



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: May 9, 2014  
Comment Deadline: June 9, 2014  
Corps Action ID Number: SAW-2014-00828

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. Josh Blackson of Elevation Church seeking Department of the Army authorization to impact 85 linear feet of stream channel, 0.24 acre of wetlands and 2.27 acres of open water, associated with a mixed use commercial and residential development in Mecklenburg 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. Josh Blackson  
Elevation Church  
11416 East Independence Blvd., Suite N  
Matthews, North Carolina 28105

**AGENT:** Mr. Leonard S. Rindner  
Leonard S. Rindner, PLLC  
3714 Spokeshave Lane  
Matthews, North Carolina 28105

## 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: The site is located on the south side of Lancaster Highway, immediately west of its intersection with Johnston Road (US Hwy 521), in Charlotte, Mecklenburg County, North Carolina. This site is located in the Lower Catawba Watershed of the Santee River Basin (8-Digit

Cataloging Unit 03050103). From Interstate 485, drive south on Johnston Road (US Hwy 521) for approximately 2.6 miles. Turn right on Lancaster Highway and the project area is located immediately west of Lancaster Highway (See Figure 1, 2 & 3).

Project Area (acres): 58

Nearest Town: Charlotte

Nearest Waterway: Clems Branch

River Basin: Santee

Latitude and Longitude: 35.03180 N, -80.85563 W

## Existing Site Conditions

The site is approximately 58 acres in size and is comprised of a mosaic open mowed lawns/landscaping, fragmented slopes and drainage areas covered with disturbed mixed/pine hardwoods. There are several buildings on the site including residential homes, livestock barns, and storage sheds. The land immediately surrounding the site is mixed use residential and commercial developments.

The mostly flat, open, turf grass lawn is comprised of cultivated Fescue (*Festuca* sp.) with typical shrub/small tree planting beds, and widely scattered larger trees. The wooded areas contain some mature trees with moderate sub-canopy strata. Canopy trees present include Shortleaf Pine (*Pinus echinata*), White Oak (*Quercus alba*), Red Oak (*Q. rubra*), Sweetgum (*Liquidambar styraciflua*), Yellow Poplar (*Liriodendron tuliperifa*), Southern Red Oak, (*Q. falcate*), Willow Oak (*Q. phellos*), Mockernut Hickory (*Carya tomentosa*), and Red Cedar (*Juniperus virginiana*). The sub-canopy is composed of Flowering Dogwood (*Cornus florida*), American Holly (*Ilex opaca*), Black Cherry (*Prunus serotina*), and Black Gum (*Nyssa sylvatica*). The shrub layer includes Chinese Privet (*Ligustrum sinense*), Blueberry (*Vaccinium* sp.) and Russian Olive (*Elaeagnus umbellata*).

There are several soil types on the site to include Enon sandy loam (EnB and EnD), Helena sandy loam (HeB), Monacan loam (MO), Vance sandy loam (VaB) and Wilkes loam (WkE). Of these soil types, Monacan loam is considered hydric and located in the floodplain of Clems Branch.

The project area contains several jurisdictional waters of the U.S. to include stream channels, wetlands, and open water ponds. The jurisdictional areas were confirmed by USACE Corps representatives, Messrs. William Elliot and Steve Kichefski on April 16, 2013. The jurisdictional features are summarized in the table below. The features listed below are only those located in/near proposed impact areas that have been delineated.

Table 1: Summary of Jurisdictional Features

Jurisdictional Feature Type	Classification	Label	Size (linear foot/acreage)
Stream	Seasonal RPW	I1	266 lf
Stream	Seasonal RPW	B1	307 lf
<b>Total</b>			<b>573 lf</b>
Wetland	Forested/palustrine	A1	0.01 ac
Wetland	Forested/palustrine	C/D	0.07 ac
Wetland	Emergent/palustrine	E	0.23 ac

Wetland	Forested/palustrine	G	0.02 ac
Wetland	Forested/palustrine	J	0.03 ac
<b>Total</b>			<b>0.36 acres</b>
Pond	Open Water	L	0.34 ac
Pond	Open Water	K	1.57 ac
Pond	Open Water	F	0.36 ac
<b>Total</b>			<b>2.27 acres</b>

The open water ponds are man-made and constructed in high ground with earthen berms. The stream channels are small, headwater intermittent channels. Wetland E was formerly an open water pond excavated in high ground that has since been drained and now classifies as a wetland.

There are also other jurisdictional features located on the property but they were not delineated/surveyed since they were outside the boundaries of the project area and they are being avoided. Clems Branch is a perennial stream that is located along the northern property line. Another unnamed perennial stream (H1) is located along the western property boundary and drains into Clems Branch. There are also wetlands (AA, AB, AC, and AD) located adjacent to Clems Branch in the flood zone.

### Applicant's Stated Purpose

The basic purpose of the project is to construct a mixed-use residential and commercial development.

### Project Description

The site plan has been designed utilizing critical design criteria while taking into consideration the location of jurisdictional waters on the property. Most of the development on the site will occur in uplands and no development will occur in the flood zone of Clems Branch. However, due to the location and extent of jurisdictional waters on the property, not all of these features could be avoided. In order to construct the development as needed, approximately 85 linear feet of stream channel, 0.24 acre of wetlands, and 2.27 acres of open water pond will be filled/impacted as a result of this project. The table below provides a summary of proposed impacts.

**Table 2: Impacts to Jurisdictional Waters**

<b>Feature</b>	<b>Impact (linear feet or acreage)</b>
Stream B1	85 lf
<b>Total Stream Impact</b>	<b>85 lf</b>
Pond K	1.57 acre
Pond F	0.36 acre
Pond L	0.34 acre
<b>Total Open Water Impact</b>	<b>2.27 acres</b>
Wetland A	0.01 acre
Wetland E	0.23
<b>Total Wetland Impact</b>	<b>0.24 acre</b>

Impacts are associated with placement of fill for road crossings, parking areas, residential building construction, and stormwater treatment facilities. Specifically, 85 linear feet of Stream B1 and 0.01 acre of Wetland A will be filled in order to construct a main access road to traverse and connect the site. Pond L will be filled in order to construct the required parking for the church office and worship center. Impacts to Pond K, Pond F, and Wetland E are associated with the construction of the residential units and the required storm water treatment facility. There are no direct impacts to Stream I1 proposed as a result of the project. However, a small portion of the buffer will be disturbed associated with grading an adequate slope for parking/road access. This buffer will be replanted with native species. A small portion of the buffer of Stream B1 will also be disturbed downstream of the impact area which will also be replanted as well. To avoid any secondary/indirect impacts to Wetland C, D, and G that may result from draining the ponds and re-directing surface water, steps will be taken to direct water back into these wetlands from the discharge of the storm water facility. These wetlands will also be connected back to flow of Stream B1 which appear to have been previously severed when the ponds were constructed. Maintaining and re-establishing hydrology through Wetlands C, D, and G will be accomplished by excavating a small channel from the terminal point of Wetland C & D to Wetland G. Coir fiber logs and log step structures will be installed to direct water to Wetland G which will then flow into Clems Branch. The disturbed area will be stabilized with wetland seed mix.

### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The applicant has been able to avoid and minimize impacts to a substantial portion of the jurisdictional features on the site. However, there are several critical design criteria required for this project that precluded the applicant from completely avoiding all impacts to jurisdictional features on the site. Specifically, the design criteria included the requirements to have parking slopes at 2% max for ADA spaces and 5% max for all other spaces, required road and parking connectivity throughout the site to be ADA compliant, and the requirement to maintain fire access to all portions of the buildings. Other constraints that limit site plan configurations are required tree save areas, required open space areas, required buffers, and required storm water treatment facilities.

Given these constraints and design criteria, the project will only impact 14% of stream channels and 67% of wetlands within the project area. However, when taking into consideration the stream and wetland features located on the property that were not delineated because they were outside the project area, the applicant has avoided an even greater percentage of jurisdictional waters on the site. Wetland A and a portion of Stream B1 could not be completely avoided as it transects the central portion of the property and is located within the road corridor alignment needed to connect to an existing intersection/driveway point on Lancaster Highway. Impacts to stream channels were even further minimized by utilizing an existing road crossing on Stream B1.

All of the open water ponds located on the site will be filled as a result of this project. Due to their location on the property (in a high ground setting and adjacent to the Lancaster Highway), these ponds could not be avoided while still meeting the project purpose. Given their man-made nature and lower value as aquatic resources in relation to natural stream channels and wetlands

on the site, the design team determined that impacting these features were preferable to impacting stream channels and wetlands on the site. Wetland E, which is the largest wetland impact (0.23 acre), will be impacted in order to construct a required storm water treatment facility. Due to the fact that this wetland was created by draining a pond excavated in high ground, the design team determined that locating a storm water treatment facility here was preferable to impacting required tree save/open space and buffer areas. The applicant was also able to further minimize impacts to Wetlands C, D, and G by ensuring that the hydrology is restored to these areas from the discharge of the storm water facility and Stream B1 as described above.

### **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant is proposing to offset impacts associated with this project by making payment into the North Carolina Ecosystem Enhancement (NCEEP) In Lieu Fee Program for 0.23 acre of wetland impact at a 1:1 ratio. NCEEP has agreed to accept this mitigation by letter dated February 17, 2014, in the expanded service area of the Lower Catawba Basin (HUC 03050103).

### **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:

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).

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 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 June 9, 2014 to:

NCDWR Central Office  
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit  
(USPS mailing address): 1650 Mail Service Center, Raleigh, NC 27699-1650

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.

## **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, June 9, 2014. Comments should be submitted to Steve Kichefski, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (828) 271-7980 ext. 234.

# ELEVATION CHURCH

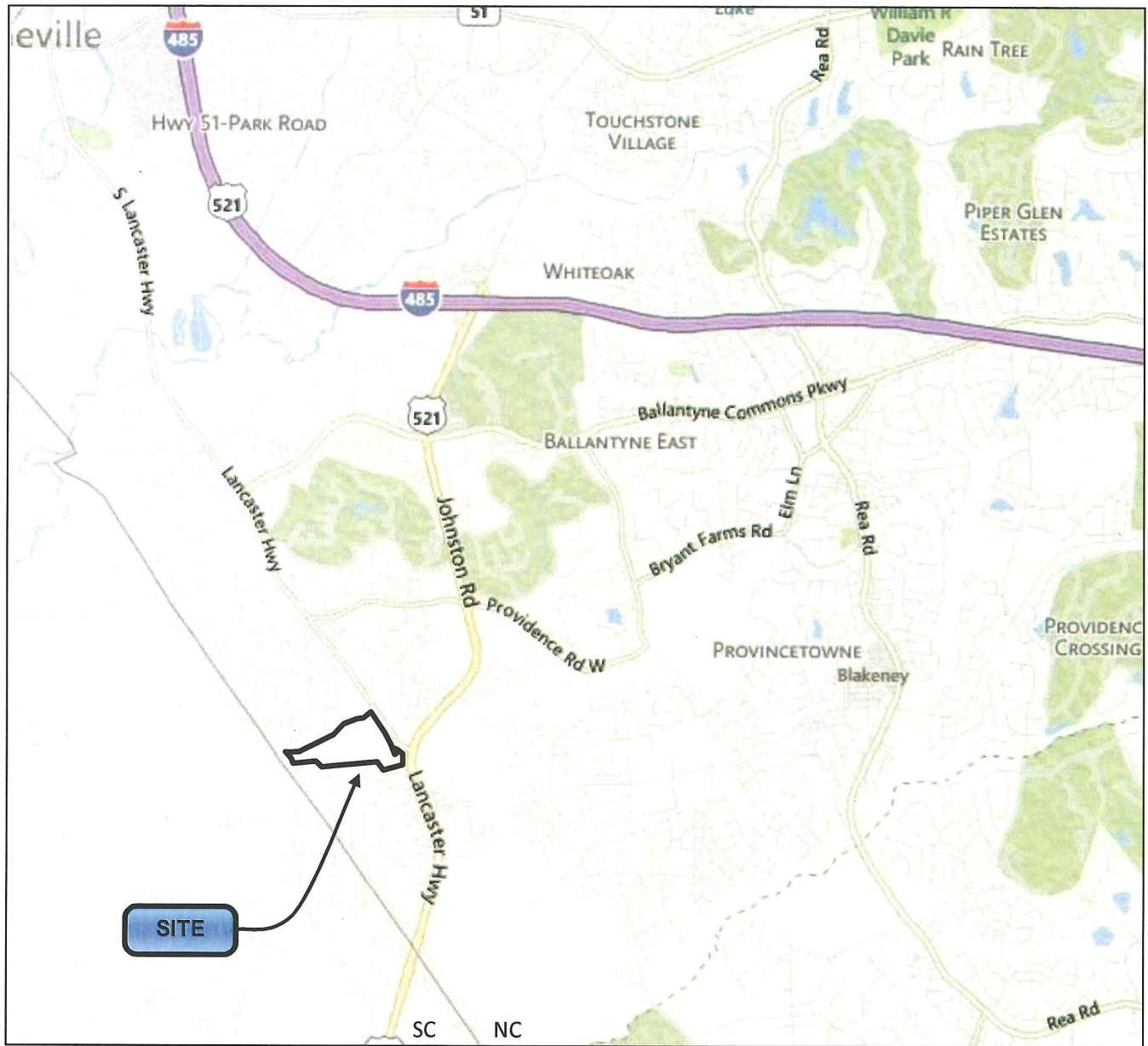


FIGURE NO.  1	LEONARD S. RINDNER PLLC Wetlands & Environmental Planning Group  3714 Spokeshave Lane Matthews, NC 28105 (704) 904 – 2277 LEN.RINDNER.PWS@gmail.com	ELEVATION CHURCH  CHARLOTTE, NC.	SHEET:	
		VICINITY MAP  APPROXIMATE SITE LOCATION	DRAWN BY: JAL	REVIEWED BY: LSR
			DATE:  06 /05/13	PAGE:



ELEVATION CHURCH

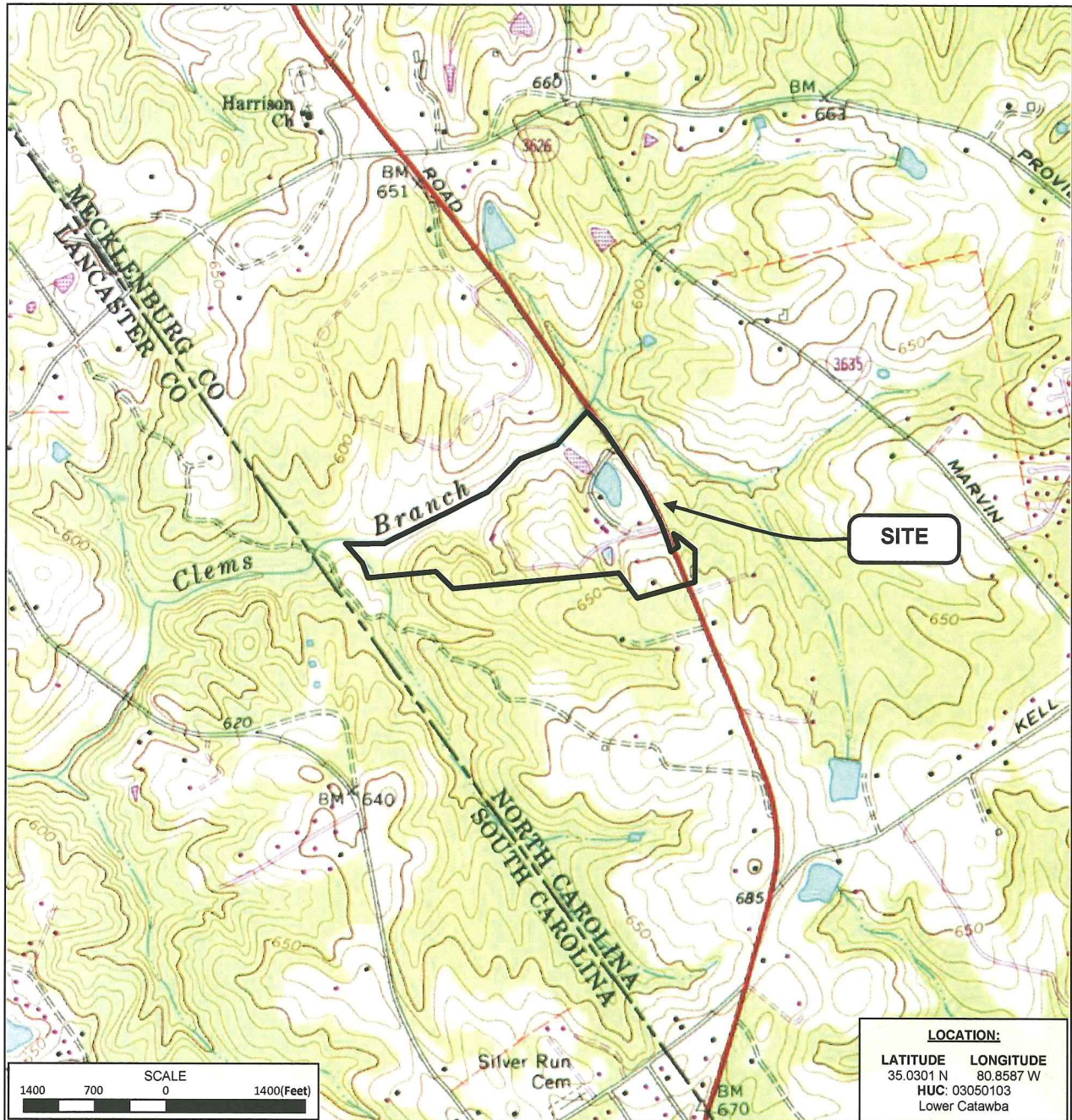


FIGURE NO.

2

LEONARD S. RINDNER PLLC  
Wetlands & Environmental Planning Group

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LEN.RINDNER.PWS@gmail.com

ELEVATION CHURCH  
MECKLENBURG COUNTY, NC

USGS LOCATION MAP  
APPROXIMATE LOCATION  
WEDDINGTON NC-SC QUADRANGLE  
1968 Revised 1984

SHEET:

DRAWN BY: JAL

REVIEWED BY: LSR

DATE:

PAGE:

06 /05 /13



ELEVATION CHURCH

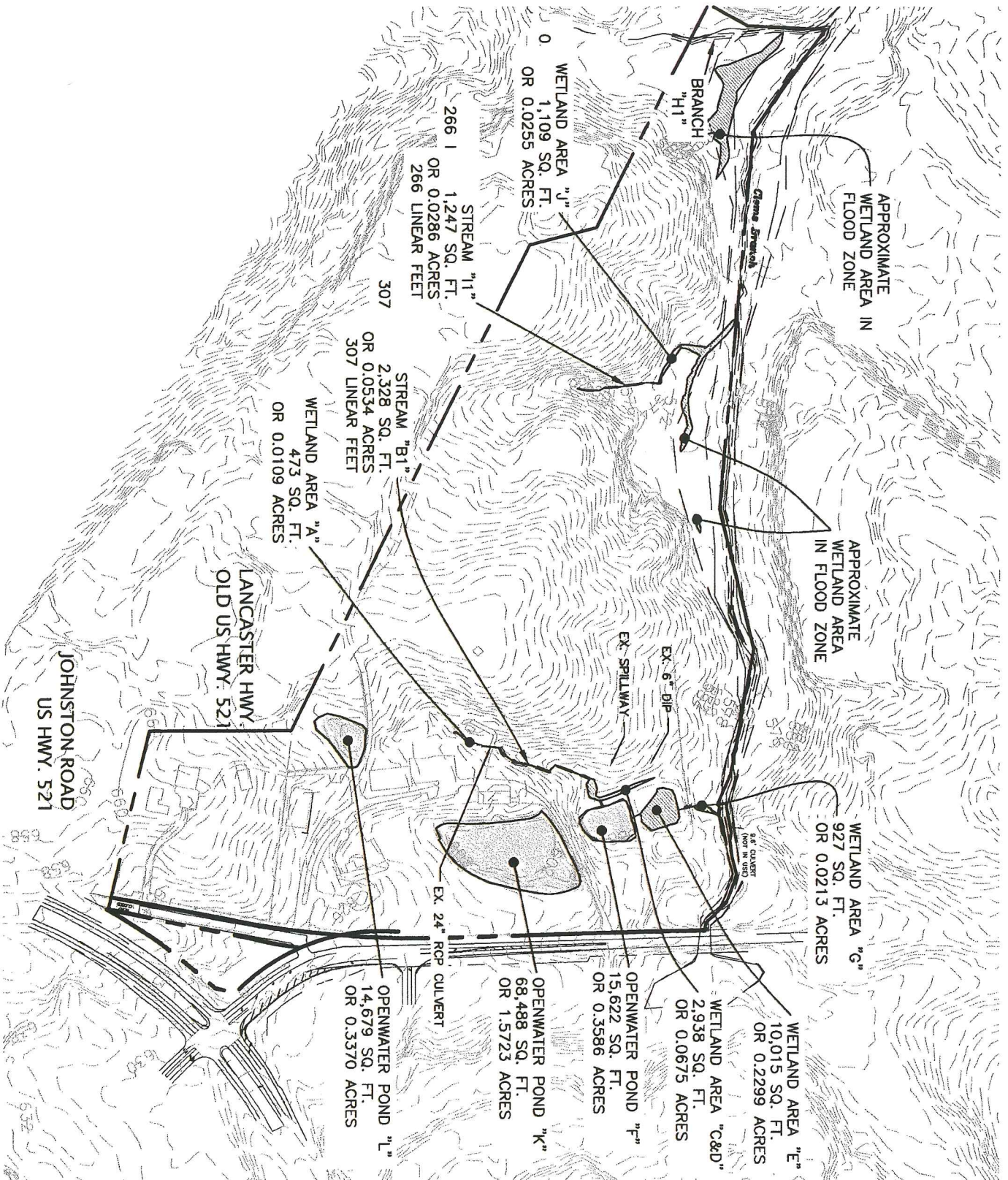


FIGURE NO.  3	LEONARD S. RINDNER PLLC Wetlands & Environmental Planning Group  3714 Spokeshave Lane Matthews, NC 28105 (704) 904 – 2277 LEN.RINDNER.PWS@gmail.com	ELEVATION CHURCH MECKLENBURG COUNTY, NC		SHEET:	
		AERIAL MAP APPROXIMATE LOCATION	DRAWN BY: JAL	REVIEWED BY: LSR	
			DATE:  05 /06 /13	PAGE:	









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charlotte, nc 28208  
p 704.343.0608 f 704.358.3093  
www.drg.com

## ELEVATION CHURCH

CHARLOTTE, NC

### MPV PROPERTIES

521 EAST MOREHEAD STREET, STE. 400  
CHARLOTTE, NC

Figure 5



SCALE: 1"=400'

PROJECT #: 397-007

DRAWN BY: TC

CHECKED BY: SK

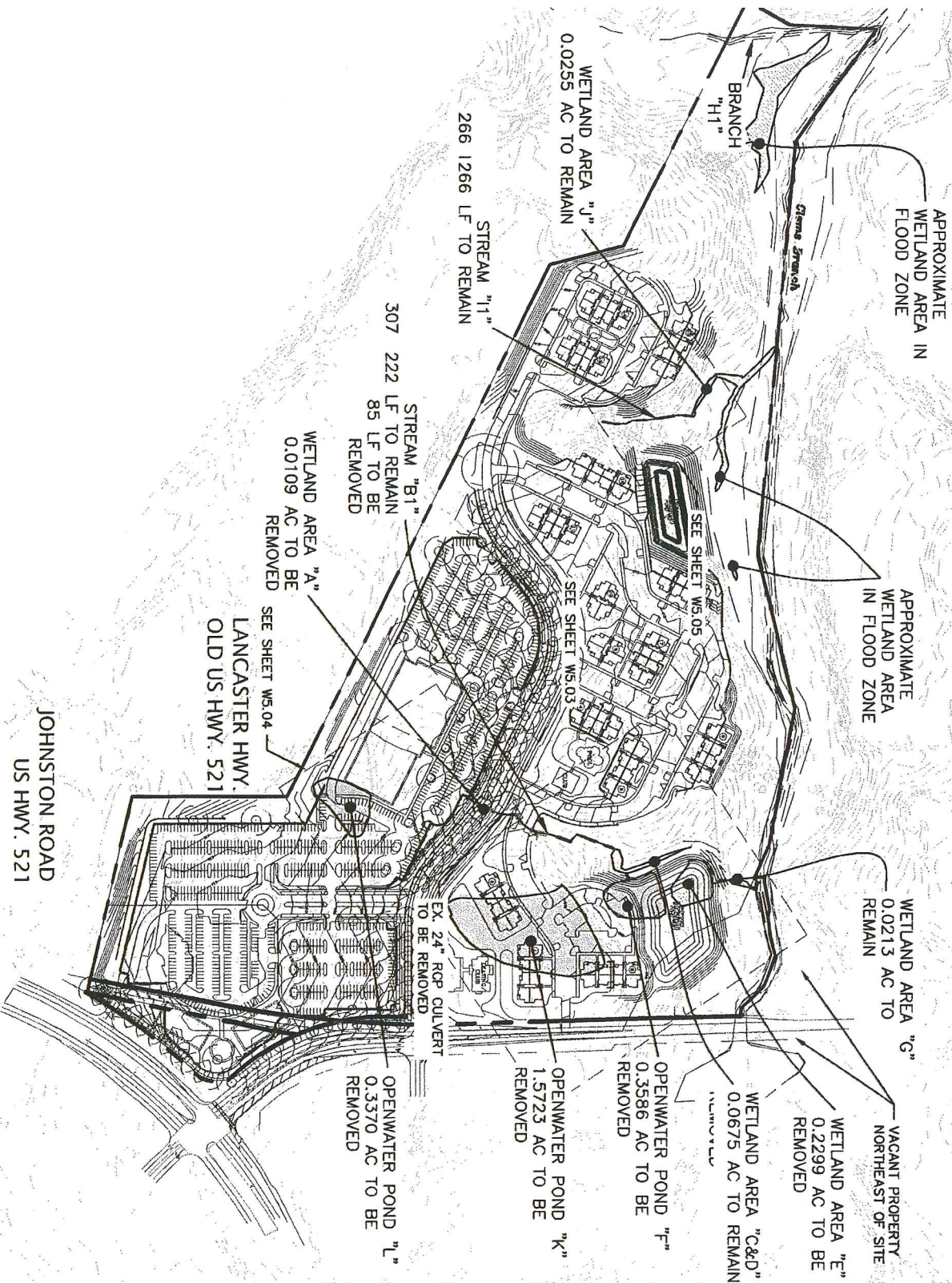
## EXISTING CONDITIONS

JANUARY 23, 2014

REVISIONS:

W4.0





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## ELEVATION CHURCH

CHARLOTTE, NC

MPV PROPERTIES

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CHARLOTTE, NC

Figure 6

0 200 400  
SCALE: 1"=400'

PROJECT #: 397-007  
DRAWN BY: TC  
CHECKED BY: SK

### SITE PLAN

JANUARY 23, 2014

REVISIONS:

W5.0



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**ELEVATION CHURCH**  
CHARLOTTE, NC  
MPV PROPERTIES  
521 EAST MOREHEAD STREET, STE. 400  
CHARLOTTE, NC

Figure 7

PROJECT #: 397-007  
DRAWN BY: TC  
CHECKED BY: SK

**SITE NOTES**

JANUARY 23, 2014  
REVISIONS:

W5.01

**SITE DATA**

PROPOSED USES: 200,000 SF CHURCH OFFICE  
42,000 SF WORSHIP CENTER (1600 SEATS)  
22,000 SF CHILDREN'S MINISTRY  
~~356~~ UNITS RESIDENTIAL  
397

REQUIRED PARKING: 1 SPACE PER 4 SEATS 400 SPACES  
1 SPACE PER 250 SF 800 SPACES  
1.5 SPACES PER UNIT 534 SPACES  
TOTAL 1,734 SPACES

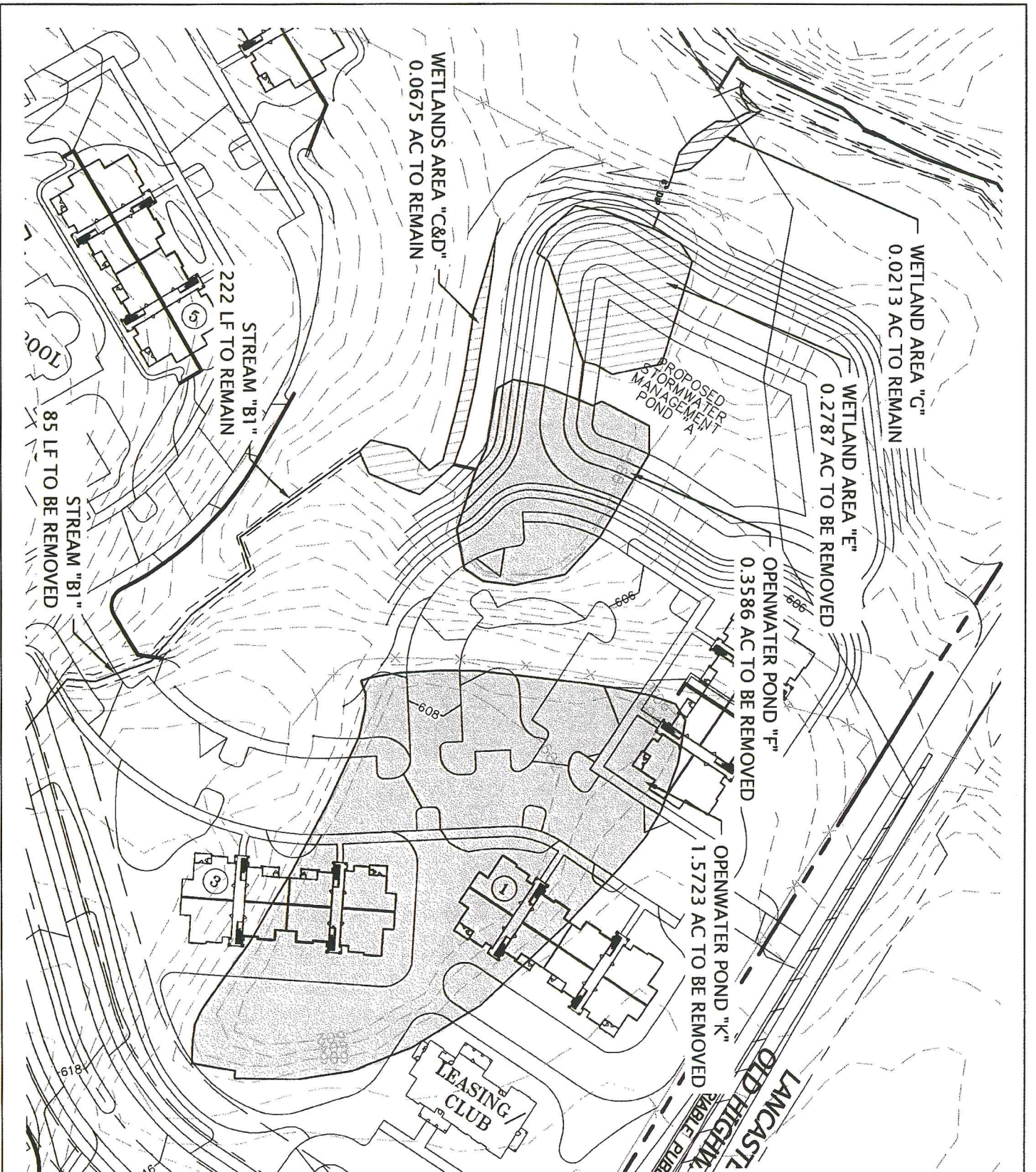
**CRITICAL DESIGN CRITERIA**

- 3-4 STORY APARTMENTS
- MAINTAIN FIRE ACCESS TO ALL PORTIONS OF BUILDINGS
- PARKING SLOPES: 5% MAX  
2% MAX FOR ADA
- REQUIRED CONNECTIVITY THROUGHOUT SITE TO BE ADA COMPLIANT
- REQUIRED TREE SAVE AREA
- REQUIRED OPEN SPACE AREA
- REQUIRED BUFFERS
- ENGINEERING DESIGN FOR STORMWATER

**CONSTRUCTION SCHEDULE**

BEGIN:  
END:





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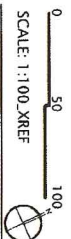
## ELEVATION CHURCH

CHARLOTTE, NC

### MPV PROPERTIES

521 EAST MOREHEAD STREET, STE. 400  
CHARLOTTE, NC

Figure 8



SCALE: 1"=100' XREF  
PROJECT #: 397-007  
DRAWN BY: TC  
CHECKED BY: SK

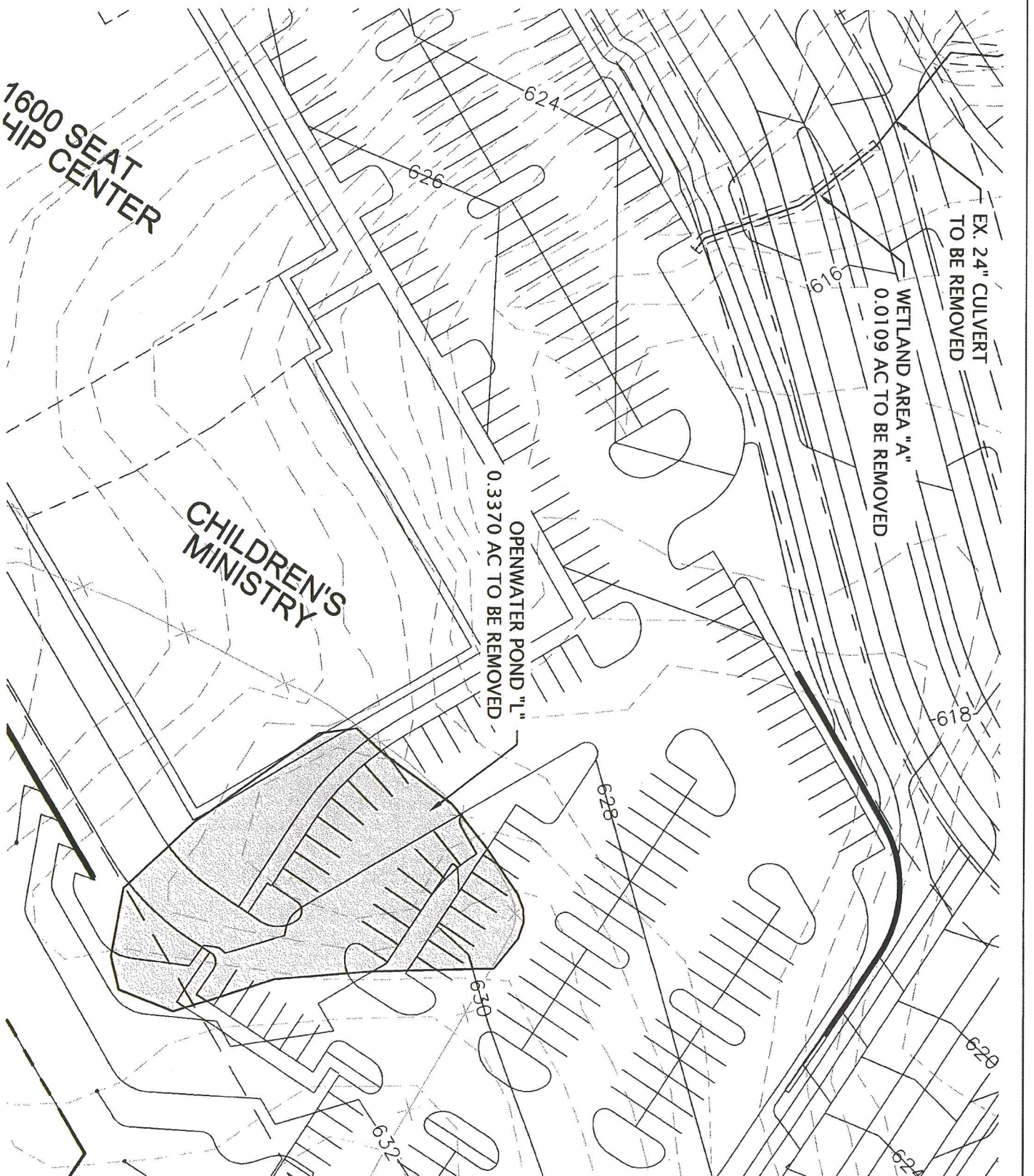
## IMPACT AREAS

JANUARY 23, 2014

REVISIONS:

WS.03





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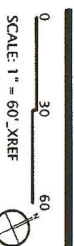
## ELEVATION CHURCH

CHARLOTTE, NC

### MPV PROPERTIES

521 EAST MOREHEAD STREET, STE. 400  
 CHARLOTTE, NC

Figure 9



SCALE: 1" = 60'-XREF

PROJECT #: 397-007  
 DRAWN BY: TC  
 CHECKED BY: SK

## IMPACT AREAS

JANUARY 23, 2014

REVISIONS:

WS.04



# ELEVATION CHURCH ENHANCEMENT

Charlotte, NC

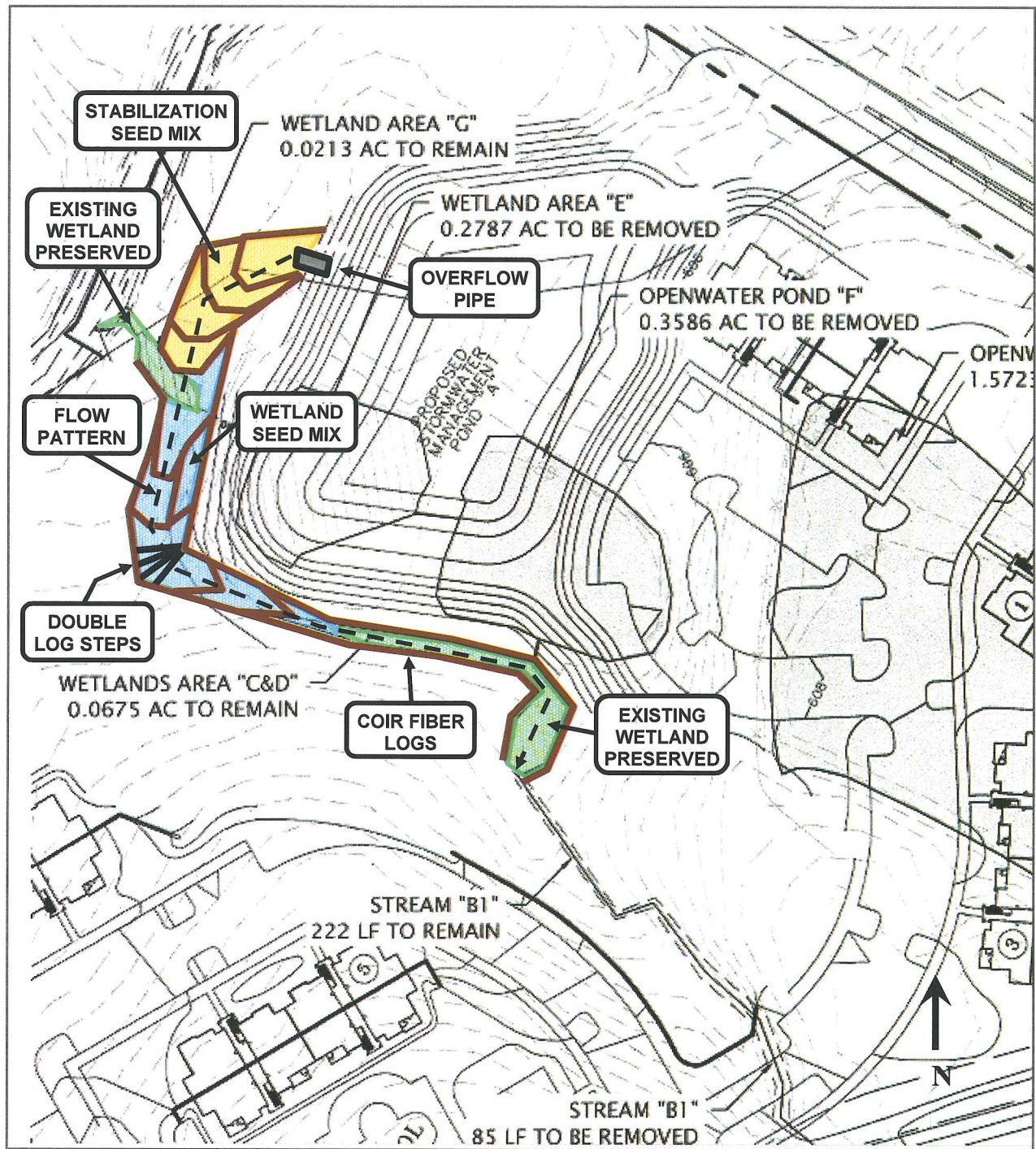


Figure No.

10

LEONARD S. RINDNER PLLC  
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ELEVATION CHURCH  
ENHANCEMENT

SKETCH MAP

\*Approximate Boundary

Sheet:

Page:

Drawn  
by: NRN

Reviewed  
by: LSR

Date:  
2-14-14

## ELEVATION CHURCH ENHANCEMENT

### VEGETATION PLAN

2-14-14

The enhancement area has three general areas which are depicted by the different native seed mixes; Stabilization, Wetland, and Preserved Wetlands. The stabilization area is a more intermittent with primary flow occurring around peak rain events. The wetland area is predominately wet year round with additional flow input during peak rain events. Preserved wetlands are not to receive any seeding. Native seed mixes are listed below. Coir fiber logs are to be installed to help maintain stable flow during peak events as well as to prevent any undesirable erosion surrounding the enhancement area. The coir fiber logs will receive live stakes to help stabilize the enhancement area. Live stake species list are listed below. Log steps are to be installed in one location to ensure the peak water flow follows the prescribed course. Log steps can be constructed from live trees found onsite. To ensure that the flow follows the prescribed course a shallow (3"- 4" deep) ditch is to be dug. The entire enhancement area is to be mated with coir fiber erosion fabric.

#### Native Stabilization Seed Mix (20-25 lbs. per acre):

*Elymus virginicus* (Virginia wild rye), *Tripsacum dactyloides* (Eastern gammagrass), *Panicum virgatum* (Switchgrass), *Agrostis scabra* (Rough bentgrass), *Carex vulpinoidea* (Fox sedge), *Tridens flavus* (Purple top), *Schizachyrium scoparium* (Little bluestem), *Coreopsis lanceolata* (Lance leaf tickseed), *Sorghastrum nutans* (Indian grass), *Elymus hystrix* (Bottlebrush grass), *Festuca ovina* var. *duriuscula* (Hard Fescue), *Rudbeckia hirta* (Blackeyed Susan)

#### Native Wetland Seed Mix (20-25 lbs. per acre):

*Elymus riparius* (Riverbank wild rye), *Agrostis stolonifera* (Creeping bentgrass), *Carex vulpinoidea* (Fox sedge), *Panicum virgatum* (Switchgrass), *Poa palustris* (Fowl bluegrass), *Dichanthelium clandestinum* (Deer tongue), *Bidens aristosa* (Bidens), *Juncus effusus* (Soft rush), *Sagittaria latifolia* (Duck Potato), *Saururus cernuus* (Lizard Tail)

#### Live Stake Species (3' on center):

*Cornus amomum* (Silky Dogwood), *Salix caroliniana* (Carolina Willow), *Salix sericea* (Silky Willow), *Sambucus canadensis* (Elderberry), *Physocarpus opulifolius* (Ninebark)

Figure 11