



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

Public Notice

In reply refer to Public Notice No.
LRH-2006-115-SCR

Issuance Date:
March 20, 2008

Stream:
Un Trib Alum Creek

Closing Date:
April 21, 2008

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

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

LOCATION: The proposed project is located in abutting and adjacent wetlands and unnamed intermittent tributaries to Alum Creek northeast of the intersection of Worthington Road and Polaris Parkway in the City of Westerville, Delaware County, Ohio.

DESCRIPTION OF THE PROPOSED WORK: In conjunction with a 20.6 acre commercial development, the applicant proposes to place approximately 1,100 cubic yards of dredged or fill material into 0.37 acre of two Category I wetlands and 1,548 linear feet of two intermittent-seasonal, relatively permanent tributaries to Alum Creek. The applicant stated the commercial development would service the office, retail and hotel needs and provide employment opportunities for the City of Westerville and southern Delaware County. Plans of the proposal are attached to this notice.

ALTERNATIVE ANALYSIS: A total of 0.37 acre of jurisdictional wetlands would be impacted 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 mitigate for the 0.37 acre of Category I non-forested wetland impacts, the applicant proposes to create 0.63 acre of Category II wetland within the floodway of Alum Creek on an adjacent parcel owned by the applicant. These wetlands would enhance the floodway of Alum Creek by expanding the vegetated buffer of Alum Creek into areas currently cleared and used for agricultural purposes. To compensate for the 1,548 linear feet of intermittent stream impact, the applicant proposes to place 2,322 linear feet of Alum Creek and its tributaries into a conservation easement. Approximately 996 linear feet of the proposed preservation of Alum Creek exists within the project area. The remaining 1,326 linear feet of preservation of Alum Creek and its tributaries would be located on an adjacent parcel owned by the applicant. The conservation easement would include an upland riparian buffer of approximately 50 feet from the centerline of the stream on both banks. Copies of the proposed mitigation plan are available for review upon request.

WATER QUALITY CERTIFICATION: 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 no properties eligible for the register in the

area affected by the project. The applicant provided a copy of the "Phase I Cultural Resources Management Survey of a Proposed 8.4 ha (20.7 a.) Development in Orange Township, Delaware County, Ohio". One site, 33-DL-254, warranted further investigation through a Phase II survey. By letter dated November 28, 2006 the OHPO concurred with the findings of both the Phase I and Phase II reports and recommended no further investigation would be necessary unless the scope of the project changes or historic properties are accidentally discovered. 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/THREATENED SPECIES REVIEW: The project is located within the known or historic range of the following endangered species and species of concern:

Indiana Bat
Clubshell Mussel
Rayed Bean Mussel
Bald Eagle
Snuffbox Mussel

The Huntington District has consulted the most recently available information and based on the proposed avoidance and minimization measures and seasonal cutting restrictions agreed upon by the applicant in the E-mail dated December 22, 2006 between the United States Fish & Wildlife Service (USFWS) and the applicant's agent, the project is not likely to adversely affect the Indiana bat, rayed bean mussel or bald eagle and have no effect on the clubshell mussel or snuffbox mussel or designated Critical Habitat for these Federally listed species. This public notice serves as a request to the USFWS 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

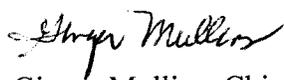
conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and 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.

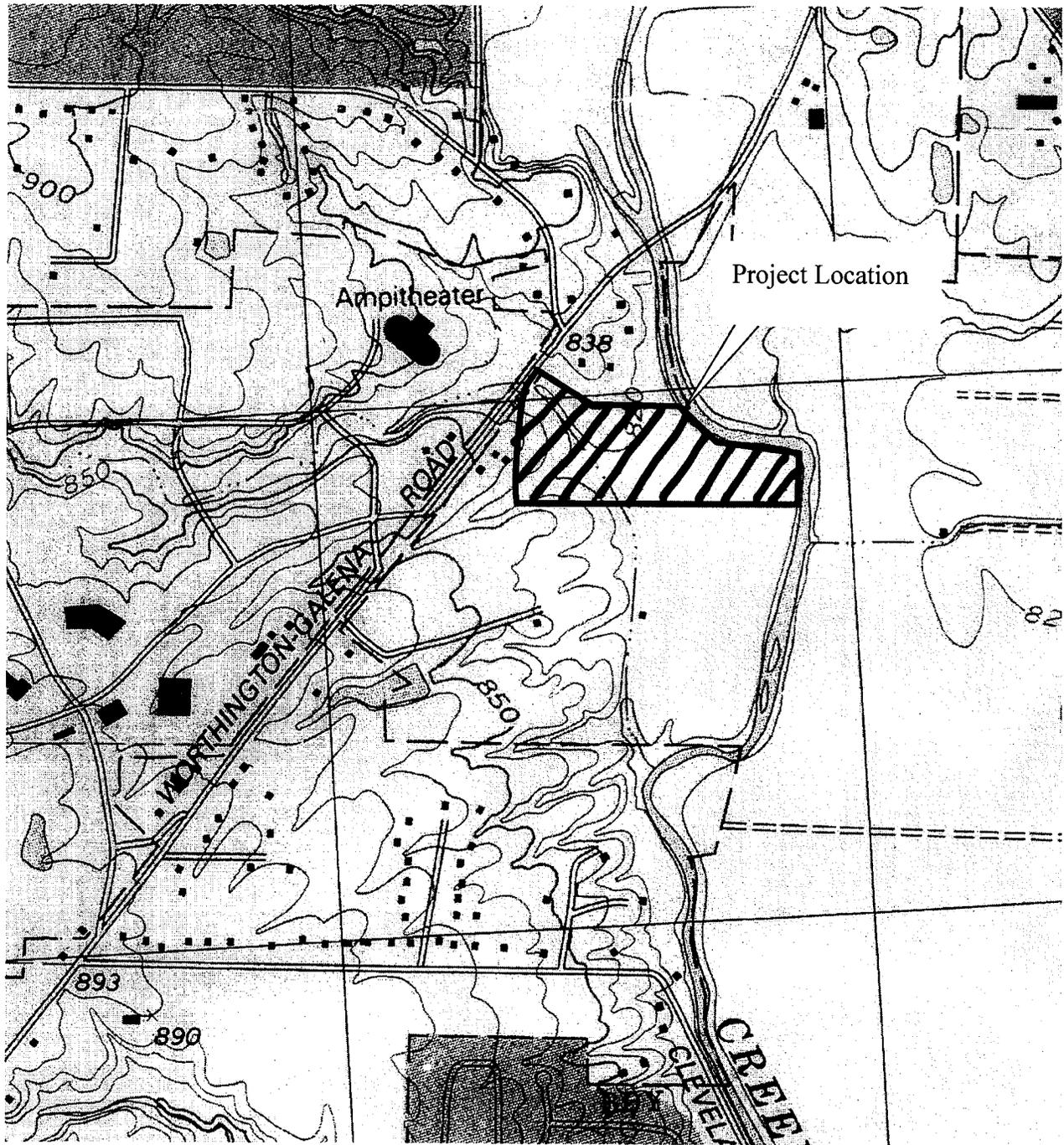
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for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

North Regulatory Section - CELRH-OR-FN-LRH-2006-115-SCR
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.


Ginger Mullins, Chief
Regulatory Branch

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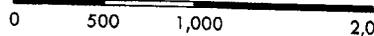


EMHT

Evans, Mechwart, Hamblen & Tilton, Inc.
 Engineers - Surveyors - Planners - Scientists
 5500 New Albany Road, Columbus, OH 43254
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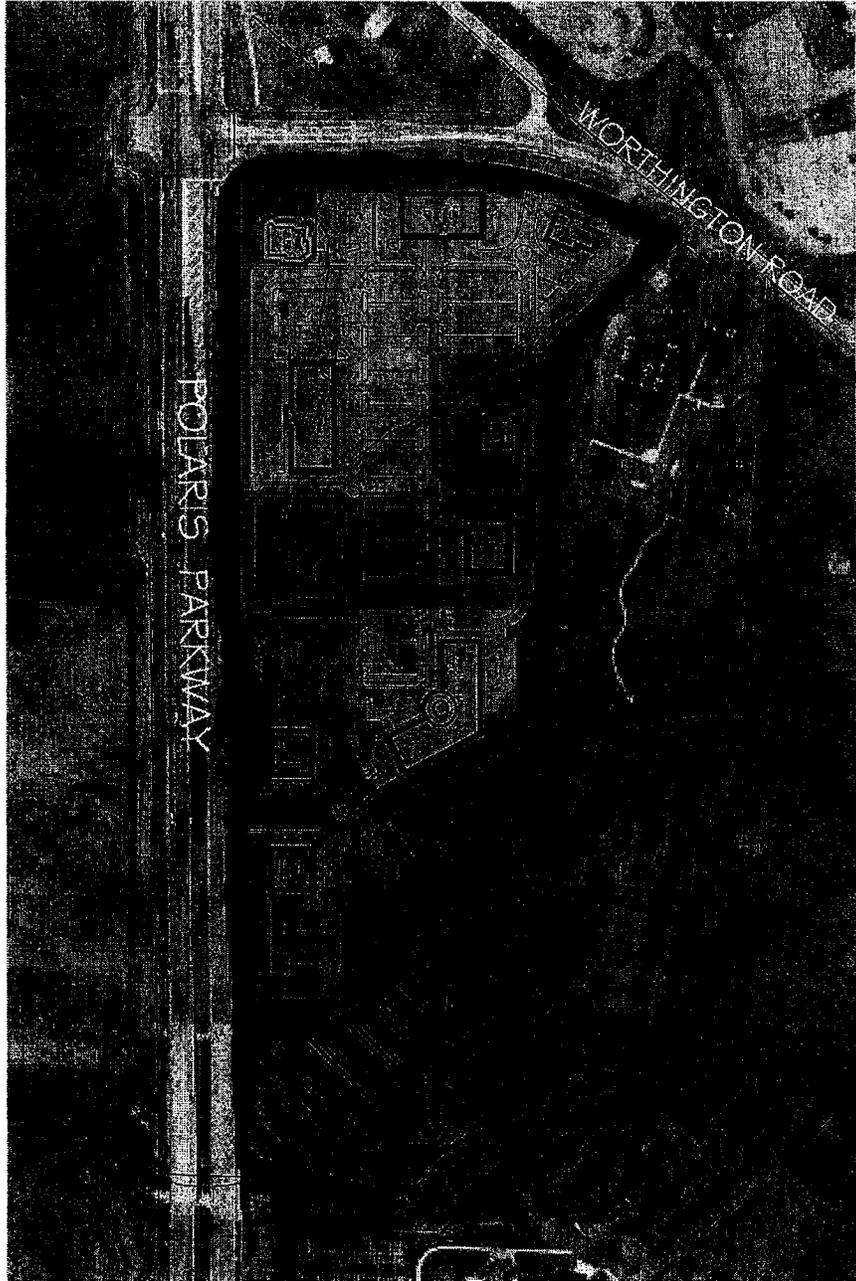
SCALE: 1" = 1000'



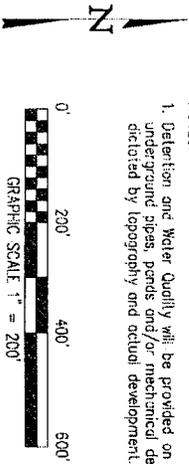
WESTERVILLE, DELAWARE COUNTY
 NP LIMITED PARTNERSHIP

USGS TOPOGRAPHIC MAP

NP Limited Partnership - Zumstein North
 LRH-2006-115-SCR - Un Trib Alum Creek
 Delaware County, Ohio
 USGS Topographic Map
 Sheet 2 of 6



NOTES:
 1. Detention and Water Quality will be provided on this site by underground pipes, ponds and/or mechanical devices in locations dictated by topography and actual development.



SITE DATA	
Parcel No.	42-202-02
Assessed Area	2.133 AC
Assessed Value	\$2,848,000
Assessed Value	\$2,379,000
Year Built	4/1/1980

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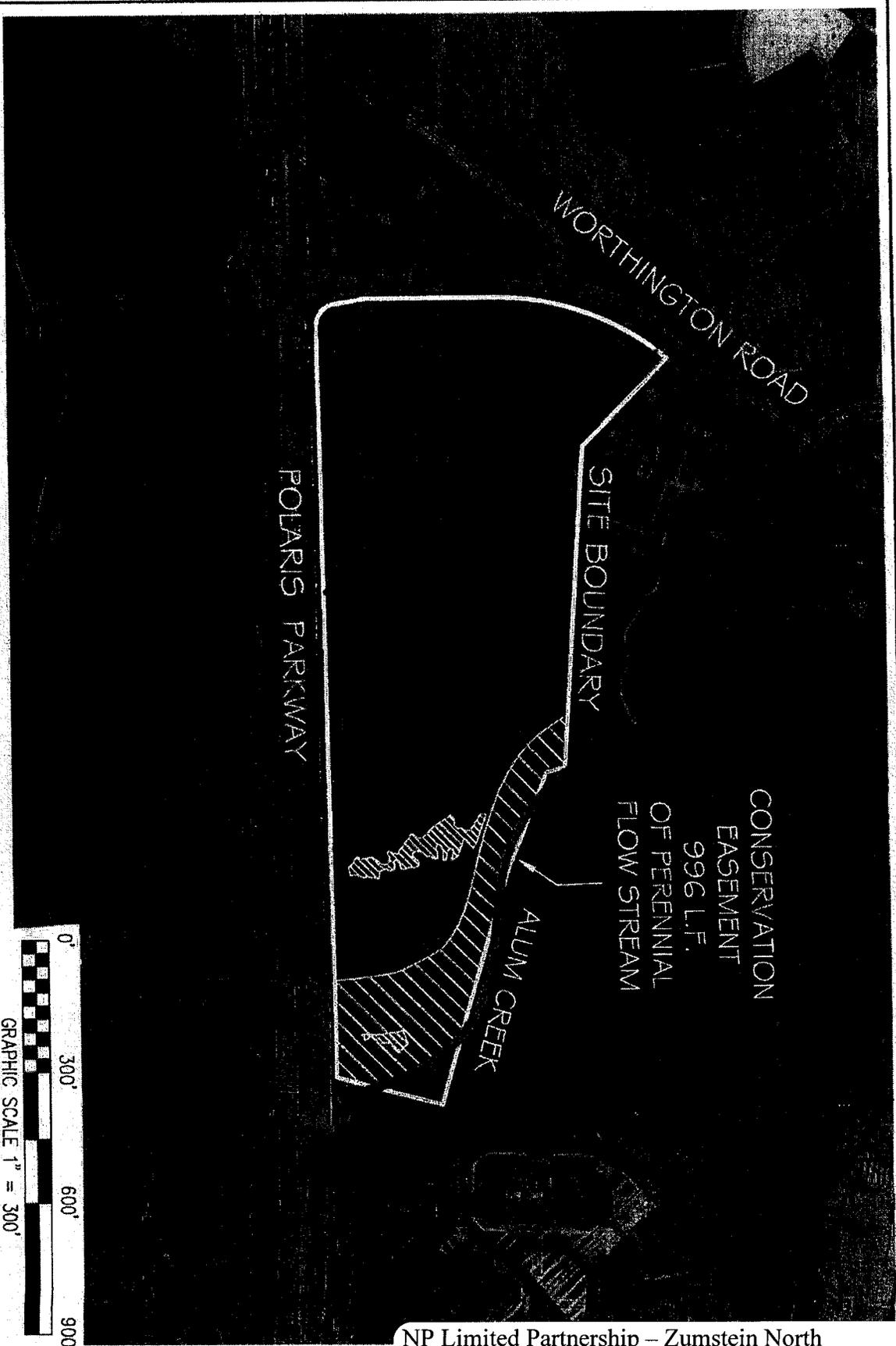
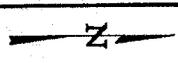


FIGURE 4 - ZUMSTEIN NORTH ON-SITE MITIGATION AREAS
APPROXIMATE 20.6-ACRE TRACT AT THE NORTHEAST CORNER
OF WORTHINGTON ROAD AND POLARIS PARKWAY
CITY OF WESTERVILLE, DELAWARE COUNTY, OHIO


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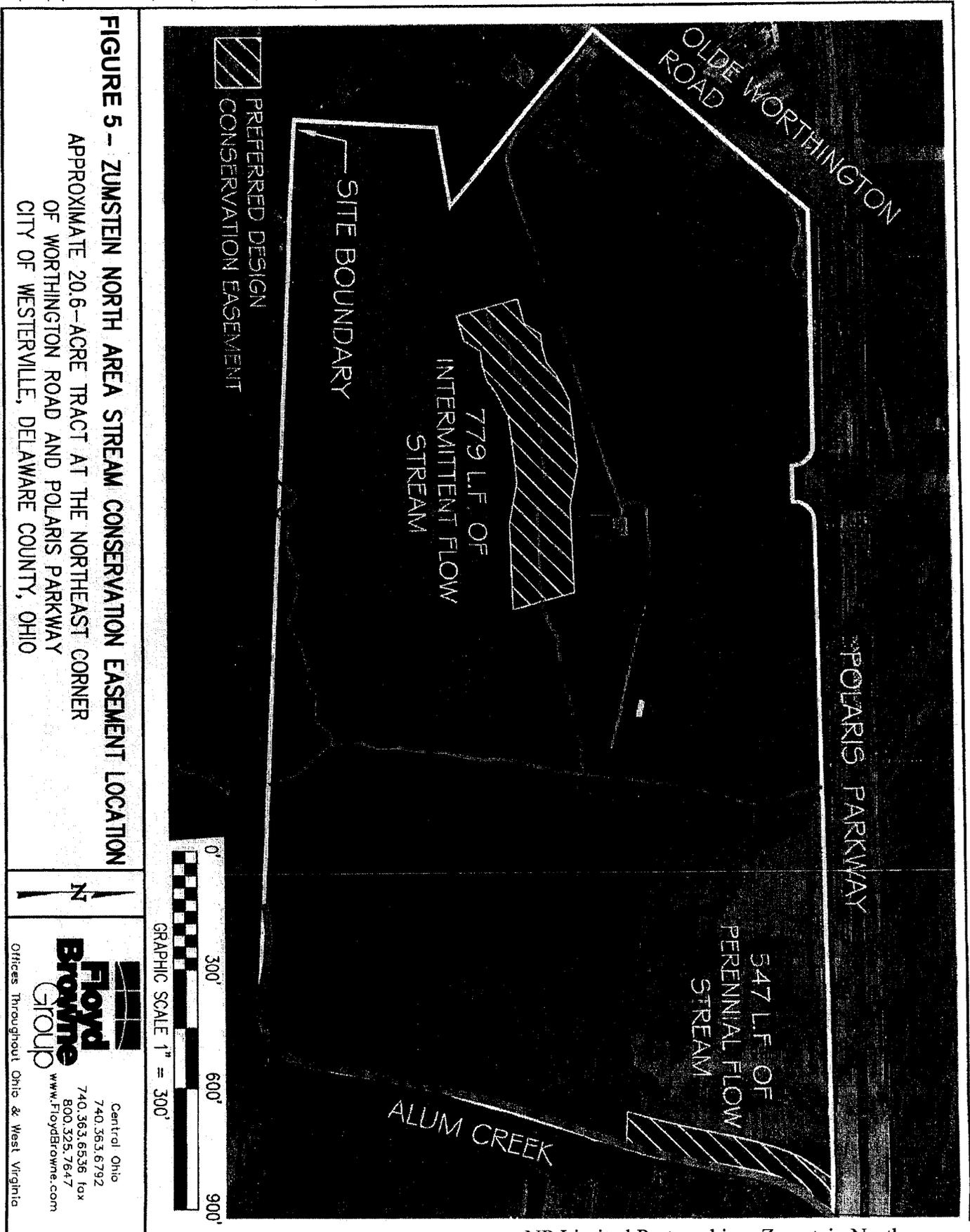


FIGURE 5 - ZUMSTEIN NORTH AREA STREAM CONSERVATION EASEMENT LOCATION

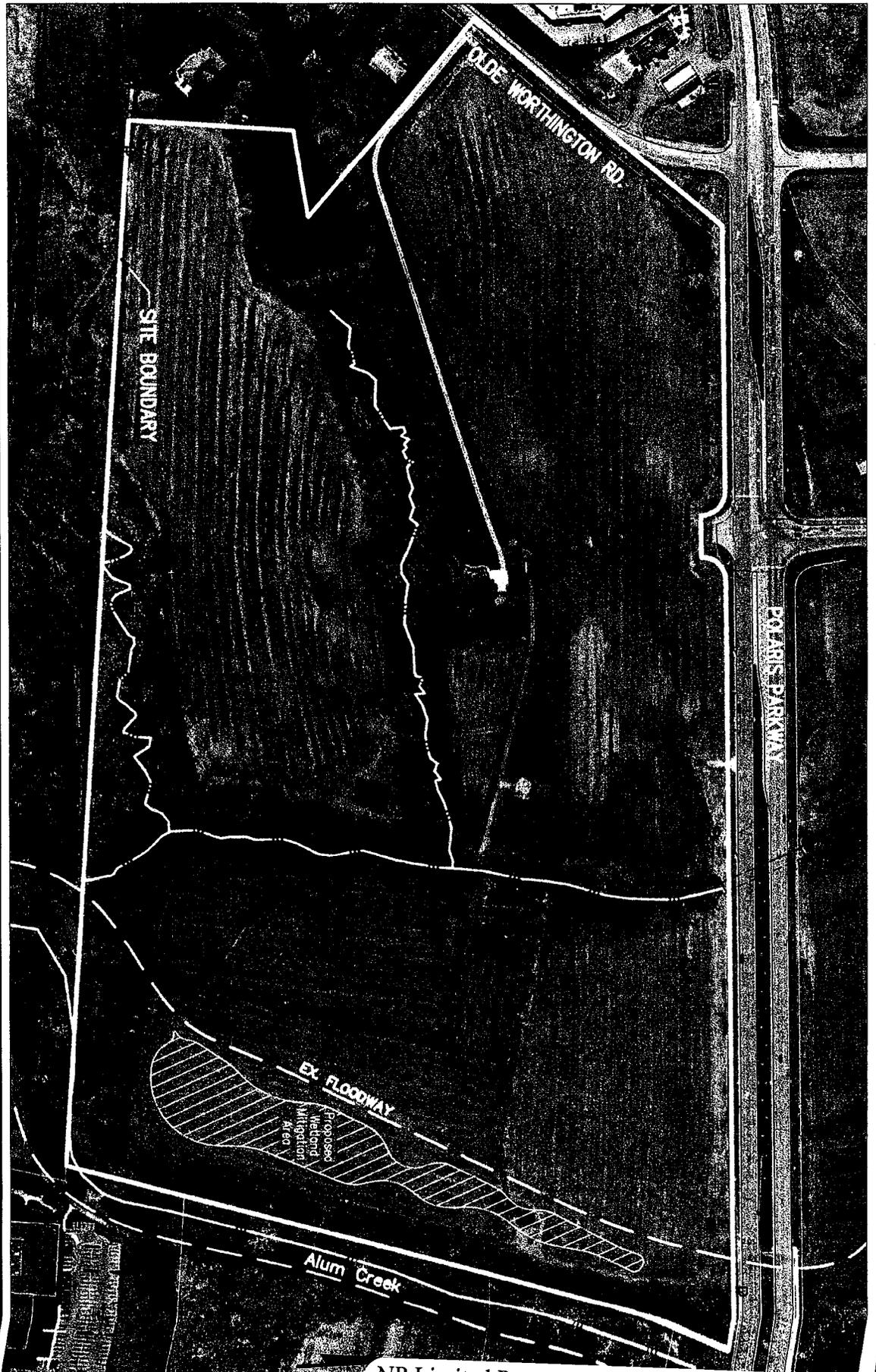
APPROXIMATE 20.6-ACRE TRACT AT THE NORTHEAST CORNER
 OF WORTHINGTON ROAD AND POLARIS PARKWAY
 CITY OF WESTERVILLE, DELAWARE COUNTY, OHIO

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CITY OF WESTERVILLE, DELAWARE COUNTY, OHIO
**ZUMSTEIN NORTH
 OFFSITE WETLAND MITIGATION
 RESTORATION PLAN**

FIGURE 6

Date	March, 2008	Job No.	2007-2084
Scale	1" = 300'	Sheet	1/1

NP Limited Partnership – Zumstein North
 LRH-2006-115-SCR – Un Trib Alum Creek
 Delaware County, Ohio
 Off-Site Wetland Mitigation
 Sheet 6 of 6