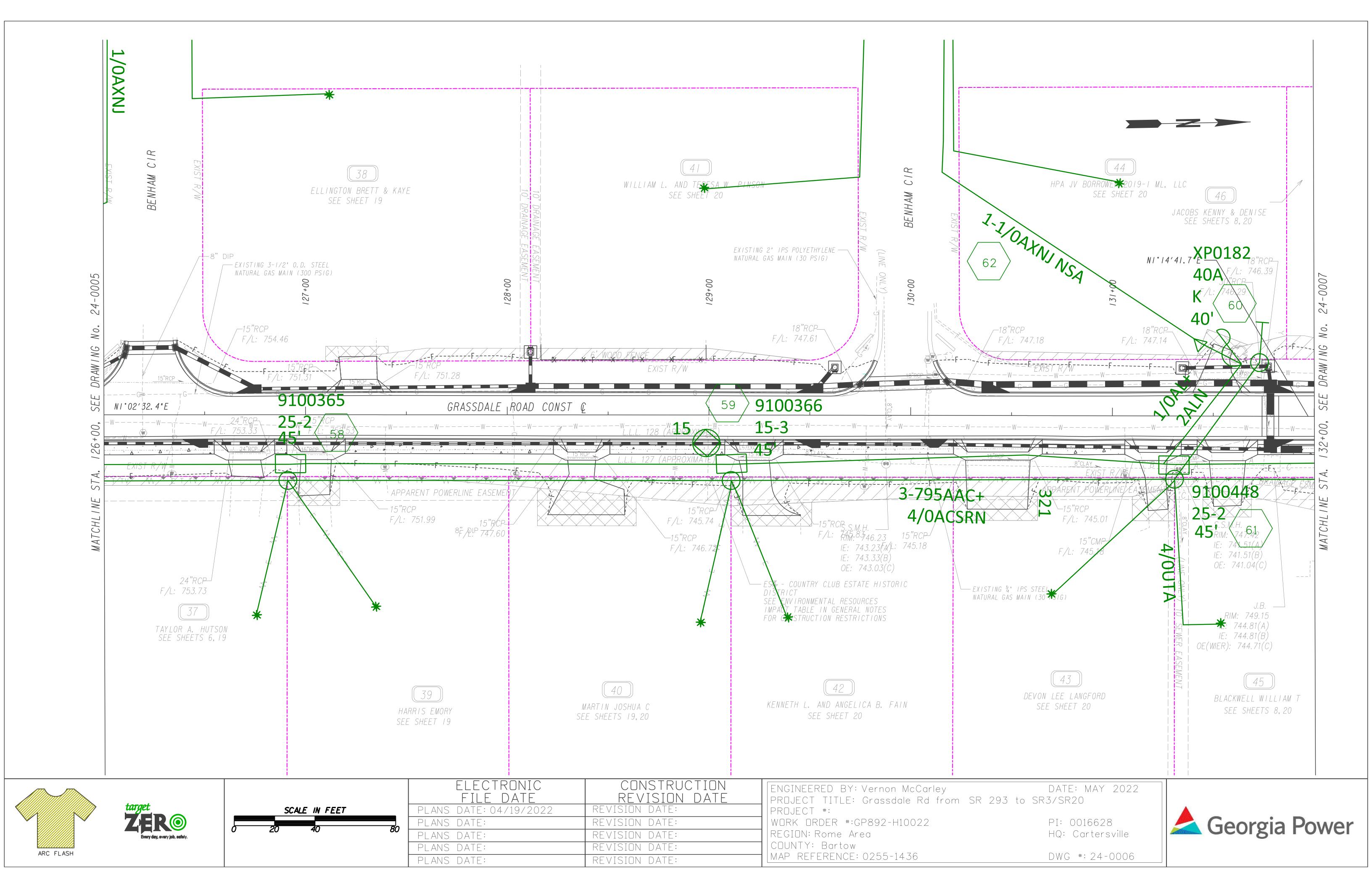


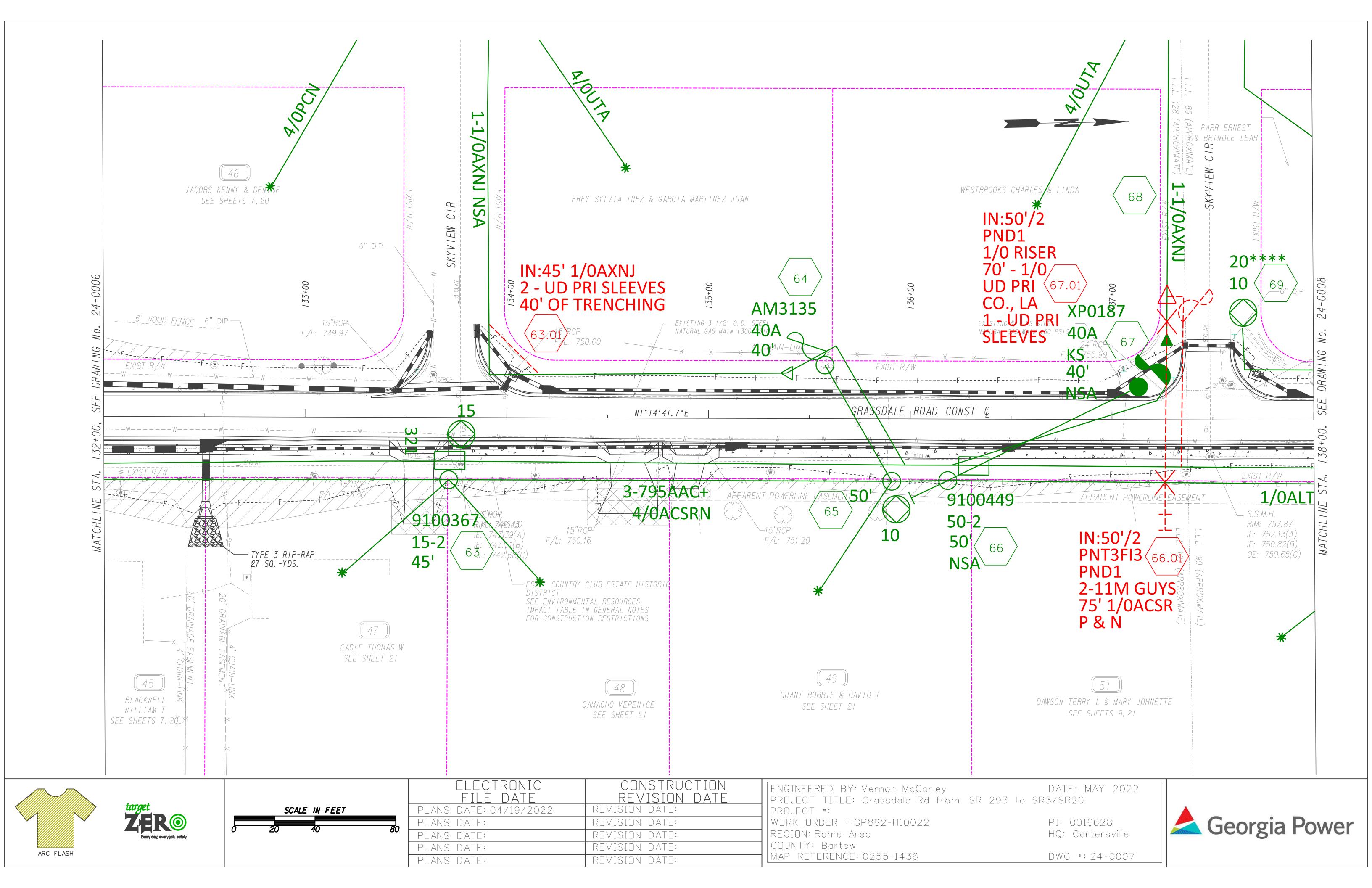


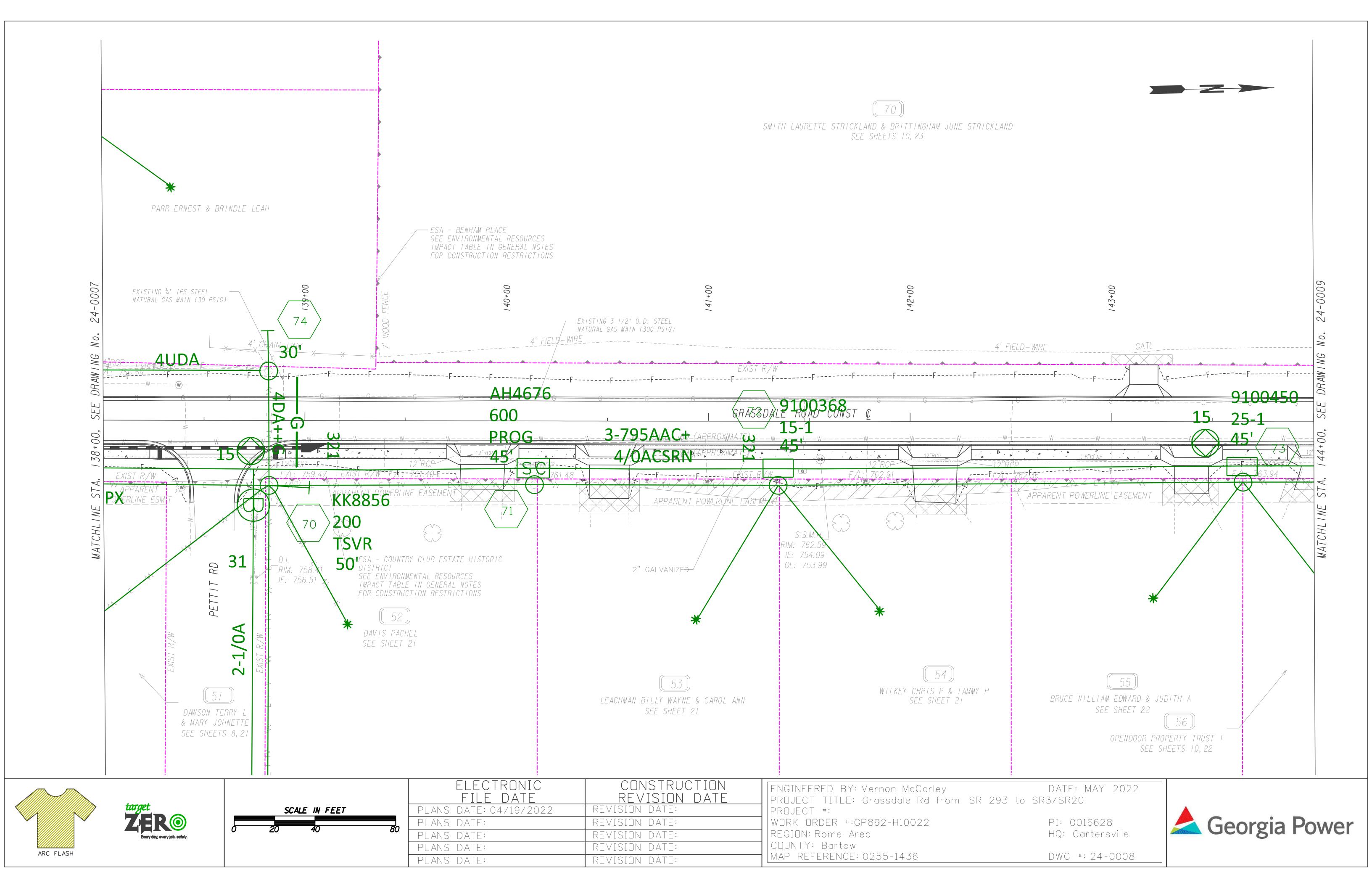


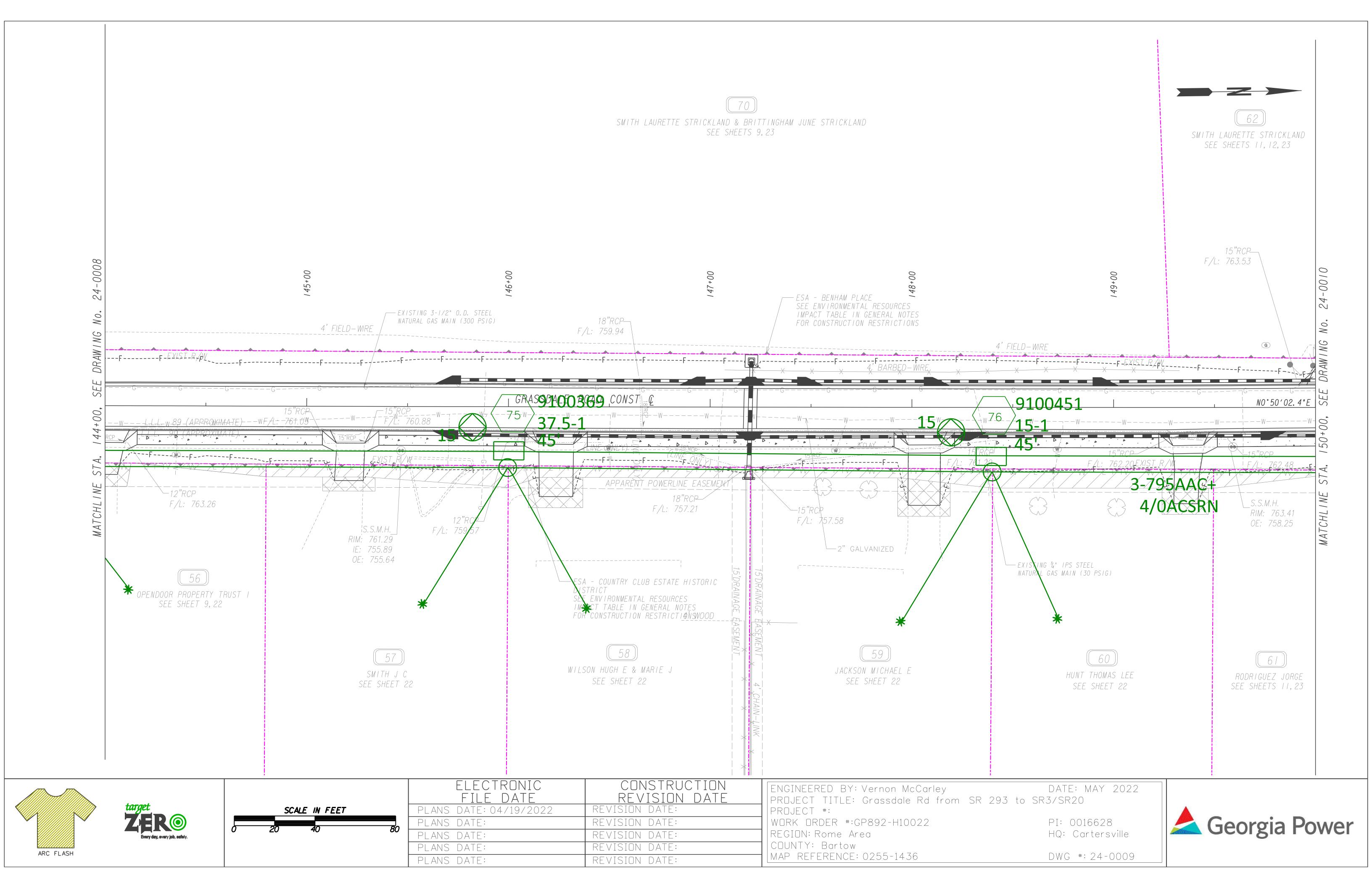


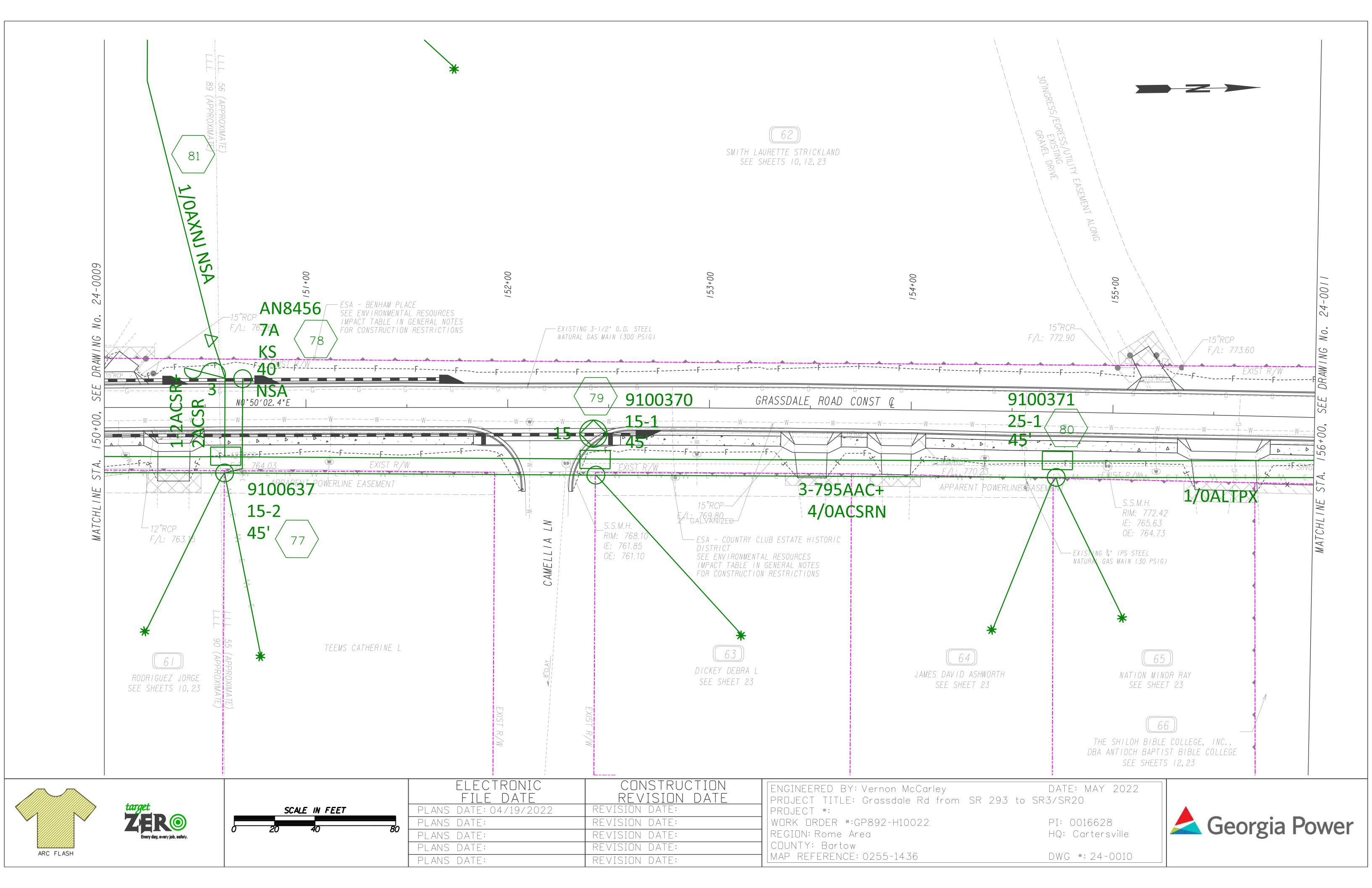


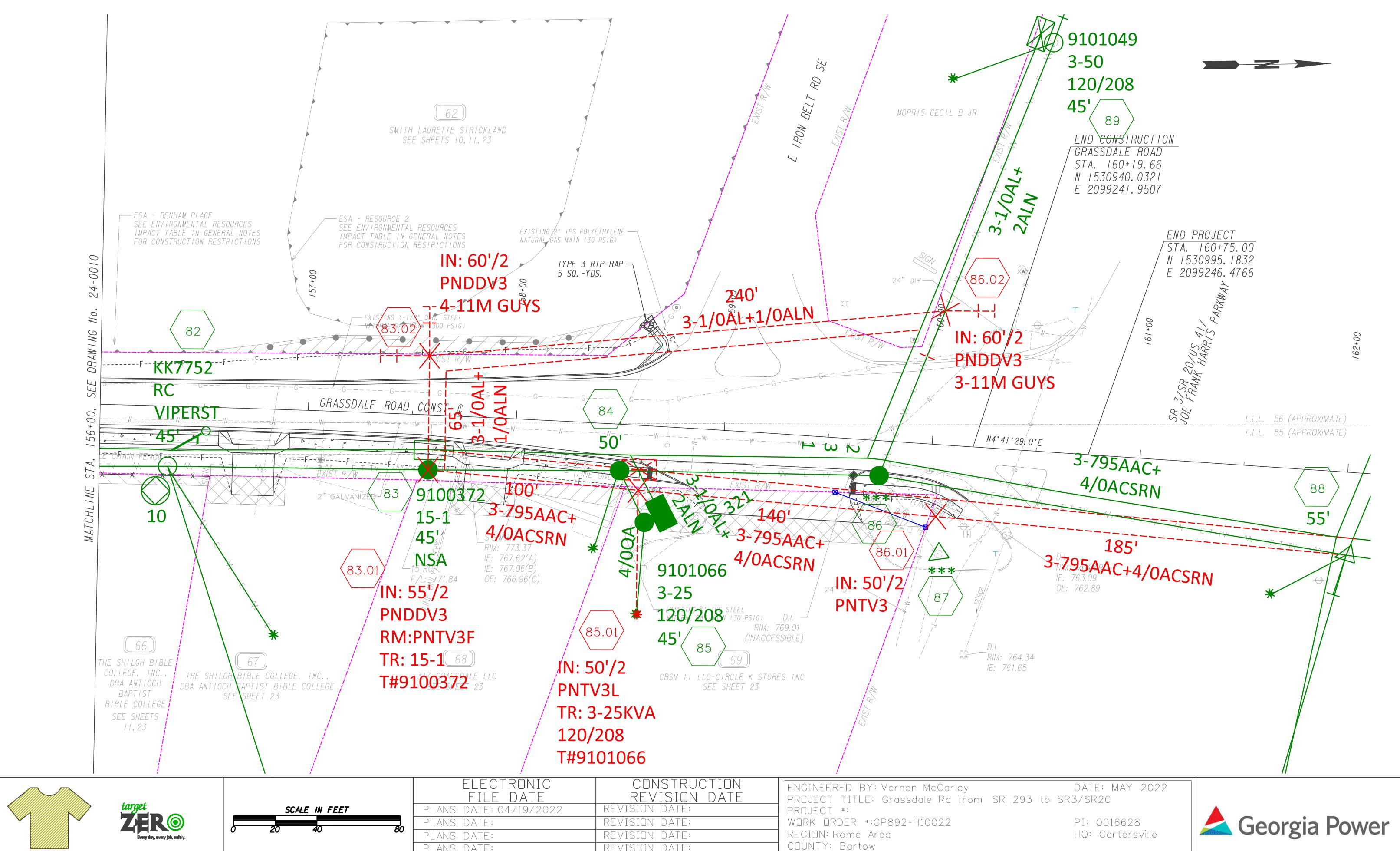




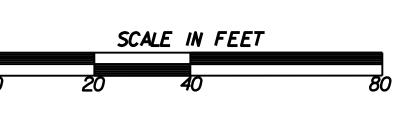












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MAP REFERENCE: 0255-1436 DWG #: 24-0011