Public Notice

US Army Corps of Engineers
Louisville District ®

Public Notice No.	Open Date:	Close Date:
LRL-2014-346-teh	20 Mar 2015	20 Apr 2015

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Todd E. Hagman, CELRL-OPF-S
P.O. Box 59
Louisville, Kentucky 40201-0059
lrl.regulatorypubliccomment@usace.army.mil Phone: 502-315-6683

This notice announces an application submitted for a Department of the Army (DA) permit, subject to Section 404 of the Clean Water Act.

APPLICANT: Chavez Properties
200 West Court Street, Suite 200E
Cincinnati, OH 45202

AGENT: Otte Enterprises
505 Stevenson Road
Erlanger, KY 41018

LOCATION: Unnamed tributaries (UTs) and adjacent emergent wetlands to Elijah Creek of the Ohio River watershed; 613 Petersburg Road, Hebron, Boone County, Kentucky.

Latitude: 39.0730°N
Longitude: -84.6586°W
7.5 Minute Quad: Burlington

PURPOSE: Commercial development involving the expansion of a parking facility that services the Cincinnati/Northern Kentucky International Airport.

DESCRIPTION OF WORK: The applicant proposes to discharge approximately 400 cubic yards of clean soil and rock fill material into 1,225 linear feet (0.094 acre) of unnamed tributaries of Elijah's Creek and 0.286 acre of adjacent wetlands. Permanent impacts include 445 linear feet (0.048 acre) of an unnamed perennial stream, 580 linear feet (.034 acre) of an intermittent stream, 200 linear feet (.012 acre) of an ephemeral stream and 0.286 acre of adjacent wetlands. Expansion activities would include the construction of an office and operations building, paved outdoor parking area and stormwater detention basin within the undeveloped 11.7 acres of the 29.6-acre FastPark & Relax parking facility.

AVOIDANCE, MINIMIZATION, and MITIGATION MEASURES: The applicant has indicated that they cannot avoid impacts to any "waters of the United States (U.S.)," in the project area and still be able to construct the proposed FastPark & Relax parking lot expansion activities.

To compensate for the unavoidable impacts to “waters of the United States,” the applicant proposes to purchase credits from the Northern Kentucky (NKU) Stream and Wetland Restoration Program. The applicant has offered proposed mitigation ratios for the stream and wetland impacts. The proposed ratios range from 0.25:1 for ephemeral stream impacts to 0.5:1 for intermittent and perennial stream impacts. The applicant has additionally proposed a ratio of 1:1 for wetland impacts. The applicant has submitted to the Corps a summary of stream and wetland characteristics that were used in determining the proposed mitigation ratios. The summary is available upon request for review. The summary table in the attachment outlines the proposed mitigation ratios.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA permit, if otherwise warranted, will not be issued until a Commonwealth of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant, by this notice, hereby applies for State certification from the KDMP.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. The site has been surveyed for cultural resources and coordination with the Kentucky State Historic Preservation Office is on-going. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed 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 proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

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.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at http://www.lrl.usace.army.mil/Missions/Regulatory.aspx. All comments regarding this proposal should be addressed to Mr. Todd E. Hagman, CELRL-OPF-S at the address noted above and should refer to the Public Notice Number LRL-2014-346-teh.

If you desire to submit your comments by email, you must comply with the following:

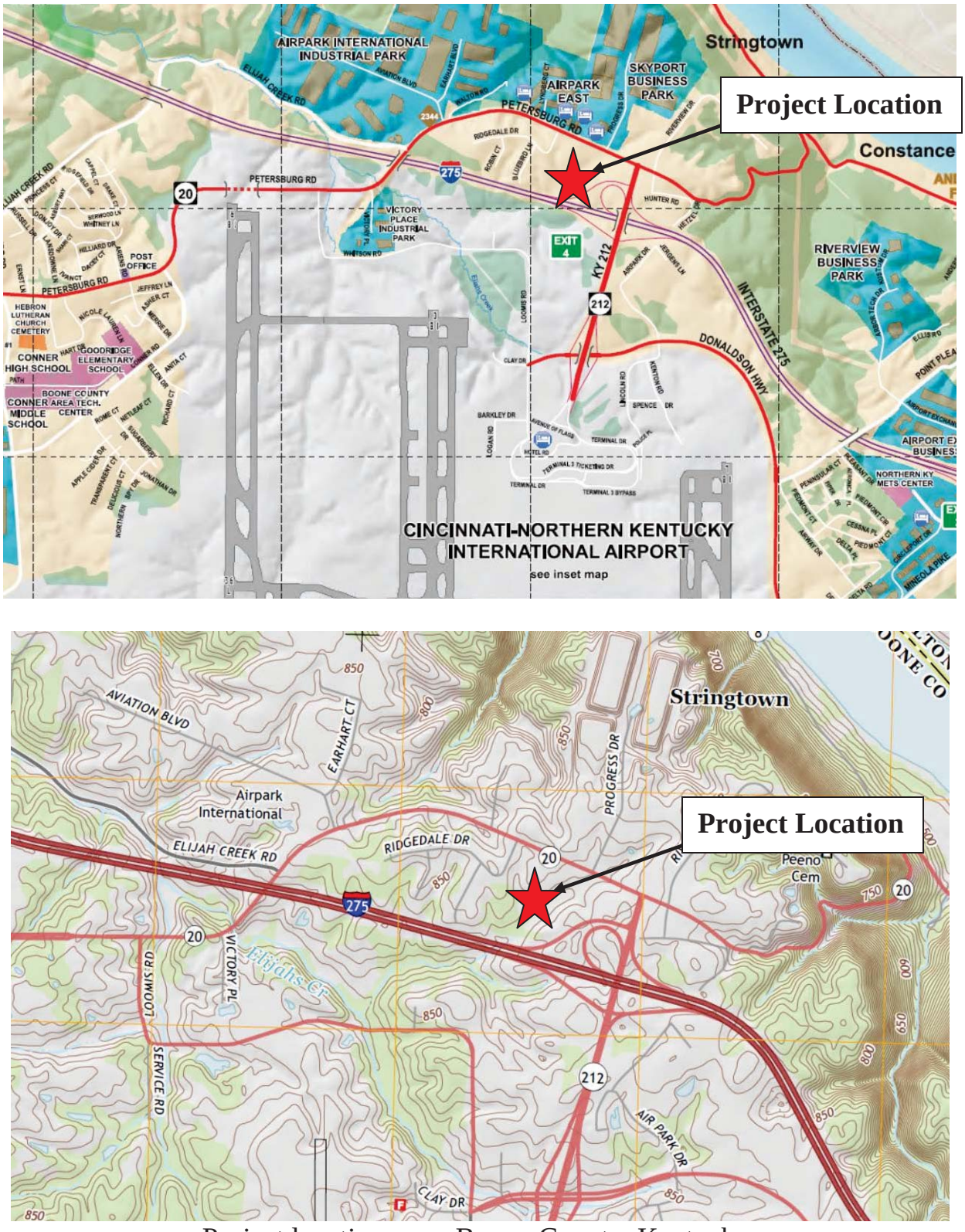
a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2014-346-teh.

Example:
Subject: LRL-2014-346-teh

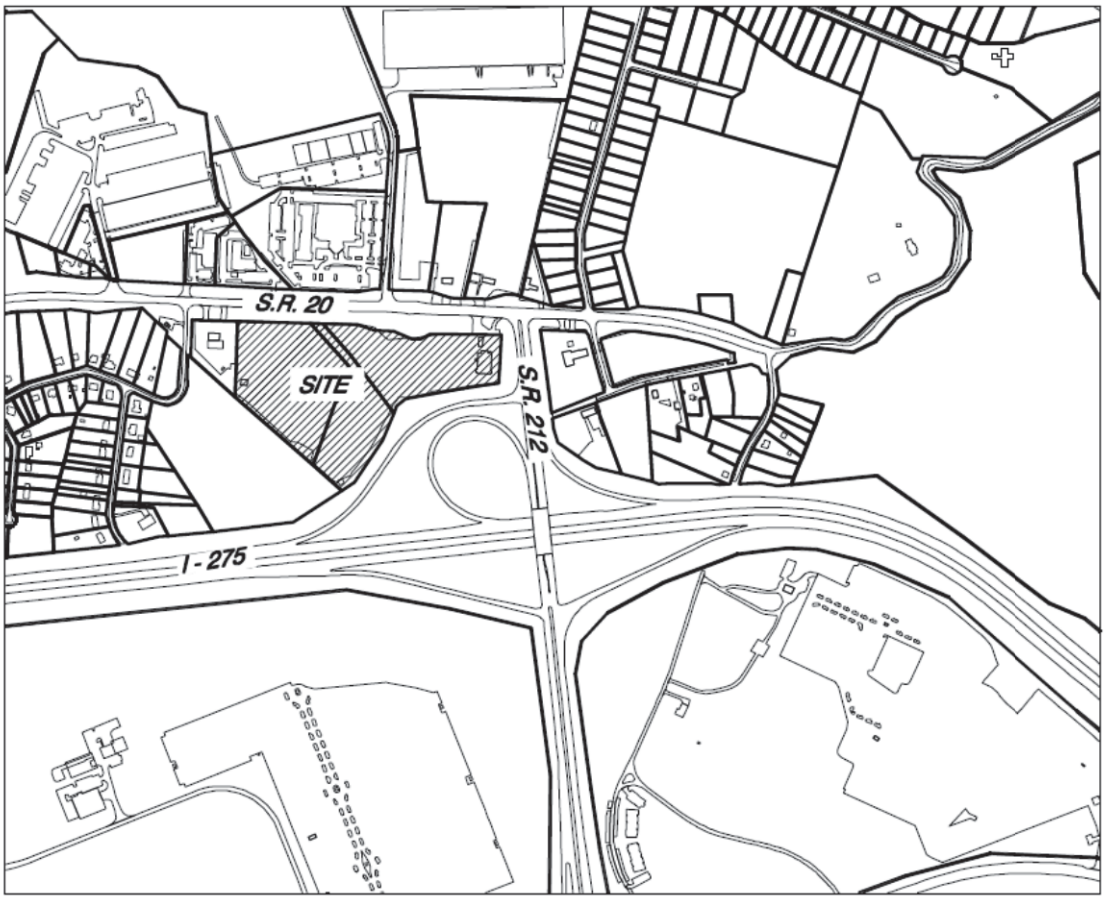
b) Provide your physical mailing address and telephone number.

c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

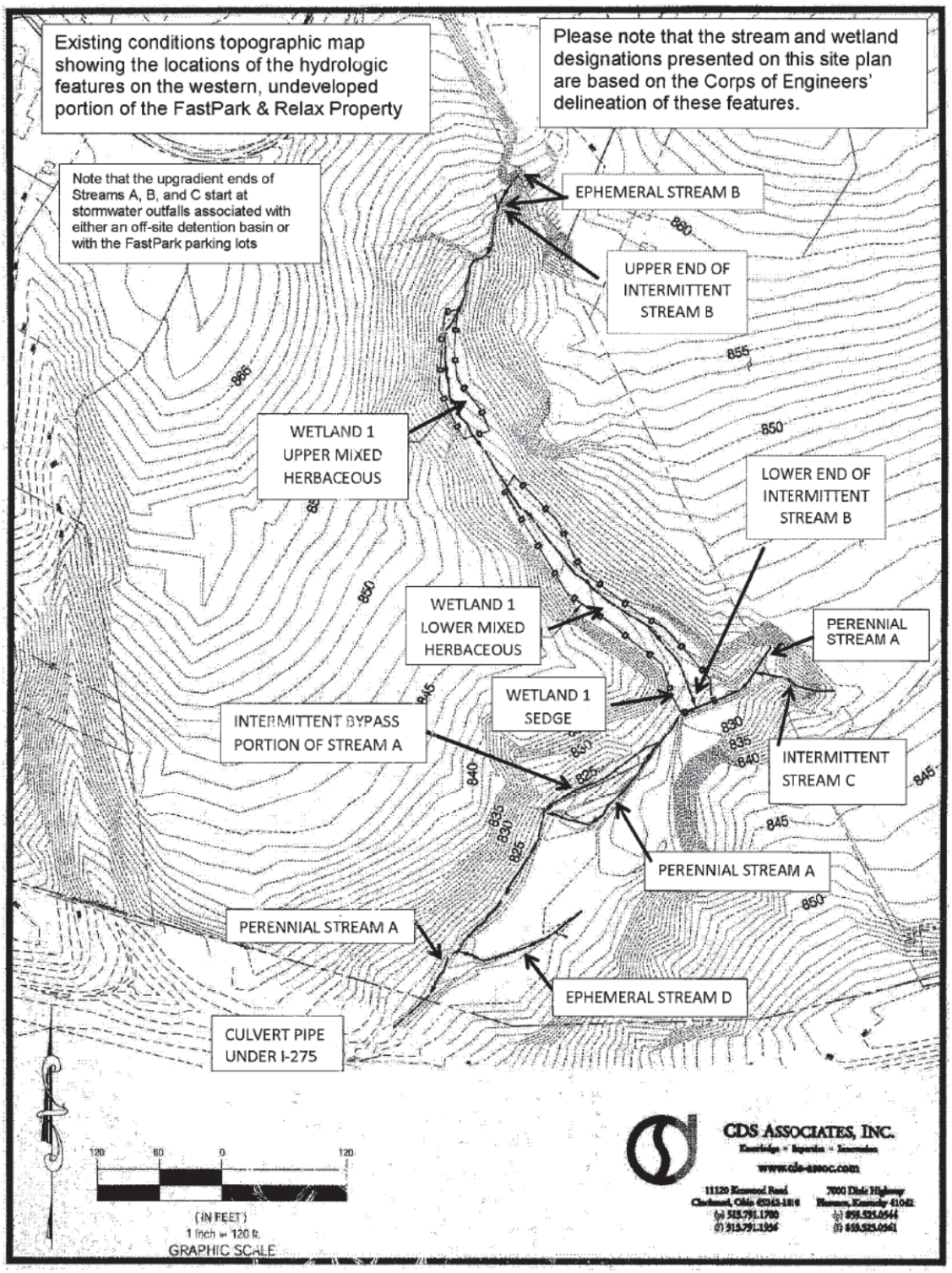
d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.



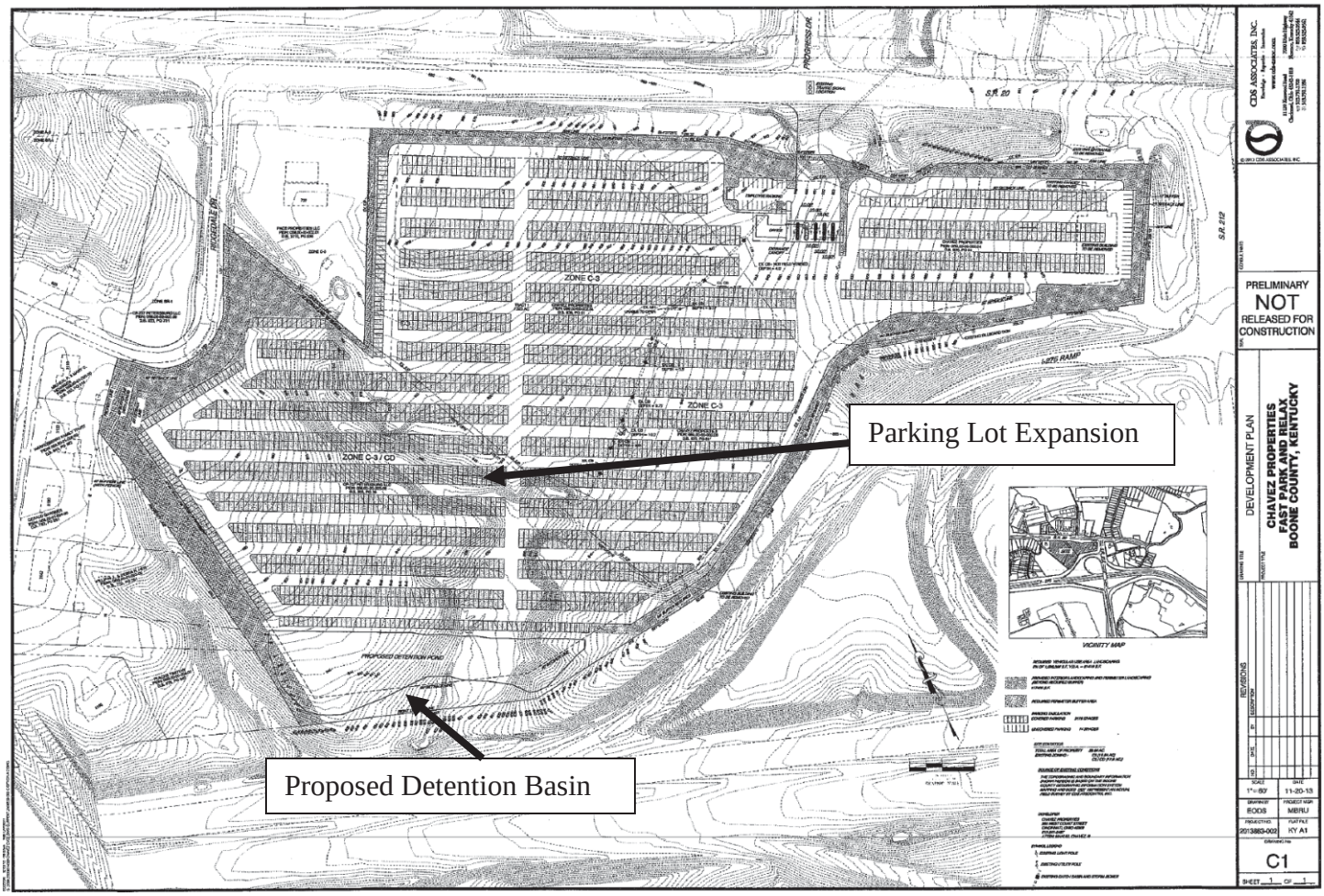
Project location map, Boone County, Kentucky.



Location Map of project area.



Stream and Wetland Impact Map



Proposed Development Plan.

SUMMARY OF PROPOSED STREAM AND WETLAND MITIGATION FOR THE CHAVEZ PROPERTIES FASTPARK & RELAX FACILITY IN BOONE COUNTY, KENTUCKY					
STREAM	**FLOW**	**LINEAR FT OF IMPACT**	**PROPOSED IMPACT RATIO**	**ADJUSTED MITIGATION UNITS (AMUs)**	**SUMMARY OF STREAM OR WETLAND CHARACTERISTICS THAT JUSTIFY THE PROPOSED IMPACT RATIOS** (see attached information sheets that present more details about each drainageway and wetland)
A	Perennial	445	0.5	222.5	Drainageway that cuts through pond bottom sediment from pond that was present from early 1950s through mid 1970s. Bottom of channel does not touch original natural underlying soils or bedrock. Channel positioned completely in the pond sediments.
B	Intermittent	505	0.5	252.5	Small drainageway that is about 2 ft across and a few inches deep, flowing across either former pond bottom sediments or across sediment that accumulated in the backwater area of the drainageway that originally flowed into the former pond.
C	Intermittent	75	0.5	37.5	Drainage ditch that flows from a stormwater outfall to Stream A. Bottom of ditch lined with riprap for erosion protection from stormwater discharging from outfall.
B	Ephemeral	70	0.25	17.5	Uppermost section of Stream B. Only source of water is an outfall structure for a stormwater detention basin on the adjacent upgradient property. Channel is about 2 ft wide and a foot deep.
D	Ephemeral	130	0.25	32.5	Drainageway that cuts through pond bottom sediment from pond that was present from early 1950s through mid 1970s. Bottom of channel does not touch original natural underlying soils or bedrock. Channel positioned completely in the pond sediments.
		1,225		**562.5**	
Wetland 1	Located Along Stream B	0.286 acre	1.0	0.286	Poor-quality non-persistent emergent wetland that has formed in either former pond bottom sediments or in sediment that accumulated in the backwater area of the drainageway that originally flowed into the former pond.

Proposed Compensatory Mitigation Ratios.