



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: September 29, 2005
Comment Deadline: October 29, 2005
Corps Action ID #: 200500058

All interested parties are hereby advised that the Wilmington District, Corps of Engineers (Corps) has received an application for work within jurisdictional waters of the United States. 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 www.saw.usace.army.mil/wetlands

Applicant: Wal-Mart Real Estate Business Trust
702 SW Eighth Street
Bentonville, Arkansas 72716

AGENT (if applicable): Land Management Group, Inc.
Attn: Ms. Kim Williams
Post Office Box 2522
Wilmington, North Carolina 28402

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 31.13-acre tract is located at 7241 Market Street (also known as U.S. Highway 17), which is immediately southwest of the Ogden Volunteer Fire Station, northeast of the City of Wilmington, New Hanover County, North Carolina. The site contains approximately 4.2 acres of jurisdictional wetlands adjacent to an unnamed tributary to Pages Creek, a tributary to the Atlantic Intracoastal Waterway, a navigable water of the United States. The site also contains a linear Water of the United States along the northwest property boundary that is hydrologically connected to an unnamed tributary to Smith Creek, a tributary to the Cape Fear River, a navigable Water of the United States. Site coordinates are 34.2785N, -77.8159W.

Existing Site Conditions

The proposed project area is currently undeveloped. The majority of the uplands on the tract have been cleared of woody vegetation and support herbaceous species such as dog fennel (*Eupatorium capillifolium*), lespedeza (*Lespedeza sp.*), and goldenrod (*Solidago spp.*). A small fringe of vegetated uplands exists along the edge of the wetland area and supports water oak (*Quercus nigra*), sweetgum (*Liquidambar styraciflua*), privet (*Ligustrum sinense*), and honeysuckle (*Lonicera japonica*). Wetlands within the tract contain bald cypress (*Taxodium distichum*), black gum (*Nyssa sylvatica*), red maple (*Acer rubrum*), titi (*Cyrilla racemiflora*), privet, wax myrtle (*Myrica cerifera*) and royal fern (*Osmunda regalis*). According to the United States Department of Agriculture Soil Survey of New Hanover County (April 1977), the site is underlain by Murville fine sand, Seagate fine sand, Leon fine sand, and Dorovan soils.

Land use to the west of the tract consists of the Jacob's Ridge residential subdivision; to the north are the Odgen Volunteer Fire Department and the KOA Campground. Commercial development exists to the east and south.

Applicant's Stated Purpose

The purpose of the project is to provide access to the proposed Wal-Mart Center (Store #3798-00).

Project Description

The applicant has proposed to construct a Wal-Mart Supercenter, a gas station, associated parking, stormwater pond, and an entranceway at the subject location. The majority of the development would be located in the upland area. Proposed wetland impacts consist of an entranceway to the Supercenter from NC Highway 17/Market Street and access drive to the rear of the Supercenter building. No impacts are proposed to the Waters of the United States located along the northwest property boundary.

According to the application submitted, the North Carolina Department of Transportation (NCDOT) and New Hanover County dictated the proposed location of the entranceway. These entities determined that the entrance would require a traffic light at US 17/Market Street and would have to line up with an existing intersection on the opposite side of US 17/Market Street. The number of ingress and egress lanes of the entrance was determined by a NCDOT traffic study.

The applicant has also submitted an Alternatives Analysis that includes both on-site and off-site alternatives. This information has been included with this Public Notice.

The applicant has also submitted a mitigation proposal with their application that includes on-site creation of 1.1 acres of wetlands by excavating upland areas adjacent to the existing wetlands and planting with native wetland species. Also, the applicant has proposed to preserve the

remaining wetlands (4.26 acres) in perpetuity with a legal covenant. Finally, the applicant has proposed to install culverts under the entranceway for aquatic life passage.

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 in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for 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, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. 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 Cyndi Karoly by October 21, 2005.

The applicant has certified that the proposed work 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 is, by this notice, forwarding this certification to the North Carolina Division of Coastal Management (NCDCM) and requesting its concurrence or objection. Generally, the Corps will not issue a Department of the Army (DA) permit until 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 have no effect on federally listed endangered or threatened species or their formally designated critical habitat.

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 that 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 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 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, October 28, 2005. Comments should be submitted to Jennifer S. Frye, Post Office Box 1890, Wilmington, North Carolina, 28402-1890, at (910) 251-4923.

ALTERNATIVES ANALYSIS

The alternatives that were evaluated are 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 is not considered feasible for several reasons. This site is located in a part of Wilmington that is predominantly developed. It is one of the few developable pieces of land that can support a retail center of this magnitude. The tract is located off of a major road (US Highway 17) that receives a great deal of traffic and is in an expanding location (northern part of New Hanover County). This site is economically valuable because of its location. The inability to develop this tract of land would be a significant loss of return for the applicant. A Wal-Mart shopping center in the northern part of the County would also contribute secondary benefits to the community. This Supercenter would provide approximately 420 jobs and significant tax revenue to the County. Furthermore, Wal-Mart stores typically have budgets to give donations away locally throughout year. The no-action alternative would prevent these benefits to the community.

Alternate Sites

An evaluation of alternative sites similar in size and vicinity was conducted. It should be noted that early on in the development process, Wal-Mart representatives spoke with officials of New Hanover County and the NC Department of Transportation regarding zoning requirements and access into a potential shopping center. It was immediately determined that this site would require a traffic signal at its entrance to function properly and that the entrance drive must line up with an existing intersection. These factors dictated where the driveway could be located within a potential property. Accessibility is critical and in order for adequate access to occur, an entrance would be needed along US Hwy 17. Other factors considered when searching for a tract included size and zoning. The applicant needed at least 25 acres on which to build and a zoning classification that was consistent with the proposed development. Potential tracts that were evaluated include:

1. 7910 Market Street

This 39.74-acre tract is owned by Bayshore Estates LLC (Figure 6). It is zoned residential and is surrounded by the Marsh Oaks Subdivision. It would likely be very difficult

to obtain a zoning change from the County in order to build a Wal-Mart, especially with an existing subdivision directly adjacent to it. Therefore, this site was not considered further.

2. 8101 Market Street

This 28.77-acre site is owned by New Hanover Regional Medical Center and is currently being developed for an expansion of their medical facilities (Figure 7). According to maps of the site, there are wetlands located on the eastern part of the property. Because of potential wetland impacts and the existing building plans, this site was not pursued.

3. 9000 Market Street

This 153.31-acre site is owned by SENCA Properties (Figure 8). This site is already under development by its current owners and was not available for purchase.

On-site Alternatives

The preferred site was ultimately selected because of its availability, location (7241 Market Street; northern part of the County, direct access off of Highway 17), size (31 acres), and zoning classification (O & I). Once the site was determined, Freeland and Kauffman Inc, the engineers working on this project, evaluated several different site plan layouts.

1. Alternate Driveway Location

Wal-Mart initially attempted to design the driveway to line up with Wendover Lane, which would have allowed the main road to completely avoid wetlands. The only impact would be to approximately 0.2 acre of wetlands to provide access to the back of the building (Figure 9). However, Wal-Mart would have needed to purchase an additional tract. After many discussions with the current landowner of this tract, Wal-Mart was unable to acquire the property needed for this access.

2. Development of the Entire Tract

Wal-Mart evaluated the potential to develop all of the property, including that which is adjacent to Market Street, since it has good visibility off of a high traffic street. This would include a Wal-Mart Supercenter, a gas station, and up to seven additional buildings (Figure 10). Although lucrative to the applicant, this development scenario would require impacting the entire wetland pocket within the

tract, approximately 4.2 acres. Because of the large amount of wetland disturbance, this scenario was not considered to be feasible.

3. Development of a Gas Station and an Out-Parcel

The applicant also evaluated a slightly smaller development scenario, including a Wal-Mart Supercenter, a gas station, and one out-parcel (Figure 11). This would disturb 1.76 acres of wetlands for the construction of the gas station and the entranceway (the out-parcel would be located in uplands). Although this additional out-parcel would have been profitable for the applicant (proposed sale = \$800,000), it was ultimately deleted from the site plan because of the significant amount of wetland disturbance.

Preferred Project

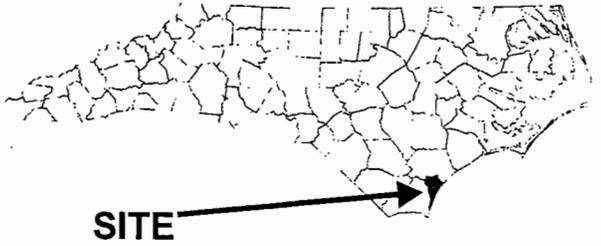
The preferred project is to construct a Wal-Mart Supercenter that is 4.67 acres in size, associated parking, a gas station, stormwater pond, and an entranceway within the selected tract (Figure 12). Most of the proposed Supercenter and parking will be located outside of the wetlands, except for a small area needed to access the back of the building. It should be noted that the designers of the site plan have left a 50' setback along the western property boundary in order to give the adjacent residents of Jacob's Ridge subdivision a buffer from the development. The majority of the wetland impacts can be attributed to the entranceway, which cuts through the wetland pocket (Figure 13). The location of the entranceway was dictated by NC Department of Transportation and New Hanover County officials. These agencies determined that the entrance to Wal-Mart would require a traffic light, especially on the already heavily traveled Market Street. In addition, this entrance would need to line up with an existing intersection on the opposite side, which ultimately determined its location. The number of ingress and egress lanes of the entrance was determined by a NCDOT traffic study.

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 SCALE 1" = 2 miles

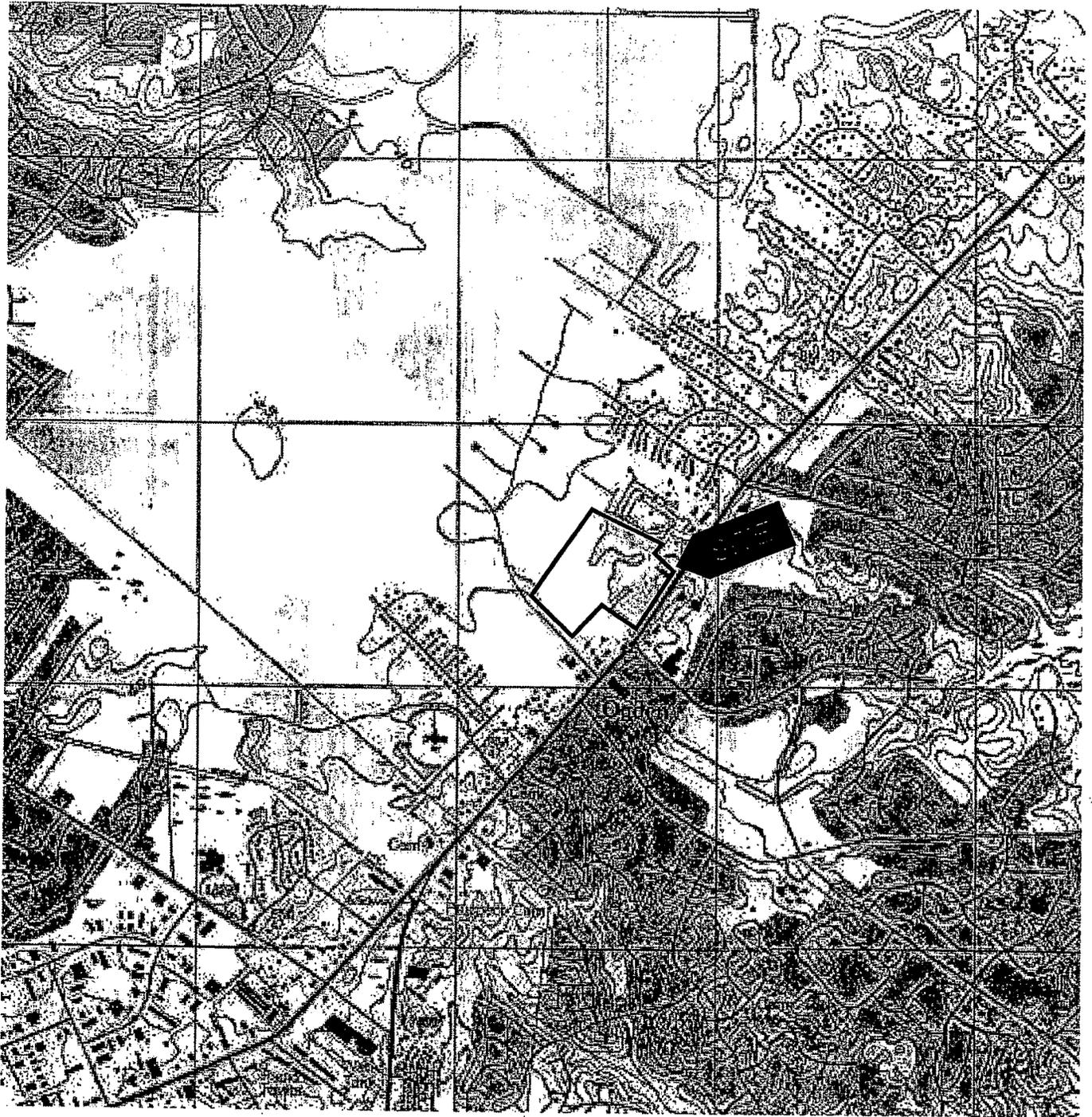


Map Source: DeLorme: North Carolina Atlas and Gazetteer., 2003 p. 84.

WALMART STORE #3798-00
 Ogden, NC
 Individual Permit Application
 03-04-556

Land Management Group, Inc.
 Environmental Consultants
 Wilmington, N.C.
 August 2005

Figure 1. Site Location Map



SCALE 1" = 2000'

Map Source: Scotts Hill, N.C., 1997, USGS 30' Topographic quadrangle.

WALMART STORE #3798-00
Ogden, NC

Individual Permit Application

03-04-556

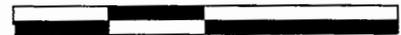
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Wilmington, N.C.

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Figure 2. Topographic map



SCALE 1" = 1000'

Map Source: Soil Survey of New Hanover County, Sheet 12

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Environmental Consultants
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Figure 3. SCS Soil Survey



SCALE 1" = 1000'

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Environmental Consultants
Wilmington, N.C.
August 2005

Figure 4. Aerial photograph
of site



SCALE 1" = 600'

WALMART STORE #3798-00
Ogden, NC

Individual Permit Application

03-04-556

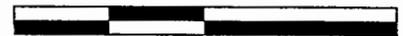
Land Management Group, Inc.

Environmental Consultants

Wilmington, N.C.

August 2005

Figure 6.
Off-Site Alternative #1:
7910 Market Street



SCALE 1" = 600'

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Ogden, NC

Individual Permit Application

03-04-556

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Environmental Consultants

Wilmington, N.C.

August 2005

Figure 7.
Off-Site Alternative #2:
8101 Market Street



SCALE 1" = 1000'

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Ogden, NC
Individual Permit Application

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Wilmington, N.C.
August 2005

Figure 8.
Off-Site Alternative #3:
9000 Market Street

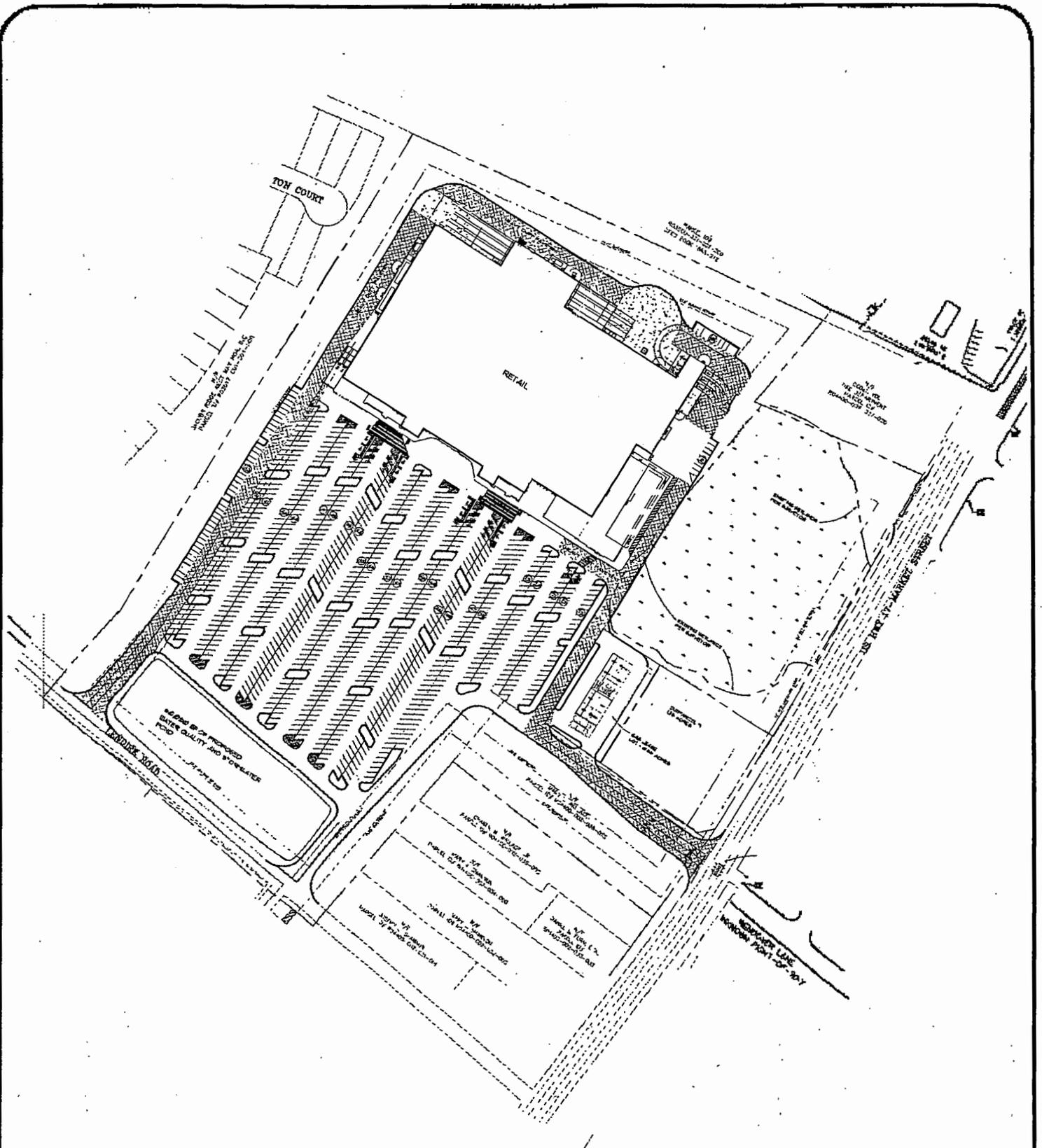


FIGURE 9.

PROPOSED DEVELOPMENT CONDITIONS WITH
ENTRANCE ACROSS FROM WENDOVER LANE

SHEET NO.



WAL-MART STORE #3798-00
 OGDEN, NORTH CAROLINA
 WAL-MART STORES, INC.
 702 SW EIGHTH ST
 BENTONVILLE, ARKANSAS 72716
 PHONE: 477-273-4000

FREELAND and KAUFFMAN, INC.

Engineers • Landscape Architects
 209 West Stone Avenue
 Greenville, South Carolina 29609
 ph: 864-233-5497 fax: 864-233-8915

SCALE: 1"=40' DRAWN: ASB DATE: 8/26/05

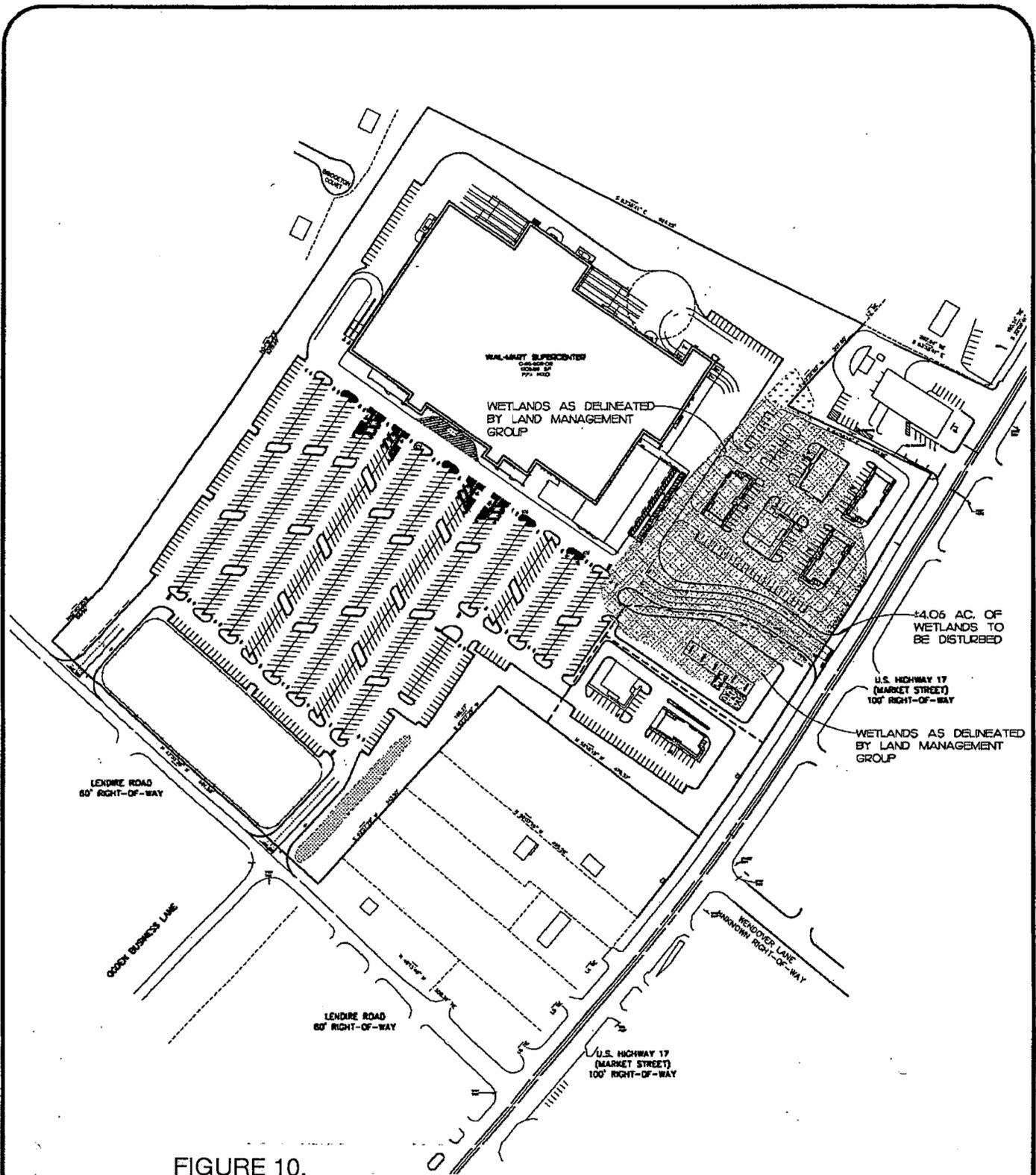


FIGURE 10.



PROPOSED DEVELOPMENT CONDITIONS
W/GAS LOT AND MULTIPLE OUTLOTS

SHEET NO.
3A

WAL-MART STORE #3798-00
OGDEN, NORTH CAROLINA
WAL-MART STORES, INC.
702 SW EIGHTH ST
BENTONVILLE, ARKANSAS 72716
PHONE: 479-273-4000

FREELAND and KAUFFMAN, INC.
Engineers • Landscape Architects
209 West Stone Avenue
Greenville, South Carolina 29609
ph: 864-233-5497 fax: 864-233-8915

SCALE: 1"=250' DRAWN: ABJ DATE: 7/13/05

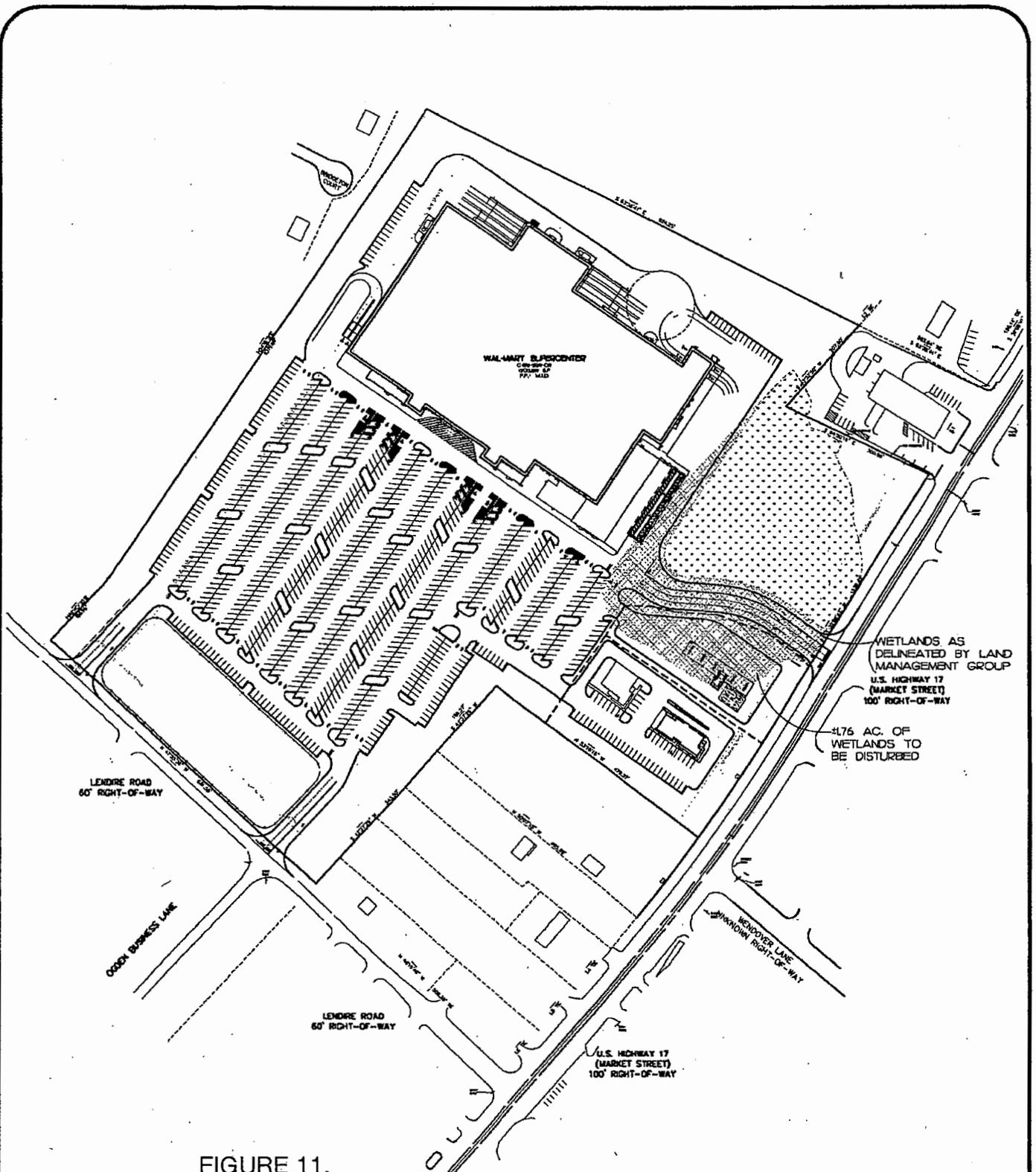


FIGURE 11.



PROPOSED DEVELOPMENT CONDITIONS
W/GAS LOT AND ONE OUTLOT

SHEET NO.

WAL-MART STORE #3798-00
OGDEN, NORTH CAROLINA
WAL-MART STORES, INC.
702 SW EIGHTH ST
BENTONVILLE, ARKANSAS 72716
PHONE: 479-273-4000

FREELAND and KAUFFMAN, INC.

Engineers • Landscape Architects
209 West Stone Avenue
Greenville, South Carolina 29609
ph: 864-233-5497 fax: 864-233-8915

SCALE: 1"=250'

DRAWN: ABJ

DATE: 8/26/05

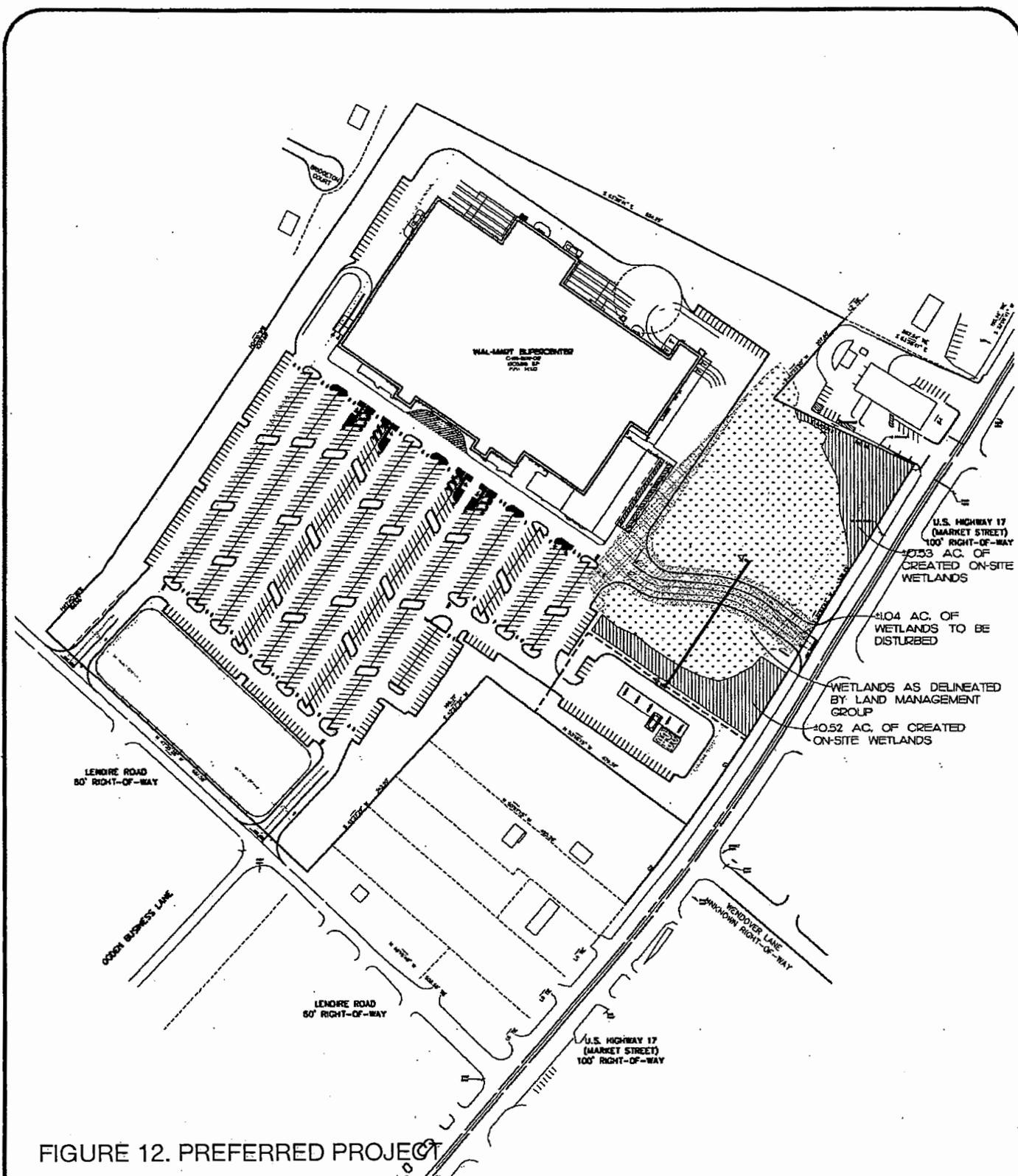


FIGURE 12. PREFERRED PROJECT

	PROPOSED DEVELOPMENT CONDITIONS W/GAS LOT AND NO OUTLOTS	SHEET NO.
WAL-MART STORE #3798-00 OGDEN, NORTH CAROLINA WAL-MART STORES, INC. 702 SW EIGHTH ST BENTONVILLE, ARKANSAS 72716 PHONE: 479-273-4000		FREELAND and KAUFFMAN, INC. Engineers • Landscape Architects 209 West Stone Avenue Greenville, South Carolina 29609 ph: 864-233-5497 fax: 864-233-8915
SCALE: 1"=250'	DRAWN: ABJ	DATE: 8/26/05

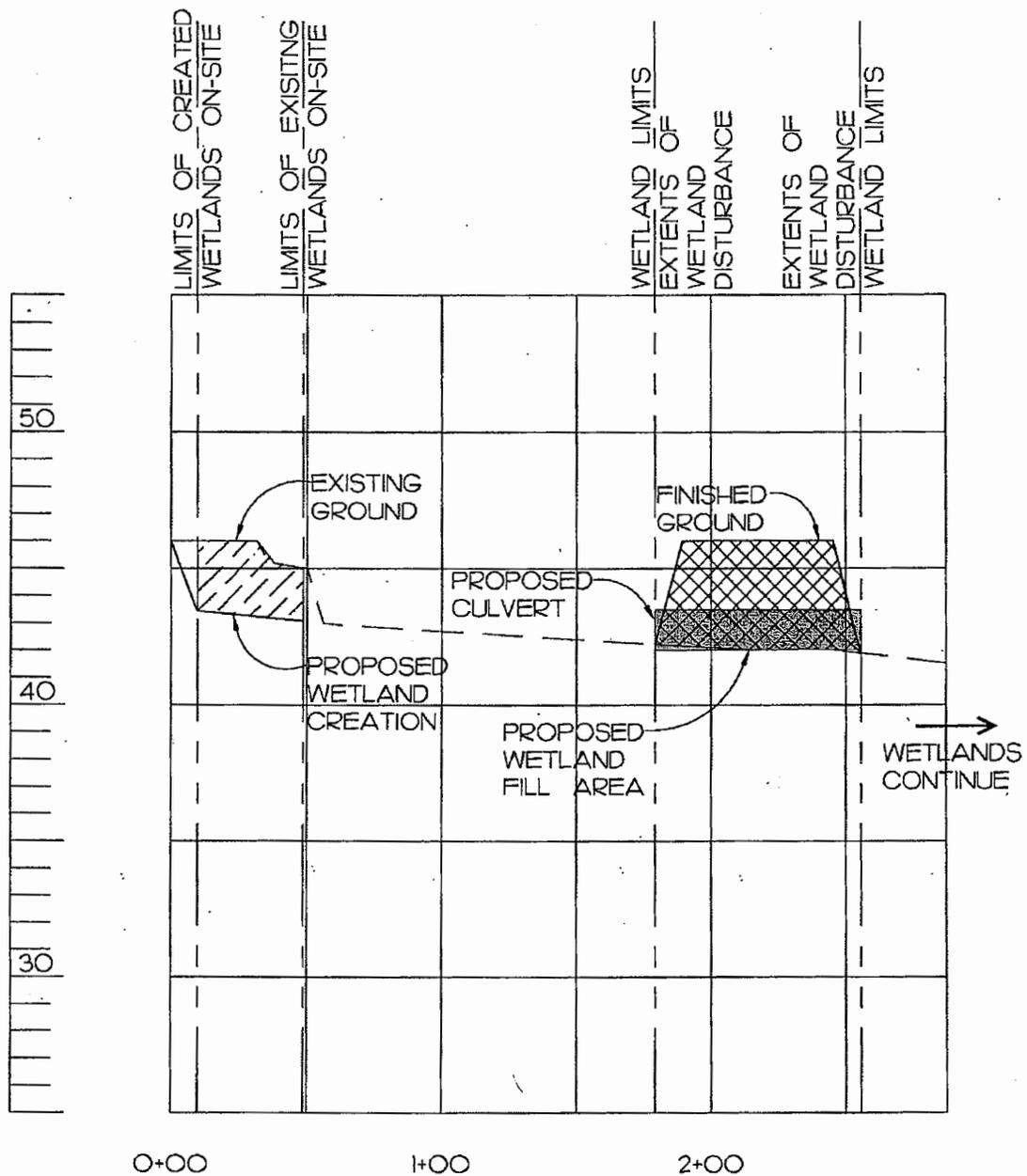


FIGURE 13.

PROPOSED DEVELOPMENT CONDITIONS
WETLAND SECTION A-A

SHEET NO.

WAL-MART STORE #3798-00
OGDEN, NORTH CAROLINA

WAL-MART STORES, INC.
702 SW EIGHTH ST
BENTONVILLE, ARKANSAS 72716
PHONE: 479-273-4000

FREELAND and KAUFFMAN, INC.

Engineers • Landscape Architects
209 West Stone Avenue
Greenville, South Carolina 29609
ph: 864-233-5497 fax: 864-233-8915

SCALE: N.T.S.

DRAWN: ABJ

DATE: 8/26/05

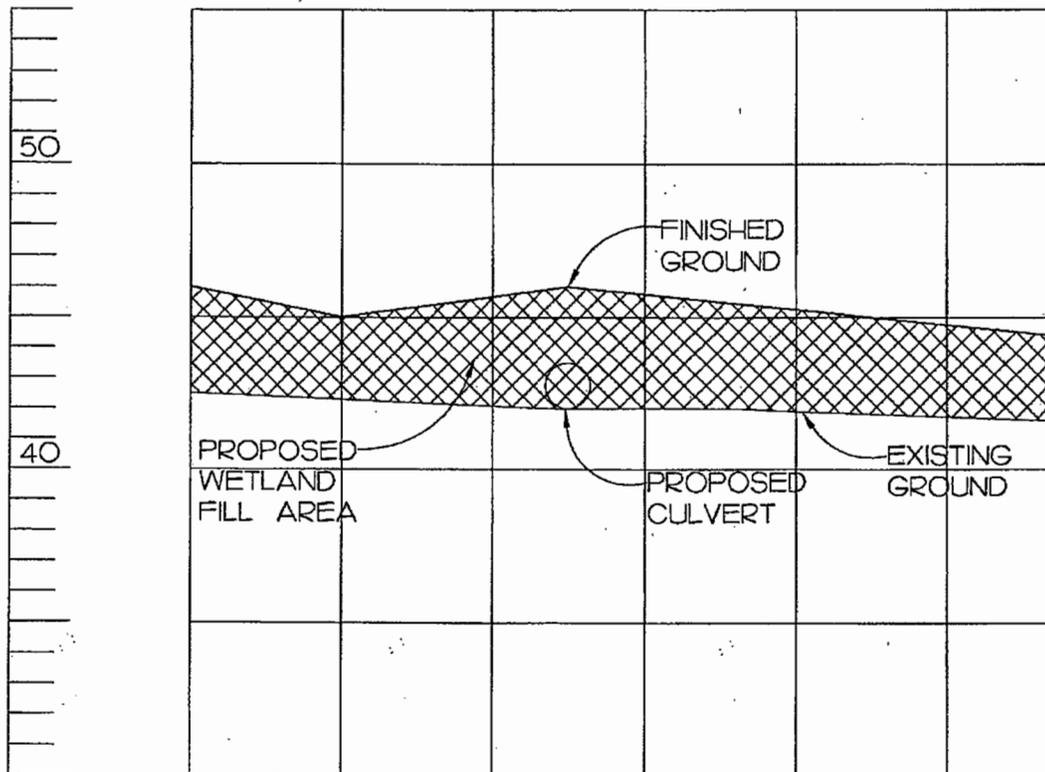


FIGURE 14.

PROPOSED DEVELOPMENT CONDITIONS
CULVERT END VIEW

SHEET NO.

WAL-MART STORE #3798-00
 OGDEN, NORTH CAROLINA
 WAL-MART STORES, INC.
 702 SW EIGHTH ST
 BENTONVILLE, ARKANSAS 72716
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SCALE: N.T.S.

DRAWN: ABJ

DATE: 8/26/05