



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: August 29, 2014
Comment Deadline: September 29, 2014
Corps Action ID Number: SAW-2013-02365

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. John Harmon of Harmon Graham Properties, LLC, seeking Department of the Army authorization to impact 1.2 acres of jurisdictional wetlands, associated with development of the property at the northeast corner of Jule Noland Drive and Russ Avenue (U.S. Highway 276) for construction of a grocery store and additional commercial/retail space in Waynesville, Haywood 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.aspx>

Applicant: Mr. John Harmon
Harmon Graham Properties, LLC
P.O. Box 180
Waynesville, North Carolina 28786

AGENT (if applicable): Ms. Wanda Austin
Wanda H. Austin, PE Engineering
45 Homespun Road
Sylva, North Carolina 28779

Authority

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

- Section 404 of the Clean Water Act (33 U.S.C. 1344)
- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

Location

Directions to Site: From Great Smoky Mountain Expressway (U.S. Highway 74), take exit 103 onto Dellwood Road (U.S. Highway 19) toward Maggie Valley. Continue 1.1 miles and turn left onto Russ Avenue (U.S. Highway 276). Go 0.2 miles and turn left onto Jule Noland Drive. Property is on the left.

Project Area (acres): 6.7
Nearest Waterway: Mauney Cove Branch
and Factory Branch
Latitude and Longitude: 35.524121N, 82.98576W

Nearest Town: Waynesville
River Basin: Pigeon (06010106)

Existing Site Conditions

The site is undeveloped, open land in a small community urban setting with the surrounding area being mostly developed commercial and residential properties with some undeveloped tracts. The property contains 3.28 acres of wetlands, with Mauney Cove Branch along the west boundary and Factory Branch near the north boundary. Two large roads adjoin the property, Russ Avenue (U.S. Highway 276) to the west and Dellwood Road (U.S. Highway 19) to the north. Clearing and grading of a portion of the property has occurred along Jule Noland Drive during Phase I of this project. This phase of the project did not impact waters of the U.S. and did not require Department of Army authorization.

Applicant's Stated Purpose

The purpose of the project is to provide 5.0 acres of suitable commercial property to build a 40,000 square foot neighborhood grocery store and associated required parking with development of an additional 0.7 acre commercial/retail tract.

Project Description

Clearing and grading of a portion of the property has occurred along Jule Noland Drive during Phase I of this project. This phase of the project did not impact waters of the U.S. and did not require Department of Army authorization.

Phase II of the project will clear and grade the property which includes discharging an estimated 15,500 cubic yards of fill into 1.2 acres of wetland in order to provide suitable acreage for a 40,000 square foot neighborhood grocery store, 200 required parking spaces, and development of an additional 0.7 acre commercial/retail tract. A grocery retailer has committed to building on this site contingent the suitable minimum acreage can be provided for construction.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The project included consideration of several alternatives for avoidance and minimization of the impacts to the jurisdictional wetlands located on the property. The total acreage of the property is 9.0 acres, which includes 1.5 acres restricted by a greenway easement, sewer easement, and stream buffer. Another 0.8 acres is restricted by other utility easements and road right-of-way along Jule Noland Drive. The remaining 6.7 acres includes 3.3 acres of jurisdictional wetlands and 3.4 acres of non-jurisdictional uplands.

One alternative is to clear and grade the entire 6.7 acres including filling all the wetlands. This alternative would utilize 100% of the available land and impact 100% of the wetlands. This provides more acreage than what would be needed to construct the proposed grocery retail space.

Another alternative only clears and grades the upland portions of the property with no impact to wetlands. This alternative does not yield enough acreage needed to construct the proposed grocery retail space.

Consideration was given of other available commercial zoned properties of equivalent size within a 5-mile radius of the property which would be close to major roads with good access to a road. Review of these properties determined them to be unsuitable due to lack of good access to a road, increased trip length for the targeted area of service (Waynesville-Maggie Valley-Jonathan Creek community-Lake Junaluska), or within in the limits of an established residential development.

The proposed alternative maximizes the acreage of the upland portions of the property and fills 1.2 acres of wetlands. This provides the suitable acreage needed for the grocery retail space and required parking, impacting 37% of the jurisdictional wetlands and utilizes 75% of the available land.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant has stated that upon completion and implementation of practical avoidance and minimization efforts, the total impacts to jurisdictional wetlands will be mitigated by payment to the NC Ecosystem Enhancement Program at a yet to be set compensatory mitigation ratio.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project would not effect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C, the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

- Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.
- No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).

- Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).
- The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Endangered Species

Pursuant to the Endangered Species Act of 1973, the Corps 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 determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat. The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project 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.

Other Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

North Carolina Division of Water Resources (NCDWR): The Corps will generally not make a final permit decision until the NCDWR issues, denies, or waives the state Certification as 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 NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by September 29, 2014 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617

Or,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

North Carolina Division of Coastal Management (NCDCM):

The application did not include a certification that the proposed work complies with and would 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 Department of Army (DA) permit for the proposed work until the applicant submits such a certification to the Corps and the NCDCM, and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt,, concurrence or objection from the NCDCM.

Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

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.

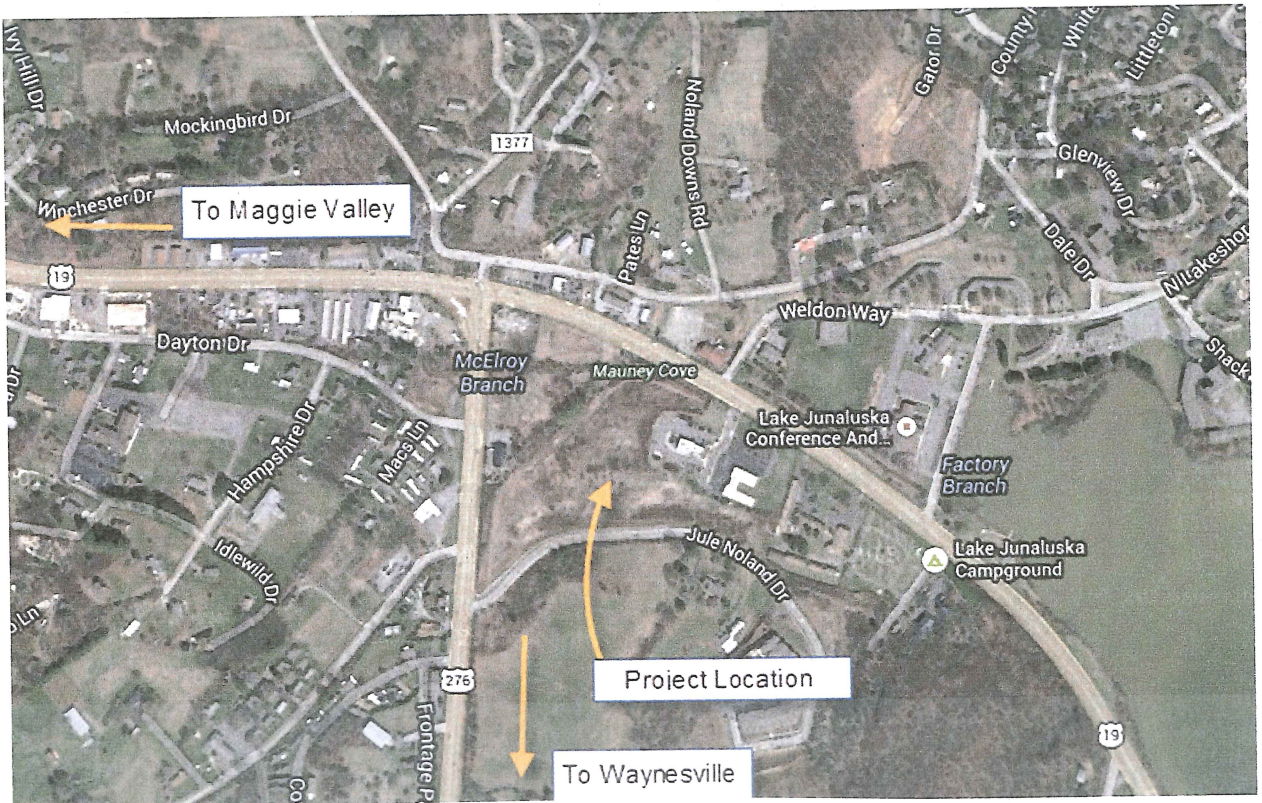
Commenting Information

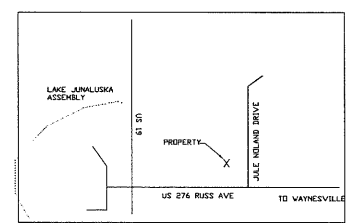
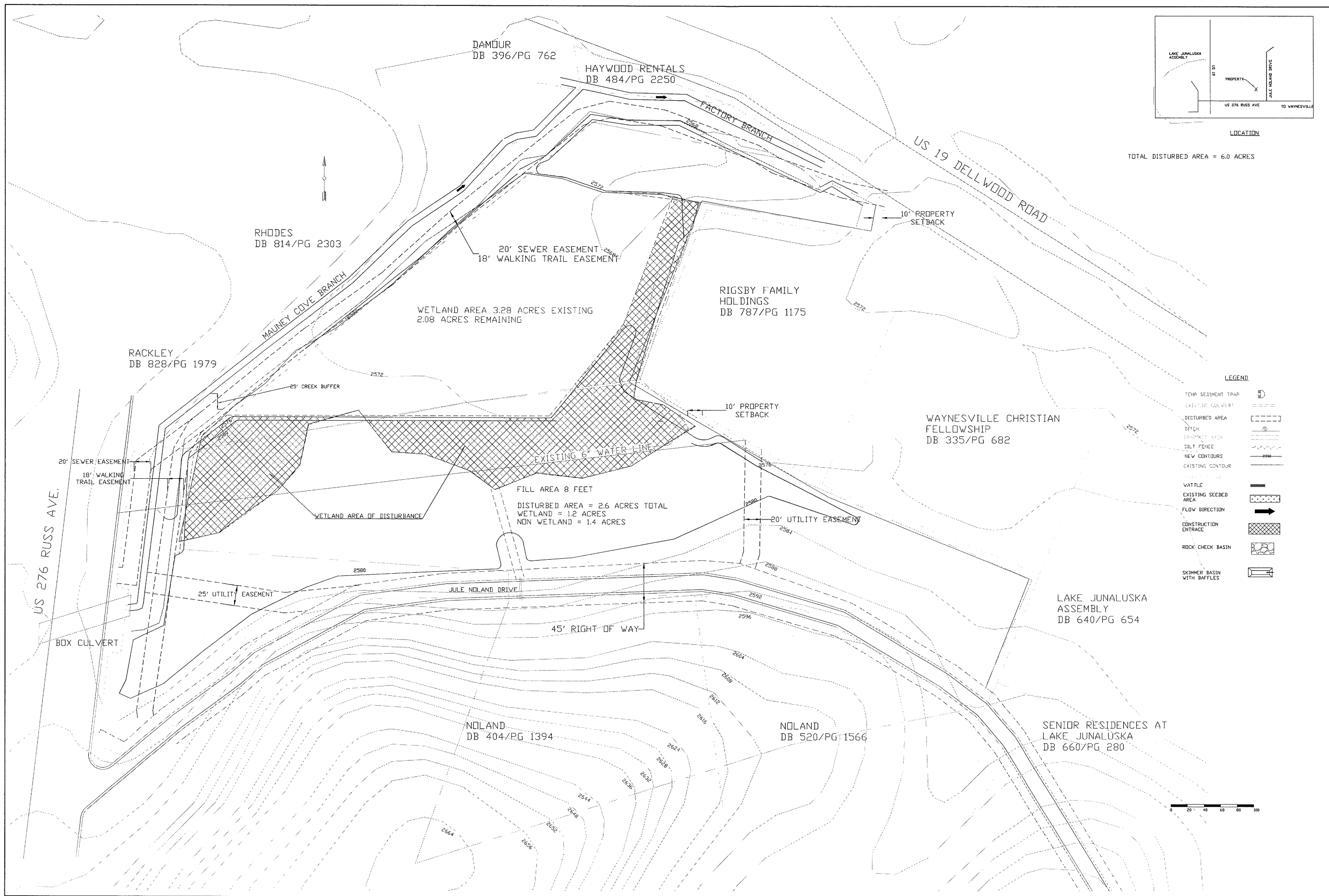
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. 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.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, September 29, 2014. Comments should be submitted to Mr. David Brown, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (828) 271-7980, ext 232.

Jule Noland Drive Phase II Location





TOTAL DISTURBED AREA = 6.0 ACRES

LEGEND

- TEMP. SEDIMENT TRAP
- EXISTING CULVERT
- DISTURBED AREA
- SETBACK
- EXISTING WATER LINE
- SILT FENCE
- NEW CONTOURS
- EXISTING CONTOUR
- WATTLE
- EXISTING SEEDING AREA
- FLOW DIRECTION
- CONSTRUCTION ENTRANCE
- ROCK CHECK BASIN
- SKIMMER BASIN WITH BAFFLES

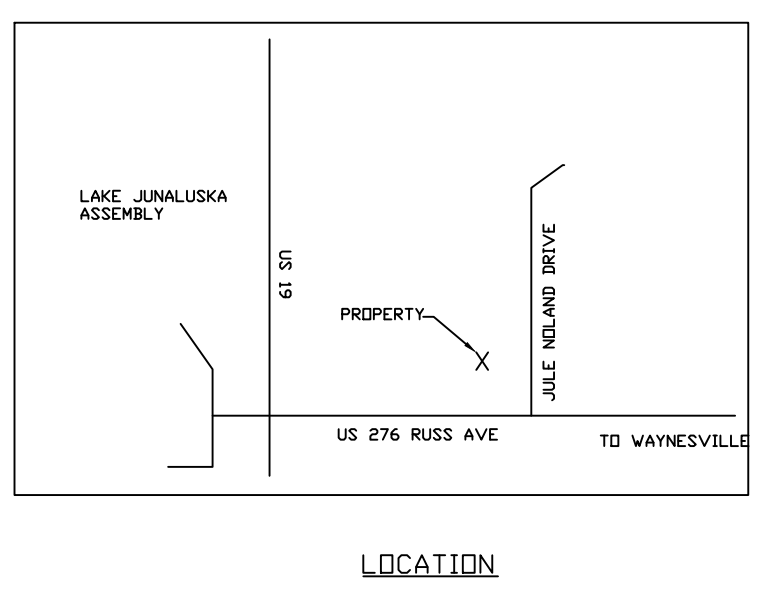
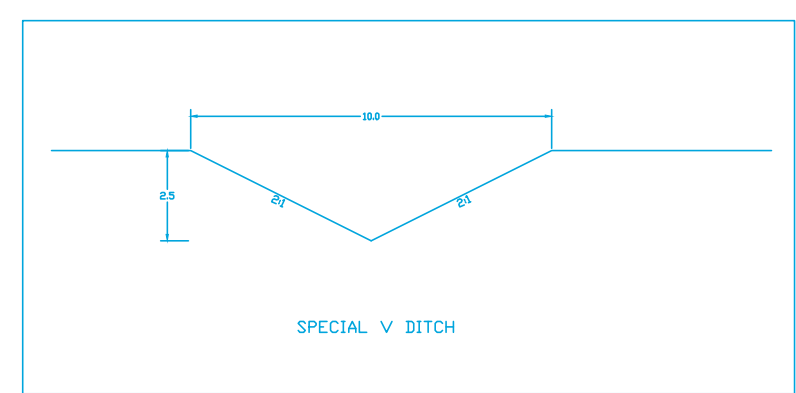
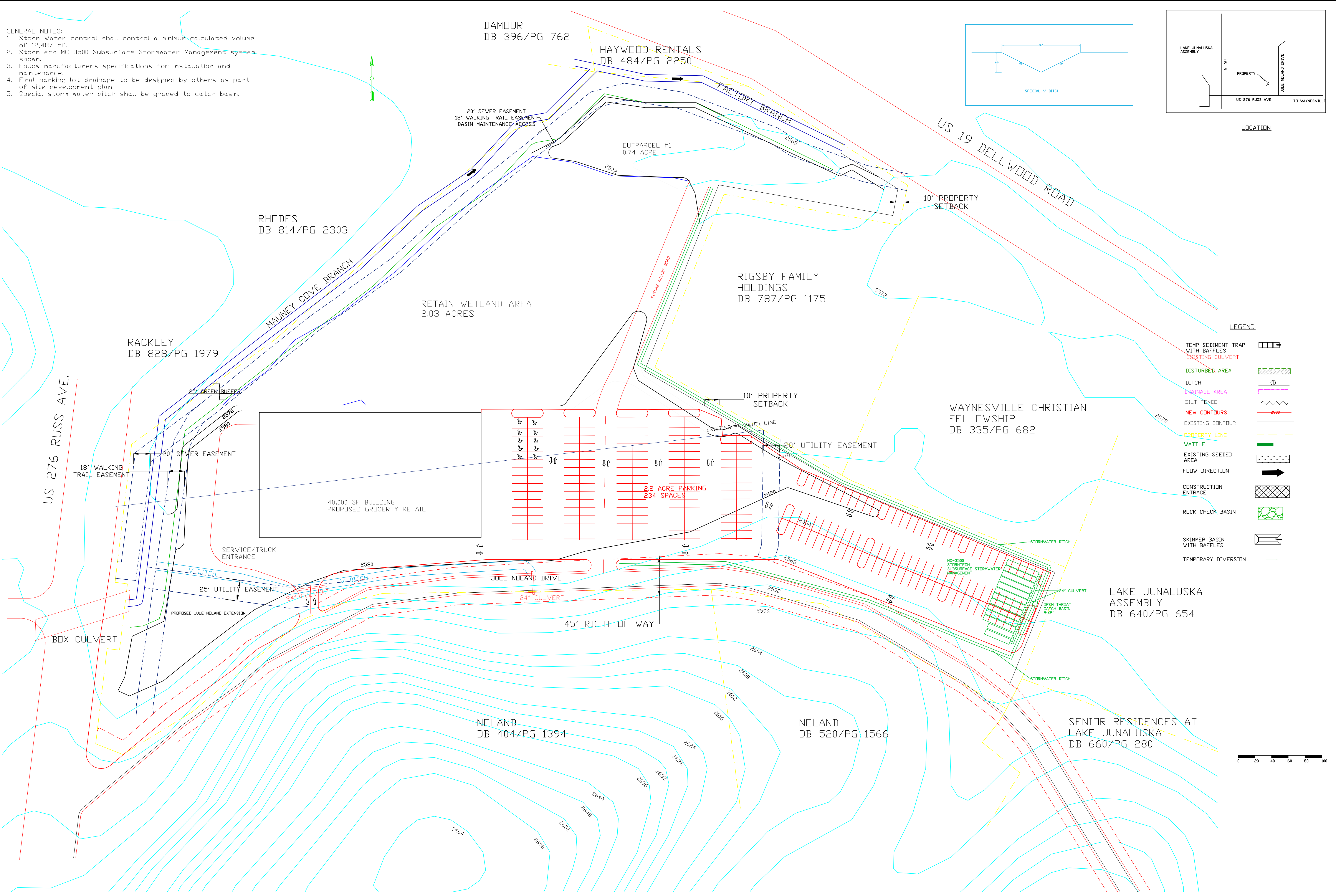
PREPARED BY:
WANDA H. AUSTIN, PE
 ENGINEERING SERVICES
 1401 W. W. RAY
 SYLVAN, TN 38779
 (628) 342-5075 DR. (628) 508-2639

WETLAND AREA OF DISTURBANCE

PROPERTY OF:
HARMON GRAHAM PROPERTIES LLC
 P.O. # 8616-49-2446
 2511 MIDLAND ROAD
 SHELBYVILLE, TN 37160

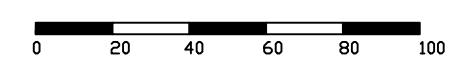
COUNTY: HAYWOOD
 TOWNSHIP: WAYNESVILLE
 WATERSHED: FRENCH BROAD
 SCALE: 1"=50'

- GENERAL NOTES:
1. Storm Water control shall control a minimum calculated volume of 12,487 cf.
 2. StormTech MC-3500 Subsurface Stormwater Management system shown.
 3. Follow manufacturers specifications for installation and maintenance.
 4. Final parking lot drainage to be designed by others as part of site development plan.
 5. Special storm water ditch shall be graded to catch basin.



LEGEND

- TEMP SEDIMENT TRAP WITH BAFFLES WITH CULVERT
- EXISTING CULVERT
- DISTURBED AREA
- DITCH
- DRAINAGE AREA
- SILT FENCE
- NEW CONTOURS
- EXISTING CONTOUR
- PROPERTY LINE
- WATTLE
- EXISTING SEEDED AREA
- FLOW DIRECTION
- CONSTRUCTION ENTRANCE
- ROCK CHECK BASIN
- SKIMMER BASIN WITH BAFFLES
- TEMPORARY DIVERSION



SW 1	
PREPARED BY: WANDA H. AUSTIN, PE ENGINEERING SERVICES 45 HOMESPIN ROAD SHELBY, NC 28775 (828) 342-5079 OR (828) 508-2639	STORM WATER PLAN
PROPERTY OF: HARMON GRAHAM PROPERTIES LLC PIN # 8616-49-2446 2511 MIDLAND ROAD SHELBYVILLE, TN 37160	COUNTY: HAYWOOD TOWNSHIP: WAYNESVILLE WATERSHED: FRENCH BROAD SCALE: 1"=50'