



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: April 9, 2013

Comment Deadline: May 9, 2013

Corps Action ID #: SAW-2011-02104

**The Wilmington District, Corps of Engineers (Corps) has received an application from Mr. David Harner of Paramount Development Corporation seeking Department of the Army authorization for the discharge of fill material into 3.33 acres of wetlands adjacent to an unnamed tributary to Pages Creek, associated with the construction of a commercial/retail development. The 44.68 acre project area is located at 8107 Market Street, in northeastern New Hanover County, North Carolina.**

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/PublicNotices.aspx>

**Applicant:** **Paramount Development Corporation**  
Attn: Mr. David E. Harner  
607 Briarwood Drive, Suite 5  
Myrtle Beach, South Carolina 29572

**Agent (if applicable):** Land Management Group, Inc.  
Attn: Kim Williams  
3805 Wrightsville Ave., Suite 15  
Wilmington, NC 28403

## **Authority**

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 404 of the Clean Water Act (33 U.S.C. 1344).

## **Location**

The 44.68 acre project area is located at 8107 Market Street (US Highway 17), surrounding the existing State Employees Credit Union, approximately 0.5 mile southwest of the 140 Interchange, near Porters Neck, North Carolina. The site contains approximately 4.9 acres of jurisdictional wetlands adjacent to an unnamed tributary to Pages Creek, a tributary of the

Atlantic Intracoastal Waterway, a Navigable Water of the United States. Site coordinates are 34.2960°N, -77.7656°W.

### **Existing Site Conditions**

The project area consists of two separate tracts; the 28.77-acre commercially zoned (B-2) New Hanover Regional Medical Center (NHRMC) tract is located along Market Street and the 15.91-acre YMCA tract zoned R-15 is located contiguous to and directly behind the NHRMC tract. A majority of the site is currently forested, undeveloped land, however, several abandoned buildings, a water tower, a cell tower, and parking areas are located in the northern corner of the tract. According to the New Hanover County Generalized Soil Survey, uplands within the site are classified as Kureb fine sand, Rimini sand, and Leon fine sand. Wetlands within the site are classified as Murville fine sand.

All wetlands onsite appear to drain across Market Street via a culvert and eventually discharge into Pages Creek. Wetlands were identified by wetland type under NCWAM: the first type was classified as a non-riverine swamp forest and supports a canopy of pond pine (*Pinus serotina*), bald cypress (*Taxodium distichum*), and black gum (*Nyssa sylvatica*), with a dense understory of red bay (*Persea palustris*) and gallberry (*Ilex glabra*). A second wetland type identified was classified as pocosin and supports pond pine in the canopy and a densely vegetated understory of wax myrtle (*Morella cerifera*), red bay, and gallberry. The third wetland type is highly disturbed and most closely resembles the NC WAM classification of a seep due to its landscape position. It supports a sparse canopy of loblolly pine trees (*P. taeda*) and the understory is mowed.

Uplands within the site support a canopy of longleaf pine trees (*Pinus palustris*) of varying age. Most of the longleaf trees in the YMCA tract and the western part of the New Hanover Regional Medical Center tract are fairly young, with a 4" to 8" diameter at breast height (DBH). These areas contain a sparse shrub layer of turkey oak (*Quercus laevis*) and live oak (*Q. virginiana*) with wiregrass (*Aristida stricta*) in the herbaceous layer. The longleaf pines located southeast of the existing warehouses are much older, with a 12" to 20" DBH. This area also contains a fairly dense shrub layer of turkey oak, water oak (*Q. nigra*), and wax myrtle (*Morella cerifera*).

Surrounding land use consists of a mix of commercial, office and residential. Residential properties exist to the south on Bayshore Drive and Marsh Oaks Drive and also exist to the northwest. An apartment development is located to the northeast. Retail development including a 170,000 sq. ft. Lowes home improvement store, Harris Teeter, Food Lion grocery and Walgreens exist to the east on Market Street at Porters Neck Road. A three story 60,000 sq. ft. office building is located immediately east of the site and a medical office development is located immediately south on the opposite site of Market Street. Other commercial development is located to the northeast.

## **Applicant's Stated Purpose**

The applicant's stated purpose is to develop an economically viable community shopping center with one anchor tenant and complimentary business services, being primarily office and retail in nature, to serve the population located in the northeastern part of New Hanover County and the southwestern part of Pender County.

## **Project Description**

The applicant has proposed to discharge fill material into 3.33 acres of wetlands to complete the proposed 245,500 square foot commercial/retail development. The project consists of constructing an approximate 180,000 sf anchor tenant with associated parking, two additional buildings that would contain approximately 67,500 sf of retail/commercial space, and three two-acre outparcels adjacent to Market Street that would house two restaurants and a bank. At the request of the local planning jurisdiction and in consideration of the Preferred Access Plan found in the Market Street Corridor Study, a connector road would be included to provide access from Market Street to future road infrastructure behind the property. The applicant has designed the site to contain five parking spaces per 1,000 sf of building, which is a typical required minimum on retail anchors of this size. **Project plans and narrative have been included with this Public Notice.**

The applicant submitted an Alternatives Analysis that includes a No Action Alternative, On-Site and Off-Site Alternatives and the Preferred Project. **This information has been included with this Public Notice as well.**

To offset wetland impacts associated with the proposed project, the applicant has proposed to purchase non-riparian wetland mitigation credits from the North Carolina Ecosystem Enhancement Program (EEP) or available private bank at a 1:1 ratio for the restoration of 3.33 acres of non-riparian wetlands within the Cape Fear River watershed and preserve the remaining 1.57 acres of on-site wetlands.

## **Other Required Authorizations**

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice combined with the appropriate application fee at the North Carolina Division of Water Quality central office in Raleigh will constitute initial receipt of an application for a 401 Water Quality Certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604. All persons desiring to make comments

regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Ms. Karen Higgins by **May 9, 2013**.

### **Coastal Area Management Act**

The applicant has not provided to the Corps, a certification statement that his/her proposed activity complies with and will be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2(b)(2), the Corps cannot issue a permit for the proposed work until the applicant submits such a certification to the Corps and the North Carolina Division of Coastal Management (NCDCM), and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification.

### **Essential Fish Habitat**

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed project will not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

### **Cultural Resources**

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

### **Endangered Species**

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined pursuant to the Endangered Species Act of 1973, that the proposed project will not have an effect on any federally listed species or their formally designated critical habitat. A search of the North Carolina Natural Heritage Program database was conducted to identify areas within or around the site that are already known to support federally-listed species. No rare species were noted within the project area. In 1996, an abandoned RCW cavity was noted approximately 2000 feet northwest of the project area. The applicant's consultant reported that all of the pine trees on site with a DBH of at least 12" were inspected for RCW cavities and no cavities or RCWs were observed. A final determination on the effects of the proposed project

will be made upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

## **Evaluation**

The decision whether to issue a permit will be based on an evaluation of the probable impacts, 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 benefit 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, flood plain values (in accordance with Executive Order 11988), 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. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

## **Commenting Information**

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. 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 (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, **May 9, 2013**. Comments should be

submitted to Emily B. Hughes, 69 Darlington Avenue, Wilmington, North Carolina, 28403-1398, telephone (910) 251-4635.

## ***ALTERNATIVES ANALYSIS***

The alternatives evaluated include a no-action alternative, off-site alternatives, on-site alternative site layouts, and the preferred project.

### **No-Action Alternative**

The no-action alternative would keep the site in its current, undeveloped condition and would prevent the applicant from developing it. The no-action alternative is not considered feasible for several reasons. The northeastern section of New Hanover County is experiencing rapid growth. Currently there are few available shopping centers to meet the needs of this growing community. This alternative would leave a minimum of 40 acres of uplands undeveloped. The inability to expand development within a tract of land identified as a Suburban Commercial Center in the Market Street Corridor Study would be a significant loss of return for the current owners and a loss of a retail center for people living in this area. This alternative would be detrimental to the public's interest because it would prevent the development of a regional shopping center in this rapidly-growing area and at a location providing the best traffic pattern for people living in this region.

### **Alternate Sites**

The study area that was originally identified for this project was limited to sites in northeastern New Hanover County and southwestern Pender County and in close proximity to the Highway 17/I-140 intersection. Highway 17 serves as the primary north/south traffic artery for this area. When selecting a site, the applicant searched properties that could tap into local water and sewer lines, had established traffic infrastructure, were at least twenty-five acres in size, and had limited environmental impacts.

#### ***Site 1. Ogden Site***

This 31-acre tract is located south of the preferred site in Ogden. The development of this site was attempted for a similar sized retail project in 2007. The applicant was not able to secure

acceptable access to the site and the application was withdrawn. In 2009 and 2010, Paramount Development reevaluated the site. They found access to the site remains a significant hurdle and for this reason did not pursue the site further.

### ***Site 2. Porter's Neck Crossing***

This 40+ acre tract is located adjacent to Lowes Home Improvement Store at the intersection of Porters Neck Road and US 17. The property has a deed restriction imposed by Food Lion and the previous seller that restricts the sale of groceries. The ability to sell groceries is a necessary component to the success of this retail development. Additionally, the potential development would not have direct access nor visibility to Market Street. Finally, significant wetland impacts would be required. For these reasons, this site was not considered feasible.

### ***Site 3. Porter's Neck Crossing Alternate***

This property is located west of Site #2, approximately 1,000 feet behind the subject property on the south side of the bypass. The property access point would be through an existing tract that has a deed restriction imposed by Food Lion and the previous seller that restricts the sale of groceries. The ability to sell groceries is a necessary component to the success of this retail development. The property sits almost 2,000 feet off of US 17 and is not a viable candidate given lack of exposure, poor access, and lack of signage. Additionally, significant wetland impacts would be required. Finally, the site would require significant off-site infrastructure that would make it economically infeasible.

### **On-site Alternatives**

The 44-acre subject property is an assemblage of approximately 29 acres owned by the New Hanover Regional Medical Center and approximately 15 acres owned by the Wilmington YMCA. This site is located directly off of Market Street, is large enough to support an anchor tenant and additional retail/commercial development, has access to water and sewer, has limited

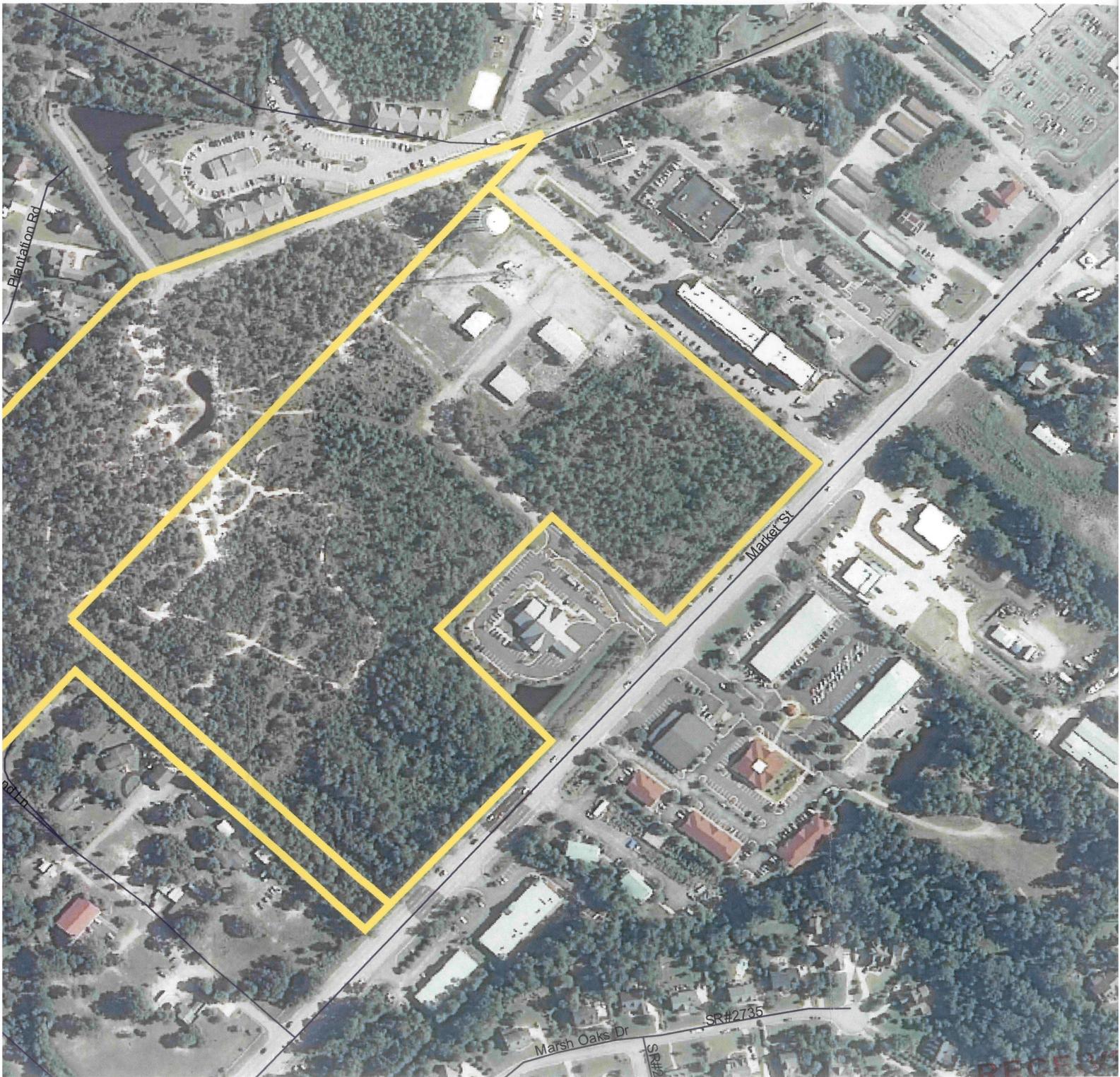
environmental issues, and has feasible land costs. Once the specific project location was determined, several site plans were evaluated.

***Alternative #1***

The applicant's original site plan maximized development within the entire tract, including a 181,476-sf anchor tenant with associated parking, 60,300-sf of additional retail/commercial space, and four two-acre outparcels located off of Market Street. Total wetland impacts would have been 4.9 acres. Even though this site plan would maximize the economic value of the land, the environmental impacts were considered too high. Therefore, this alternative was not considered feasible.

***Alternative #2***

The second site plan that was evaluated reduced proposed development to only the 29-acre hospital tract zoned B-2. Development would include the 160,091 sf anchor tenant, 33,100-sf of additional retail space, and two 1.9-acre outparcels. Total wetland impacts would have been 4.9 acres. This site plan would have saved the applicant a significant amount in land and site development costs. However, environmental impacts were considered to be too high; therefore, this alternative was not feasible.



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**LMG**  
LAND MANAGEMENT GROUP INC.  
Environmental Consultants

www.LMGroup.net  
Phone: 910.452.0001 • Fax: 910.452.0060  
3805 Wrightsville Ave, Suite 15  
Wilmington, NC 28403

**Figure 4.**  
**Aerial Photograph of Site**



SCALE

# '8107 MARKET ST' CONCEPTUAL

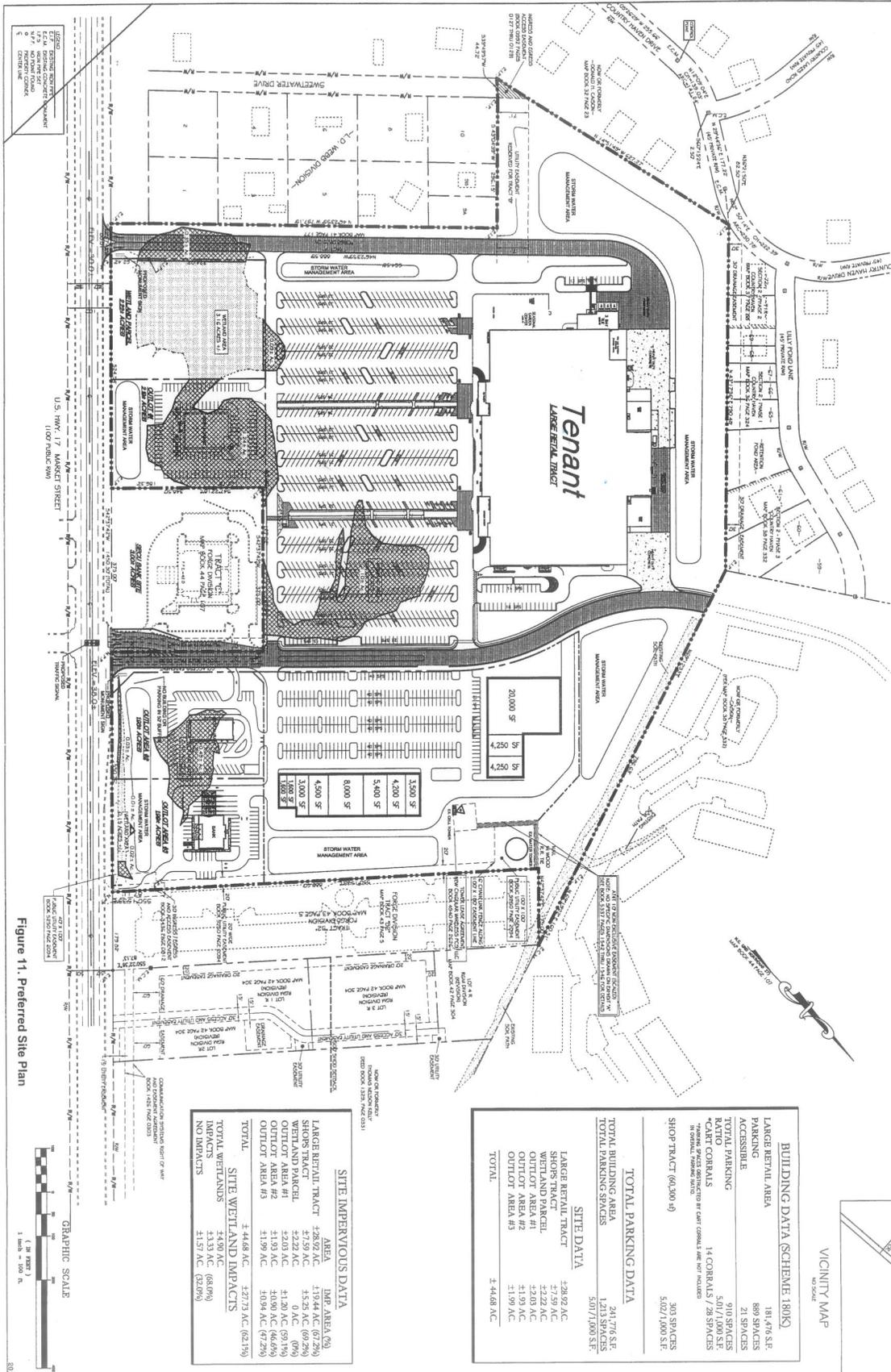
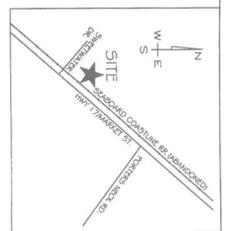


Figure 11. Preferred Site Plan



**BUILDING DATA (SCHEME 180X)**

LARGE RETAIL AREA	181,476 S.F.
PARKING	869 SPACES
ACCESSIBLE	21 SPACES
TOTAL PARKING	910 SPACES
RATIO	5.01/1,000 S.F.
*CART CORALS	14 CORALS / 28 SPACES
*NUMBER OF SPACES DETERMINED BY CART CORALS. SEE NOT INCLUDED.	

**TOTAL PARKING DATA**

TOTAL BUILDING AREA	241,776 S.F.
TOTAL PARKING SPACES	1,413 SPACES
TOTAL PARKING RATIO	5.81/1,000 S.F.

**SITE DATA**

LARGE RETAIL TRACT	±28.92 AC.
SHOPS TRACT	±7.79 AC.
WHITLAND PARCEL	±2.22 AC.
OUTLOT AREA #1	±2.03 AC.
OUTLOT AREA #2	±1.99 AC.
OUTLOT AREA #3	±1.99 AC.
TOTAL	±44.88 AC.

**SITE IMPERVIOUS DATA**

LARGE RETAIL TRACT	±4,319 AC.	IMP. AREA (%)	18.1%
SHOPS TRACT	±1,525 AC.	IMP. AREA (%)	19.2%
WHITLAND PARCEL	±2.22 AC.	IMP. AREA (%)	0.0%
OUTLOT AREA #1	±2.03 AC.	IMP. AREA (%)	0.0%
OUTLOT AREA #2	±1.99 AC.	IMP. AREA (%)	0.0%
OUTLOT AREA #3	±1.99 AC.	IMP. AREA (%)	0.0%
TOTAL	±11,166 AC.	IMP. AREA (%)	18.1%



PROJECT MANAGER: DDC  
 DRAWN BY: CAR  
 PROJECT DATE: 6/29/10  
 SCALE: 1"=100'  
 DATE: 11/29/12  
 SHEET: CV-1

CONCEPTUAL SITE PLAN  
**PROPOSED U.S. HWY. 17  
 DEVELOPMENT**  
 MARKET STREET  
 WILMINGTON, NC

100 PERCENT DESIGN AND CONSTRUCTION SERVICES  
 138 PILGRIM ROAD - GREENVILLE, SC 29607  
 PH: (864) 899-0287 - FAX: (864) 899-5187  
 WWW.GRAYENGINEERING.COM



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