



Public Notice

**U S Army Corps
of Engineers**
Huntington District

In reply refer to Public Notice No.
200401428

Issuance Date:
December 21, 2006

Stream: UN TRIB INDIAN GUYAN CREEK

Closing Date:
January 22, 2007

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (reference above)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application:

APPLICANT: Superior Marine Ways
5852 County Road 1
South Point, Ohio 45680

LOCATION: The project is located north of State Route 7 and west of State Route 775 in Proctorville, Lawrence County, Ohio. The proposal would result in impacts to 3.3 acres of jurisdictional wetland adjacent to Indian Guyan Creek, a tributary to the Ohio River, a navigable water of the United States.

DESCRIPTION OF PROPOSED WORK: The applicant proposes to place fill material into waters of the United States in conjunction with the construction of an assisted living/nursing facility at the site. According to the applicant, the proposed facility would provide an integrated residential, medical, assisted living/nursing care facility.

The proposal would consist of the placement of approximately 17,000 cubic yards of clean fill material into 3.3 acres of Category II wetland at the site to allow construction of the assisted living nursing facility and associated parking.

COMPENSATORY MITIGATION PLAN: To compensate for the loss of 3.3 acres of jurisdictional wetland, the applicant proposes to create 6.6 acres of emergent and scrub-shrub on a 6.8 parcel located west of the project site. The minimum wetland mitigation requirement for this proposal is 6.6 acres based on the state water quality requirement ratio of 2:1. The applicant conducted the required wetland delineation at the proposed mitigation site and determined that jurisdictional wetlands exist along the stream corridor located along the northern boundary of the mitigation site. These areas would not be impacted as a result of the mitigation proposal.

The site contains a swale, wooded area, and pond. The mitigated wetland would be constructed within two linear cells. A low berm would be constructed along the south bank of the unnamed tributary of Indian Guyan Creek and extend from the west bank of the existing pond to the embankment located along First Street at the western perimeter of the site. An additional low berm would be constructed approximately 200' south of the northern berm to create the southern wetland mitigation area. The berms would be minimal in height with approximate 15:1 side slopes. The soils within the proposed wetland mitigation site consist of Nolin silt loam, a non-hydric soils with hydric components. Soils from the impacted wetland would also be stockpiled and re-distributed within the mitigation wetland areas. The southern wetland area would include the 1.6 acre pond, which would be drained, re-graded, and re-vegetated with hydrophytic vegetation. Drainage at the site flows east to west and is fed by a larger pond located east of the site. Wetland hydrology would be driven by overflow from the pond as well as precipitation and runoff from adjacent areas. The mitigation area would consist of wet meadow, emergent marsh, scrub-shrub, and open water with aquatic beds. Hydrologic regimes are expected to range from saturation to a maximum of 3' in the open water area. The site would be allowed to re-vegetate from the seed source with the transplanted hydric soils and adjacent wetland areas. Plantings would be required if necessary. The site would be protected within a minimum 50' vegetated buffer. The mitigation wetland would be monitored for a minimum of five years and would require protection, via a conservation easement, in perpetuity.

Plans of the proposed work are attached to this notice.

A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain the certification from the Ohio Environmental Protection Agency.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined there are no properties within the project area listed on the Register. However, a large number of archeological surveys have been conducted within the project area which indicates the presence of potentially important archeological sites and prehistoric habitation sites. It is the opinion of the Corps that a Phase I Archeological Survey should be conducted at the project site and mitigation site. A copy of this public notice will be furnished to the Ohio State Historic Preservation Office for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

ENDANGERED AND THREATENED SPECIES: The project is located within the known or historic range of the following endangered, threatened, and candidate species: Indiana bat, running buffalo clover, pink mucket pearly mussel, sheepnose mussel, and timber rattlesnake. The Huntington District has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7 (c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENTS: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact 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, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production,

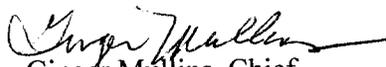
mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps of Engineers 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 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.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

Kimberly Courts-Brown, Regulatory Project Manager
North Regulatory Section, CELRH-OR-FN
U. S. Army Corps of Engineers Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070.

Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Kimberly Courts-Brown of the North Regulatory Section at 304-399-5210.


Ginger Mullins, Chief
Regulatory Branch

(O)

Huntington Quad,
Lawrence Co.

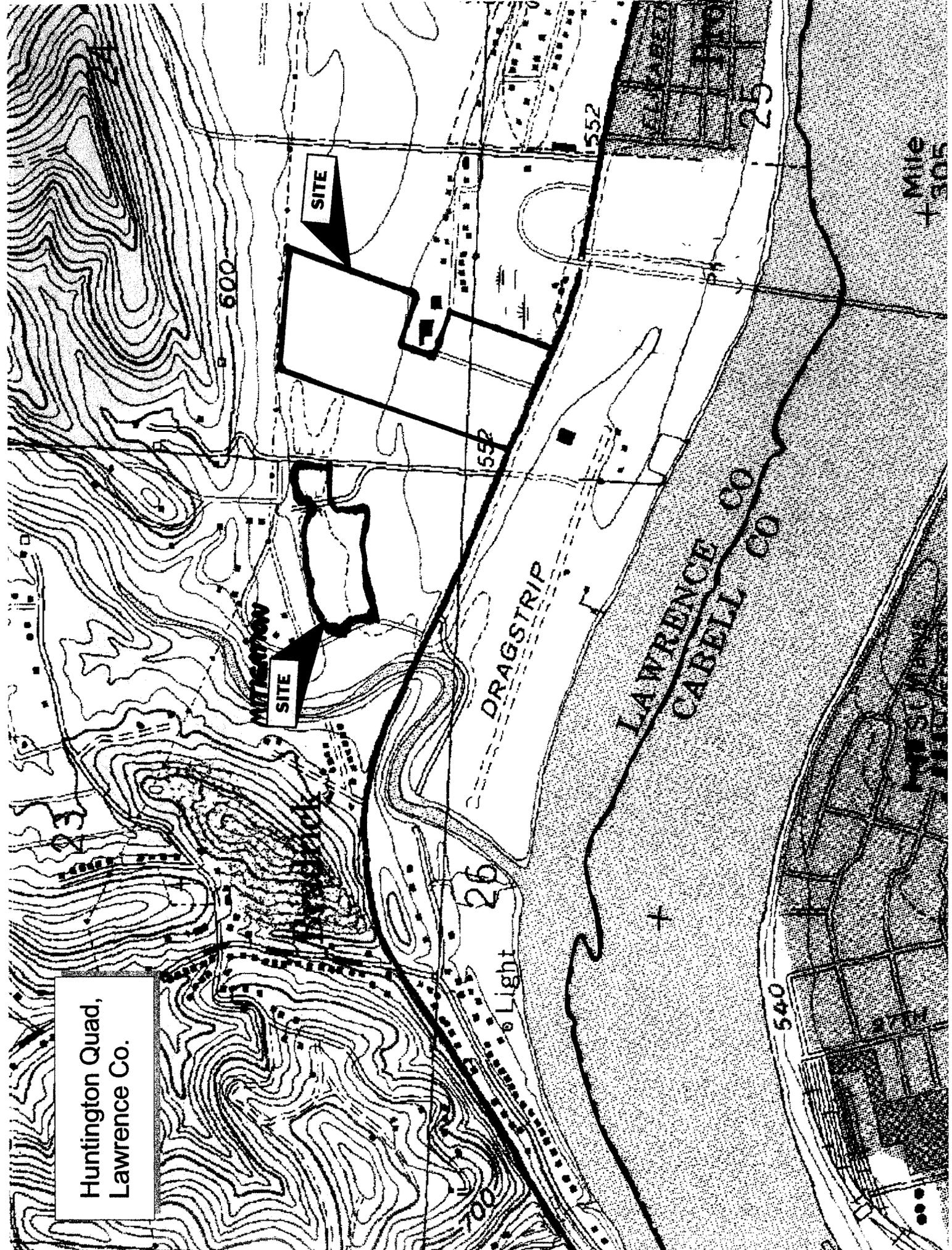
SITE

SITE

DRAGSTRIP

LAWRENCE CO
CABELL CO

Mile
+ 305



Existing Pond
1.6 Acres

Existing Pond
10 Acres



EXISTING DOCTOR'S
OFFICE BUILDING

EXISTING
MEDICAL
FACILITY

EXISTING
CHURCH

SUNNY ACRES SUBDIVISION

Freedom Way

Existing Pond

Existing Wetland

Existing Asphalt Entrance

Existing
Wetland
3.5 acres total

**RiverWalk Planned
Development**

State Route 7

WETLAND LOCATION MAP

Graphic Scale: 1" = 200'

GeoSAM
JL Stephens
& Associates
Geographical Surveying and Mapping
Huntington, West Virginia 304.522.0811



Existing Pond
1.6 acres

Existing Pond
1.6 acres



SENIOR INDEPENDENT
LIVING COTTAGES
48 UNITS

RETENTION
POND

EXISTING DOCTOR'S
OFFICE BUILDING

Freedom Way

EXISTING
MEDICAL
FACILITY

EXISTING
CHURCH

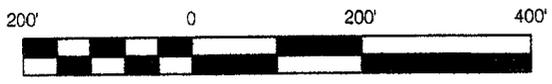
SUNNY ACRES SUBDIVISION

Existing Pond

RiverWalk Planned
Development

State
Route 7

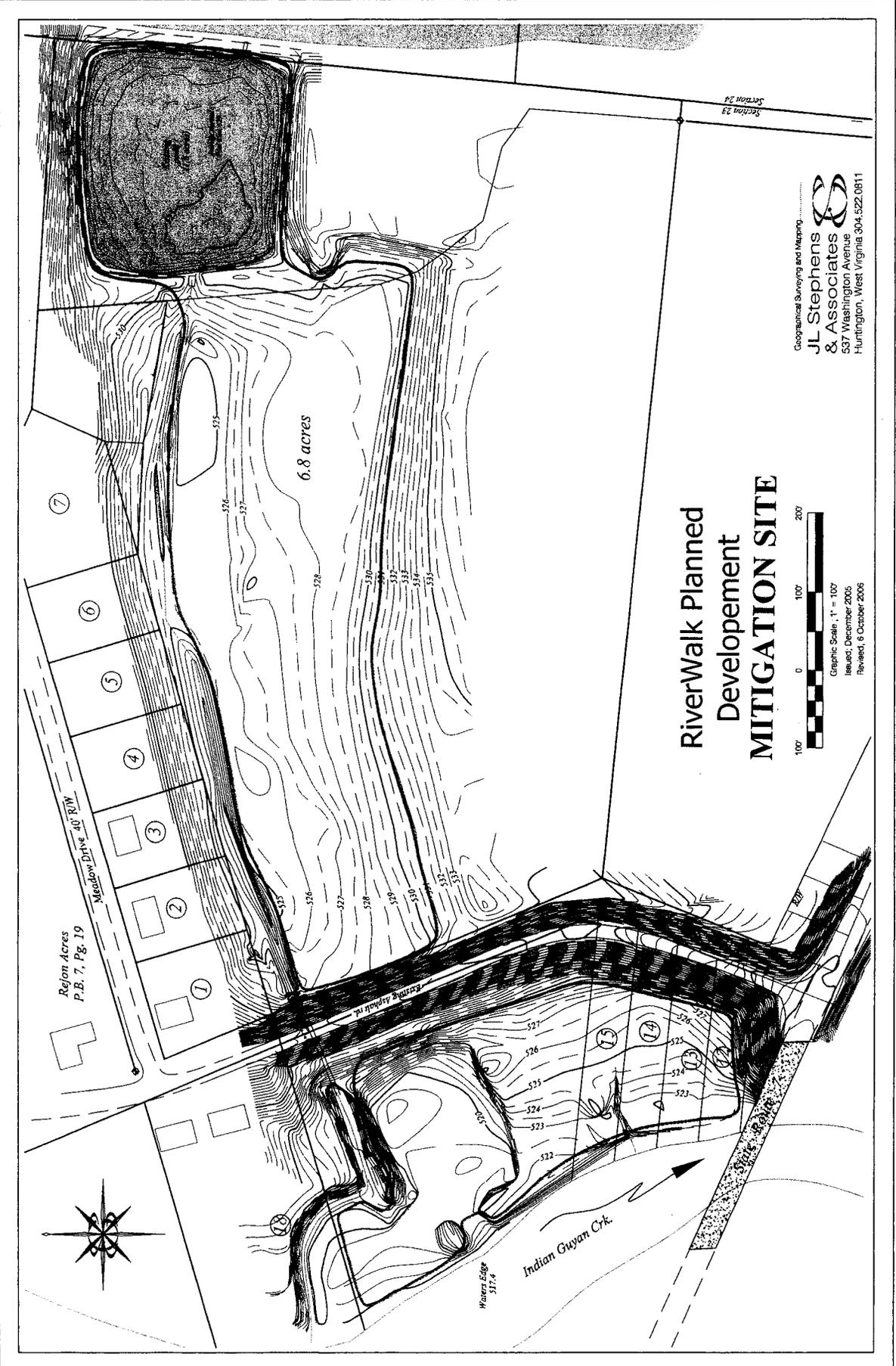
Preferred Alternative



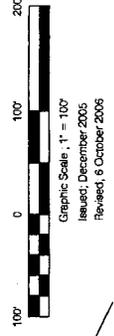
Graphic Scale: 1" = 200'

GeoSAM
JL Stephens
& Associates
Geographical Surveying and Mapping
Huntington, West Virginia 304.522.0811



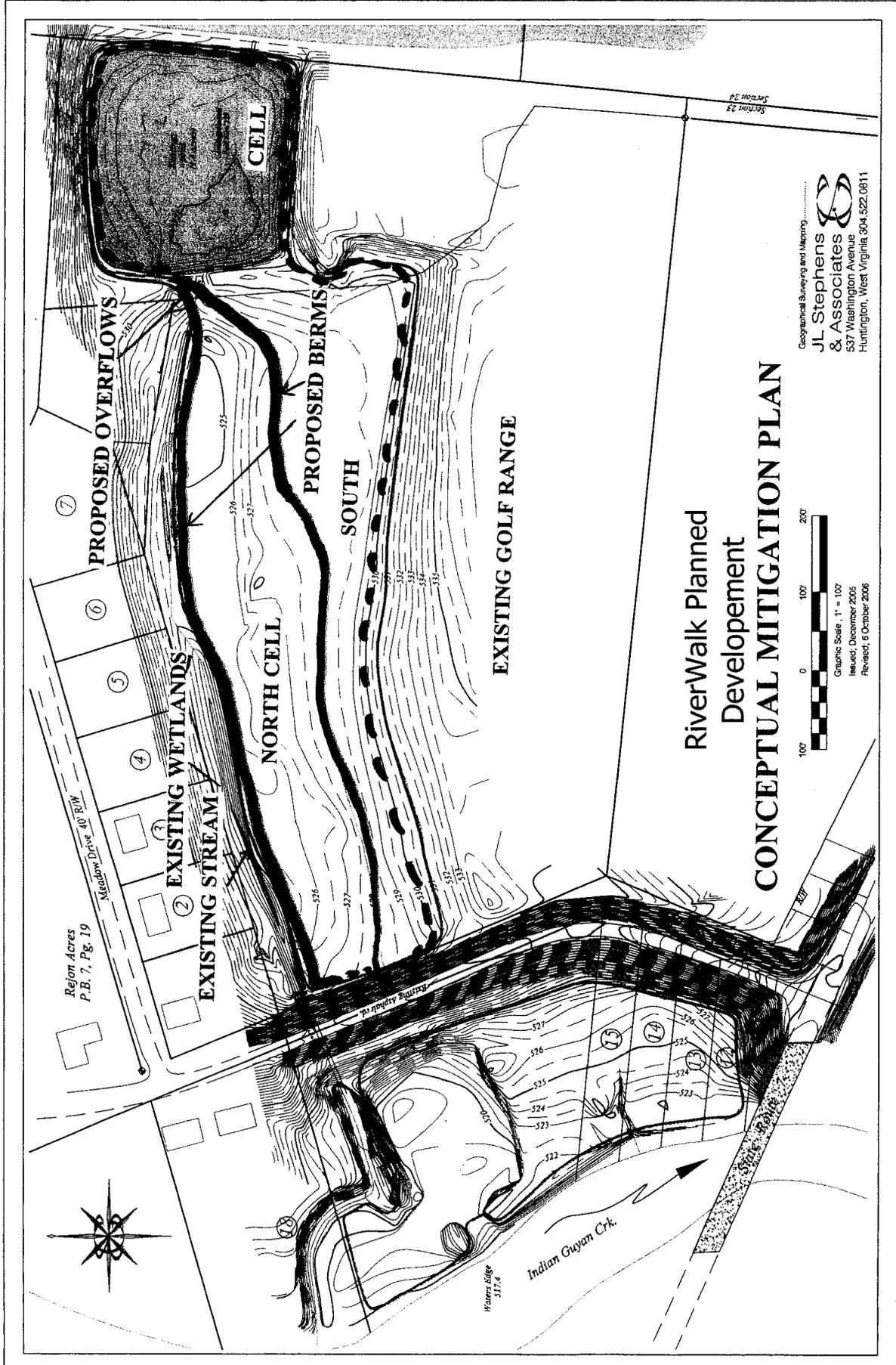


RiverWalk Planned
Development
MITIGATION SITE



Geographical Surveying and Mapping
JL Stephens & Associates
537 Washington Avenue
Huntington, West Virginia 25641-0811

Section 23
Section 24



Rejon Acres
P.B. 7, Pg. 19

Meadow Drive 40' R/W

PROPOSED OVERFLOWS

EXISTING WETLANDS

EXISTING STREAM

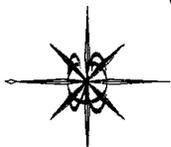
NORTH CELL

PROPOSED BERMS

SOUTH

EXISTING GOLF RANGE

CELL



Waters Edge
317.4

Indian Guyan Crk.



Graphic Scale, 1" = 100'
Issued, December 2005
Revised, 6 October 2006

RiverWalk Planned
Development
CONCEPTUAL MITIGATION PLAN

Geographical Surveying and Mapping
JL Stephens
& Associates
537 Washington Avenue
Huntington, West Virginia 25704-5222 0811

SECTION 23
SECTION 24