

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Asheville Regulatory Field Office
151 Patton Avenue Room 208
Asheville, North Carolina 28801-5006
(<http://www.saw.usace.army.mil/WETLANDS/notices.html>)

Action ID No. 200430232

October 5, 2004

PUBLIC NOTICE

Charlotte-Mecklenburg Schools, 3301 Stafford Drive, Charlotte, Mecklenburg County, 28208, has applied for a Department of the Army (DA) permit **TO PLACE FILL WITHIN 1,153 LINEAR FEET OF STREAM CHANNEL, 0.8 ACRES OF AN OPEN WATER POND, 0.375 ACRES OF JURISDICTIONAL WETLANDS AND 0.26 ACRES OF NON-JURISDICTIONAL, ISOLATED WETLANDS, ADJACENT TO AND INCLUDING UNNAMED TRIBUTARIES TO STONY CREEK, IN ORDER TO CONSTRUCT THE PROPOSED MALLARD CREEK HIGH SCHOOL AND EXPANSION OF EXISTING SOCCER FACILITY, LOCATED ON THE EAST AND WEST SIDE OF BINGHAM ROAD, ADJACENT TO JOHNSTON-OEHLER ROAD, IN CHARLOTTE, MECKLENBURG COUNTY, NORTH CAROLINA.**

The following description of the work is taken from data provided by the applicant. The proposed project site consists of approximately 85 acres located within the existing Mallard Creek Community Park. Plans submitted with the application show the proposed placement of fill material into 490 linear feet of stream channels, 0.8 acre of an open water pond, and 0.34 acres of jurisdictional wetlands associated with the construction of the new Mallard Creek High School. The proposed high school will encompass approximately 52 acres of the 85-acre project site. The plans submitted also show the proposed placement of fill material into 663 linear feet of stream channels, 0.04 acres of jurisdictional wetlands, and 0.26 acres of non-jurisdictional, isolated wetlands associated with the expansion of an existing soccer facility that is currently located on the project site. The proposed expansion will encompass approximately 33 acres of the entire project site. The purpose of the proposed work is two-fold; to provide an additional high school facility to meet current and future capacity needs and to expand an existing athletic facility that will also accommodate increasing demands from the surrounding community. The existing and proposed athletic facilities will be shared by Charlotte-Mecklenburg Schools and Mecklenburg County Parks & Recreation through a joint-use agreement.

Proposed impacts associated with the construction of the high school will include the placement of fill in an existing 0.8-acre open water pond and 0.29 acres of wetlands (Wetland "A"). Wetland "A" includes a small emergent and scrub-shrub wetlands along the pond fringe, as well as a linear wetland feature, upstream of the pond. Dominant vegetation in the pond fringe includes cattail (*Typha latifolia*), smartweed (*Polygonum* sp.), soft rush (*Juncus effusus*), bearded sedge (*Carex comosa*), red-root flatsedge (*Cyperus erythrorhizos*), silky dogwood (*Cornus*

amomum), green ash (*Fraxinus pennsylvanica*), and red maple (*Acer rubrum*). The source of water in Wetland "A" appears to be provided by overflow of the pond, a shallow groundwater table upslope of the pond, and precipitation. Approximately 340 linear feet of stream channel (Stream 1) originating from the pond will also be filled. An additional 150 linear feet of stream channel (Stream 2) and 0.005 acre of wetlands (Wetland "J") will be filled as a result of improvements to Bingham Road. Stream 1 and 2 was determined to be perennial and of fair-good quality.

Proposed impacts associated with the expansion of the existing soccer facility include the placement of fill in 663 linear feet of stream channel (Stream 3 and 4), 0.04 acre of jurisdictional wetlands (Wetland "K") and 0.26 acre of non-jurisdictional, isolated wetlands (Wetlands "I"). Stream 3 originates from an approximately 42-inch culvert outlet at the edge of the existing soccer field. Stream 3 passes through a culvert beneath the access road to the park's soccer fields, and eventually discharges to Stream 2 outside of the proposed project site. Stream 4 originates at a nick point in the landscape and discharges to Stream 2 beyond the boundary of the project site. Both Stream 3 and 4 were determined to be intermittent and of poor-fair quality. Wetland "I" is a depression surrounded by woods and mowed fields. Dominant vegetation includes soft rush (*Juncus* sp.), sweetgum (*Liquidambar styraciflua*), winged elm (*Ulmus alata*), American sycamore (*Platanus occidentalis*), blackberry (*Rubus* sp.), and goldenrod (*Solidago* sp.). The source of water in this wetland is likely from precipitation and a shallow groundwater table. Based upon a site visit by a Corps representative, this wetland area was determined to be isolated and not subject to Section 404 of the Clean Water Act. However, this wetland is presumed subject to the jurisdiction of the North Carolina DWQ pursuant to 15A NCAC 02H.1300.

Wetland "C" is approximately 3.87 acres in size and will not be impacted as a result of this project. This wetland is a mafic depression that is contained within a regionally Significant Natural Heritage Area referred to by North Carolina Natural Heritage Program (NCNHP) as the Bingham Road Hardpan Forest. The wetland component of this natural heritage area contains a rare upland depression swamp forest community, locally referred to as Bingham Swamp. Dominant vegetation includes willow oak (*Quercus phellos*), northern red cedar (*Juniperus virginiana*), loblolly pine (*Pinus taeda*), white oak (*Quercus alba*), and shagbark hickory (*Carya ovata*). The source of water in Wetland "C" is presumed to be from seasonal inundation and saturation via precipitation in the spring. Wetland "C" extends beyond the subject property boundary.

The applicant proposes to mitigate for impacts to jurisdictional waters and wetlands through on-site and off-site measures. The applicants proposed mitigation plan is as follows:

- Preservation of 3.87 acres of Bingham Swamp (Wetland "C") situated on the subject property via deed restriction. In addition, the applicant proposes to include approximately 0.8 acre of upland wooded buffer situated between Bingham Swamp and the construction limits as part of the deed restriction (Figure 10).

- Preservation of a stream buffer along 1,580 lf of Stream 2, situated west of Bingham Road (Figure 11). The stream buffer will be 35 feet wide on each side of the stream, measured from top-of-bank, and will be preserved via a deed restriction.
- The remainder of stream impacts will be compensated for through the purchase of mitigation credits from the City of Charlotte's Umbrella Stream and Wetland Mitigation Bank and/or the North Carolina Ecosystem Enhancement Program (EEP).

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 and recent correspondence from the North Carolina Department of Cultural Resources, 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. By copy of this public notice, we are hereby requesting comments from the U.S. Fish and Wildlife, Asheville Regional Office, regarding the proposed project's potential impact to federally endangered or threatened species and/or their potential and critical habitat.

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.

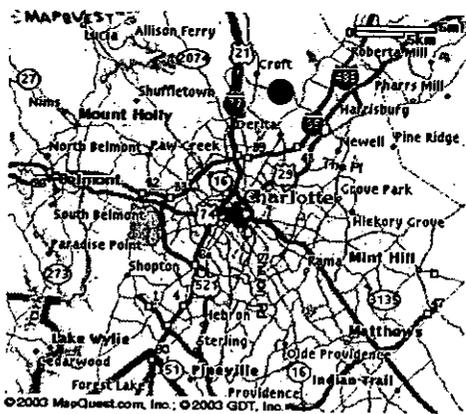
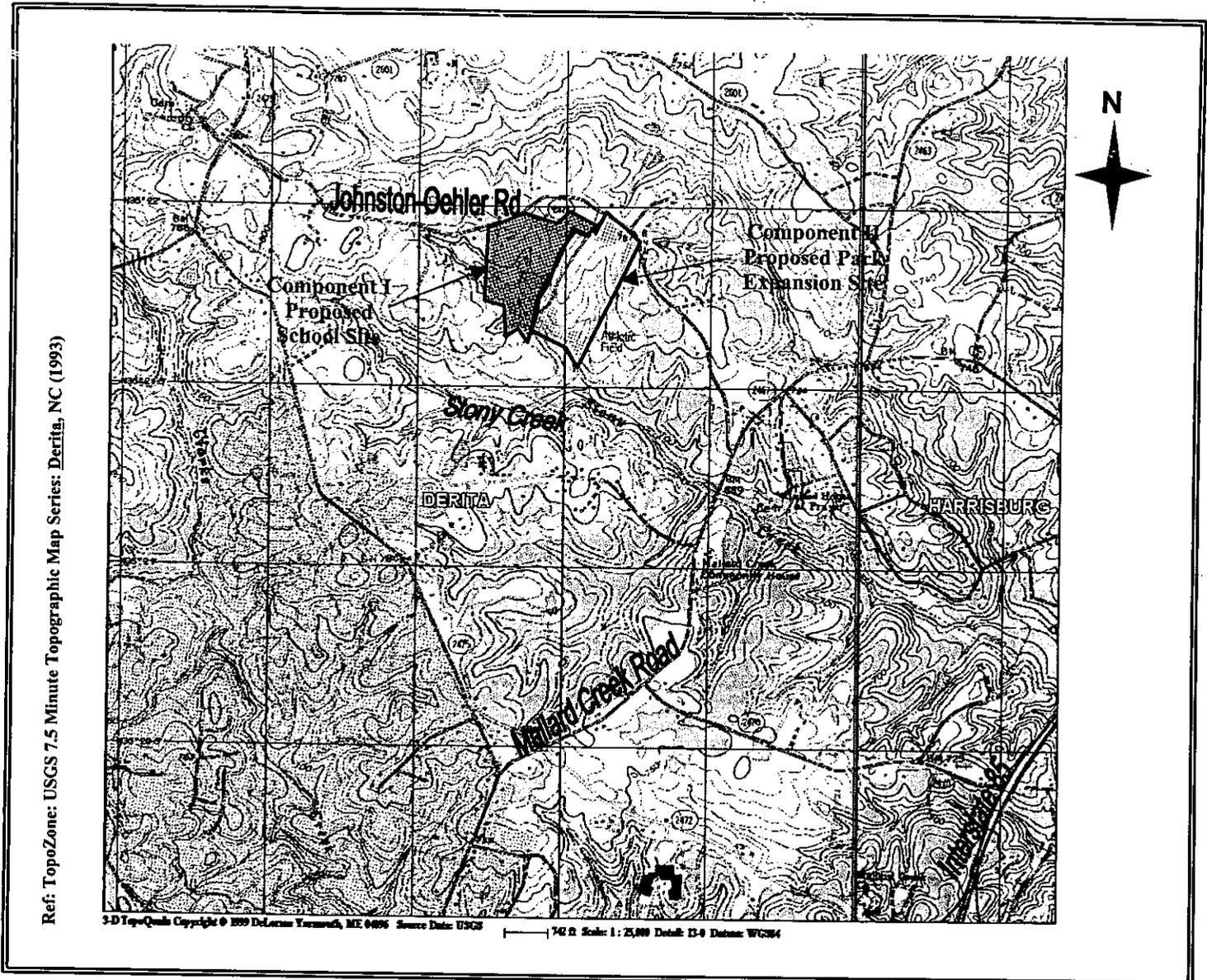
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine 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 modification 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.

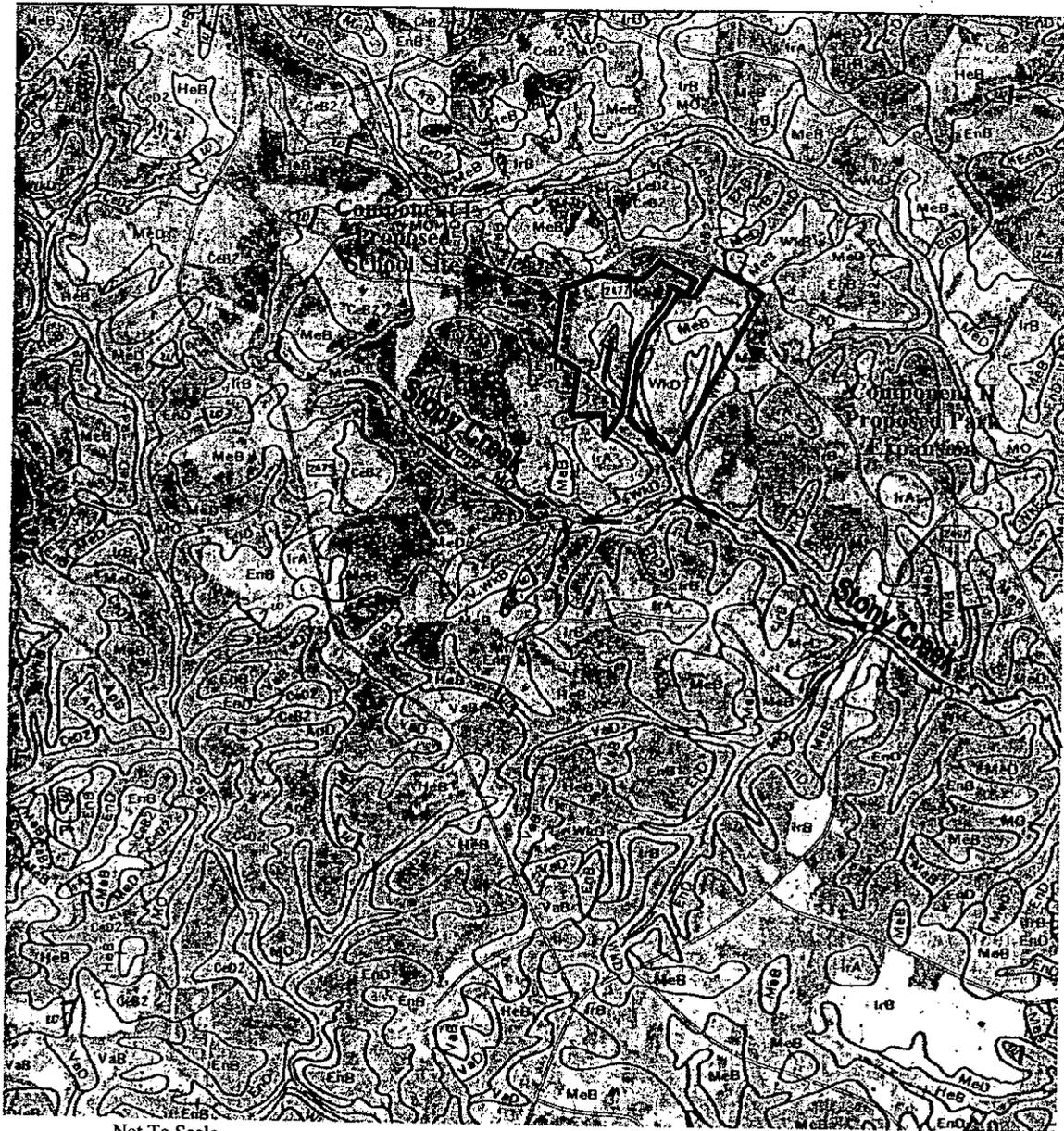
All persons desiring to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), Wetlands/401 Unit, 1650 Mail Service Center, Raleigh, North Carolina, 27699-1650, on or before Friday, October 29, 2004, Attention: Mr. John Dorney.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Ms. Amanda Jones, until 4:15 p.m. on Thursday, November 5, 2004 or telephone (828) 271-7980 extension 231.



<p>Proposed Mallard Creek High School Mecklenburg County North Carolina</p>	 <p>RALPH WHITEHEAD ASSOCIATES, INC.</p>	<p>Project Area FIGURE 1</p>
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Reference: Soil Survey of Mecklenburg County, Sheet 4 of 13, 1980.



Not To Scale

--- Drainage Features

On-Site Soil Map Units

- EnD – Enon sandy loam, 8-15% slopes
- IrA – Iredell fine sandy loam, 0-1% slopes
- IrB – Iredell fine sandy loam, 1-8% slopes
- MeB – Mecklenburg fine sandy loam, 2-8% slopes
- MO – Monocan soils
- WkD – Wilkes loam, 8-15% slopes



North Carolina Vicinity Map

Proposed Mallard Creek
High School
Mecklenburg County
North Carolina

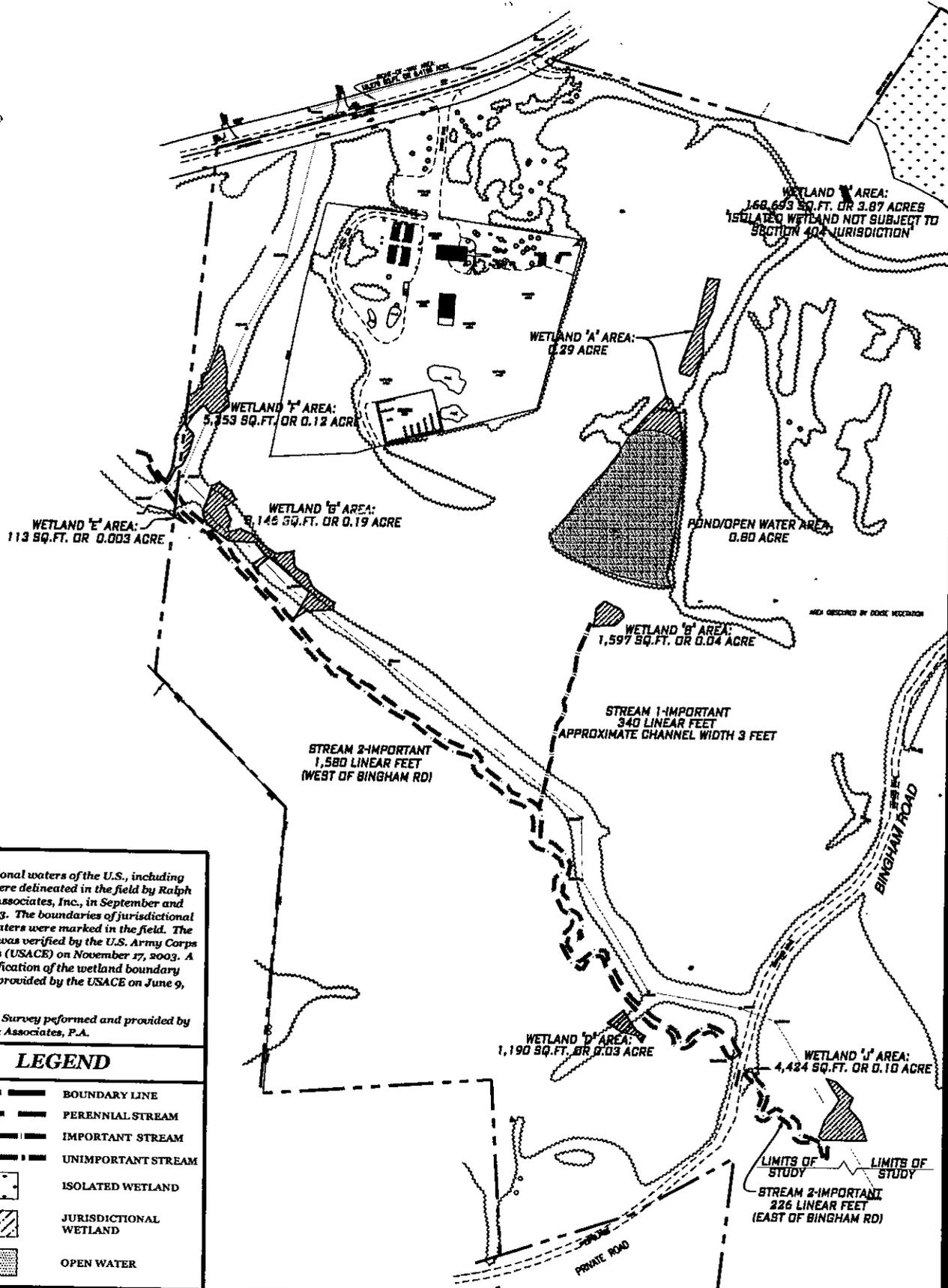


**RALPH WHITEHEAD
ASSOCIATES, INC.**

Soil Survey Map

FIGURE 2

MATCHLINE
SEE FIGURE 3B



NOTES:

1. Jurisdictional waters of the U.S., including wetlands, were delineated in the field by Ralph Whitehead Associates, Inc., in September and October 2003. The boundaries of jurisdictional wetlands/waters were marked in the field. The delineation was verified by the U.S. Army Corps of Engineers (USACE) on November 27, 2003. A written verification of the wetland boundary survey was provided by the USACE on June 9, 2004.

2. Wetlands Survey performed and provided by R.B. Pharr & Associates, P.A.

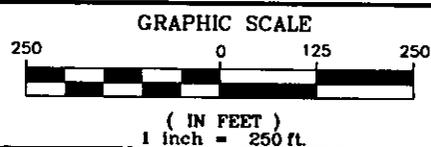
LEGEND

	BOUNDARY LINE
	PERENNIAL STREAM
	IMPORTANT STREAM
	UNIMPORTANT STREAM
	ISOLATED WETLAND
	JURISDICTIONAL WETLAND
	OPEN WATER

WATERS OF THE U.S. AND WETLANDS BOUNDARY MAP

**PROPOSED MALLARD CREEK HIGH SCHOOL
SCHOOL SITE - COMPONENT I**

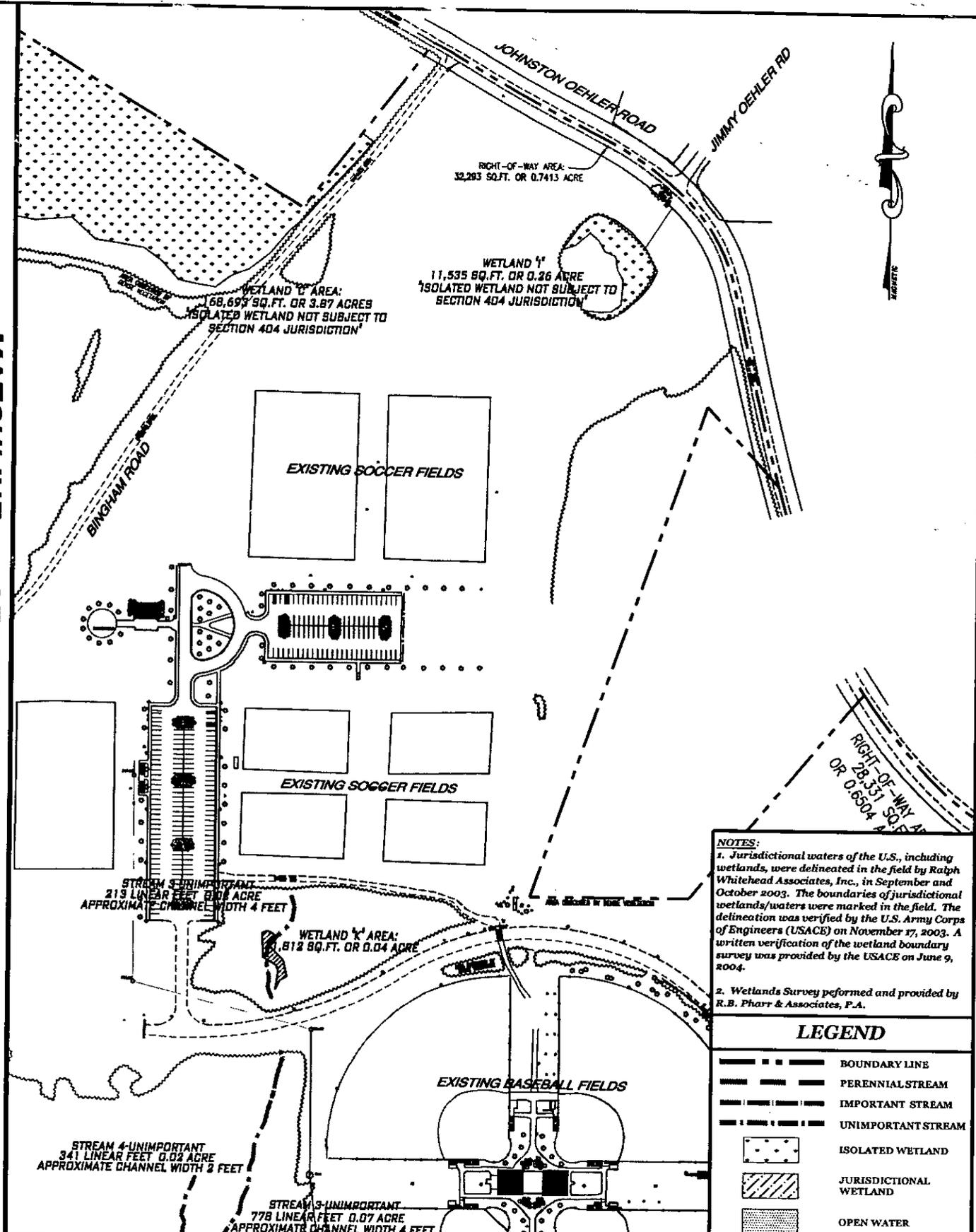
Mecklenburg County, N.C.



DATE: 08/12/04
DRAWN BY: JLS
CHECKED BY:
FIGURE NO.: 3A

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MATCHLINE SEE FIGURE 3A



NOTES:

1. Jurisdictional waters of the U.S., including wetlands, were delineated in the field by Ralph Whitehead Associates, Inc., in September and October 2003. The boundaries of jurisdictional wetlands/waters were marked in the field. The delineation was verified by the U.S. Army Corps of Engineers (USACE) on November 17, 2003. A written verification of the wetland boundary survey was provided by the USACE on June 9, 2004.

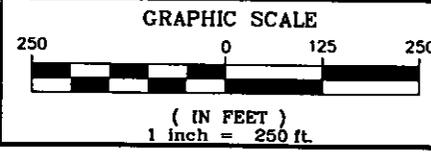
2. Wetlands Survey performed and provided by R.B. Pharr & Associates, P.A.

LEGEND

	BOUNDARY LINE
	PERENNIAL STREAM
	IMPORTANT STREAM
	UNIMPORTANT STREAM
	ISOLATED WETLAND
	JURISDICTIONAL WETLAND
	OPEN WATER

WATERS OF THE U.S. AND WETLANDS BOUNDARY MAP

**PROPOSED MALLARD CREEK HIGH SCHOOL
PARK EXPANSION SITE - COMPONENT II**
Mecklenburg County, N.C.



DATE: 08/12/04
DRAWN BY: JLS
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FIGURE NO.: 3B

JOHNSTON OEHLER ROAD
60' PUBLIC RIGHT-OF-WAY (S.R. 2477)

R.C. PATTERSON
DEED 2783, PAGE 581
TAX MAP NO. 028-337-08

MATCHLINE
SEE FIGURE 5B

J.C. HIPPI
DEED 6183, PAGE 808
TAX MAP NO. 028-461-02

POND/OPEN WATER
IMPACT AREA: 0.88 ACRE

WETLAND #1
IMPACT AREA: 0.89 ACRE

STREAM 1-IMPORTANT
IMPACT LENGTH: 340 LF

WETLAND #2
IMPACT AREA: 0.024 ACRE

D.B. OEHLER
DEED 6023
TAX MAP NO. 028-331-08

S.W. CASLER
DEED 2788, PAGE 57
TAX MAP NO. 028-331-14

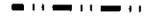
S.L. DIXON
DEED 2788, PAGE 57
TAX MAP NO. 028-331-14

D.B. OEHLER
DEED 6023

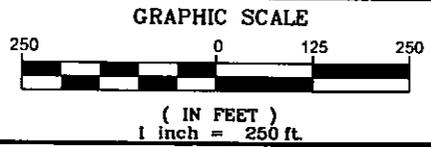
WETLAND #3
IMPACT AREA: 0.005 ACRE

STREAM 2-IMPORTANT
IMPACT LENGTH: 150 LF

LEGEND

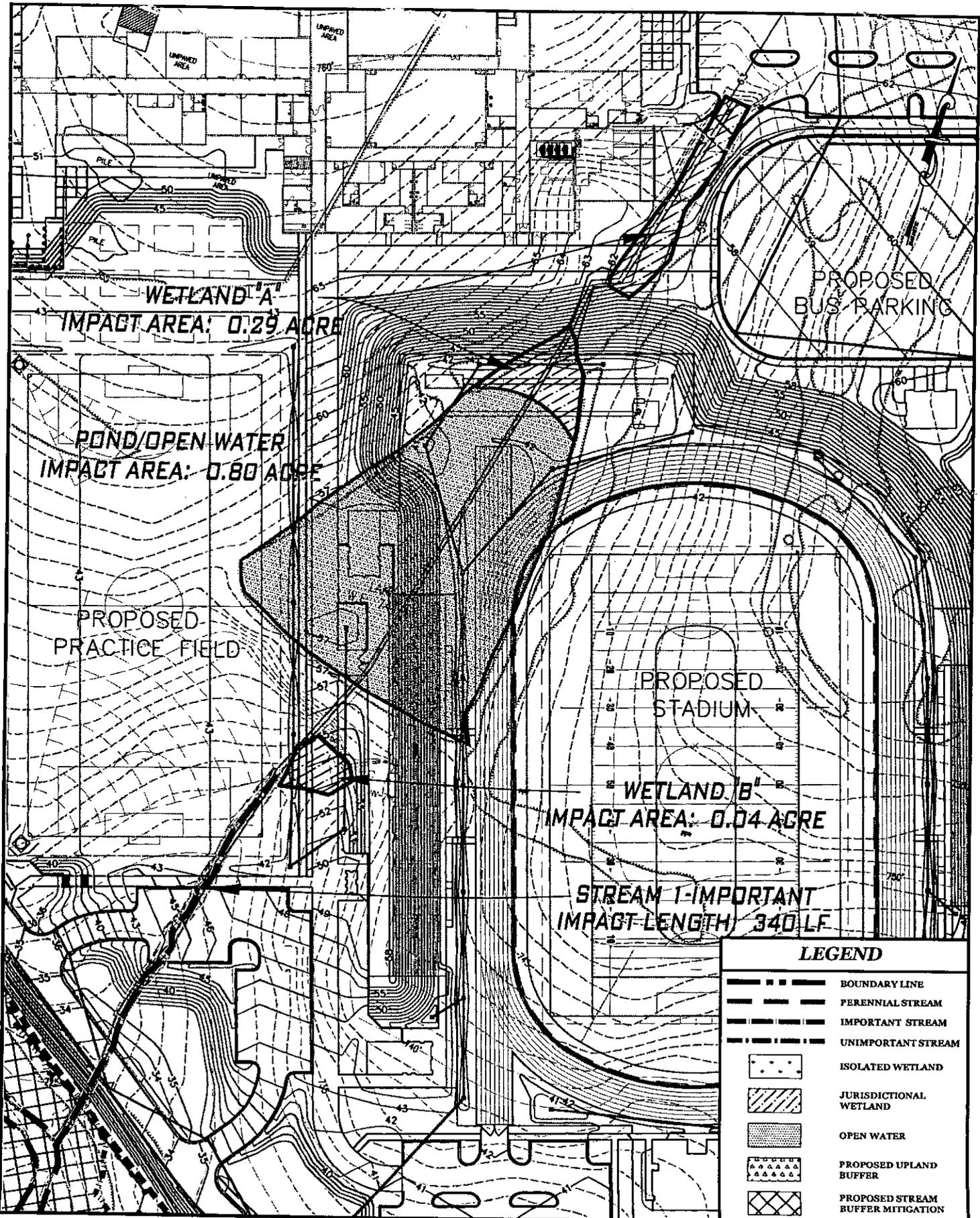
-  SITE BOUNDARY
-  EXISTING CONTOUR
-  CONSTRUCTION LIMITS
-  S.W.I.M. BUFFER
-  PROPOSED STREAM BUFFER
-  IMPACTED WATERS AND WETLANDS
-  PROPOSED UPLAND BUFFER
-  PROPOSED STREAM BUFFER MITIGATION

**PROPOSED MALLARD CREEK HIGH SCHOOL
IMPACT AREAS - COMPONENT I - SCHOOL**
Mecklenburg County, N.C.



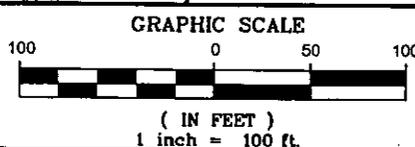
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FIGURE NO.: 5A

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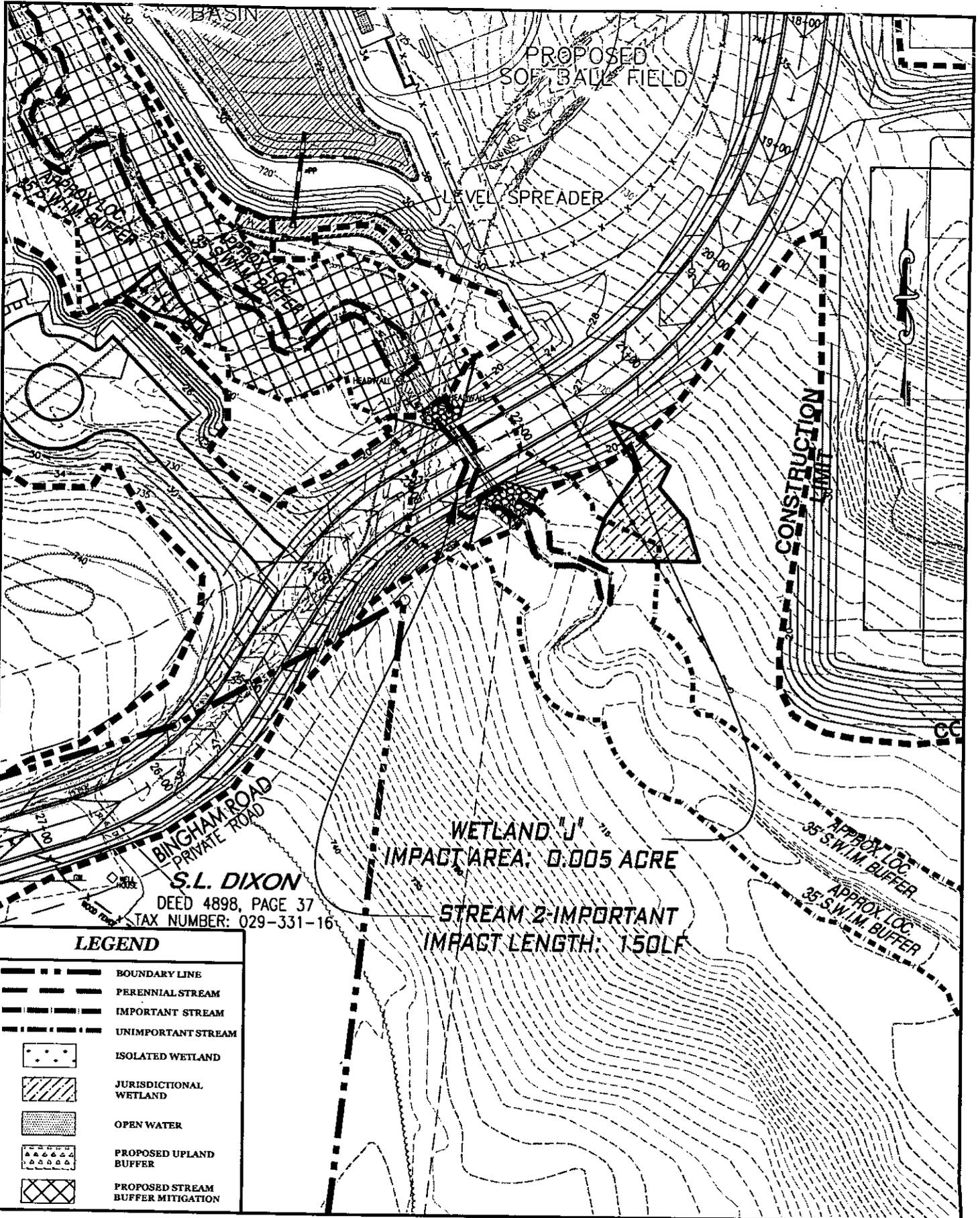
PROPOSED MALLARD CREEK HIGH SCHOOL
IMPACT AREAS
WETLAND A, WETLAND B, POND, STREAM 1

LEGEND	
	BOUNDARY LINE
	PERENNIAL STREAM
	IMPORTANT STREAM
	UNIMPORTANT STREAM
	ISOLATED WETLAND
	JURISDICTIONAL WETLAND
	OPEN WATER
	PROPOSED UPLAND BUFFER
	PROPOSED STREAM BUFFER MITIGATION



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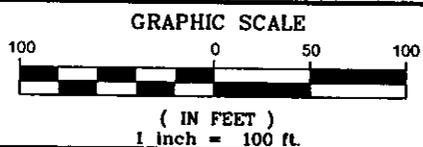
S.L. DIXON
 DEED 4898, PAGE 37
 TAX NUMBER: 029-331-16

WETLAND 'J'
 IMPACT AREA: 0.005 ACRE
STREAM 2-IMPORTANT
 IMPACT LENGTH: 150LF

LEGEND

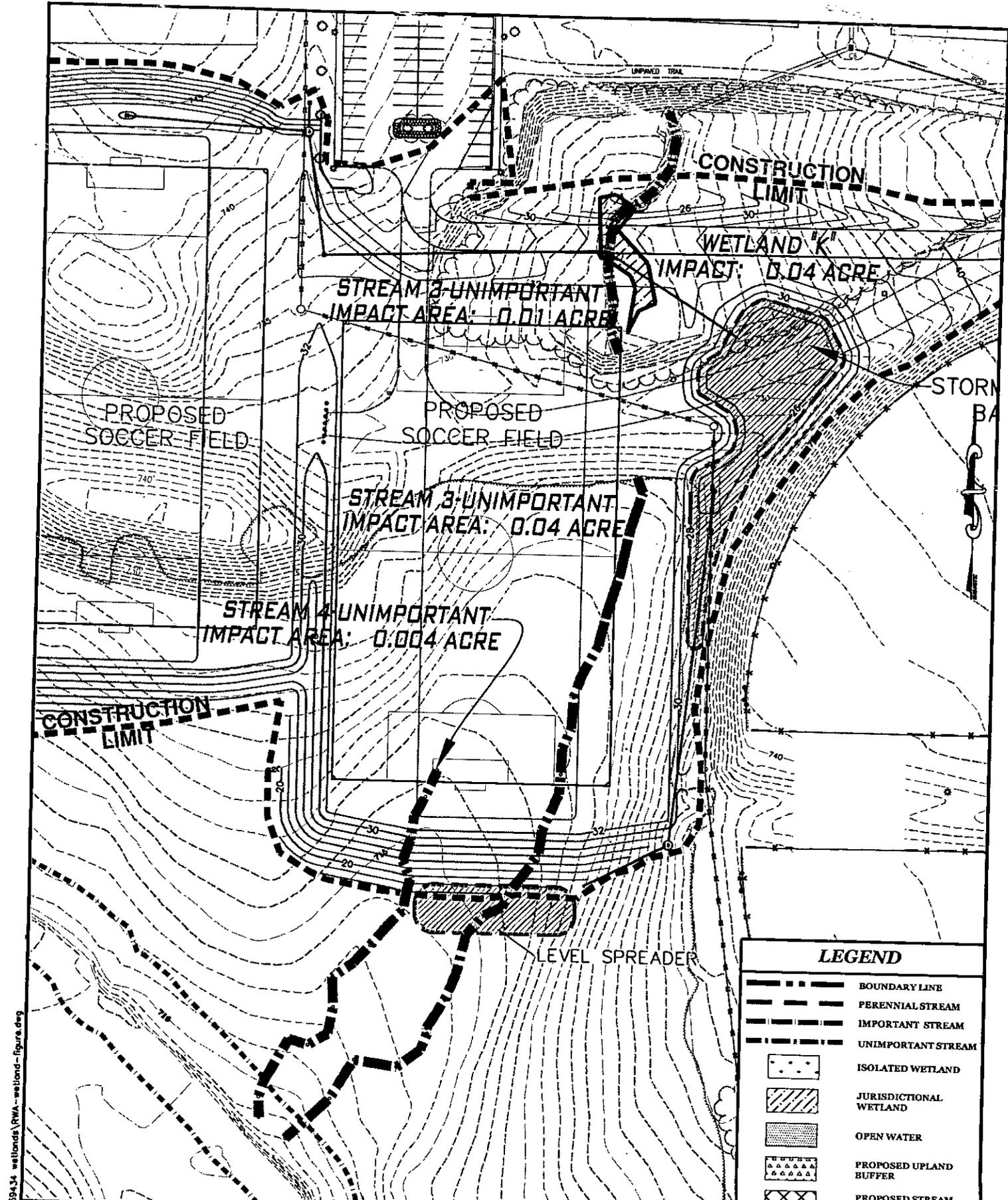
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-  PERENNIAL STREAM
-  IMPORTANT STREAM
-  UNIMPORTANT STREAM
-  ISOLATED WETLAND
-  JURISDICTIONAL WETLAND
-  OPEN WATER
-  PROPOSED UPLAND BUFFER
-  PROPOSED STREAM BUFFER MITIGATION

PROPOSED MALLARD CREEK HIGH SCHOOL
 IMPACT AREAS
 WETLAND J, STREAM 2



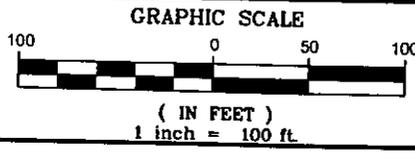
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 FIGURE NO: 7

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LEGEND	
	BOUNDARY LINE
	PERENNIAL STREAM
	IMPORTANT STREAM
	UNIMPORTANT STREAM
	ISOLATED WETLAND
	JURISDICTIONAL WETLAND
	OPEN WATER
	PROPOSED UPLAND BUFFER
	PROPOSED STREAM BUFFER MITIGATION

PROPOSED MALLARD CREEK HIGH SCHOOL
IMPACT AREAS
WETLAND K, STREAM 3, STREAM 4

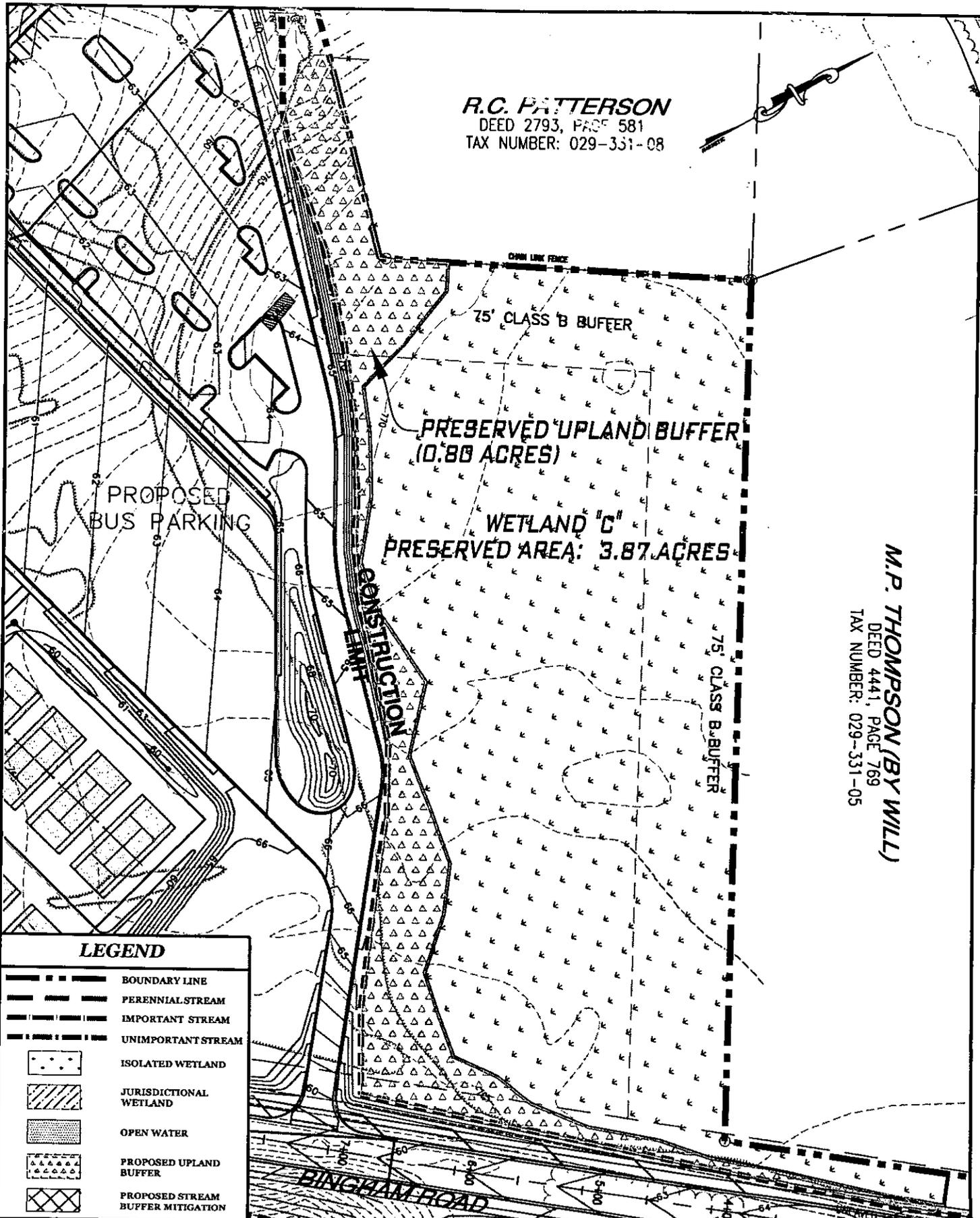


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R.C. PATTERSON
 DEED 2793, PAGE 581
 TAX NUMBER: 029-331-08

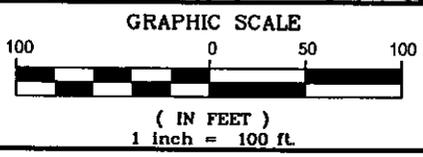
M.P. THOMPSON (BY WILL)
 DEED 4441, PAGE 769
 TAX NUMBER: 029-331-05



LEGEND

- BOUNDARY LINE
- PERENNIAL STREAM
- IMPORTANT STREAM
- UNIMPORTANT STREAM
- ISOLATED WETLAND
- JURISDICTIONAL WETLAND
- OPEN WATER
- PROPOSED UPLAND BUFFER
- PROPOSED STREAM BUFFER MITIGATION

**PROPOSED MALLARD CREEK HIGH SCHOOL
 PROPOSED COMPENSATORY MITIGATION
 AND UPLAND BUFFER PRESERVATION
 WETLAND C**



DATE: 09/01/04
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 FIGURE NO.: 10

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