



US Army Corps  
of Engineers  
Memphis District

# Public Notice

FILE NUMBER: MVM 2017-045

NOTICE DATE:  
October 11, 2017

Attn: Postmaster,  
Please Post Until  
⇒ EXPIRATION DATE:  
November 10, 2017

## Public Notice

### U.S. Army Corps of Engineers

**AUTHORITY:** Pursuant to 33 CFR 325, as published in the Federal Register dated November 13, 1986, this notice announces an application submitted for a Department of the Army permit under Section 404 of the Clean Water Act.

**APPLICANT:**

TN-DMO Properties Holdings, LLC  
Attn: Donnell Ostler  
3170 South 900 West  
Salt Lake City, UT 84119  
(801) 403-5405

**AGENT:**

Brophy-Heineke & Associates, Inc.  
Attn: Tim Brophy  
2978 Shelby Street  
Bartlett, TN 38134  
(901) 373-3289

**PURPOSE:** The purpose of the project is to construct an auto parts distribution center.

**LOCATION:** The proposed project is located on a 57-acre parcel of property west of Appling Road and south of Reese Road in Memphis, Shelby County, Tennessee, with approximate center coordinates of 35.19278° N/ - 89.81885° W, as shown on Figure 1.

**DESCRIPTION OF WORK:** The proposed project would consist of clearing and grading the property to construct an auto parts distribution center including attendant features such as adjacent parking areas, access roads, and a detention basin located immediately south of the proposed building, as shown on Figure 2. Two wetland areas totaling 0.894-acre in size (as shown on Figure 3) and a stream channel approximately 1,500 linear feet (as shown on Figure 2) in length are located on the property. The applicant is proposing to fill the 0.894-acre of wetlands and 1,264 lf of the stream channel to construct the proposed distribution center.

**AVOIDANCE/MINIMIZATION:** According to the applicant, approximately 236 lf of the stream channel on the project site will be avoided with the proposed project. There is 7.55 acres of existing wetland mitigation area along the western and southern boundaries. A Declaration of Restriction has been placed on the property and registered with Shelby County. The wetland mitigation site will be avoided with the project.

**MITIGATION:** The re-establishment of 1,385 lf of stream channel would be provided on-site to compensate for the loss of 1,264 lf of stream channel to be filled. Bottomland hardwood trees will be planted along both banks of the re-established stream channel. Hydrology for the stream will be maintained by capturing flows within an underground pipe at the point the channel naturally enters the north side of the property. The pipe would run to the east and then turn south tying into the proposed mitigation stream. The existing wetland mitigation on the site totaling 7.55 acres was successfully established on the site for impacts to 2.26 acres of wetland to meet the conditions of a previously issued Section 404 permit (Permit No. Fletcher Creek 97-590, issued on September 17, 1997) for a development on the subject property. The property was never developed as permitted and 0.894-acre of wetland remain present on the site. The required wetland mitigation of 7.55 acres was developed, planted, monitored and determined to be successful in December of 2012. The proposed impacts to 0.894 of wetland would be mitigated with the 7.55 acres of wetland mitigation already established on the site. The location of the existing wetland mitigation areas is shown on Figure 3.



would be mitigated with the 7.55 acres of wetland mitigation already established on the site. The location of the existing wetland mitigation areas is shown on Figure 3.

**WATER QUALITY CERTIFICATION:** The applicant is required to request water quality certification from the Tennessee Department of Environment and Conservation, Division of Water Pollution Control that the activity will comply with applicable requirements set forth in 33 U.S.C. and 1341(a)(1) of the Clean Water Act and all state laws and regulations promulgated pursuant thereto. This certification or evidence of this water quality certification or waiver of the right to certify must be submitted prior to the issuance of a Corps of Engineers permit. The Corps of Engineers' evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act.

**ENDANGERED SPECIES:** The Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and least tern (*Sterna antillarum*) are listed as endangered or threatened by U.S. Fish and Wildlife Service in Shelby County. Based on best available information, our office has determined there is no potentially suitable habitat for the least tern that would be affected by the project; therefore, the project will have 'no effect' on the least tern. This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments they may have regarding endangered or threatened wildlife or plants or their critical habitat will be considered in our evaluation of the described work.

**CULTURAL RESOURCES:** In a letter, dated January 13, 1997, the Tennessee Historical Commission stated the project will have no effect on cultural, archaeological, or historical resources and had no objections to a development project proceeding on the subject property. The current proposal has been recently reviewed by the Memphis District Branch Archaeologist and the determination was made that "no historic properties would be affected" with the project. However, the Memphis District will evaluate information provided by the State Historic Preservation Officer and the public in response to this public notice and we may conduct, or require a survey of the project area. We are also soliciting input from federally recognized Tribes who have stated an interest in the area in which the project is located.

**FLOODPLAIN:** In accordance with 44 CFR Part 60 (Floodplain Management and Use), participating communities are required to review all proposed development to determine if a flood plain development permit is required. Floodplain administrators should review the proposed public notice and notify this office of any flood plain development permit requirements.

**PUBLIC INTEREST REVIEW:** The purpose of this public notice is to advise all interested parties of the activities for which a permit is sought and to solicit comments and information necessary to evaluate the probable impact on the public interest.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project 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, floodplain values, 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.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; federally recognized 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 and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**PUBLIC HEARING:** Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reason for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision. If a public hearing is held, it will be for the purpose of obtaining additional information that we could not otherwise obtain through a public notice process; not to inform the public about the specific details of the project in greater detail than what is found in this notice. This is not a Corps of Engineers project. We are not a proponent nor are we an opponent of the project. We are merely the permitting authority of Section 404 and Section 10 permits required by our office.

**COMMENTS:** To request additional information or provide comments on this notice, please contact Mitch Elcan using the information below:

U.S. Army Engineer District - Memphis  
ATTN: Mitch Elcan  
167 N. Main Street, Room B-202  
Memphis, Tennessee 38103-1894  
E-mail: [james.m.elcan@usace.army.mil](mailto:james.m.elcan@usace.army.mil)  
Phone: (901) 544-0737  
Fax: (901) 544-0211

Comments may be sent via mail or E-mail. The Corps of Engineers may provide copies of all comments, (including name & address of those providing comments) to the applicant for consideration and response prior to a decision. Comments must be received by the expiration date listed on page one of this notice.

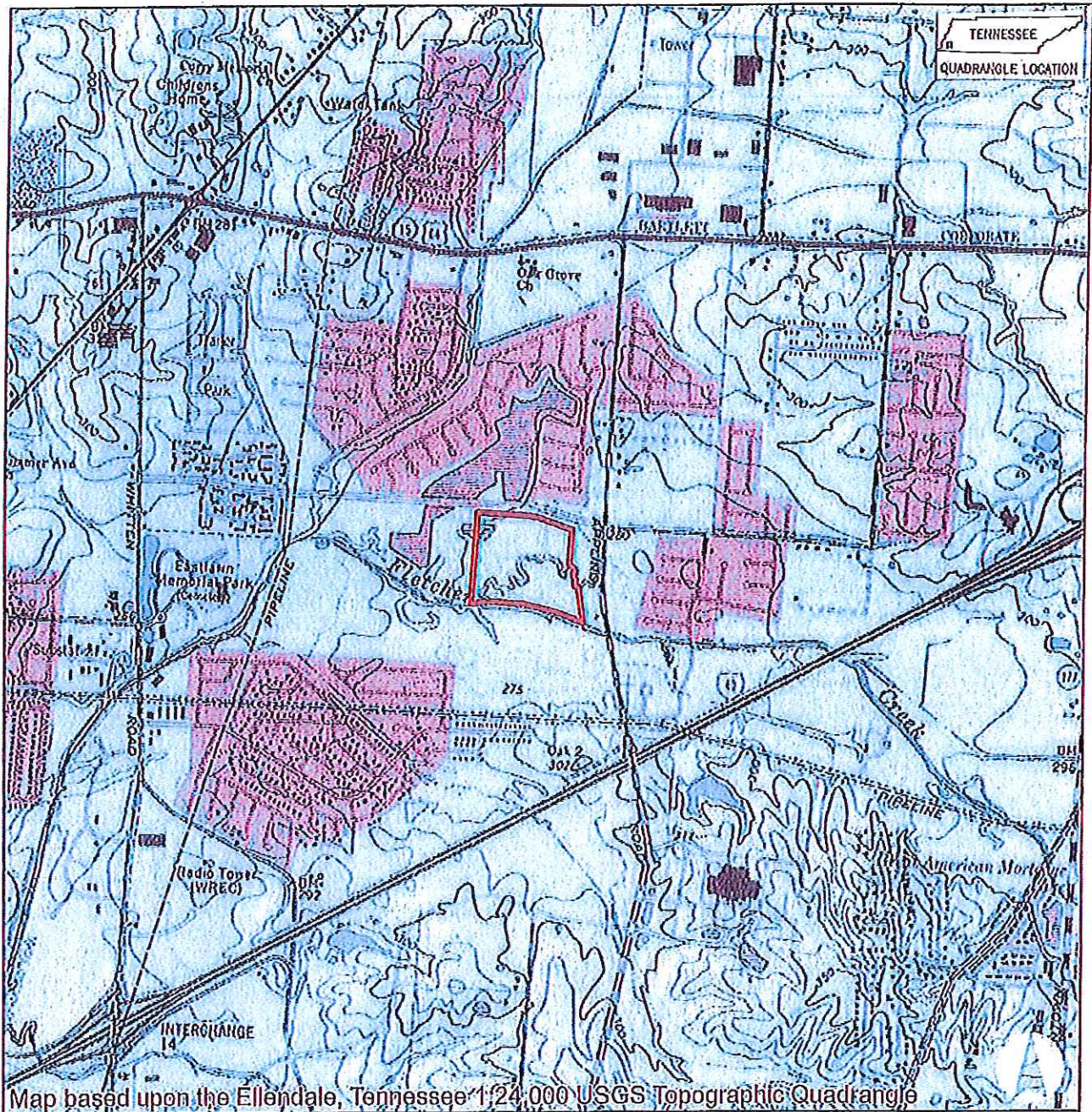
For Final Individual Permits actions in the Memphis District, go to the following link: <http://geo.usace.army.mil/egis/f?p=340:2:0::NO:RP>. Using the Filter by District drop down box, select MVM-Memphis District, then select the year and month (information will populate in the table below). All pending individual permits can be located by selecting the "Pending IP" tab above. All of the environmental documents and statements of findings supporting issuance or denial of the permit decisions are available upon written request and where applicable, upon the payment of administrative fees. They are also available at the Memphis District, Regulatory Branch office for examination.



Gregg W. Williams  
Chief  
Regulatory Branch

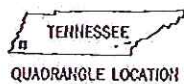


# Certifit, Memphis Site Location Map



0 750 1,500 3,000

Feet



## Legend

Site Boundary

Brophy-Helneke & Associates, Inc.  
2978 Shelby Street  
Bartlett, TN 38134



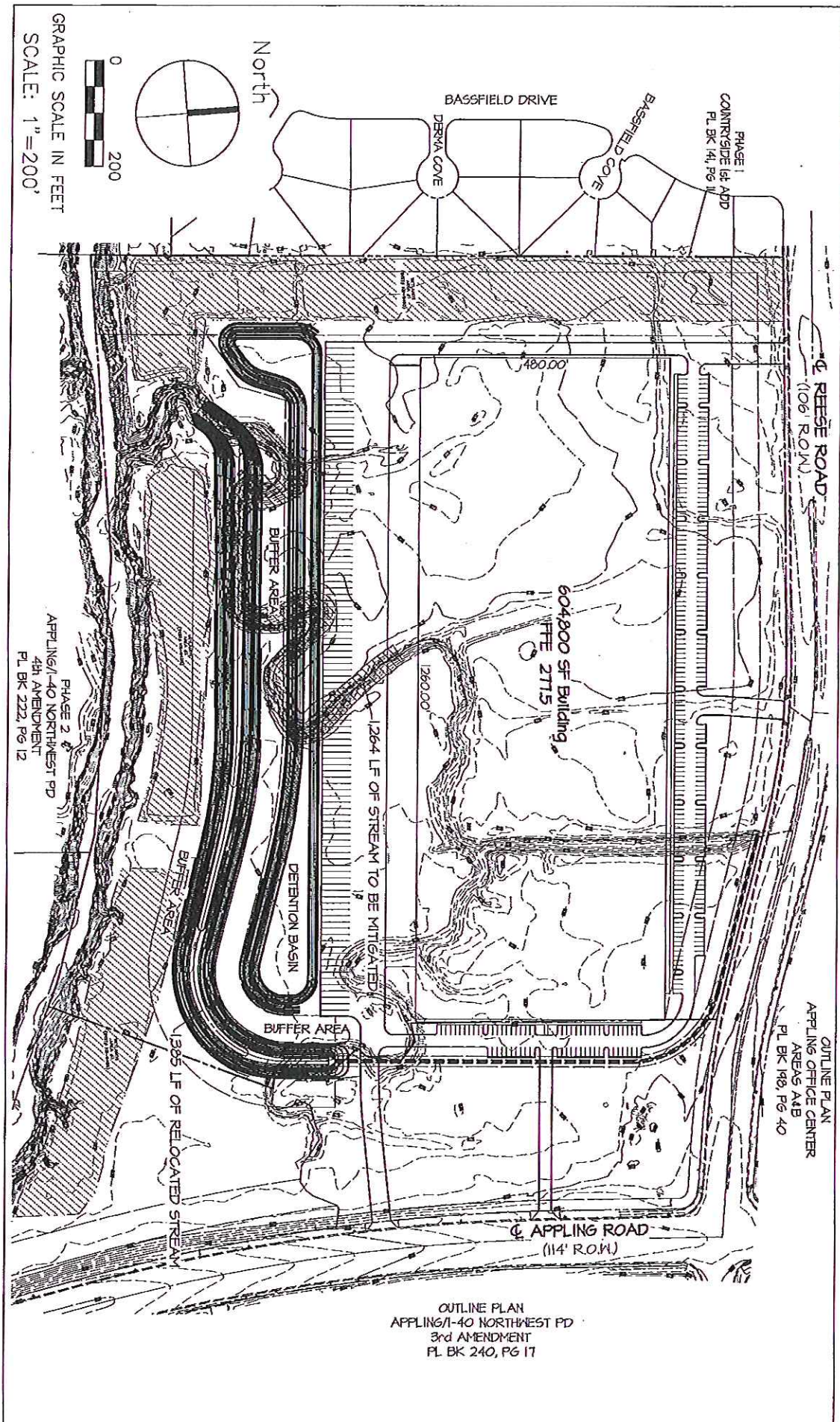


Figure 2.

OUTLINE PLAN  
APPLING/I-40 NORTHWEST P.D.  
4TH AMENDMENT  
(P.B. 222, PG. 13)

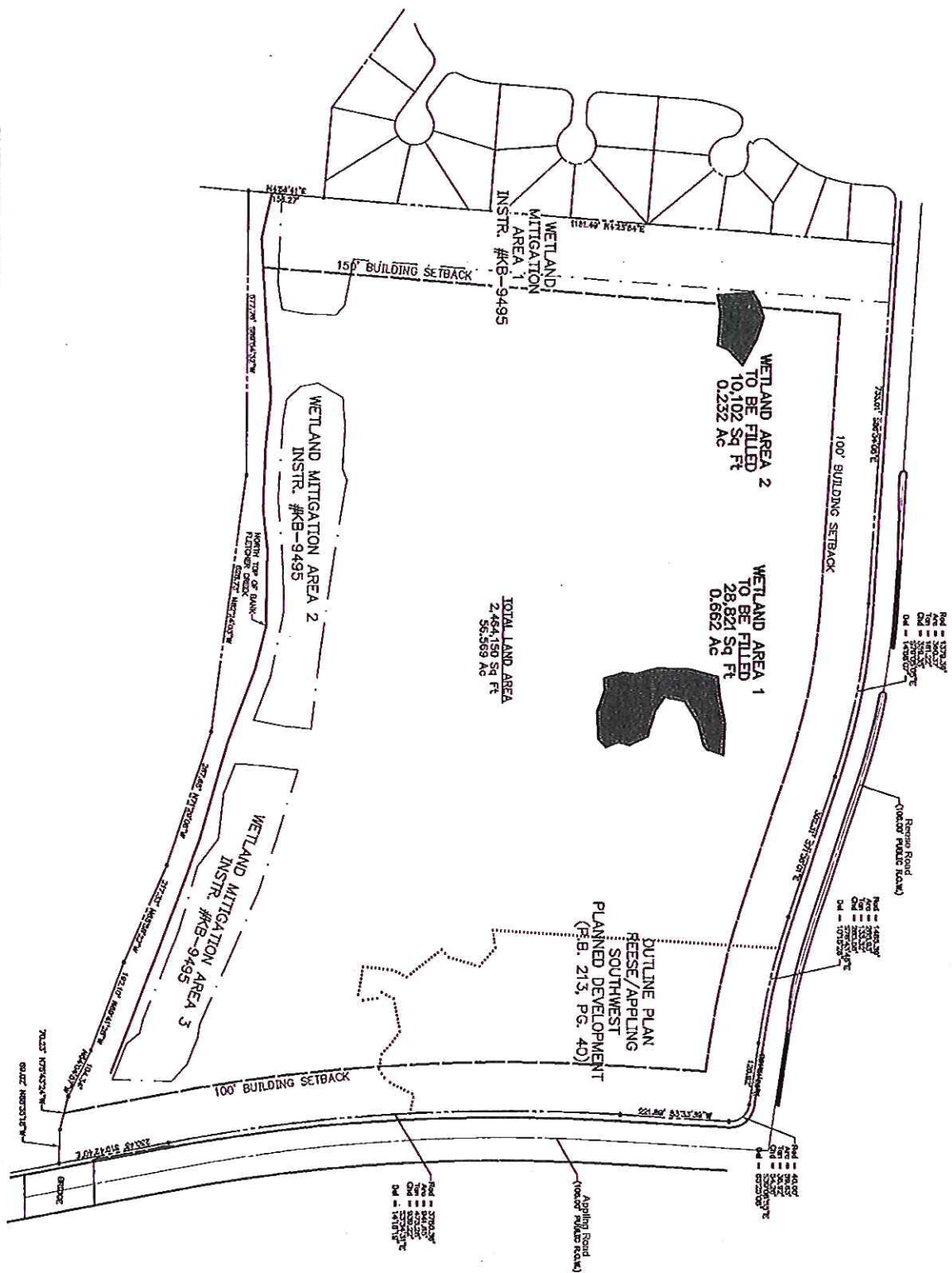


Figure 3.