

DEPARTMENT OF THE ARMY  
Wilmington District, Corps of Engineers  
Post Office Box 1890  
Wilmington, North Carolina 28402-1890

Action ID No. 200420657

April 30, 2004

PUBLIC NOTICE

Mr. Robert D. Gorham, Jr., P.O. Box 912, Rocky Mount, Nash County, 27802, has applied for a Department of the Army (DA) permit TO PLACE FILL WITHIN 0.24 ACRES OF WETLANDS ADJACENT TO STONY CREEK; IN ORDER TO CONSTRUCT THREE COMMERCIAL RESTAURANTS AT THE NORTHWEST QUADRANT OF THE INTERSECTION OF U.S. HWY 64 AND U.S. HWY 301, IN ROCKY MOUNT, NASH COUNTY, NORTH CAROLINA. Please reference Action Id. Number, 200120899.

The following description of the work is taken from data provided by the applicant and from observations made during a site visit by a representative of the Corps of Engineers. Development of the site will result in the placement 850 cubic yards of fill material into 0.24 acre of wetlands, adjacent to Stony Creek, associated with the construction of a proposed restaurant complex consisting of a Logan's Roadhouse, O'Charley's, and an undisclosed fast food restaurant and parking area. Previous impacts to jurisdictional waters on this tract were 0.45 acre of wetlands associated with development of a large commercial hardware retailer, known as Home Depot. The cumulative impacts to waters of the U.S., including all phases of the development, will total 0.69 acres of wetlands. Plans showing the work are included with this public notice.

The current use of the project area is the Home Depot and parking area. The proposed Logan's Roadhouse, O'Charley's, and fast food restaurant, are adjacent to the current Home Depot and parking area. The area proposed for the restaurant complex is composed of upper coastal plain shrub/scrub thicket with no trees then slopes off into a small hardwood flat parallel to U.S. Hwy. 64, which is adjacent to Stony Creek.

The proposal also includes a compensatory wetlands mitigation plan. The applicant proposes to mitigate for impacts to the wetlands with the restoration of .48 acre of off-site wetlands, to be accomplished by payment into the Ecosystem Enhancement Program.

The State of North Carolina will review this public notice to determine the need for the applicant to obtain any required State authorization. No Department of the Army (DA) permit will be issued until the coordinated State viewpoint on the proposal has been received and reviewed by this agency, nor will a DA permit be issued until the North Carolina Division of Water Quality (NCDWQ) has determined the applicability of a Water Quality Certificate as required by PL 92-500.

This application is being considered pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in the notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein. Based on the best available evidence, it has been determined that no sites within the vicinity of the project are registered or listed as being eligible for inclusion in the Register. Examination of the National Register of Historic Places constitutes the extent of cultural resource investigations by the District Engineer, and he is otherwise unaware of the presence of other such resources. Presently, unknown archeological, scientific, prehistorical, or historical data may be lost or destroyed by work under the requested permit.

The District Engineer, based on available information, is not aware that the proposed activity will affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all those factors, which become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values (in accordance with Executive Order 11988), land use, navigation, shore 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 placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; 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.

Generally, the decision whether to issue this Department of the Army (DA) permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether or not the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Wetlands /401 Unit, North Carolina DENR, Division of Water Quality, 2321 Crabtree Boulevard, Raleigh, North Carolina. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

All persons desiring to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), Wetlands/401 Unit, 1650 Mail Service Center, Raleigh, North Carolina, 27699-1650, on or before May 31, 2004, Attention: Mr. John Dorney.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Mr. Kevin Yates, until 4:15 p.m., May 31, 2004, or telephone (919) 876-8441, extension 30.

# WETLAND IMPACTS

← Home Depot

Outparcel #1

Charley's

FAST FOOD RESTAURANT

DRIVE THRU

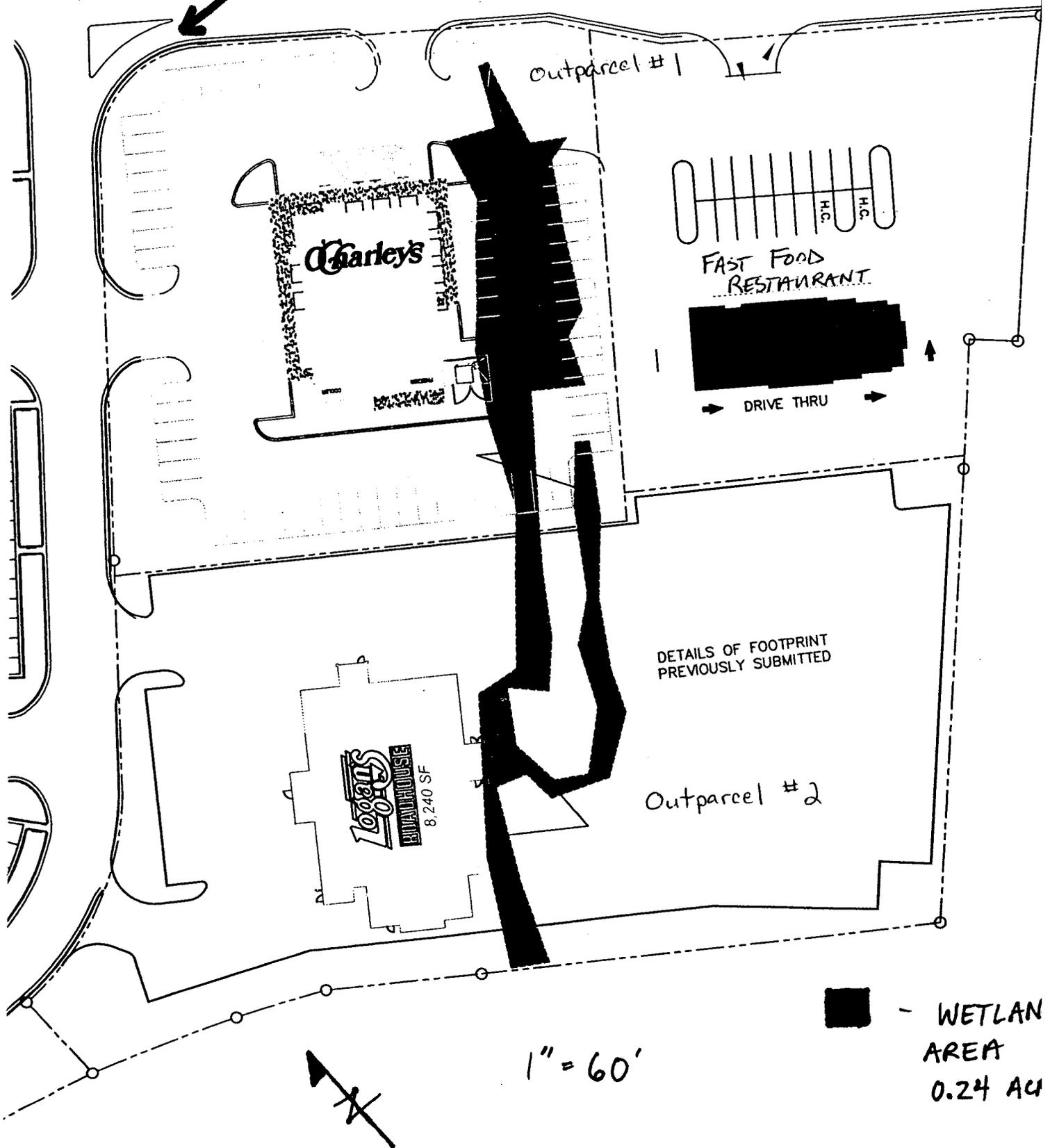
DETAILS OF FOOTPRINT PREVIOUSLY SUBMITTED

Outparcel #2

LOGS  
BUTTERHOUSE  
8,240 SF

■ - WETLAND AREA  
0.24 AC

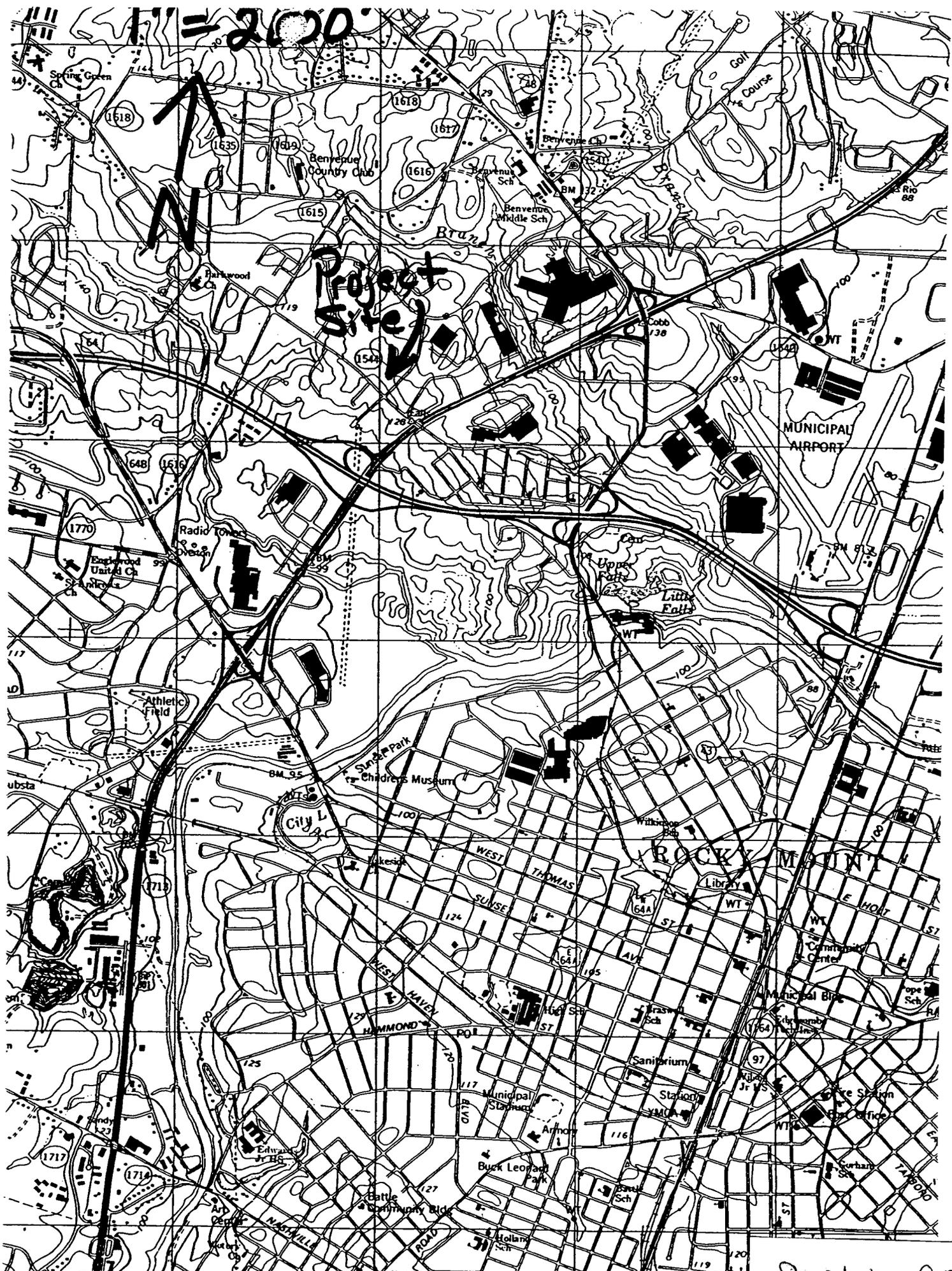
1" = 60'



1" = 2000'



Project Site



# Existing Home Depot

