



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: November 23, 2022
Comment Deadline: December 23, 2022
Corps Action ID Number: SAW-2022-02440

The Wilmington District, Corps of Engineers (Corps) received an application on November 14, 2022, from WB Companies, LLC seeking Department of the Army authorization to discharge fill and dredged material, associated with the Gresham Lake Apartments & Sumner Boulevard Extension in Raleigh, in Wake 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:

<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

Applicant: WB Companies, LLC
Attn: David Weinstein
495 Broadway, 7th Floor
New York, New York 10012

AGENT (if applicable): Natural Resource Consultants
Attn: Jennifer Burdette
308 West Millbrook Road, Suite D #200
Raleigh, North Carolina 27615

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

Location Description: The proposed project (Project) is located north and south of Interstate 540, west of Greshams Lake, north of the terminus of Sumner Boulevard, and east of the existing CSX railroad in Raleigh, in Wake County, North Carolina.

Project Area (acres): 8.5 acres

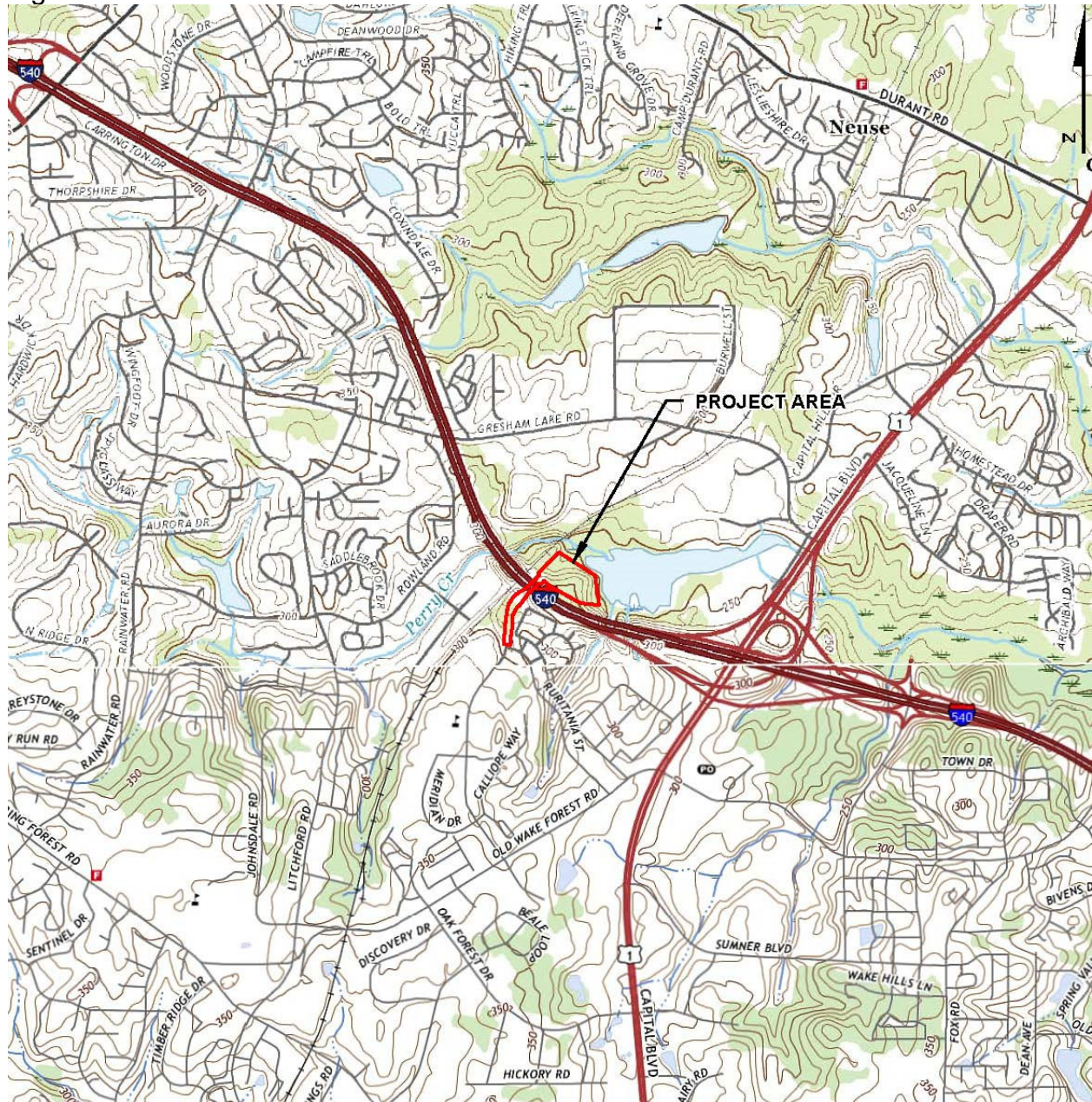
Nearest Waterway: UT to Perry Creek

Latitude and Longitude: 35.878408 N, -78.584807 W

Nearest Town: Raleigh

River Basin: Neuse

Figure 1



Existing Site Conditions

The project area (Site) is bound by Greshams Lake to the north, commercial and industrial land use to the west and south and multi-family residential to the east. A CSX railroad is directly adjacent to the west and Interstate 540 bifurcates the Site.

North of Interstate 540 the Site consists of mature, mixed pine/hardwood forest dominated by white oak (*Quercus alba*), southern red oak (*Quercus falcata*), hickory (*Carya sp.*), American beech (*Fagus grandiflora*), sweet gum (*Liquidambar styraciflua*), loblolly pine (*Pinus taeda*) and tulip poplar (*Liriodendron tulipifera*). South of Interstate 540, the Site contains mixed pine/hardwood that has been disturbed by the installation of utilities, construction of access roads, and the neighboring apartment complex.

The Site is situated in the Piedmont Physiographic Province, consisting of gently rolling hills with side slopes primarily ranging from 10 to 15 percent. Elevations range from 250 to 300 feet above mean sea level.

Based on information obtained from the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Soil Survey for Wake County, soils within the Site are mapped as four soil series summarized below in Table 1.

Table 1

Map Unit Symbol	Map Unit Name
ApB	Appling sand loam, 2 to 6 % slopes
ChA	Chewacla and Wehadkee soils, 0 to 2 % slopes, frequently flooded
RhD	Rawlings-rion complex, 10 to 15 % slopes
Ur	Urban land

The Site is located within the Neuse River Basin in the Perry Creek-Neuse River sub-watershed (12-digit Hydrologic Unit Code [HUC] 030202010704). Perry Creek (Stream Index Number 27-25-(1)) flows into Greshams Lake near the northwest corner of the Site. The mapped FEMA 100-year floodplain along Perry Creek is located outside of the Site.

The Site was delineated by Natural Resource Consultants for potential waters of the US on June 15, 2022, and a Preliminary Jurisdictional Determination (PJD) request was submitted to the Corps on November 10, 2022. One stream and one wetland were delineated on the Site. The stream exits a culvert from the existing terminus of Sumner Boulevard, runs northwest out of the roadway easement, and enters it again near Interstate 540. This stream carries a surface water classification of C; NSW. Class C waters are protected for uses such as aquatic life propagation, survival and maintenance of biological integrity (including fishing and fish), wildlife, secondary contact recreation, and agriculture. Secondary contact recreation means wading, boating, other uses not involving human body contact with water, and activities involving human body contact with water where such activities take place on an infrequent,

unorganized, or incidental basis. NSW is a supplemental classification intended for waters needing additional nutrient management due to being subject to excessive growths of microscopic or macroscopic vegetation. The wetland, located at the outlet of the adjacent dry detention stormwater basin near Interstate 540, classifies as a headwater forest type per the North Carolina Wetland Assessment Method (NCWAM).

Functional quality of the wetland and stream was evaluated at the proposed areas of discharge using NCWAM and the North Carolina Stream Assessment Method (NCSAM)), respectively, by the applicant's consultant on August 24, 2022. A summary of the wetland and stream rating results is provided below in Table 2.

Table 2

Impact Area	Name	Assessment Area/Reach	AA Size (AC/LF)	Hydrology Rating	WQ ¹ Rating	Habitat Rating	Overall Rating	Mitigation Ratio	Impact ID ²
Wetlands									
1	W1	1	0.019	Low	Low	Low	Low	1:1	W1
Streams									
1	S-A	1	30	Low	Medium	Low	Low	1:1	S1
1	S-A	2	85	Low	Medium	High	Medium	1:1	S1
2	S-A	3	100	Low	Medium	Low	Low	1:1	S4

¹ Water Quality Condition/Opportunity

² Depicted on the attached Impact Map (Sheets 1-3)

Applicant's Stated Purpose

The applicant's stated purpose of the Project is to create an upscale waterfront apartment community with recreational amenities and infrastructure such as roadways, structured parking, utilities, and stormwater management facilities. The purpose of the Sumner Boulevard extension is to provide access to the proposed apartment that also completes the first phase of the City of Raleigh (City) Sumner Boulevard project from Ruritania Street to Capital Hills Drive. The applicant stated that the Project is needed to meet the current demand for residential housing and a road network near downtown Raleigh.

Project Description

The Project consists of a multi-family residential development with waterfront views of Greshams Lake, amenities, parking, and access road. The multi-family residential apartment complex would be located within the Site north of Interstate 540. The site plan for the apartment complex would be developed after required rezoning. Based on the delineation, there are no potential waters of the US located in the area of the proposed apartment complex and therefore, no additional impacts to waters are anticipated.

The City Interactive Street Plan shows a two-lane, divided avenue from the existing terminus of Sumner Boulevard northeast to a proposed new alignment of Gresham Lake Road connecting to the current terminus of Capital Hill Drive. To provide access to the apartment site, the applicant proposes to construct the first phase of the extension from the existing terminus of Sumner Boulevard at Ruritania Street to their site under a cost-share plan with the City. A two-lane road with a 10-foot multi-use path and sidewalk on one side is proposed. Due to the median on Sumner Boulevard, the proposed extension would have 300 feet of median before tapering out, resulting in a variable-width right-of-way (ROW) of 58 feet to 69 feet. The roadway design would progress to a final design once rezoning is completed.

The Project would require the permanent discharge of fill material into 0.056 acre (388 linear feet) of stream channel, 0.053 acre (353 linear feet) of which are considered a permanent loss of waters, and 0.019 acre of wetlands. The Project would temporarily discharge fill material into 0.005 acre (60 linear feet) of stream channel. The proposed discharges resulting in permanent loss of waters would accomplish culvert installation for road construction. The proposed permanent discharge resulting in no loss of waters would occur from installation of rip rap dissipator pads. The proposed temporary discharges are a result of construction activities within the proposed limits of disturbance.

Typical construction equipment would be used consisting of excavators, graders, bulldozers, front-end loaders, dump trucks, and pump-around equipment. Due to the presence of shallow rock, blasting may be necessary for some areas.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

The extension of Sumner Boulevard is the first step of the City's plan for Sumner Boulevard to connect to a re-aligned Gresham Lake Road. Therefore, the proposed ROW section is designed to meet the ultimate purpose of the City's Street Plan. Due to the constraints of the ROW section, fixed roadway easement, location of the stream, and site topography, the proposed project cannot be reduced in size or shifted to avoid all jurisdictional impacts and meet the purpose of the project. The initial plan consisted of a roadway with an 11-foot median, sidewalks on both sides, and a 10-foot multi-use path. To minimize stream loss, the sidewalk on the western side of the road was eliminated, and the median length was shortened. The difference between the elevation of Sumner Boulevard and the ground surface and the parallel position of the sanitary sewer line built within a berm and railroad property severely limit the culvert configuration options to construct the road and further minimize impacts to the stream.

Culverts would be designed to maintain the dimension, pattern, and profile of the stream, and inverts would be buried one foot below the stream bed to maintain aquatic

life passage. Riprap dissipators would be imbedded in the streambed to maintain the stream's preconstruction dimension to minimize the loss of stream channel.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

A mitigation ratio of 1:1 is proposed for permanent loss of streams and wetlands with an overall NCSAM and NCWAM rating of low. A mitigation ratio of 1:1 is also proposed for the section of the stream with an overall rating of medium; this reduced ratio is based on the reach being relatively short, bounded above and below by a highly degraded intermittent stream, and because its quality rating is due primarily to the presence of a riparian buffer.

Per Tables 3 and 4 below, a total of 353 stream credits and 0.40 riparian wetland credits are proposed to compensate for the Project's proposed impact to these resources.

Table 3

Impact Area	ID	Stream Type ¹	Name	Impact Type ²	Type of Impact	Impact (LF)	Avg Width (FT)	Impact Area (SF)	Impact Area (AC)	Mitigation Ratio	Mitigation Required
1	S1	I	S-A	P	Culvert	50	27	1,357	0.031	1	50
1	S2	P	S-A	P	Culvert	99	5	494	0.011	1	99
1	S3	P	S-A	P	Riprap	20	5	100	0.002	1	NA
1	S4	P	S-A	T	Other	23	5	114	0.003	1	NA
2	S5	I	S-A	P	Culvert	204	5	963	0.220	1	204
2	S6	I	S-A	P	Riprap	10	5	49	0.001	1	NA
2	S7	I	S-A	T	Other	17	5	85	0.002	1	NA
2	S8	I	S-A	T	Other	20	5	104	0.002	1	NA

¹ I = Intermittent, P = Perennial

² T = Temporary, P = Permanent

Table 4

Impact Area	ID	Impact Type ¹	Reason	Type of Wetland	Name	Forested	Type of JD	Impact Area	Mitigation Ratio	Mitigation Required
2	W1	P	Road - Fill	Headwater forest	W1	Yes	Both	0.019	1	0.019

¹ P = Permanent

The applicant proposes to purchase in-kind stream and wetland credits from a private mitigation bank with available credits in this HUC. Statements of availability from Wildland Holdings III, LLC for the stream and wetland mitigation were included with the application.

Essential Fish Habitat

The Corps' 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:

- ☒ 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).

In a letter dated October 19, 2022, the North Carolina State Historic Preservation Office (SHPO) stated that they had conducted a review of the project and found that there will be no adverse effect to the Nation Register eligible Raleigh & Gaston Rail Corridor (NC0008). Additionally, the SHPO stated that based on their knowledge of the area, it is unlikely that any archaeological resources that may be eligible for inclusion in the National Register of Historic Places will be affected by the project and, therefore, recommend that no archaeological investigation be conducted in connection with the Project.

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 may affect, not likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat.
- ☒ By copy of this public notice, the Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

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 the state Certification as required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. Unless NCDWR is granted a time review extension, a waiver will be deemed to occur if the NCDWR fails to act on this request for certification within 120 days of the date of this public notice. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by December 17, 2022 to:

NCDWR Central Office
Attention: Supervisor, 401 and Buffer Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617

Or,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

North Carolina Division of Coastal Management (NCDCM):

- ☒ Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

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

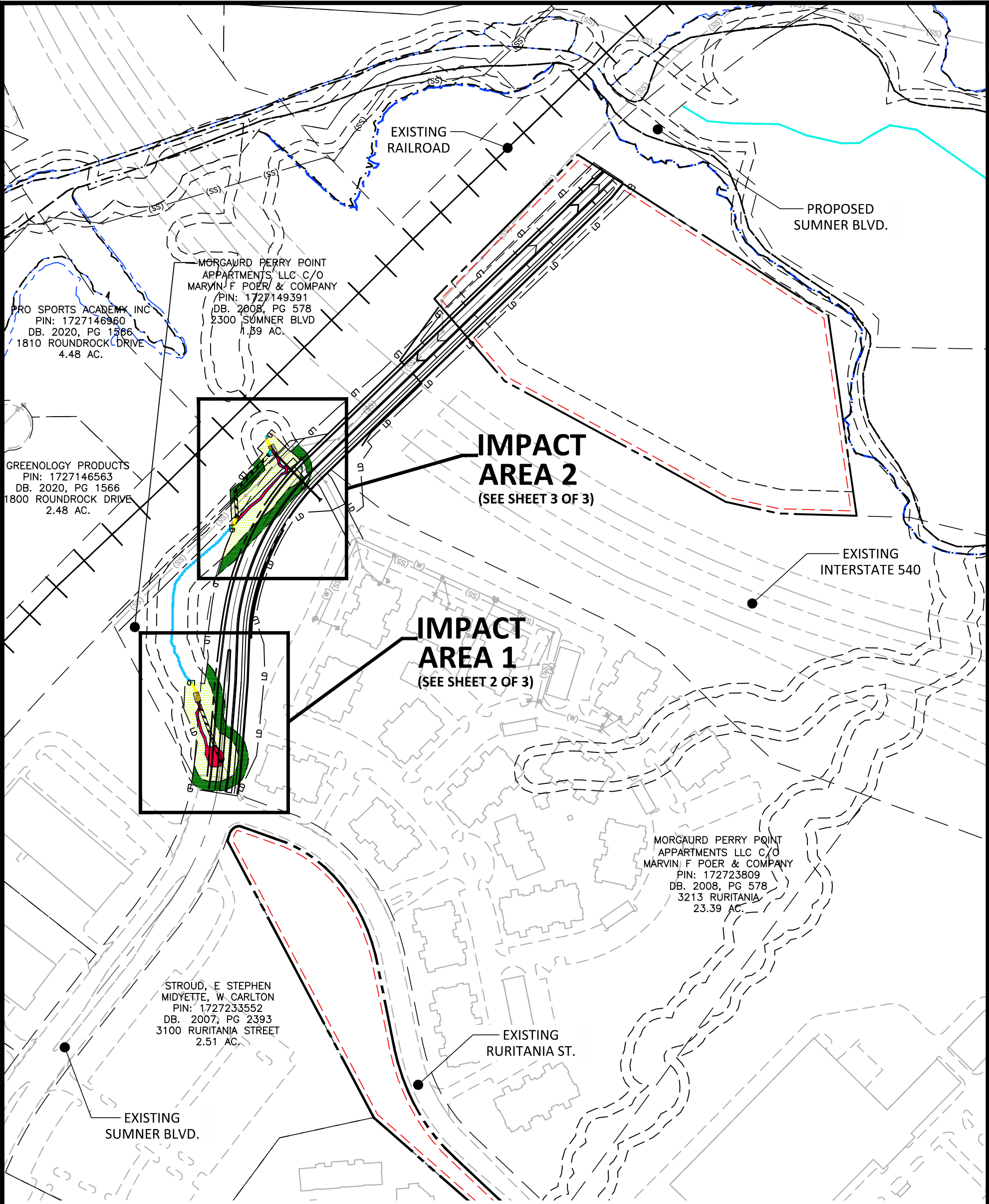
environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and 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 will 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 23, 2022. Comments should be submitted to George Lyle Phillips III, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 588-9200. Comments may also be submitted to RaleighNCREG@usace.army.mil

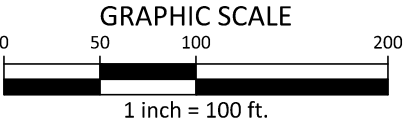


LEGEND:

- PERMANENT WETLAND IMPACT
- WETLAND
- ZONE 2 BUFFER IMPACT (ROAD)
- ZONE 1 BUFFER IMPACT (ROAD)
- PERMANENT - NO LOSS STREAM IMPACT
- PERMANENT - STREAM IMPACT
- TEMPORARY STREAM IMPACT
- STREAM
- NEW STREAM

BUFFER IMPACTS	
BUFFER IMPACT ID	TOTAL
B1	19,128 SF
B2	22,058 SF

WETLAND IMPACTS	
WETLAND IMPACT ID	TOTAL
W1	836 SF



M:\Projects\WBP\WBP22002\04-Production\Engineering\Exhibits\Buffer Impacts\WBP22002-BI1.dwg, 11/9/2022 12:14:04 PM, Linda Vasil



The John R. McAdams Company, Inc.
621 Hillsborough Street
Suite 500
Raleigh, NC 27603

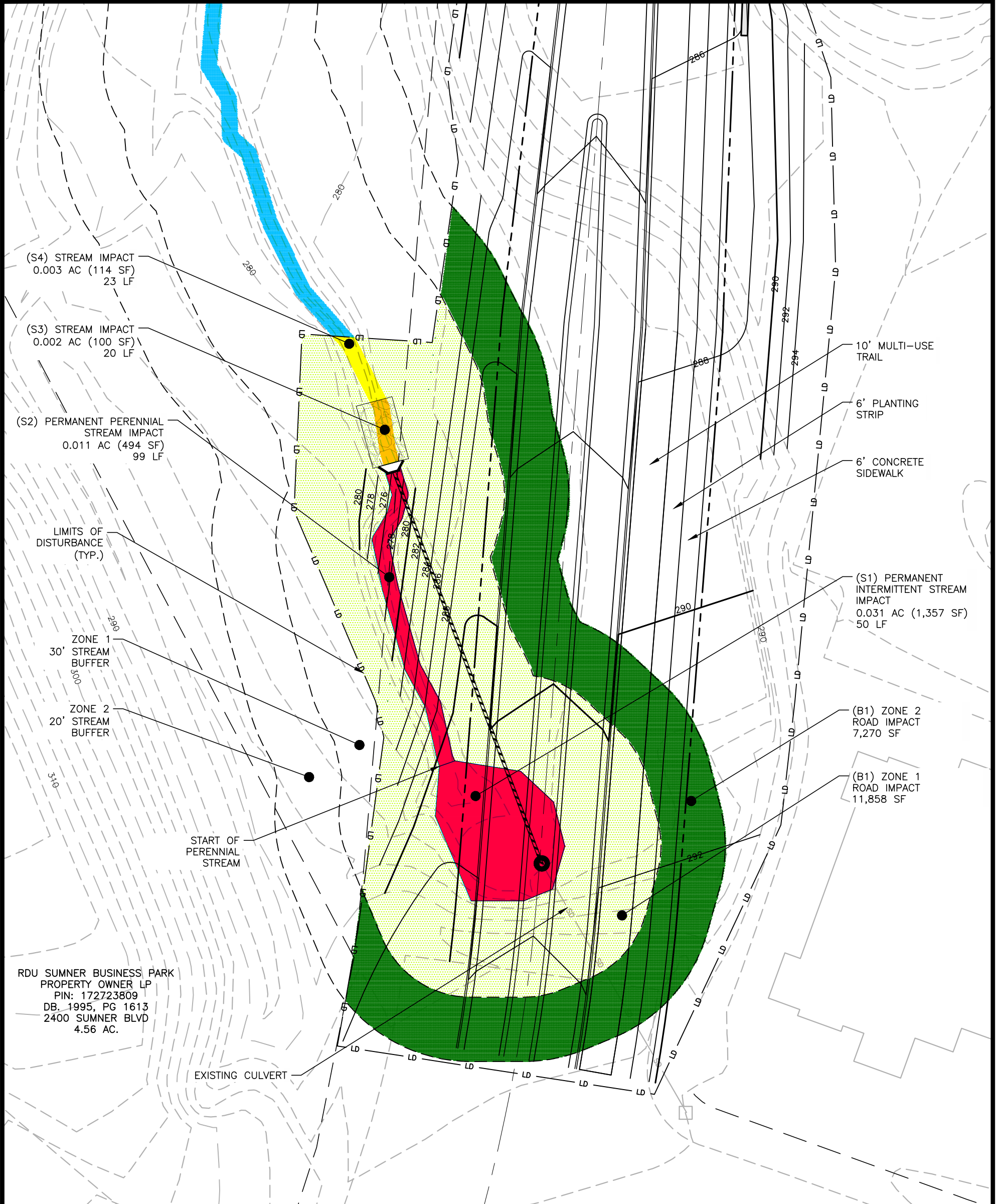
phone 919. 361. 5000
fax 919. 361. 2269
license number: C-0293, C-187

www.mcadamsco.com

SUMNER BLVD EXTENSION
OVERALL IMPACT MAP
2300 SUMNER BOULEVARD
RALEIGH, NC 27616

FIGURE 15

PLAN INFORMATION	
PROJECT NO.	WBP22002
FILENAME	WBP22002-BI1
CHECKED BY	LJV
DRAWN BY	LJV
SCALE	1"=200'
DATE	11.07.2022

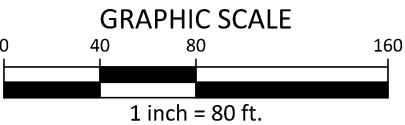
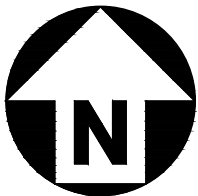


LEGEND:

- PERMANENT WETLAND IMPACT
- WETLAND
- ZONE 2 BUFFER IMPACT (ROAD)
- ZONE 1 BUFFER IMPACT (ROAD)
- PERMANENT - NO LOSS STREAM IMPACT
- PERMANENT- STREAM IMPACT

- TEMPORARY STREAM IMPACT
- STREAM
- NEW STREAM

BUFFER IMPACTS	
BUFFER IMPACT ID	TOTAL
B1	19,128 SF



M:\Projects\WBP\WBP22002\04-Production\Engineering\Exhibits\Buffer Impacts\WBP22002-BI1.dwg, 11/9/2022 12:14:34 PM, Linda Vasil



The John R. McAdams Company, Inc.
621 Hillsborough Street
Suite 500
Raleigh, NC 27603

phone 919. 361. 5000
fax 919. 361. 2269
license number: C-0293, C-187

www.mcadamsco.com

SUMNER BLVD EXTENSION

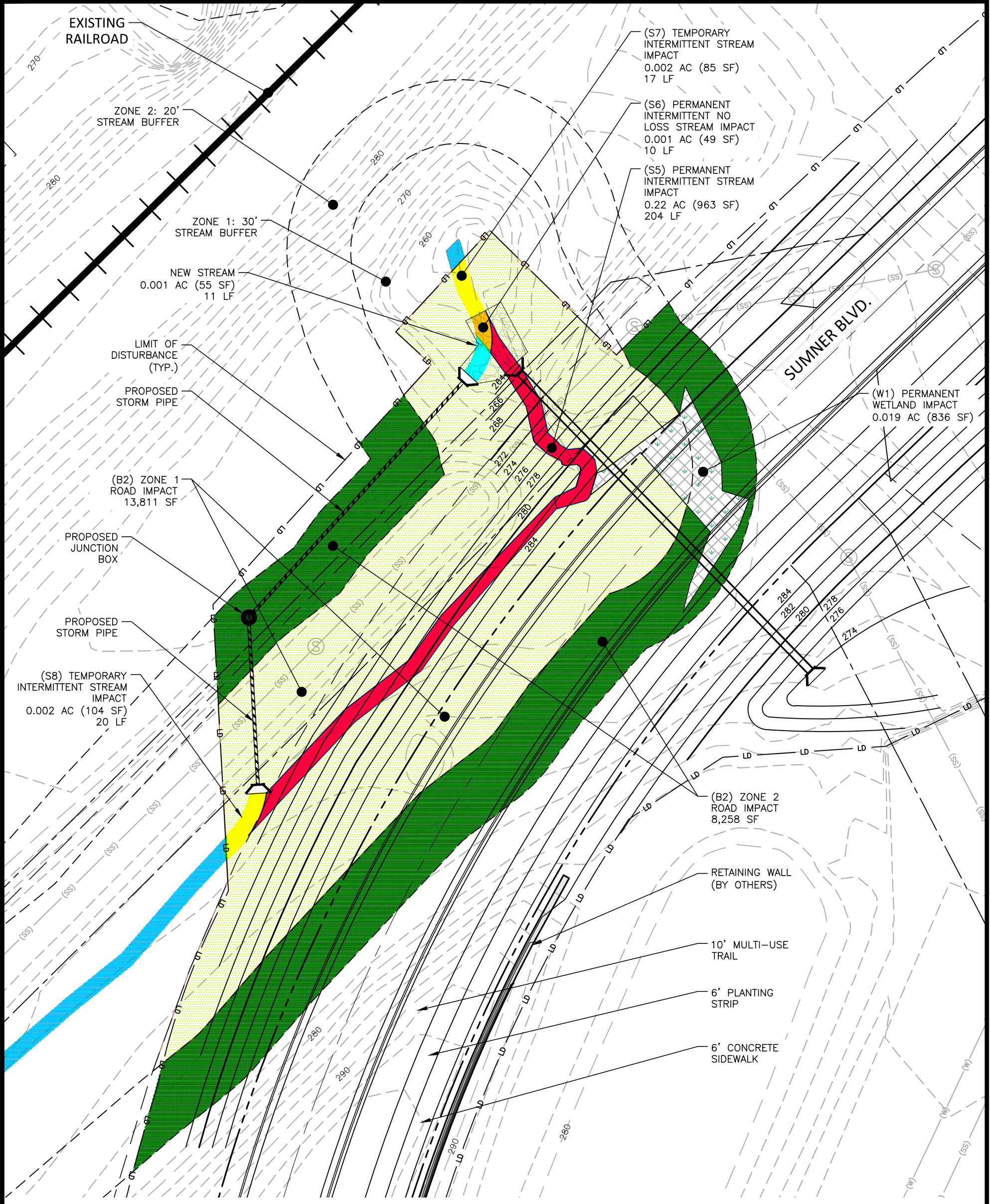
IMPACT AREA #1

2300 SUMNER BOULEVARD

RALEIGH, NC 27616

FIGURE 16

PLAN INFORMATION	
PROJECT NO.	WBP22002
FILENAME	WBP22002-BI1
CHECKED BY	LJV
DRAWN BY	LJV
SCALE	1"=30'
DATE	11.07.2022



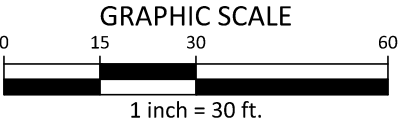
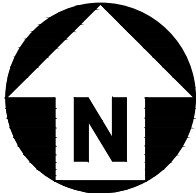
LEGEND:

- PERMANENT WETLAND IMPACT
- WETLAND
- ZONE 2 BUFFER IMPACT (ROAD)
- ZONE 1 BUFFER IMPACT (ROAD)
- PERMANENT - NO LOSS STREAM IMPACT
- PERMANENT - STREAM IMPACT

- TEMPORARY STREAM IMPACT
- STREAM
- NEW STREAM

BUFFER IMPACTS	
BUFFER IMPACT ID	TOTAL
B2	22,058 SF

WETLAND IMPACTS	
WETLAND IMPACT ID	TOTAL
W1	836 SF



M:\Projects\WBP\WBP22002\04-Production\Engineering\Exhibits\Buffer Impacts\WBP22002-BI1.dwg, 11/9/2022 12:15:15 PM, Linda Vasil



The John R. McAdams Company, Inc.
621 Hillsborough Street
Suite 500
Raleigh, NC 27603

phone 919. 361. 5000
fax 919. 361. 2269
license number: C-0293, C-187

www.mcadamsco.com

SUMNER BLVD EXTENSION
IMPACT AREA #2
2300 SUMNER BOULEVARD
RALEIGH, NC 27616

FIGURE 17

PLAN INFORMATION	
PROJECT NO.	WBP22002
FILENAME	WBP22002-BI1
CHECKED BY	LJV
DRAWN BY	LJV
SCALE	1"=30'
DATE	11.07.2022