



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: August 6, 2013
Comment Deadline: September 6, 2013
Corps Action ID Number: SAW-2005-01184

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. Robin Rose of Helmsdale Investors, LLC, seeking Department of the Army authorization to discharge dredged or fill material into 0.181 acre of waters of the United States, associated with the construction of a residential subdivision known as Helmsdale at Landfall, in Wilmington, New Hanover 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: Helmsdale Investors, LLC
c/o: Mr. Robin Rose
Preston Development Company
100 Weston Estates Way
Cary, North Carolina 27513

Agent: Land Management Group, Inc.
3805 Wrightsville Avenue; Suite 15
Wilmington, North Carolina 28402

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 Wilmington, take Military Cutoff Road into the Landfall Subdivision. Follow Arboretum Drive for approximately 0.7 miles into the Landfall Subdivision. The site is located on the south side of Arboretum Drive.

Project Area (acres): 40.5 Nearest Town: Wilmington
Nearest Waterway: Howe Creek River Basin: Cape Fear 03030001
Latitude and Longitude: 34.250154 N, -77.819498 W

Existing Site Conditions

The 40.5-acre site is located in Wilmington, North Carolina south of Arboretum Drive in New Hanover County. A Department of the Army (DA) permit for the proposed activity was issued to the applicant on April 18, 2007, and authorization was extended by letter dated December 14, 2010. The DA permit expired December 31, 2012. No authorized work within waters of the U.S. is complete within the proposed project area.

The site is undeveloped and forested. Wetlands within the tract consist of fingers of an unnamed tributary to Howe Creek. According to the New Hanover County Generalized Soil Survey, soil types within the project area are classified as Johnston loam, Murville fine sand, Craven fine sandy loam, Onslow loamy fine sand, Rains fine sand, Kenansville fine sand, Seagate fine sand, and Torhunta loamy fine sand. Land use to the north and east of the tract is residential and consists of the overall Landfall Subdivision. A forested conservation area exists south of the site. An unnamed tributary to Howe Creek forms the western property boundary.

Uplands within the site support longleaf pine (*Pinus palustris*), red bay (*Persea palustris*), tulip poplar (*Liriodendron tulipifera*), blueberry (*Vaccinium crassifolium*), and wiregrass (*Aristida strica*). Wetland vegetation within the property boundary consists of red maple (*Acer rubrum*), ironwood (*Carpinus carolinana*), loblolly pine (*Pinus taeda*) and wax myrtle (*Myrica cerifera*). The creek on the western project boundary contains standing water and supports bald cypress (*Taxodium distichum*) and black gum (*Nyssa sylvatica*) trees.

Applicant's Stated Purpose

The applicant's stated purpose is to construct road access to lots within uplands in order to facilitate development of the Helmsdale at Landfall subdivision in New Hanover County.

Project Description

The applicant proposes to develop forty-eight lots and construct two roads within the property consistent with the site plan originally approved with the previous DA authorization. One existing road, Saddleworth Trail, parallels Arboretum Drive and provides access to Lots #1-15, was constructed without impacts to waters of the U.S. A second road is proposed to extend south from Arboretum Drive to South Moorings Drive and provide access to Lots #16-48. This proposed roadway requires four wetland crossings and one stream crossing. Two bridges are proposed to avoid wetland and stream impacts entirely at former wetland impact sites 1 and 4. Utilities are proposed to be extended into the site, within the 50'-wide road right-of-way. Additionally, two driveway crossings are proposed within Lots #34 and #47.

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's preferred alternative avoids impacts to streams and wetlands onsite by incorporating span bridges where possible. Additional mitigation measures include reducing the road width on driveway access to Lots 34 and 47.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant purchased 0.25 acre riparian wetland restoration equivalent credit from the NC Ecosystem Enhancement Program (NC EEP) associated with the previous DA authorization dated April 18, 2007. Additionally, the applicant proposes to preserve onsite approximately 8.25 acres of wetlands and 0.176 acre upland buffer through restrictive covenants. The applicant also proposes to preserve two parcels totaling approximately 37 acres of coastal and freshwater wetlands adjacent to Howe Creek and located approximately 0.5 mile north of the project site.

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 may affect, but not likely to adversely affect, 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 Quality (NCDWQ): The Corps will generally not make a final permit decision until the 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 combined with appropriate application fee at the North Carolina Division of Water Quality Central Office in Raleigh constitutes initial receipt of an application for a 401 Water Quality 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, Wetlands, Buffers, Stormwater Compliance and Permitting Unit, 512 North Salisbury Street, 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, by September 6, 2013 to:

NCDWQ Central Office
Attention: Ms. Karen Higgins
(USPS mailing address): 1650 Mail Service Center, Raleigh, North Carolina
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

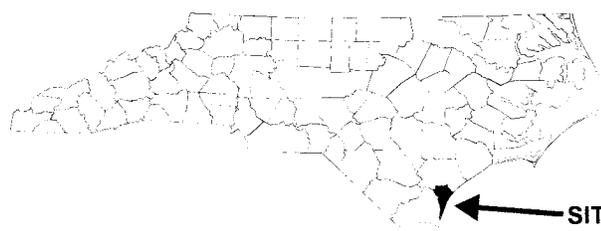
determine the need for a public hearing and to determine the overall public interest of the proposed activity.

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, September 6, 2013. Comments should be submitted to Ms. Liz Hair, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 at (910) 251-4049.



© DeLorme



SITE



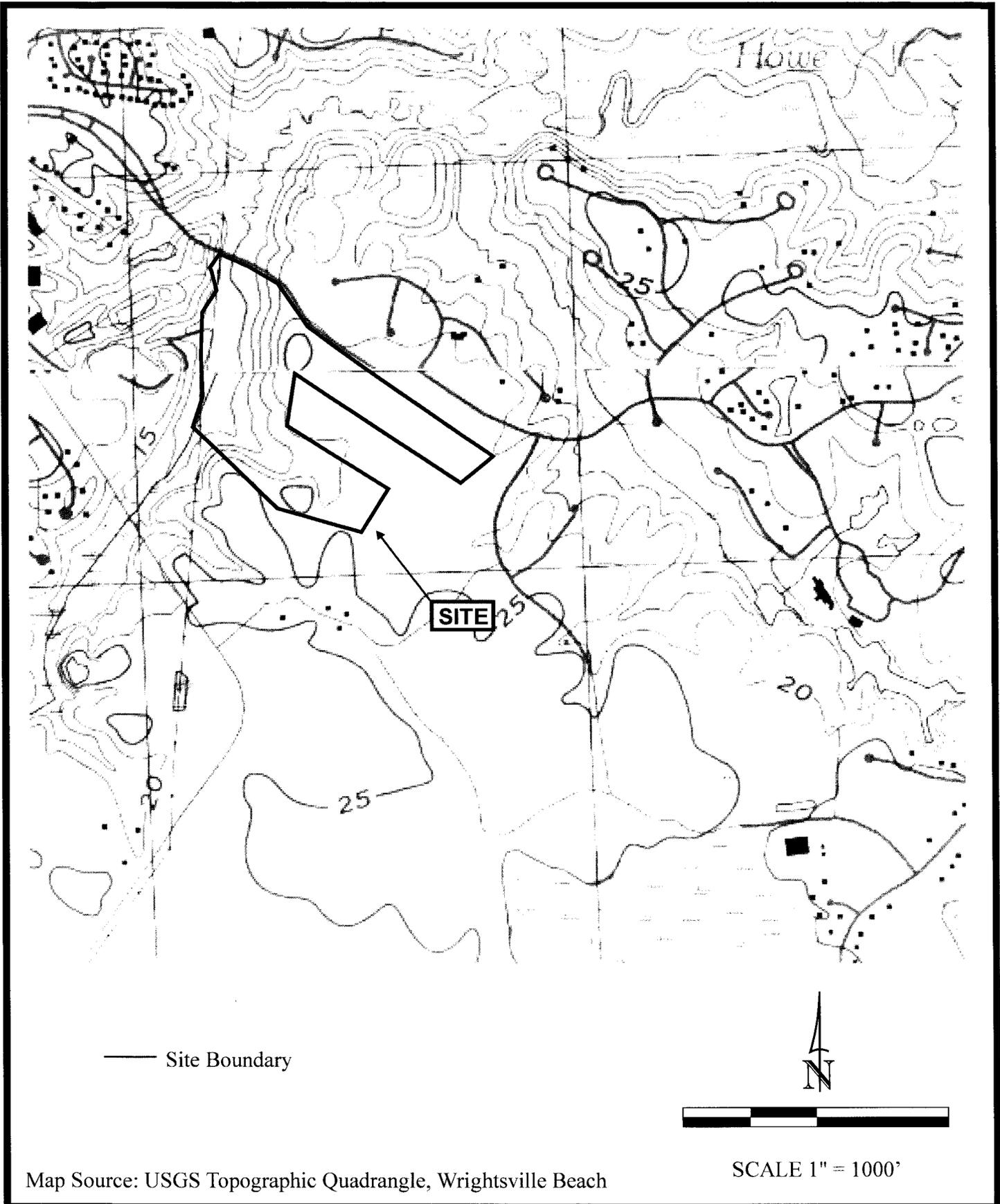
SCALE 1" = 2.4 miles

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

Helmsdale at Landfall
New Hanover County, NC

Land Management Group, Inc.
Environmental Consultants
Wilmington, N.C.
May 2013

Figure 1. Vicinity Map



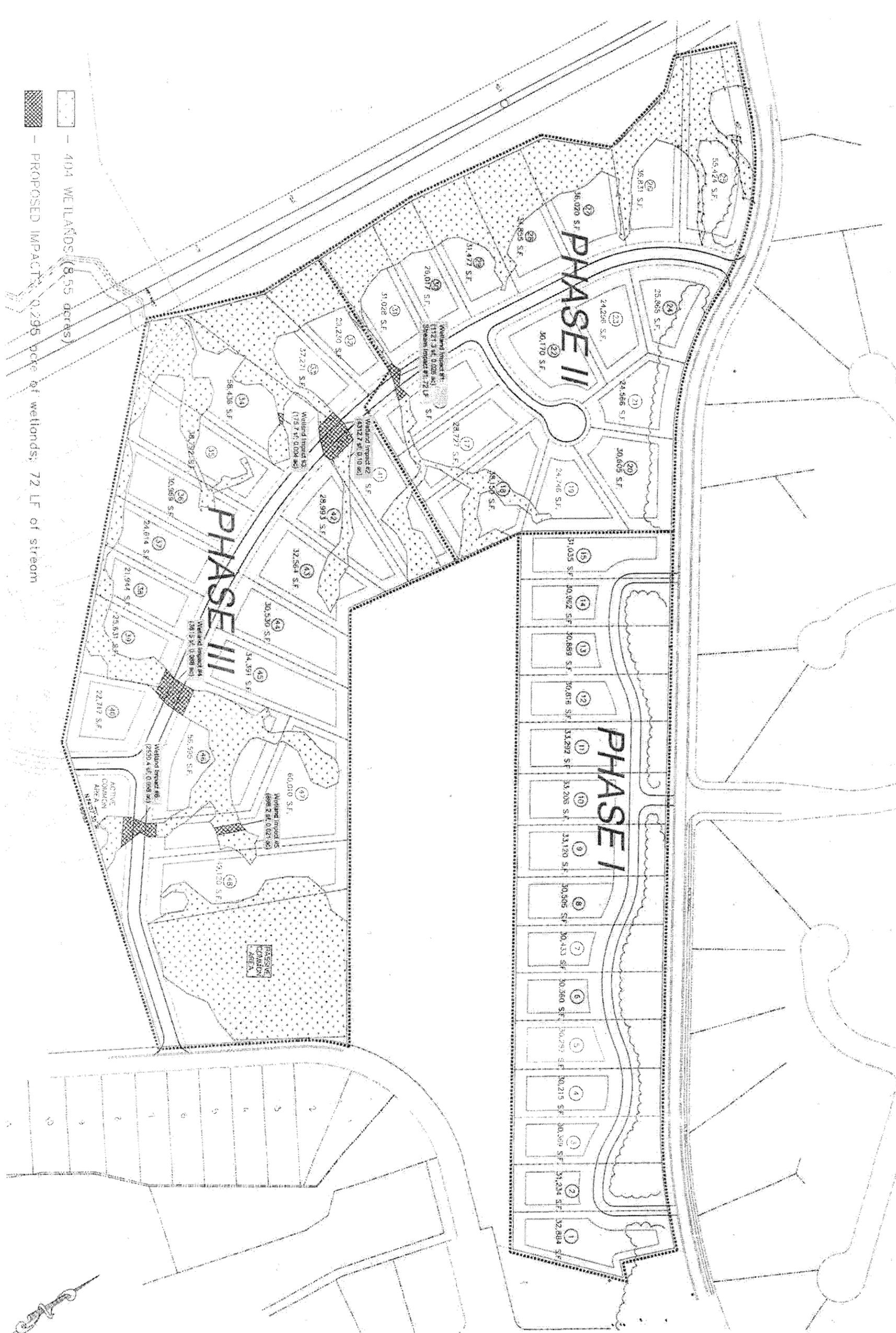
Map Source: USGS Topographic Quadrangle, Wrightsville Beach

SCALE 1" = 1000'

Helmsdale at Landfall
New Hanover County, NC

Land Management Group, Inc.
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Wilmington, N.C.
May 2013

Figure 2. Topographic Map



- 404 WETLANDS (8.55 acres)
 - PROPOSED IMPACTS: 0.295 acre of wetlands; 72 LF of stream

PRELIMINARY

DATE: 08/14/06

Figure 7. On-Site Alternative #3:
Culvert all Wetland/Stream Crossings

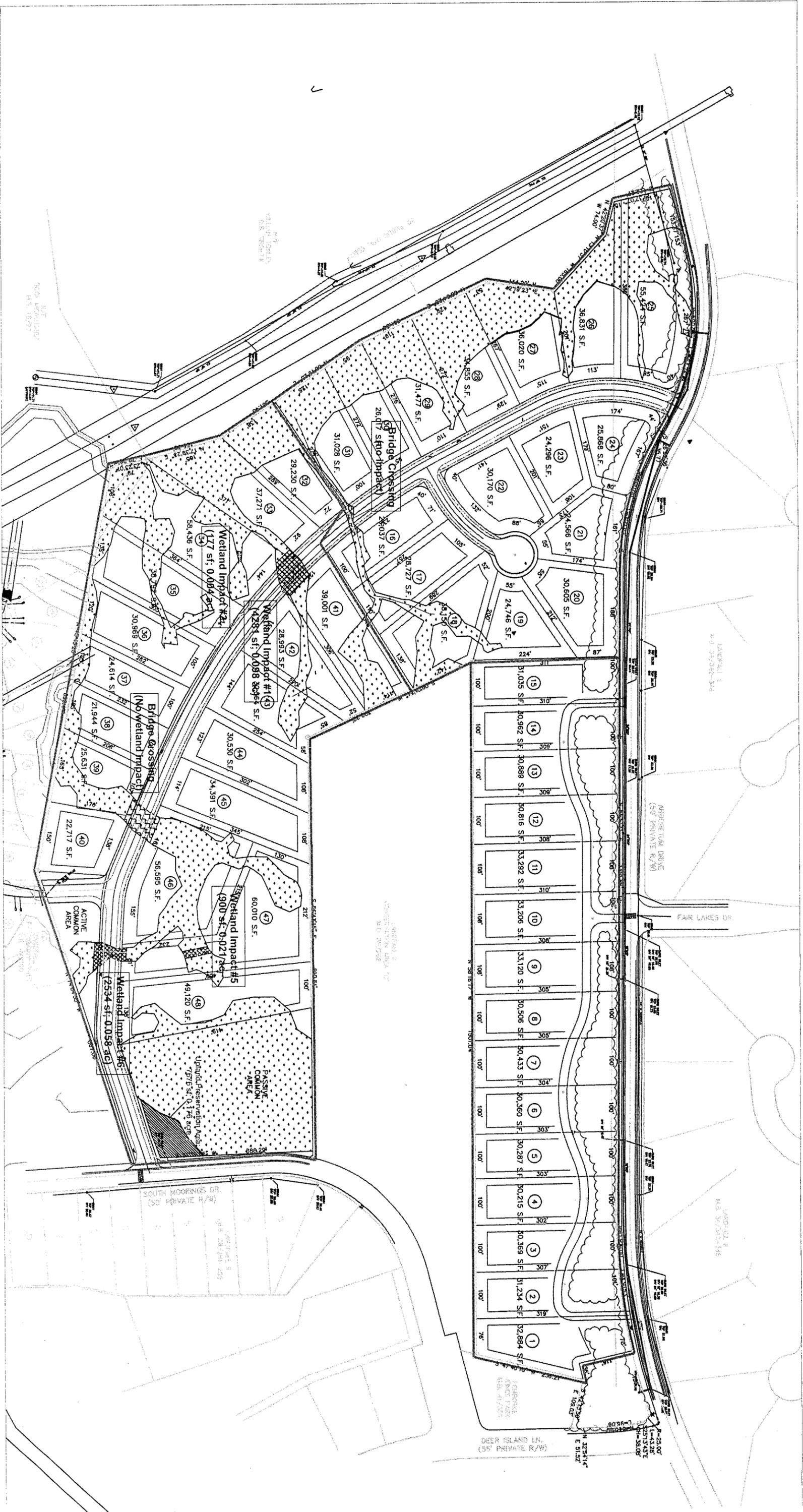
PROPERTY ADDRESSES: 658 ANBOPETUM DR

HELMSCOTT AT LANDFALL II
 PHASE I
 WILMINGTON, CAROLINA 28403
 Site plan with proposed wetland impacts.

PRESTON DEVELOPMENT
 COMPANY
 100 WESTON ESTATES WAY
 CARY, NC 27513
 TEL 919.481.3000

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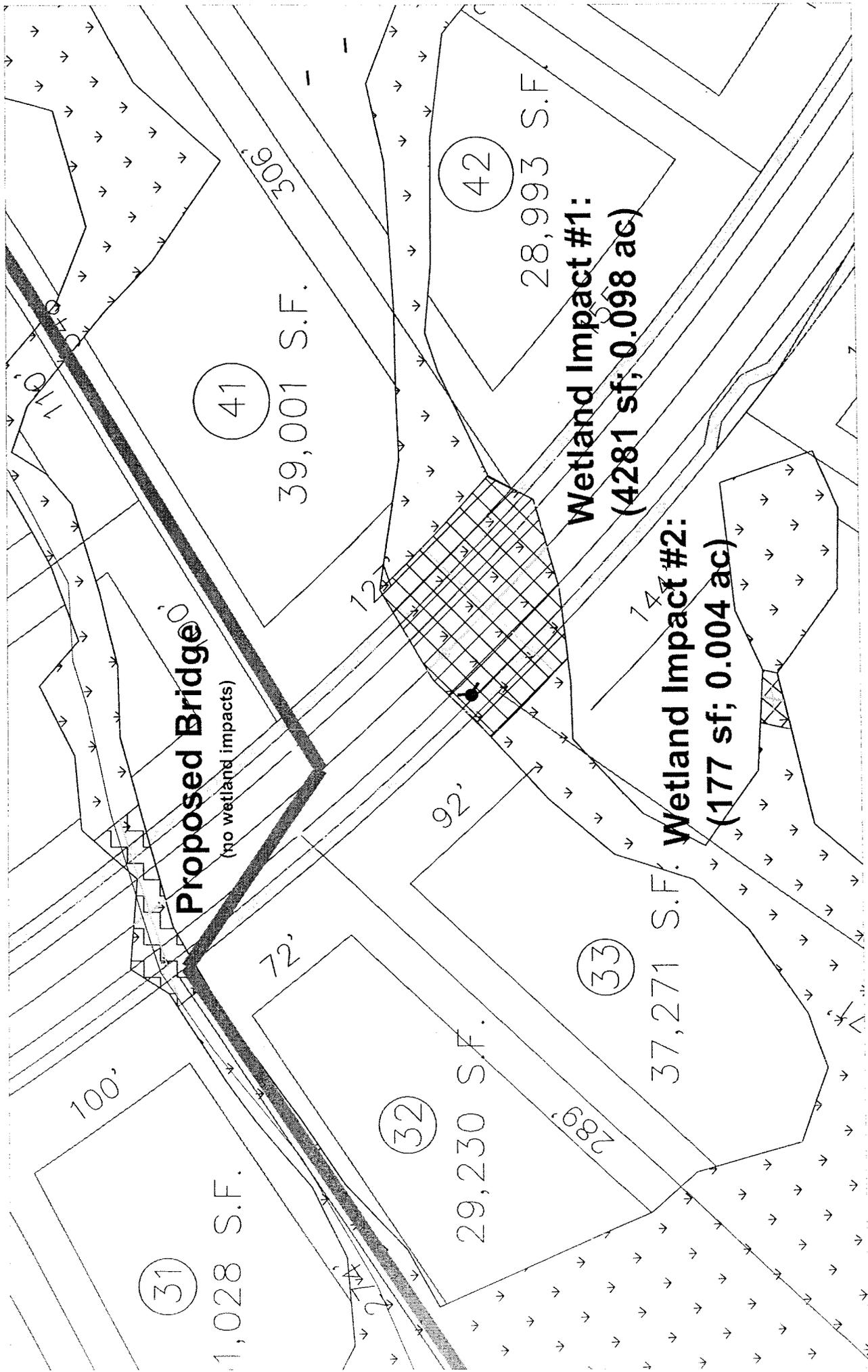


- 404 WETLANDS (9.13 acres)
- PROPOSED WETLAND IMPACTS (0.181 acre)
- PROPOSED UPLAND BUFFER (0.176 acre)
- PROPOSED BRIDGE (No wetland/stream impacts)

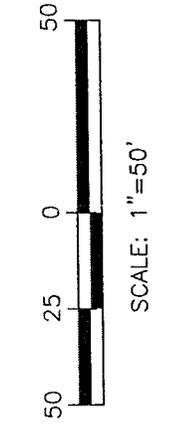


Helmsdale at Landfall

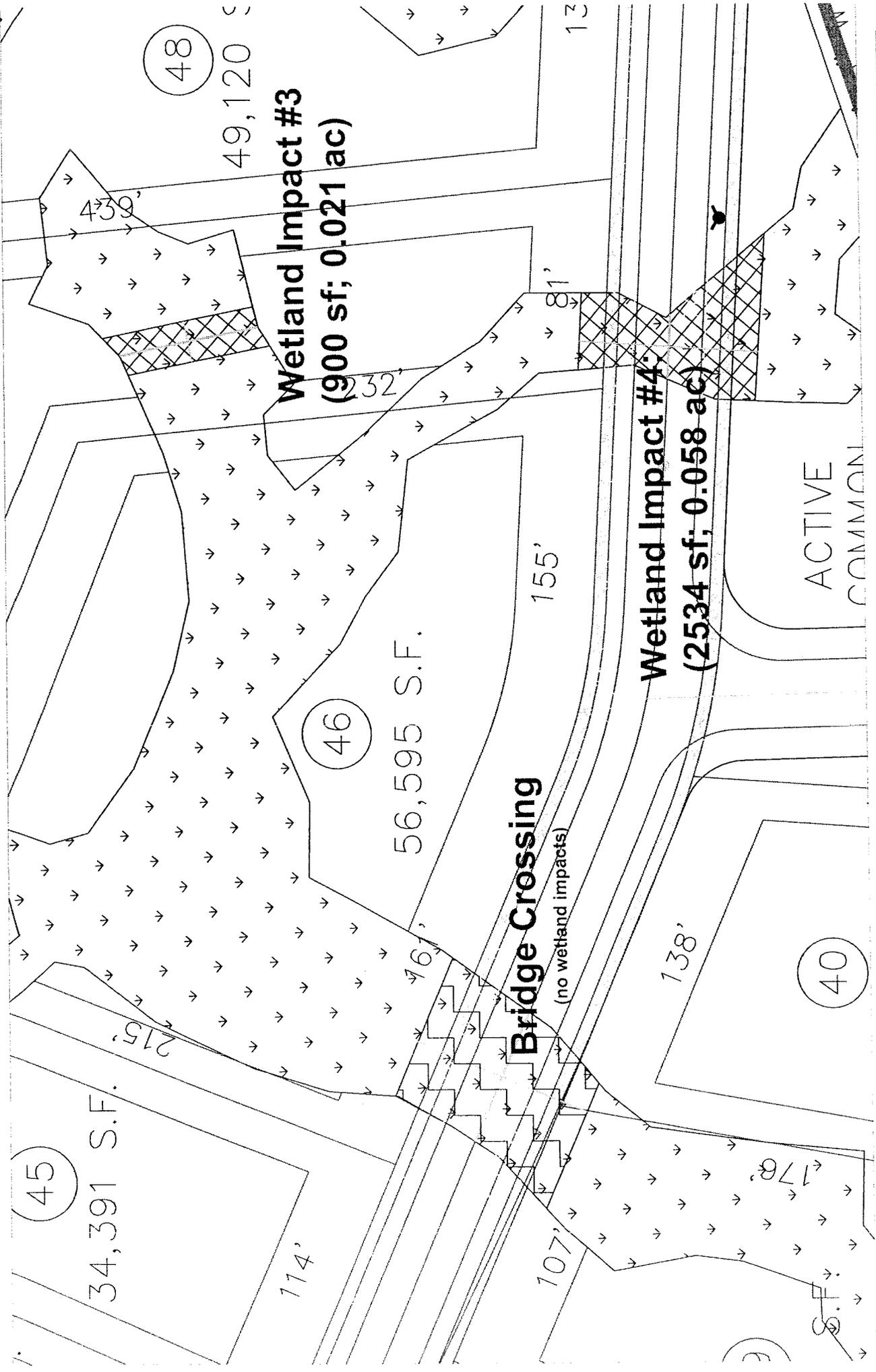
Figure 8. Site plan showing proposed wetland impacts.



Helmsdale at Landfall
 Figure 9. Proposed Wetland Impacts #1 & #2
 January 2006; revised December 2006
 Withers & Ravenel
 Land Management Group, Inc.



- CERTIFIED 404 WETLAND AREAS (TOTAL - 9.13 AC.±)
- TOTAL PROPOSED WETLANDS FILL AREA

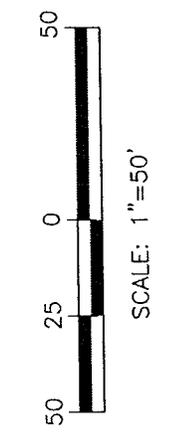


Helmsdale at Landfall

Figure 10. Proposed Wetland Impacts #3 & #4

January 2006; revised May 2006
and December 2006

Withers & Ravenel
Land Management Group, Inc.



- CERTIFIED 404 WETLAND AREAS (TOTAL - 9.13 AC.±)
- TOTAL PROPOSED WETLANDS FILL AREA