



Public Notice

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

In reply refer to Public Notice No.
200100602-2

Issuance Date:
January 12, 2006

Stream:
Un Trib Alum Creek

Closing Date:
February 12, 2006

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 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 provision of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency (OEPA) to act on Section 401 Water Quality Certification for the following application:

APPLICANTS: NP Limited Partnership
8800 Lyra Drive Suite 550
Columbus, Ohio 43240

LOCATION: The proposed project is located in wetlands and unnamed ephemeral, intermittent and perennial tributaries to Alum Creek north of the intersection of Lyra Drive and Gemini Place in the City of Columbus, Delaware County, Ohio.

PROJECT HISTORY: A portion of the 72 acre tract is currently being developed as a large retail store (Costco) and a hotel complex (Cambria Suites). On June 20, 2005 a Nationwide Permit #39 (200100602) was issued for impacts to 0.03 acre of jurisdictional Category II wetland and 151 linear

feet of intermittent stream for the construction of a Costco retail store. On May 11, 2006 a second Nationwide Permit #39 (200100602-1) was issued for impacts to 0.38 acre of jurisdictional Category I wetland and 222 linear feet of ephemeral stream for the construction of a Cambria Suites Hotel Complex. For impacts associated with the Costco store, the applicant purchased 0.1 acre of wetland mitigation credit from the Little Scioto Mitigation Bank and 300 linear feet of conservation easement along Alum Creek. For impacts associated with the Cambria Suites Hotel Complex, the applicant purchased 0.5 acre of mitigation credits at the Little Scioto Wetland Mitigation Bank in Marion County, Ohio. Originally, the Costco store and the Cambria Suites developments were determined to be single and complete projects. The new development however, is dependant upon the access point and infrastructure developed for both the Costco and Cambria Suites developments. Therefore, the impacts for the new proposal are considered cumulative with the impacts for the Costco and Cambria Suites developments.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place approximately 21,000 cubic yards of dredged or fill material into 0.68 acre of Category I and Category II wetlands, 1,714 linear feet of ephemeral, intermittent and perennial stream channels and 2.19 acre of jurisdictional open water for the purpose of constructing an office/retail/hotel development. Plans of the proposal are attached to this notice.

ALTERNATIVE ANALYSIS: A total of 0.68 acre of jurisdictional wetlands would be filled as a result of the proposal. The project does not require access to or siting within the wetlands to fulfill its basic purpose and is considered a non-water dependent activity; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. The Section 404(b)(1) Guidelines state that for non-water dependent activities, practicable alternatives that do not involve wetlands are presumed to be available unless clearly demonstrated otherwise. The applicant is required to provide an alternative analysis that must overcome the presumption prior to receiving authorization for the placement of fill material. The applicant has submitted the required alternative analysis and it is currently under review. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

MITIGATION PLAN: To compensate for impacts to 0.68 acre of Category I and Category II non-forested wetland, the applicant proposes to purchase 1.35 acres of wetland credit from an approved mitigation bank within the watershed. To compensate for the 155 linear feet of ephemeral, 1032 linear feet of intermittent and 527 linear feet of perennial stream impact, the applicant proposes to place approximately 1,319 linear feet of intermittent stream and 395 linear feet of perennial stream located within close proximity of the site within a deed of restrictions. Copies of the proposed mitigation plan are available for review upon request.

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 that there are currently no historic properties listed in the National Register in the area affected by the project. The applicant provided a copy of the "Phase I Cultural Resources Management Survey of a Proposed 4 ha (10 a.) Development in Orange Township,

Delaware County, Ohio,” conducted by Kevin A. Nye and Craig S. Keener. The applicant submitted the report to the State Historic Preservation Office (SHPO) for their review and approval. By letter dated May 18, 2006, the SHPO concurred with the findings of the report that the identified sites were not eligible for inclusion on the National Register and no further investigation would be necessary. A copy of this public notice will be furnished to the Ohio State Historic Preservation Office for their review. Comments concerning archeological sensitivity of the project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: The project is located within the known or historic range of the following endangered species:

Indiana Bat
Clubshell Mussel
Bald Eagle
Rayed Bean Mussel

The Huntington District has consulted the most recently available information and based on the proposed avoidance and minimization measures stated in the letter dated March 7, 2006 between the Floyd Browne Group and the United States Fish & Wildlife Service (USFWS), the project is not likely to adversely affect the Indiana bat, Clubshell Mussel, Bald Eagle or Rayed Bean Mussel or designated Critical Habitat for these Federally listed species. 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 COMMENT: 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. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. 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 that may be relevant to the proposal will be considered including the cumulative effects thereof; of 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. 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.

SOLICITATION OF COMMENTS: 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. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. 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:

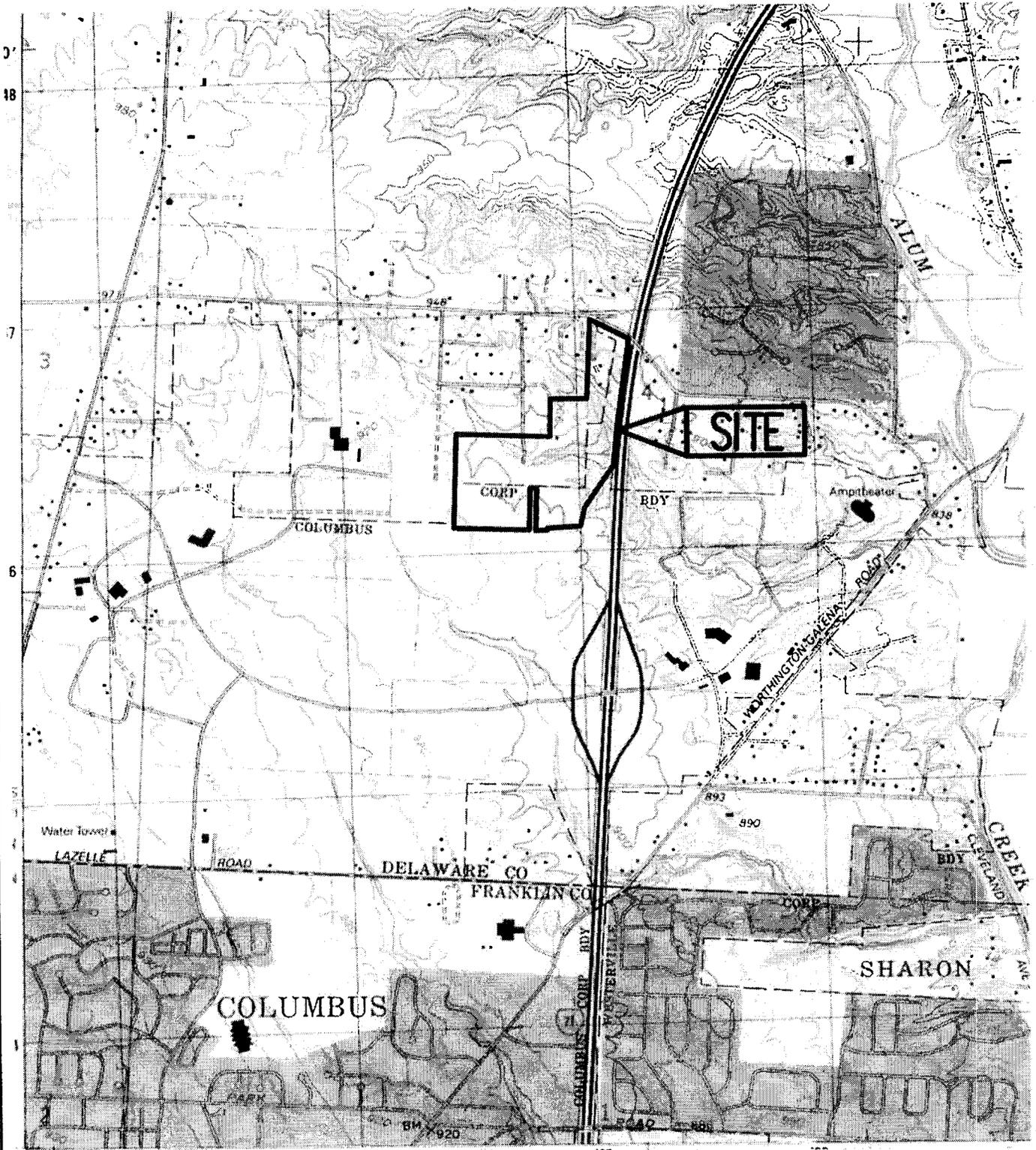
North Regulatory Permit Section - CELRH-OR-FN-200100602-2
U. S. Army Corps of Engineers Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Ms. Lee A. Pittman of the North Regulatory Section at 304-399-5210.


for Ginger Mullins
Regulatory Branch

(O)

j:\DEL\H\Environmental\Client\NPLimited\LyraNorth\401404 Permit\COE_Figures\Figure1.dwg - 11/11/2005 9:59:19 AM



GALENA QUADRANGLE / CONTOUR INTERVAL = 10 FEET
 SOURCE: US GEOLOGICAL SURVEY (1995)

APPROXIMATE SCALE: 1 INCH = 2000 FEET

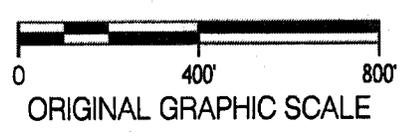
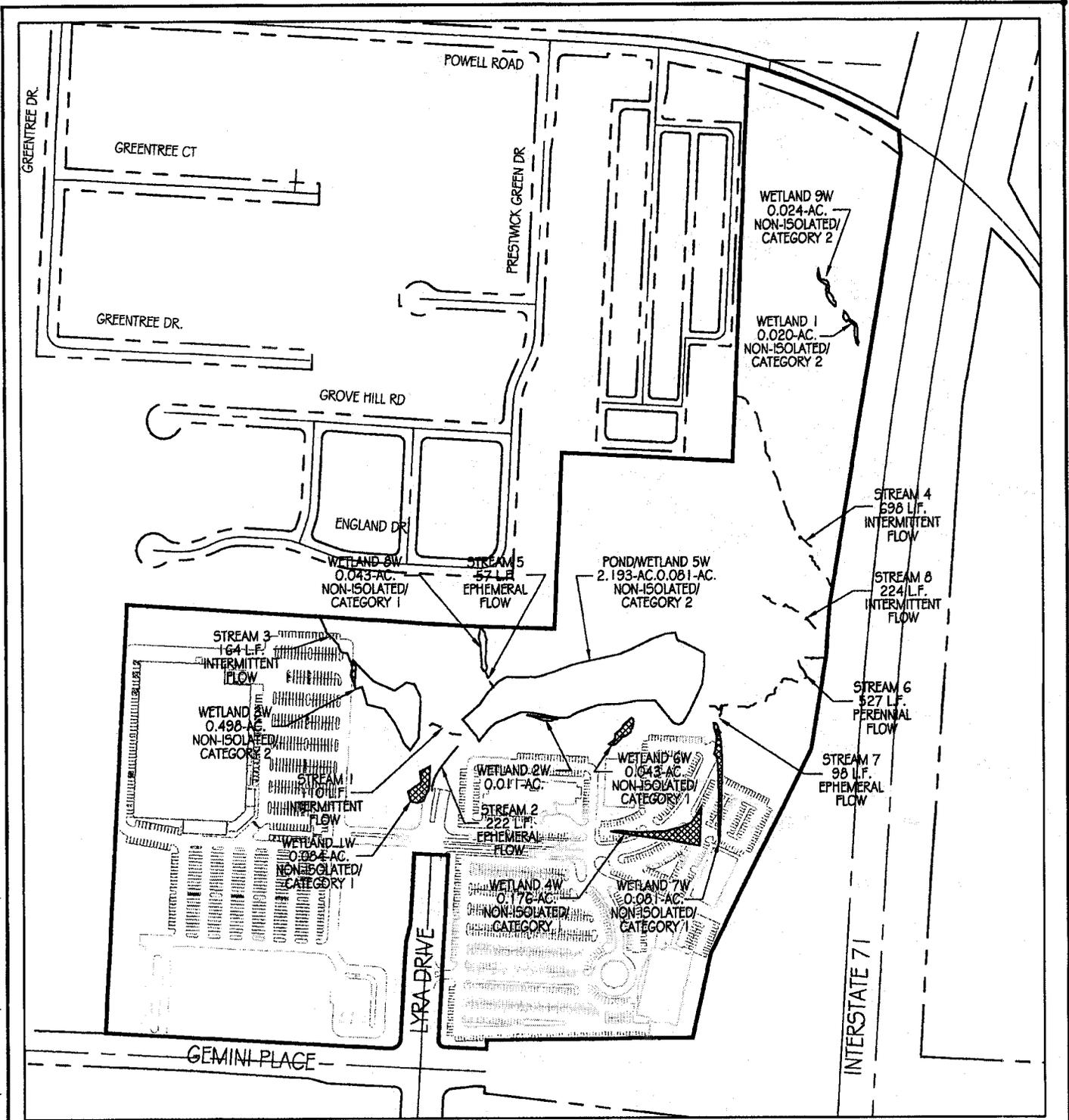
FIGURE 1 – USGS TOPOGRAPHIC MAP
INDIVIDUAL PERMIT APPLICATION
 72-ACRE TRACT LOCATED JUST NORTH OF THE LYRA
 DRIVE AND GEMINI PLACE INTERSECTION
 CITY OF COLUMBUS, DELAWARE COUNTY, OHIO



Central Ohio
 740.363.6792
 740.363.6536 fax
 800.325.7647
 www.FloydBrowne.com

Offices Throughout Ohio & West Virginia

J:\DEL\ENVIRONMENTAL\CLIENT\LIMITED\LYRANORTH\401404 PERMIT\COE_FIGURES\FIGURE2.DWG - 1/9/2007 3:21:15 PM



LEGEND

IMPACTED JURISDICTIONAL WATERS FROM PERMITS #200100802 & #200100802-1

FIGURE 2 - JURISDICTIONAL WATER/WETLAND IMPACTS CURRENTLY PERMITTED
72-ACRE SITE LOCATED JUST NORTH OF THE LYRA DRIVE AND GEMINI PLACE INTERSECTION
CITY OF COLUMBUS, DELAWARE COUNTY, OHIO

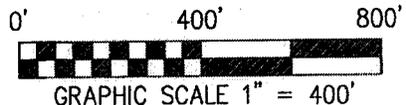


Central Ohio
740.363.6792
740.363.6536 fax
800.325.7647

Solutions for Your World
www.FloydBrowne.com



SITE DATA	
Total Site Acreage	+/- 72.0 Acre
Developed Area	+/- 72.0 Acre
Non-Developed Area	+/- 0.00 Acre
Retail SF	+/- 35,500 SF
Office SF	+/- 470,000 SF
Total SF	+/- 505,500 SF



**FIGURE 3 – LYRA NORTH AREA
PREFERRED DESIGN**
72-ACRE TRACT LOCATED JUST NORTH OF THE LYRA
DRIVE AND GEMINI PLACE INTERSECTION
CITY OF COLUMBUS, DELAWARE COUNTY, OHIO



Central Ohio
740.363.6792
740.363.6536 fax
800.325.7647
www.FloydBrowne.com

Offices Throughout Ohio & West Virginia



APPROXIMATE SCALE: 1 INCH = 1,000 FEET

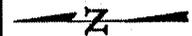


FIGURE 4 - LYRA NORTH AREA MITIGATION SITE LOCATION
 72-ACRE TRACT LOCATED JUST NORTH OF THE LYRA DRIVE
 AND GEMINI PLACE INTERSECTION
 CITY OF COLUMBUS, DELAWARE COUNTY, OHIO



Central Ohio
 740.363.6792
 740.363.6536 fax
 800.325.7647
 www.FloydBrowne.com

Offices Throughout Ohio & West Virginia

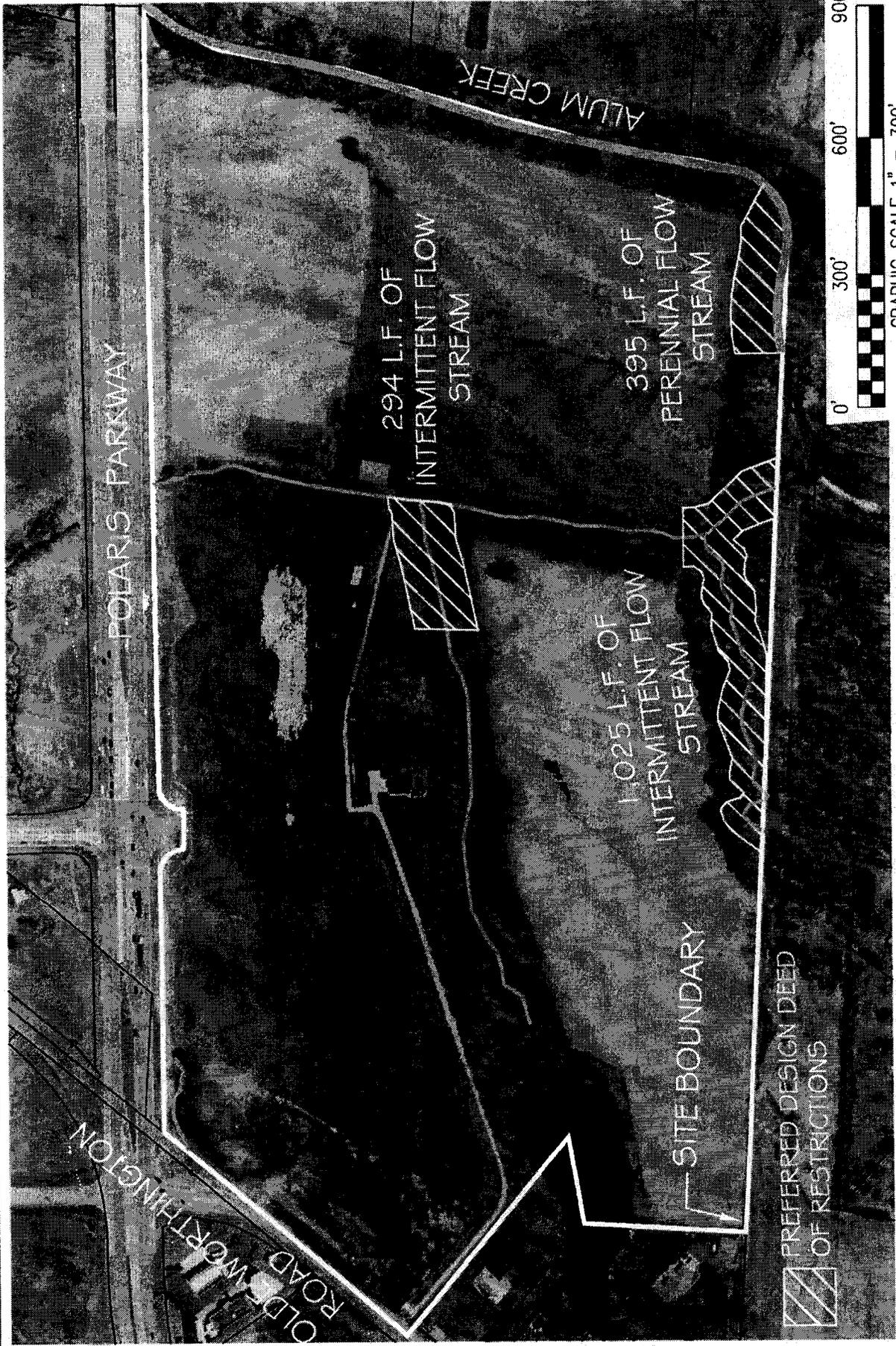


FIGURE 5 - LYRA NORTH AREA STREAM DEED OF RESTRICTIONS LOCATION

72-ACRE TRACT LOCATED JUST NORTH OF THE LYRA DRIVE
AND GEMINI PLACE INTERSECTION
CITY OF COLUMBUS, DELAWARE COUNTY, OHIO



Central Ohio
740.363.6792
740.363.6536 fax
800.325.7647
www.FloydBrowne.com

Offices Throughout Ohio & West Virginia