



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: November 22, 2013
Comment Deadline: December 6, 2013
Corps Action ID Number: SAW-2013-02251

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. Randy Jameson, of Ingles Markets, Incorporated seeking Department of the Army authorization to impact 300 linear feet of stream, associated with the re-development of the existing Ingles store #77 on Spartanburg Highway in Henderson 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. Randy Jameson
Ingles Markets
2913 US Highway 70 West
Black Mountain, North Carolina 28711

AGENT (if applicable): Mr. Clement R. Riddle
Clear Water Environmental Consultants
224 South Grove Street, Suite F
Hendersonville, North Carolina 28792

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 Ingles project site is located in Hendersonville, Henderson County, North Carolina. To access the site from Asheville, take I-26 East to Exit 53 (Upward Road). Turn right onto Upward Road and travel approximately 1.3 miles, then turn right onto Spartanburg Highway. Travel approximately 2 miles and the project site is on the left near the intersection of

Spartanburg Highway and Greenville Highway. In general, the site is bordered to the north by Spartanburg Highway, to the south and west by the Johnson's Drainage Ditch and an unnamed tributary, and to the east by the Chadwick Corners shopping center.

Project Area (acres): 7

Nearest Waterway: Mud Creek

Latitude and Longitude: 35.306239N, -82.456074W

Nearest Town: Hendersonville

River Basin: Upper French Broad

Existing Site Conditions

Existing infrastructure on site includes: an Ingles grocery store, a CVS drug store, two small warehouse buildings (now empty), and associated infrastructure such as parking, entranceways, and utilities.

Applicant's Stated Purpose

The basic project purpose of the proposed re-development at the Ingles site is to provide commercial/retail services. More specifically, the overall project purpose is to re-develop the site with a new Ingles store designed and built to current Ingles Market standards which includes a larger store with more services and an Ingles gas station.

Project Description

The proposed project calls for the demolition and re-development of the approximately 7-acre site. The existing 46,379-square foot store will be replaced with a 77,427-square foot store. The new store will include additional services such as a full deli and bakery, pharmacy, café, and associated gas station. Number of parking spaces will increase from 254 spaces to 277 spaces.

The project will include the installation of an approximately 553 linear foot box culvert which will replace approximately 253 linear feet of existing culvert and add 300 linear feet of new culvert.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The proposed project is the re-development of the existing Ingles site. The project as proposed minimizes additional impacts by reconfiguring the existing 253-foot culvert and avoiding greater impacts at a new location. Additionally, the site plan makes use of retaining walls at the site to further minimize impacts. Per City of Hendersonville ordinances, the site would require 388 parking spaces. The applicant received a parking variance and has been able to reduce the number of parking spaces required to 277 spaces further reducing the disturbed area at the site.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Upon completion and implementation of practical avoidance and minimization efforts, a total of 300 linear feet of new stream impacts associated with the re-development of the Ingles site are unavoidable. Unavoidable stream impacts will be mitigated for at a compensatory mitigation ratio of 1:1. The following conceptual mitigation plan is provided in support of this permit application. By letter dated October 1, 2013, NC Ecosystem Enhancement Program (EEP) has indicated they are willing to accept payment for impacts associated with re-development at the 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 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:

- ☐ 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 Resources (NCDWR): The Corps will generally not make a final permit decision until the NCDWR 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 NCDWR 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 NCDWR 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 December 6, 2013 to:

NCDWR Central Office
Attention: Ms. Karen Higgins
(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

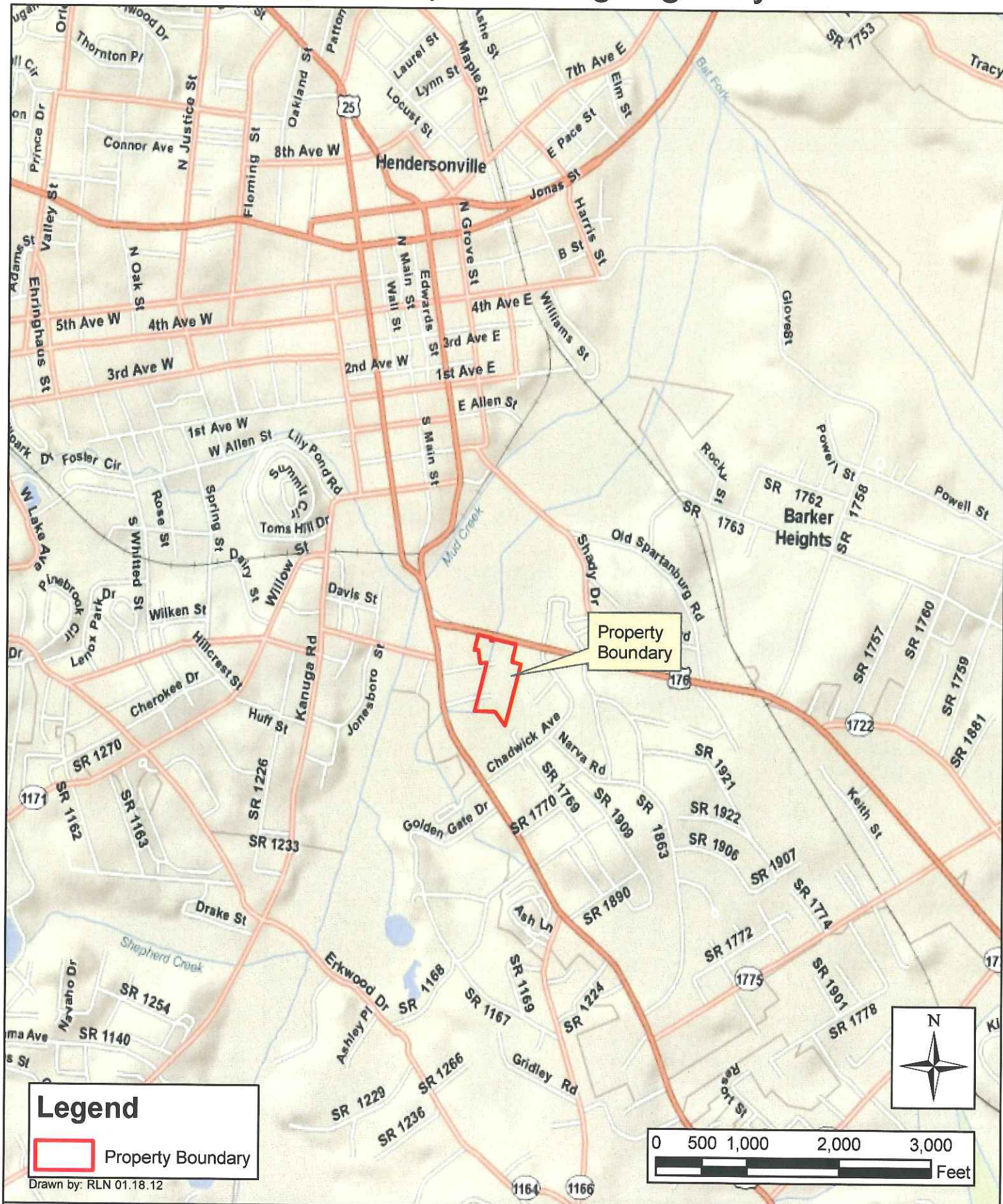
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor;

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, December 6, 2013. Comments should be submitted to Mr. William Elliott, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (828) 271-7980, extension 224.

Ingles - Spartanburg Highway



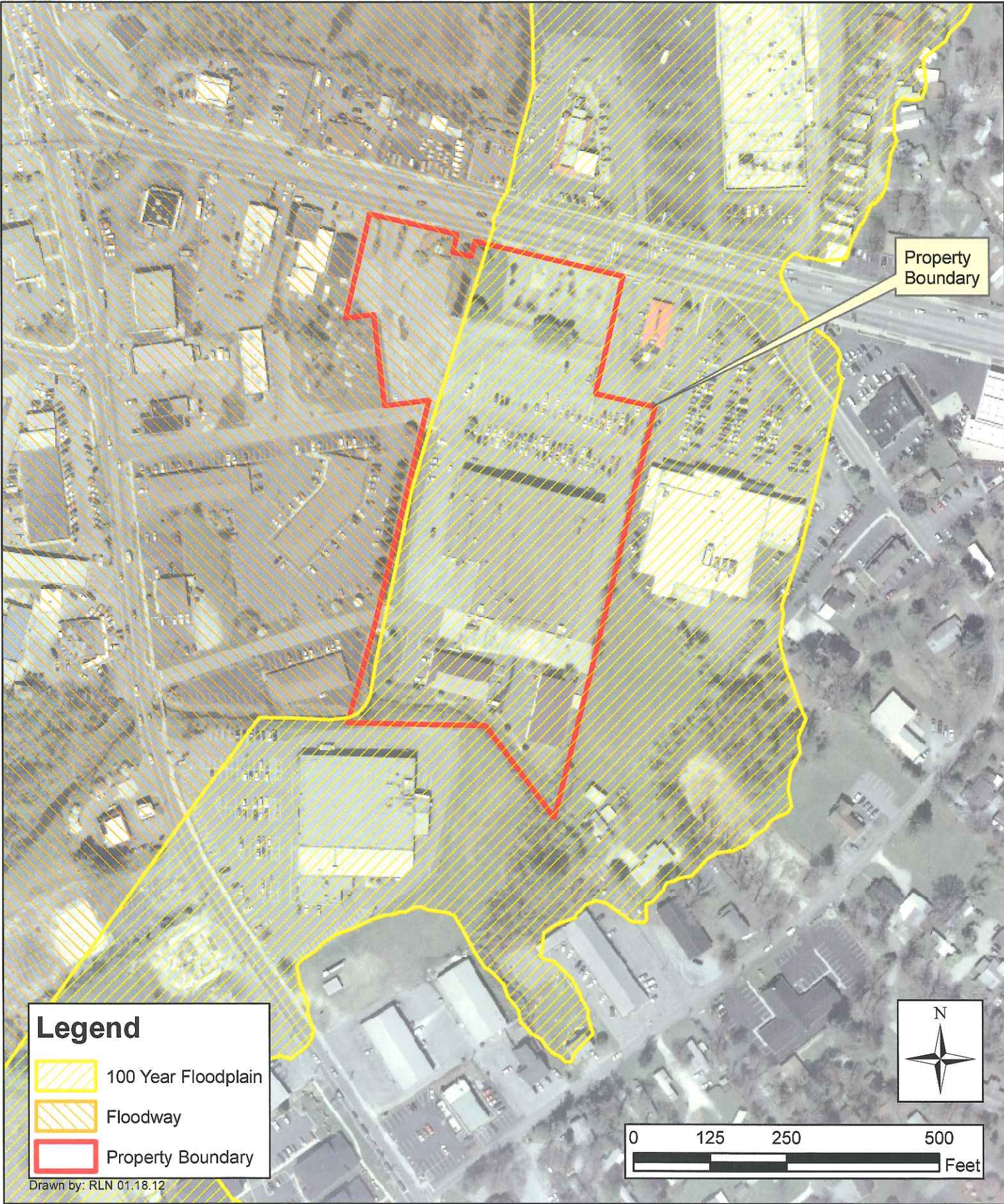
Henderson County,
North Carolina

ClearWater

224 South Grove Street, Suite F
Hendersonville, North Carolina 28792

Site Vicinity
Figure 1

Ingles - Spartanburg Highway



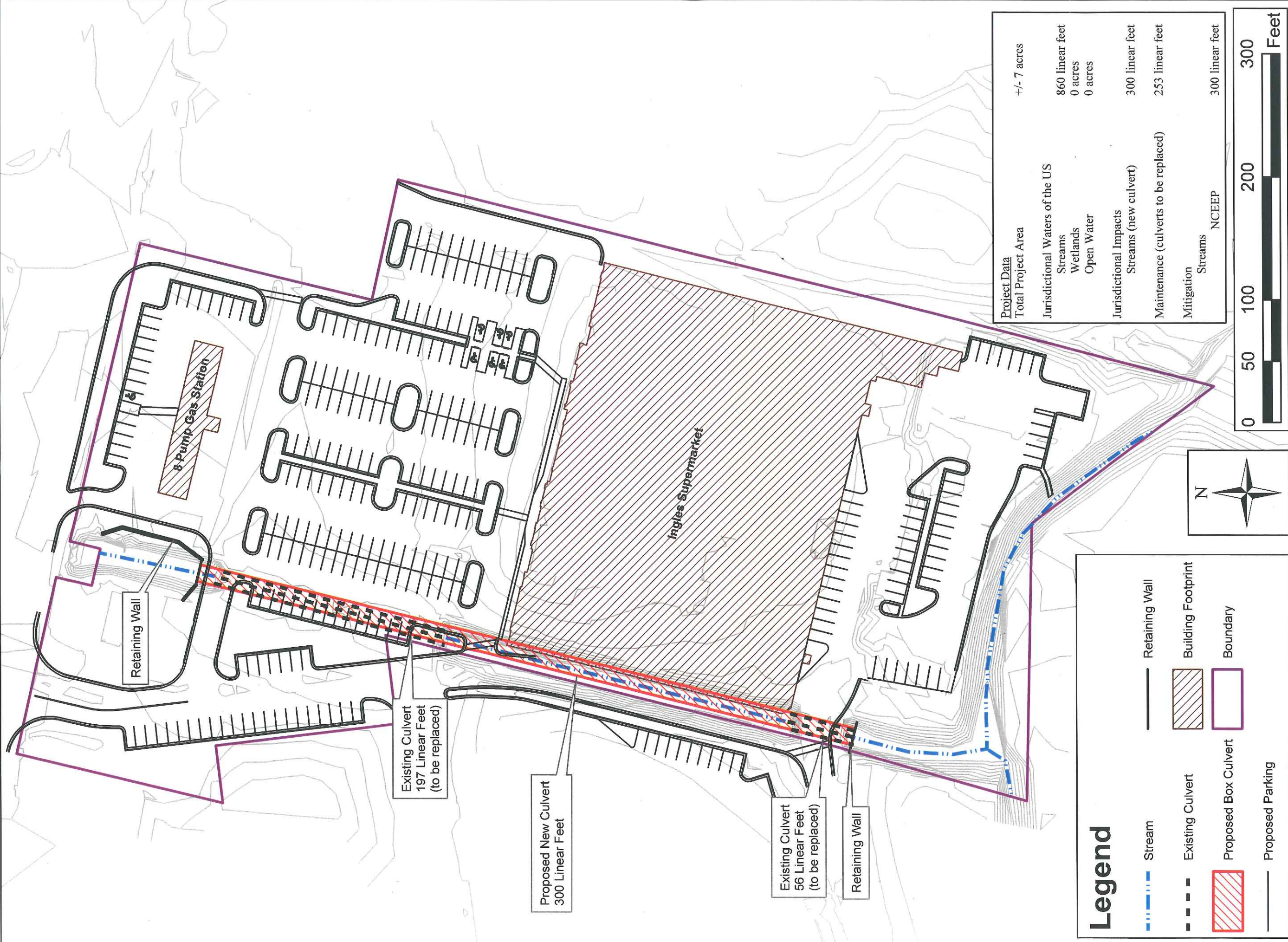
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Floodplain Map
Figure 3

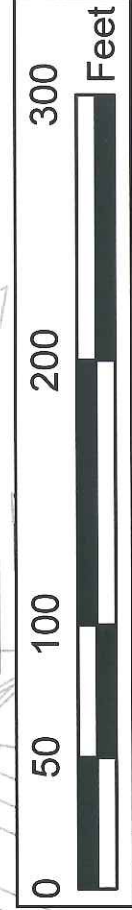
Ingles - Spartanburg Highway (+/- 7 AC)



Legend

- Stream
- Existing Culvert
- Proposed Box Culvert
- Proposed Parking
- Retaining Wall
- Building Footprint
- Boundary

Project Data	
Total Project Area	+/- 7 acres
Jurisdictional Waters of the US	
Streams	860 linear feet
Wetlands	0 acres
Open Water	0 acres
Jurisdictional Impacts	
Streams (new culvert)	300 linear feet
Maintenance (culverts to be replaced)	253 linear feet
Mitigation	
Streams NCEEP	300 linear feet



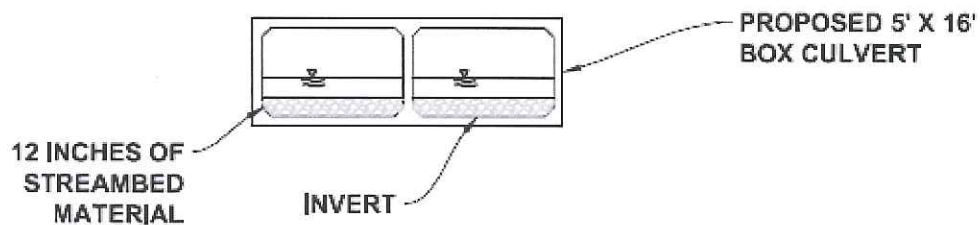
Drawn by: RLN 10.21.13; CEC Project #642
Source Data: Land Planning Associates



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Impact Map
Figure 4

Ingles - Spartanburg Highway



Culverts will be buried to a depth that is equal to 20% of their diameter; culverts that are larger than 48 inches will be buried to a depth of 12 inches, unless topographic constraints indicate culvert slopes greater than 5% or bedrock is present at the culvert location.

Drawn by: RLN 11.11.13; CEC Project# 642

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Typical Cross Section
Figure 5