



Public Notice

Applicant:

Waterbourne Real Estate
Advisors, LLC

Date:

Published: July 1, 2004
Expires: July 30, 2004

**U.S. Army Corps
of Engineers**

In Reply Refer To:

Buffalo District CELRB-TD-R RE: 94-976-139(3) Section: NY 404

**Application for Permit under Authority of
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

James Carminati, Waterbourne Real Estate Advisors, LLC, 2430 North Forest Road, Suite 120, Getzville, New York 14068 has applied for a Department of the Army (DA) permit to permanently impact 2.15 acres of federal wetland adjacent to an unnamed tributary of Woods Creek, for development of Phase Four of the River Meadows Subdivision. The project is located in the Town of Grand Island, Erie County, New York.

Project History: The applicant received a Nationwide Permit No. 26 on August 2, 1994 (DA Processing #94-976-139(0)) to impact a total of 2.36 acres of federal wetland for the development of Phases 1-4 of the River Meadows Subdivision (See Sheet 3 of 4). Phases 1-3 are completed with a total wetland impact to date of 1.0 acre. In accordance with Special Condition No. 1 of the permit, the applicant agreed to mitigate for the 2.36 acres of impact by enhancement and preservation of 2.21 acres of upland for wildlife usage by vegetative plantings and preservation of an additional 2.11 acres of mature hardwood forest. A total of 4.32 acres of preservation area would be added to the tributary of Woods Creek corridor proposed for dedication to the Town for a park. The total area to be deeded to the Town was 22.69 acres. The majority of this area is mature upland hardwood forest. It also includes approximately 4270 feet of stream channel and 1 acre of federal wetland. The vegetative plantings were completed in 1995, however, most did not survive due to drought, harsh winter and wildlife browse. It was determined in 1997 that the areas would not be replanted since the areas now contained thick vegetation. Instead, the applicant was requested to propose additional mitigative measures. To date no additional measures were submitted. The Town has not yet accepted the dedication area. The applicant has indicated that the Town proposes to accept the area simultaneously when they accept the roadways within the entire subdivision.

Since the original wetland delineation prepared by Earth Dimensions Inc (EDI) expired on August 2, 1999, the remaining project area (Phase 4) was redelineated in the Fall of 2003 by EDI. The redelineation only includes areas within the Phase 4 boundary and does not include the entire boundary of Wetland 1 (formerly noted as Wetland 4) or Wetland 2 (formerly noted as Wetland 5). Federal wetlands within the Phase 4 boundary were found to have expanded from 1.64 acres to 2.58

acres. A wetland boundary confirmation letter was issued by this office on March 30, 2004 following a site inspection.

Current Proposal/Project purpose: The applicant proposes to impact a total of 2.15 acres of federal wetland to complete the final phase (Phase 4) of the residential subdivision known as River Meadows. Wetland 1 will incur a 0.60 acre impact for the installation of the access road and development of lots 48-51. Wetland 2 will incur a 1.48 acre direct impact from the installation of the cul-de-sac and development of lots 41-49. In addition, a 0.07 acre wetland area adjacent to lot 42 will be secondarily impacted by segmentation. Lots 36 and 43 will contain small portions of unimpacted wetland. These small wetland areas are contiguous to larger wetland areas that extend outside of the Phase 4 project area and off-site. In addition, these wetland areas will be deed restricted and therefore future impacts to these areas are not anticipated. The wetland areas within the access road alignment have a scrub-shrub covertype as the area was mowed in 1995. The remaining wetland impacts will occur to sapling/forested wetland.

To mitigate for the currently proposed 2.15 acres of wetland impacts (Phase 4) and 1.0 acre of previously impacted wetland (Phases 1-3), the applicant proposes to deed 22.69 acres to the Town of Grand Island for use as a public park and to install a wood chip nature trail with two overlooks within the Town property. The dedication area is bisected by the Town of Grand Island bike path. The trail will have tree identification signs and the overlooks will contain signs describing the adjacent habitat. (See Sheet 4 of 4)

Location and details of the above described work are shown on the attached maps and drawings.

Questions pertaining to the work described in this notice should be directed to Bridget E. Brown, who can be contacted by calling (315) 255-8090, or by e-mail at: bridget.brown@usace.army.mil

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

In addition, available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments should be sent to the U. S. Army Corps of Engineers, 7413 County House Road, Auburn, New York 13021, and should be marked to the attention of Bridget E. Brown, or by e-mail at: bridget.brown@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of

Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

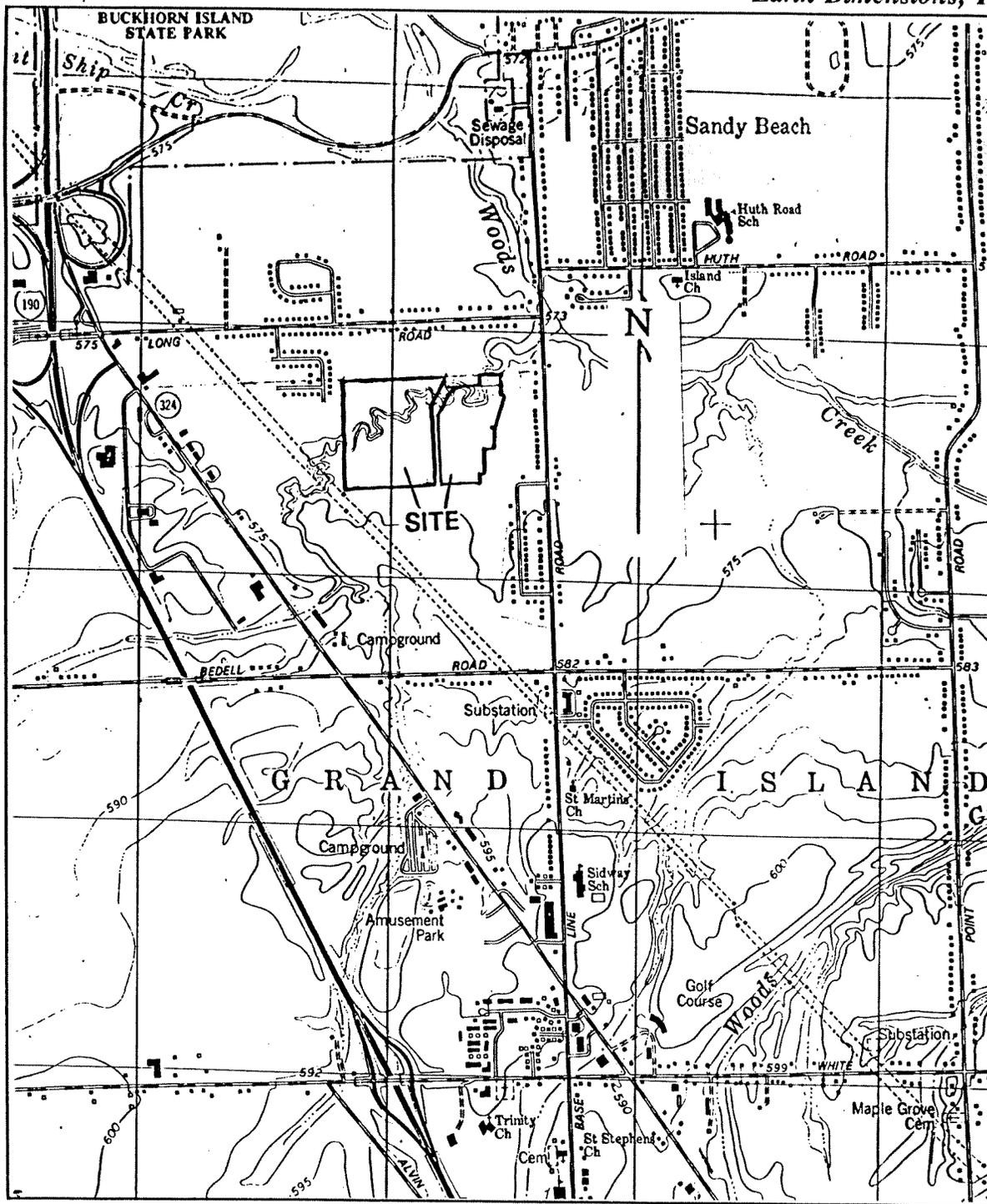
The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits 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 including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain 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; 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.

SIGNED

Thomas C. Switala
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.



LOCATION MAP

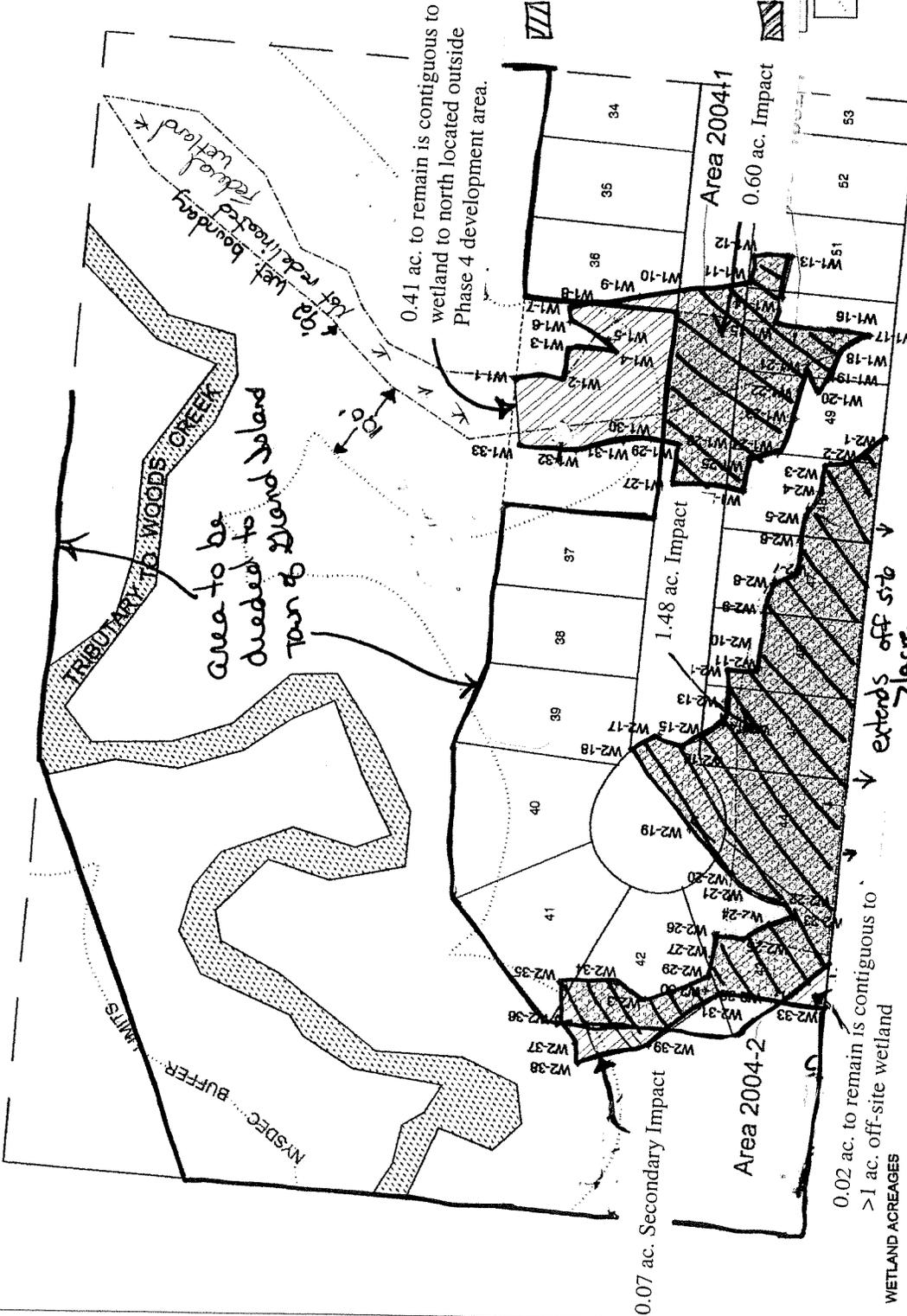
<p>Long and Baseline Roads Land Parcel Town of Grand Island Erie County New York</p>	<p>MAP 1</p>	<p>WATERBOURNE REAL ESTATE ADVISORS D/A Processing No. 94-976-139(3) Erie County, New York Quad: TONAWANDA WEST Sheet 1 of 4</p>
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2004 PROPOSAL (Phase 4)

WATERBOURNE REAL ESTATE ADVISORS
 D/A Processing No. 94-976-139(3)
 Erie County, New York Quad: TONAWANDA
 WEST
 Sheet 2 of 4

RIVER MEADOWS

W18192a



2004 Proposed Wetland Impacts:
 Wetland 1 Impact = 0.60 acre
 Wetland 2 Impact = 1.55 acre
 (includes 1.48 ac. Direct impact
 and 0.07 ac. indirect impact)

Total Impacts = 2.15 acres

Wetland to Remain

NYSDEC buffer limits



JAC for EDX 05-12-04
 Revised by: MSB 06-07-04

Please note that the 2004 re-delineation of Wetland 1 only extends to the Phase 4 boundary.
 • Wetland 2 (b) extends off-site to the south and Wetland 1 (a) extends beyond Phase 4 to the north.
 • In the 2004 re-delineation of Phase 4, Wetland 4 was labeled as Wetland 1 and Wetland 5 was labeled as Wetland 2.

0.02 ac. to remain is contiguous to > 1 ac. off-site wetland

WETLAND ACREAGES

1992 Wetland Area (within Phase 4)
 Wetland 4: 0.634 acres (on-site)
 Wetland 5: 1.115 acres (on-site)
 Total: 1.749 acres

2004 Wetland Area (within Phase 4)
 Wetland 1 (a): 1.011 acres*
 Wetland 2 (b): 1.572 acres*
 Total: 2.583 acres

Wetland 4: 1.154 acres- total mapped wetland area as it extends off-site to the north
 Wetland 5: 2.294 acres- total mapped wetland area as it extends off-site to the south

2004 Proposed Mitigation Plan

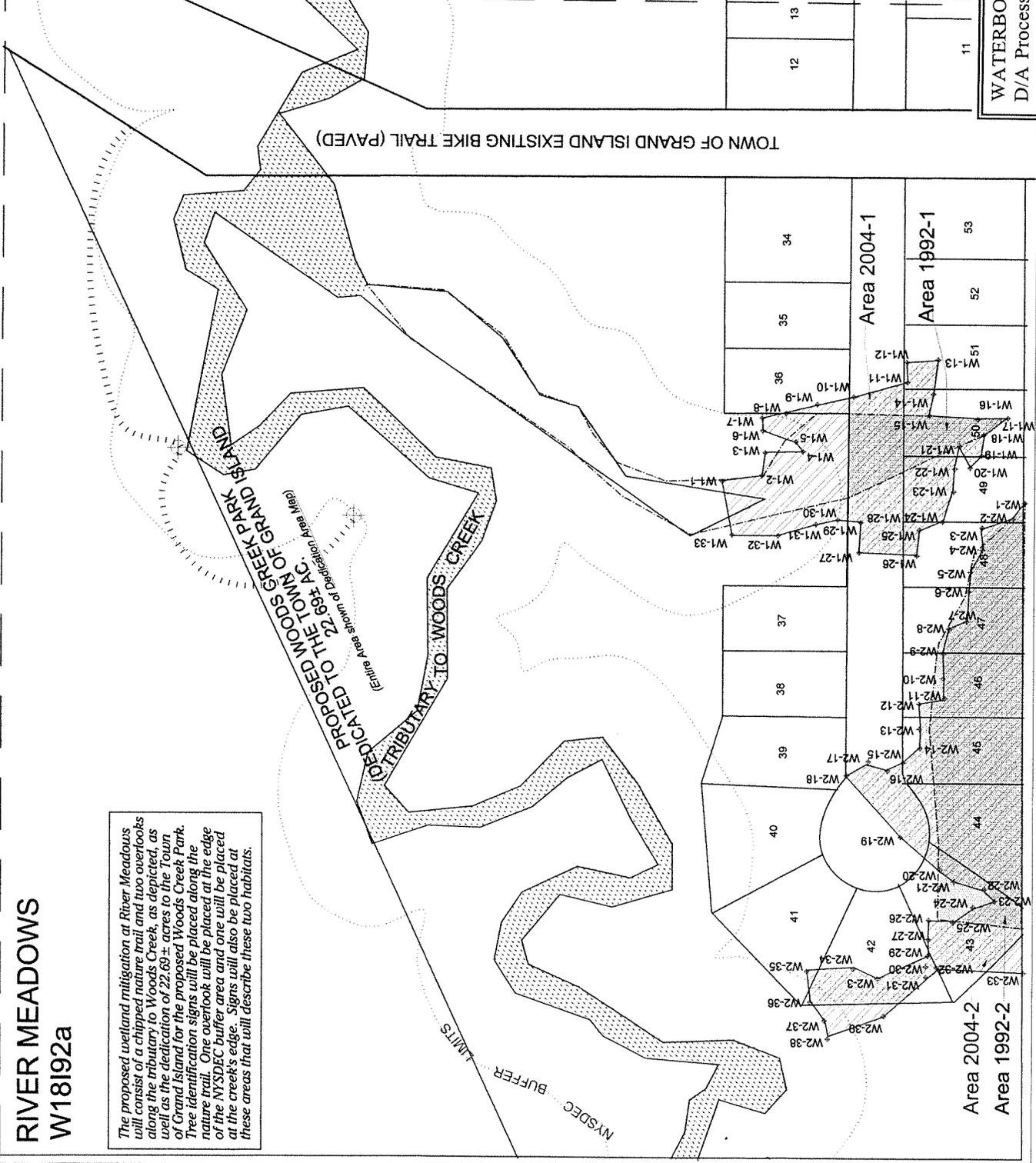
RIVER MEADOWS W18192a

The proposed wetland mitigation at River Meadows will consist of a chipped nature trail and two overlooks along the tributary to Woods Creek, as depicted, as well as the dedication of 22.69± acres to the Town of Grand Island for the proposed Woods Creek Park. Tree identification signs will be placed along the nature trail. One overlook will be placed at the edge of the NYSDEC buffer area and one will be placed at the creek's edge. Signs will also be placed at these areas that will describe these two habitats.

DEDICATED TO THE TOWN OF GRAND ISLAND
22.69± AC. (Entire Area shown on Dedication Area Map)

TOWN OF GRAND ISLAND EXISTING BIKE TRAIL (PAVED)

NYSDEC BUFFER
LIMITS



LEGEND

- 1992 federal wetland boundary
- 1992 proposed wetland impacts
- 2004 wetland delineated
- NYSDEC buffer limits
- 2004 proposed wetland impact area

1992 IMPACTS
Area 1992-1= 0.24± acres
Area 1992-2= 4.00± acres
Total= 4.24± acres

2004 IMPACTS
Area 2004-1= 0.69± acres
Area 2004-2= 1.55± acres
Total= 2.24± acres

- Proposed Overlook
- Proposed Chip Trail

NYSDEC Freshwater Wetland and it's 100' buffer will not be impacted

EDI PROJECT CODE: W18192a
Map Date: 05/24/04, MSD for EDI
Revised:
Scale: NOT TO SCALE
File Name:
River Meadows Proposed Mitigation.dwg



Proposed Mitigation Plan
River Meadows
TOWN OF LANCASTER
ERIE COUNTY, NEW YORK

WATERBOURNE REAL ESTATE ADVISORS
D/A Processing No. 94-976-139(3)
Erie County, New York Quad: TONAWANDA
WEST