



LEVEL 2 ISOLATED PERMIT APPLICATION

For

OMNI Senior Living

**Seven Hills,
Cuyahoga County, Ohio**

Prepared for:

**LSB Seven Hills LLC
950 Peninsula Corporate Circle, Suite 2005
Boca Raton, FL 33487**

Atwell, LLC Project Number: 12000647.01

January 15, 2016



General Isolated Wetland Permit Application (Level One)

(For impacts of ½ acre or less to Category 1 & 2 isolated wetlands)

Division of Surface Water 401/Stormwater Section

Applicant and Agent Information		
	Applicant:	Agent:
Company/ Agency Name:	LSB Seven Hills, LLC	Atwell, LLC
Name of Contact:	Jeff Graef	Jessica Miller
Title:	President	Project Manager
Technical Point of Contact:		
Address:	950 Peninsula Corporate Circle, Suite 2005	7100 E. Pleasant Valley Road, Suite 220
City, State, Zip:	Boca Raton, FL 33487	Independence, Ohio 44131
Phone Number(s):	561-755-7170	440.394.0419
Email Address:	jgraef@focusdevelopmentgroup.com	jmiller@atwell-group.com

Project Information		
Project Name: OMNI Senior Living Project		
Has Pre-App. Coordination occurred? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Indicate the 401 reviewer: Wilk DATE: 1/2/2015		
Brief Project Description/Purpose: To construct 212 senior living units off Crossview Road. Impacts to jurisdictional wetlands, a stream, an isolated wetland, and to three open water ponds will occur as a result of this development.		
Construction Timeframe (Provide ~start and end dates): March 2016 December 2016		
Is any portion of the activity complete now? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Is this an "After-The-Fact" permit application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Coordinates (degree, minutes, seconds): 41°23' 41.6394" N - 81° 39' 54.612" W		
Project Address: Street: Crossview Road and Cindy Lane		City or Town: Seven Hills
Zip Code: 44131	Township:	County: Cuyahoga
12 Digit HUC No.: 041100020601	Watershed Name: West Creek-Cuyahoga River	Corps District: Buffalo
Other water related permits issued or required include:		
<input type="checkbox"/> Individual 404 Permit – Public Notice # <input type="checkbox"/> Individual 401 WQC - Choose an item. Click here to enter a date. <input checked="" type="checkbox"/> Nationwide Permit # 29- Residential Developments Choose an item. Click here to enter a date. <input type="checkbox"/> Section 9 Permit - <input type="checkbox"/> Section 10 Permit - Choose an item. Click here to enter a date. <input checked="" type="checkbox"/> NPDES Permit – General Will be Submitted Click here to enter a date. <input type="checkbox"/> Permit to Install – Choose an item. : Click here to enter a date. <input type="checkbox"/> ODNR Choose an item. Permit - Choose an item. Click here to enter a date. <input type="checkbox"/> ODNR Coastal Permit - Choose an item. Click here to enter a date. <input type="checkbox"/> Regional Permit - Choose an item. Click here to enter a date.		
Are there other aquatic resources on the project site (check all that apply)?		
<input checked="" type="checkbox"/> Perennial Streams <input checked="" type="checkbox"/> Intermittent Streams <input checked="" type="checkbox"/> Ephemeral Streams <input checked="" type="checkbox"/> Non-isolated Wetlands <input checked="" type="checkbox"/> Lakes/Ponds		
I have included the following in this submittal:		
<input checked="" type="checkbox"/> Maps showing the project footprint & wetlands <input checked="" type="checkbox"/> Wetland delineation <input checked="" type="checkbox"/> Wetland categorization (including 10-page ORAM sheets) <input checked="" type="checkbox"/> Check for applicable fees <input checked="" type="checkbox"/> Site photographs <input checked="" type="checkbox"/> Corps approved jurisdictional determination <input checked="" type="checkbox"/> Mitigation proposal (including mitigation bank credits or in-lieu fee documentation if appropriate)		

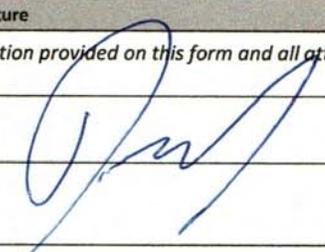
Proposed Impacts

Application for General Isolated Wetland Permit (Level One)

Wetland ID	ORAM Score	Category	Cat. Verified by Ohio EPA?	Ohio EPA Reviewer who Verified	Size (Acres)			Proposed Impacts (Acres)		
					Total	Forest	Non	Forest	Non	Total
Y	43.00	2	<input checked="" type="checkbox"/>	Wilk		0.554		0.554		0.554
		1	<input type="checkbox"/>	Choose an item.						
		1	<input type="checkbox"/>	Choose an item.						
		1	<input type="checkbox"/>	Choose an item.						
		1	<input type="checkbox"/>	Choose an item.						
Wetland Acreage Totals										0.554
Totals – Category 1 Wetlands										
Totals – Category 2 Wetlands						0.554				0.554
Totals – Category 3 Wetlands										

Proposed Wetland Mitigation (Check All That Apply)			
<input checked="" type="checkbox"/>	Wetland Mitigation Bank	Number of Forested Wetland Credits: 1.7	Number of Non-Forested Wetland Credits:
	Wetland Mitigation Bank: Granger		Proof of Reservation? <input type="checkbox"/>
<input type="checkbox"/>	In-Lieu Fee Program	ILF Sponsor: Choose an item.	Number of Wetland Credits:
<input type="checkbox"/>	On-Site Permittee-Responsible Mitigation	<input type="checkbox"/> Restoration/Creation Choose an item. Acres	<input type="checkbox"/> Enhancement Choose an item. Acres
		<input type="checkbox"/> Preservation Choose an item. Acres	<input type="checkbox"/> Other
<input type="checkbox"/>	Off-Site Permittee-Responsible Mitigation	<input type="checkbox"/> Restoration/Creation Choose an item. Acres	<input type="checkbox"/> Enhancement Choose an item. Acres
		<input type="checkbox"/> Preservation Choose an item. Acres	<input type="checkbox"/> Other

Fees			
Are you exempt from fees? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If YES, leave fee section blank)			
Application Fee =			\$ 200.00
Review Fee			
Wetland	Acres Impacted	0.554	x \$500 = \$ 277
Total Fees (\$200 Application Fee + Total Review Fees) due at the time of application submittal = \$ 477			
Standard Applicant - Is the fee cap (\$5,000) exceeded? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If YES, maximum fees are \$5,200)			
Is this an After the Fact (ATF) application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If YES, double the fees. Maximum fees of \$10,000)			
PLEASE MAKE FEE CHECK PAYABLE TO: "TREASURER, STATE OF OHIO"			

Applicant and Agent Signature	
Application is hereby made for an Isolated Wetland Permit. I certify that the information provided on this form and all attachments related to this project are true and accurate to the best of my knowledge:	
Applicant Name	Applicant Signature
Jeffrey A. Graef	



General Isolated Wetland Permit Application (Level Two)

(For impacts greater than ½ acre of Category 1 isolated wetlands and greater than ½ acre but not exceeding 3 acres for Category 2 isolated wetlands)

Division of Surface Water 401/Stormwater Section

Project Name:

Applicants must submit a completed General Isolated Wetland Permit Application (Level One Review) in addition to providing the following information and/or demonstrations:

- 1. Please provide an analysis of practicable on-site alternatives to the proposed filling of the isolated wetland(s) that would have a less adverse impact on the isolated wetland ecosystem:** Wetland Y is the only isolated wetland within the project area. Due to the central location of this wetland and the architectural provisions and requirements of this type of facility that restrict certain design layouts (i.e., buildings must be clustered together and attached to health care facilities) it will not be feasible to avoid impacts to Wetland Y. Design plans for the facility were created to minimize impacts to the remaining jurisdictional wetlands and streams.

- 2. Please provide information indicating whether high quality waters, as defined in rule 3745-1-05 of the Administrative Code, are to be avoided by the proposed filling of the isolated wetland(s):** Wetland Y is classified as Category Modified 2 and falls within the qualifications to meet High Quality Waters. In order to construct the facility successfully and to code, Wetland Y will need to be impacted. Avoidance of High Quality Waters was implemented in the design plans: preservation of a perennial stream, an intermittent stream, a portion of a forested wetland, and two open water areas.

- 3. Please provide maps and narratives describing buffers provided for any isolated wetland(s) that will be avoided at the site:** The singular isolated wetland at the site will be entirely impacted. The design plans are included in Attachment C.

- 4. Please demonstrate that the wetland(s) to be filled are not locally or regionally scarce and do not contain rare, threatened or endangered species:** Wetlands within the project area are all classified as Category 1 and 2, with the impacted isolated wetland being a Category Modified 2. This classification is largely due to past disturbances, small size, and the isolated nature of the woodlot; being entirely surrounded by residential and commercial buildings. Wetlands of this type and quality are common in the greater Cleveland area. Consultation with the USFWS and ODNR was conducted to determine the probable presence of threatened and endangered species. Responses were dated November 14 and December 3, 2014, respectively. ODNR had no records within one mile of the site. USFWS had one recommendation, for summer survey to determine the presence or probable absence of Indiana bats. Surveys were conducted August 4-6, 2015 and yielded no captures of Indiana or northern long-eared bats. Seasonal clearing of trees will occur to avoid any possible impacts.

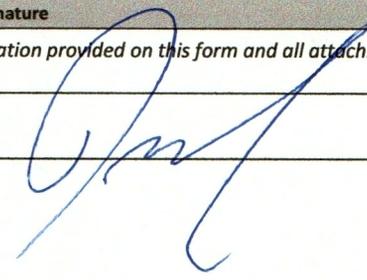
- 5. Please demonstrate that the project impacts would not result in significant degradation to the aquatic ecosystem:** Construction will not have a negative impact on adjacent aquatic ecosystems as a result of development. The site design will implement storm water management ponds to account for an increase in impervious surface area as well as the reduction of wetlands. The impacted wetlands and stream are historically disturbed and provide minimal habitat within the site. Best Management Practices (BMPs) will be implemented to ensure that avoided wetlands are not adversely affected during construction.

- 6. Please provide a comprehensive post-development storm water plan that includes water quality improvement measures:** Environmental effects resulting from the proposed construction will be minimized through the implementation of erosion and sedimentation control practices in conjunction with additional stormwater control measures, in the form of stormwater Best Management Practices (BMPs). These may include silt fencing, inlet protection, and stormwater detention.

Application for General Isolated Wetland Permit (Level One)

Applicant and Agent Signature

Application is hereby made for an Isolated Wetland Permit. I certify that the information provided on this form and all attachments related to this project are true and accurate to the best of my knowledge:

Applicant Name	Click here to enter text. Jeffrey A. Graef	Applicant Signature	
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January 15, 2016

Harry Kallipolitis
Ohio Environmental Protection Agency
Division of Surface Water
50 West Town Street, Suite 700,
Columbus, Ohio 43215

Re: Level 2 Isolated Permit Application for the OMNI Senior Living

Dear Mr. Kallipolitis,

LSB Seven Hills, LLC (Applicant) is proposing to construct 212 senior living units, memory care center, and associated infrastructure including utilities, roads, and storm water management areas within a 19.62-acre property located east of Crossview Road in the City of Seven Hills, Cuyahoga County, Ohio (41.39512, -81.66527) and within the Cuyahoga River Watershed (HUC 04110002). This letter serves as a request for an Isolated Permit, Level 2 Review, for proposed impacts to 0.554 acre of isolated wetland within the property.

A Jurisdictional Determination (JD) site visit was completed by Keith Sendziak of USACE on December 12, 2014. Three (3) wetlands, three (3) streams, and three (3) open water areas were identified within the Project Area. Wetlands S and X, Streams 6-8, and Open Water Areas 2-4 were determined to be jurisdictional and regulated by USACE. Wetland Y was determined to be hydrologically isolated and thus not regulated by the USACE. An Approved JD letter was issued on January 8, 2015 for most of the project area and a Preliminary JD was issued on October 23, 2015 for an additional parcel that was added after the initial JD visit.

Impacts of 0.554 acre are proposed to Wetland Y. Wetland Y received a score of 43 and is considered moderate quality (Category 2). Due to the layout of the proposed development, avoidance and minimization is not practical as Wetland Y located in the central portion of the site. The project has been designed to avoid impacts to the jurisdictional wetlands and streams to the maximum extent practicable. The *Project Design Map* is attached for more details regarding the site design plan and impacts.

Currently, there are no mitigation bank credits within the Cuyahoga Watershed that are available for purchase. The Applicant proposes to purchase mitigation the Granger Mitigation Bank (Stream + Wetland Foundation). Although the mitigation is within the adjacent Black-Rocky Watershed (HUC 04110001), the Project falls well within the Granger Mitigation Bank designated Service Area as approved by the Interagency Review Team, which includes a portion of the Cuyahoga River Watershed. The purchase of these credits will allow the mitigation to offset the impacts to forested wetlands within the region in a timely manner rather than waiting for forested wetlands to be restored during the 3-year in-lieu fee schedule. The impacts that are to occur within the Project Area are small and to previously disturbed wetland. The preservation of the higher quality features on the site will be beneficial to the immediate watershed. In addition, the purchase of in-lieu fee credits for the Cuyahoga River watershed does not ensure that a mitigation project would be located near the Project or the immediate area. Therefore, benefits to the region would be better served by purchasing established mitigation within the region.

Harry Kallipolitis
Level 2 Isolated Permit Application
January 15, 2016
Page 2

The mitigation ratios have been increased to 3:1 to compensate for out-of-watershed mitigation. A total of 1.7 acres of forested credits will be purchased to meet the mitigation requirements for isolated wetland impacts.

Please review the enclosed application and contact me at jmiller@atwell-group.com or 440.394.0419 with any questions or if additional information is needed.

Respectfully,



Jessica Miller
Project Manager
Natural Resources Group

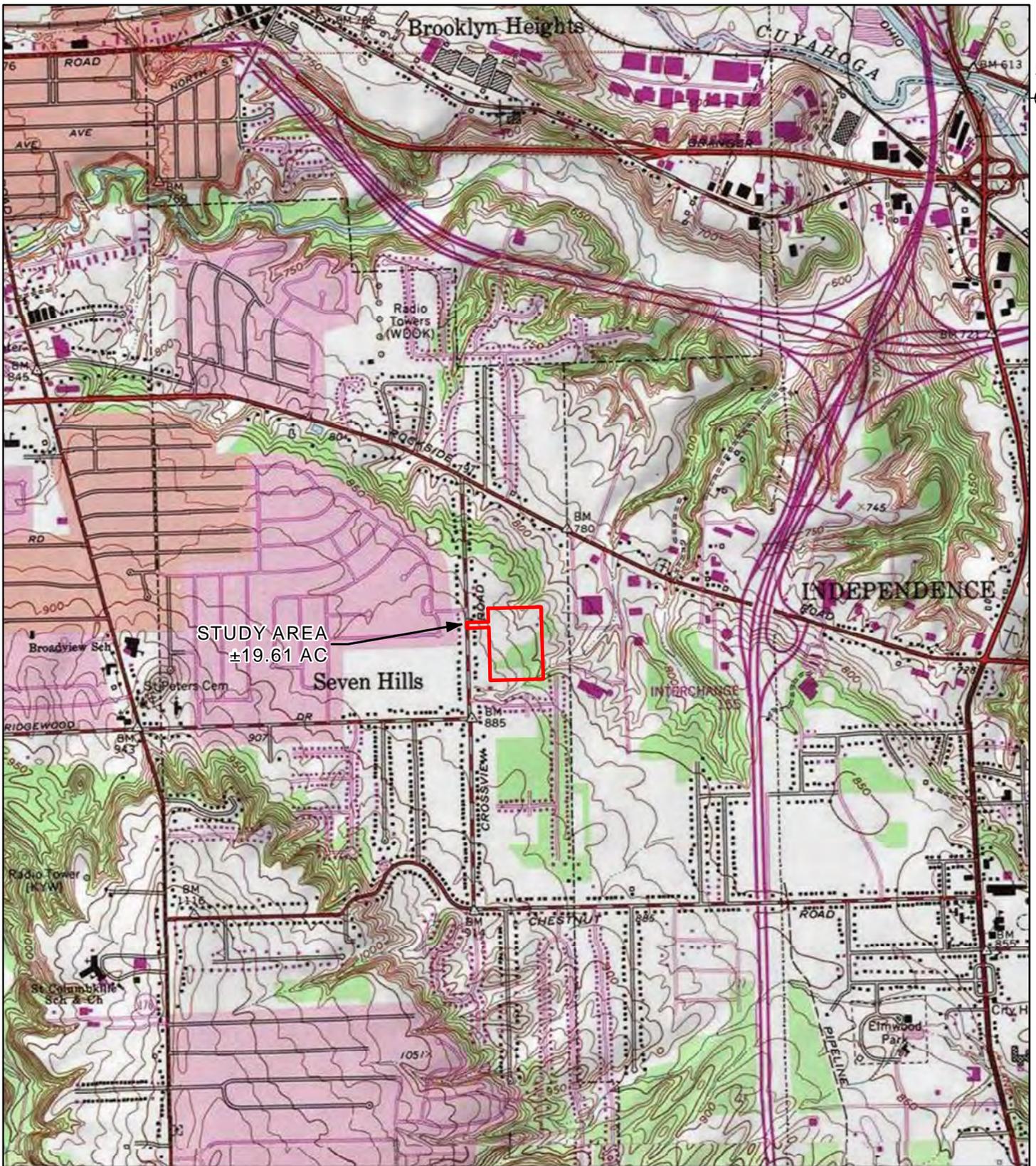
Cc: Ed Wilk, Ohio EPA Northeast District Office
Jeff Graef, LSB Seven Hills, LLC

ATTACHMENTS:

Attachment A	Site Location and Project Maps Figure 1: Site Location Map Figure 2: Soil Map Figure 3: NWI Map Figure 4: FEMA Map
Attachment B	Wetland Determination Map
Attachment C	Photographic Log
Attachment D	Jurisdictional Determination Letter
Attachment E	ORAM Forms
Attachment F	USFWS and ODNR Correspondence Letters
Attachment G	SHPO Map
Attachment H	Project Design Map

ATTACHMENT A

Site Location and Project Maps



 STUDY AREA (±19.61 AC)

FIGURE 1: SITE LOCATION MAP
OMNI SENIOR LIVING
CITY OF SEVEN HILLS
CUYAHOGA COUNTY, OHIO

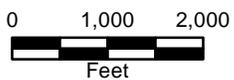
SOURCE: USGS 7.5 MIN TOPOGRAPHIC QUADRANGLE
 CLEVELAND SOUTH, OHIO QUADRANGLE

PROJECT NO.: 12000647.01

DATE: 11/2/2015

DR: BS

GIS FILE:12000647_01_SITE



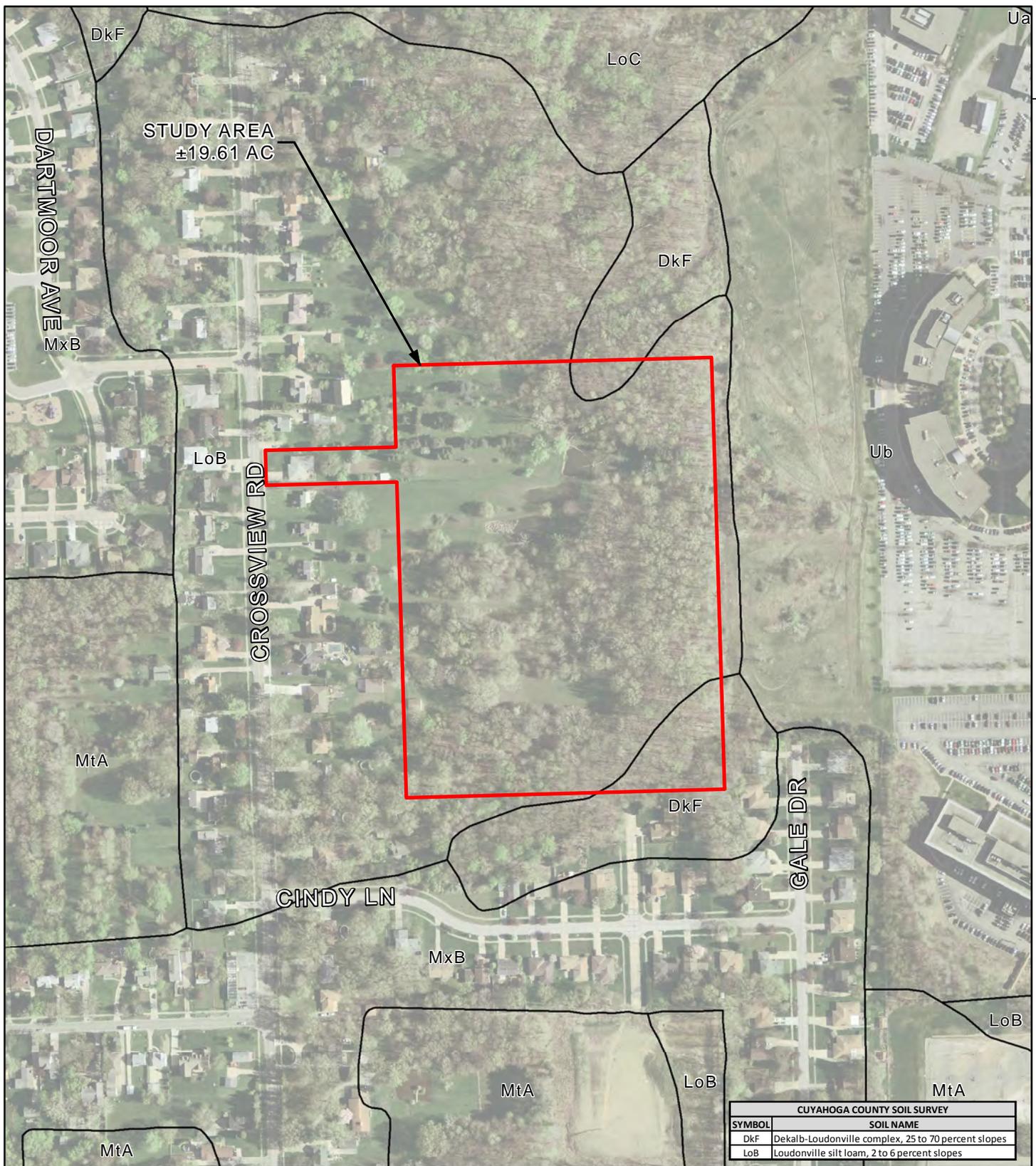
1" = 2,000 FEET



Ohio Vicinity Map



866.850.4200 www.atwell-group.com



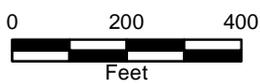
CUYAHOGA COUNTY SOIL SURVEY	
SYMBOL	SOIL NAME
DkF	Dekalb-Loudonville complex, 25 to 70 percent slopes
LoB	Loudonville silt loam, 2 to 6 percent slopes

- STUDY AREA (±19.61 AC)
- HYDRIC SOIL

FIGURE 2: COUNTY SOIL SURVEY MAP
OMNI SENIOR LIVING
CITY OF SEVEN HILLS
CUYAHOGA COUNTY, OHIO

SOURCE: CUYAHOGA COUNTY SOIL SURVEY, NRCS

PROJECT NO.: 12000647.01
 DATE: 11/2/2015
 DR: BS
 GIS FILE: 12000647_02_SOILS



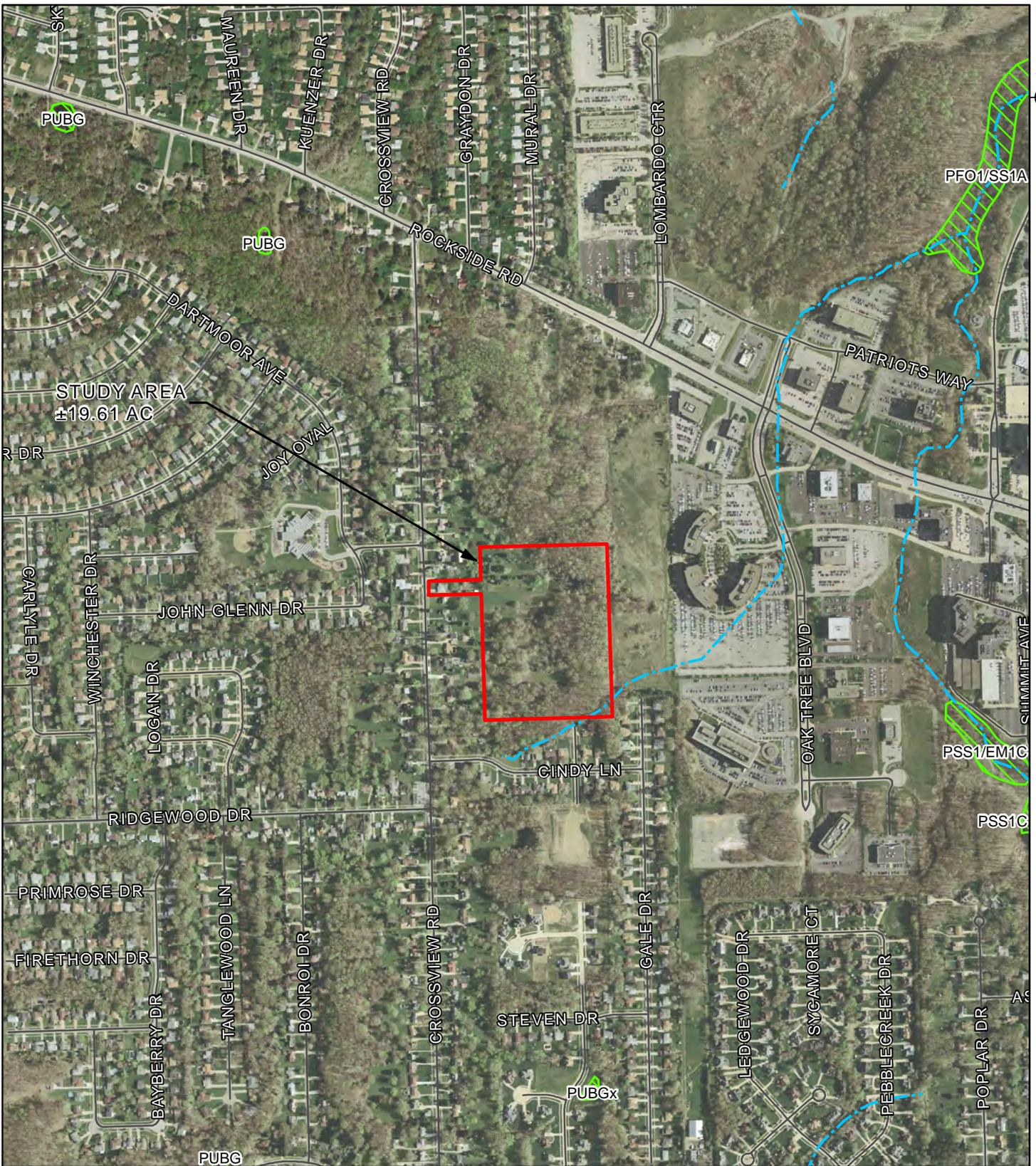
1" = 333 FEET



Ohio Vicinity Map



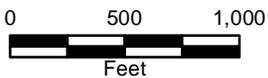
866.850.4200 www.atwell-group.com



- STUDY AREA (±19.61 AC)
- NHD WATERCOURSE
- NWI WETLAND

FIGURE 3: NATIONAL WETLAND INVENTORY MAP
OMNI SENIOR LIVING
CITY OF SEVEN HILLS
CUYAHOGA COUNTY, OHIO

PROJECT NO.: 12000647.01
 DATE: 1/11/2016
 DR: BS
 GIS FILE: 12000647_04_NWI



1" = 833 FEET



866.850.4200 www.atwell-group.com



FEMA FLOOD HAZARD ZONES

- Zone A: Areas subject to inundation by the 1-percent-annual-chance flood event. No Base Flood Elevations (BFEs) or flood depths are shown.
- Zone X (Shaded): Areas between the limits of the base flood and the 0.2-percent-annual-chance flood.
- Zone X (unshaded): Minimal risk areas outside the 1-percent and 0.2-percent-annual-chance floodplains.
- FEMA FIRM PANEL

 STUDY AREA (±19.61 AC)
 NHD WATERCOURSE

FIGURE 4: FEMA FLOOD INSURANCE RATE MAP
OMNI SENIOR LIVING
CITY OF SEVEN HILLS
CUYAHOGA COUNTY, OHIO

SOURCE: FEMA FIRM PANEL
 39035C0193E
 EFFECTIVE DATE:
 12/03/2010

PROJECT NO.: 12000647.01
 DATE: 1/11/2016
 DR: LWP
 GIS FILE: 12000647_05_FIRM

0 500 1,000
 Feet

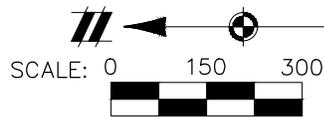
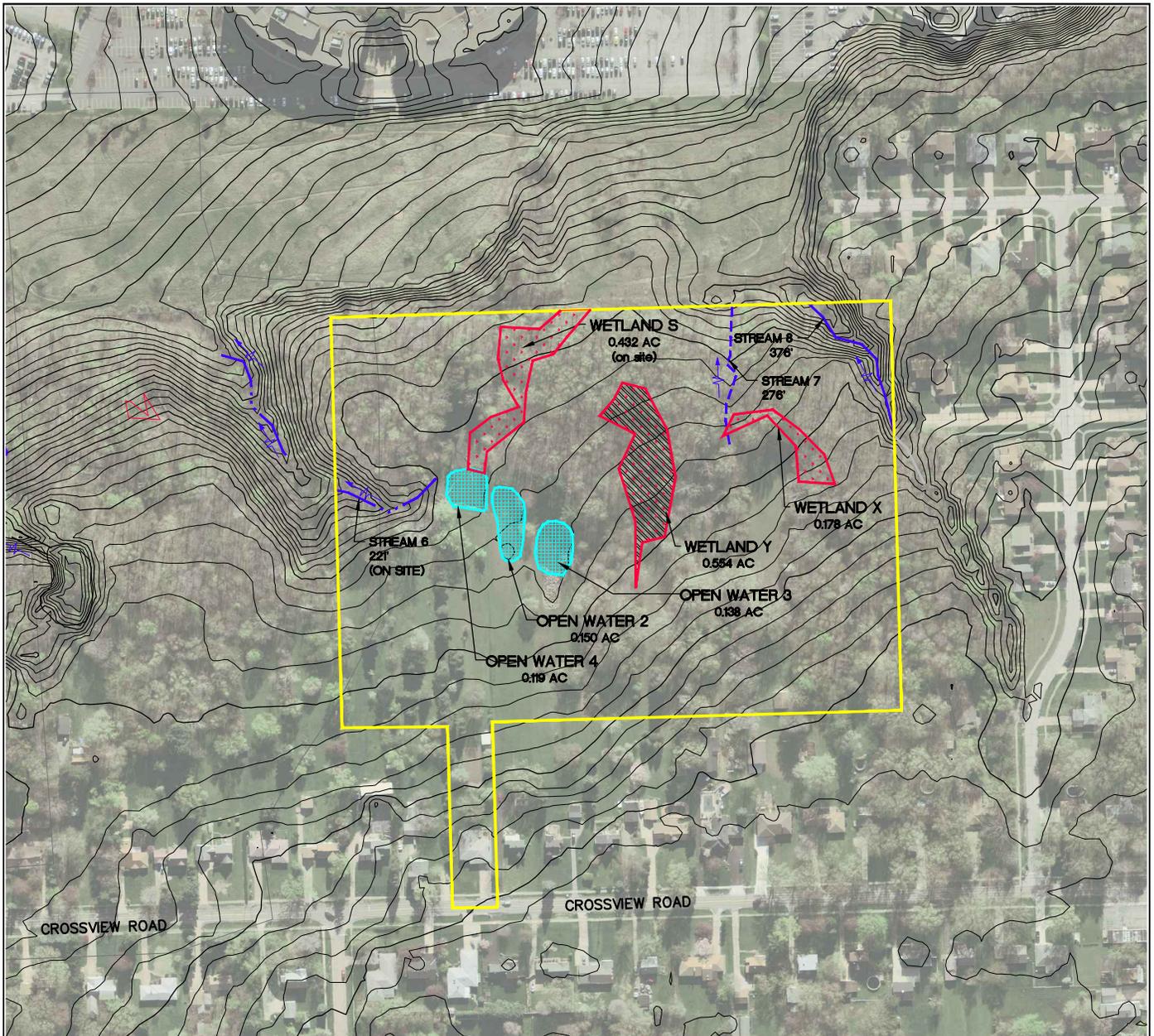
1" = 833 FEET



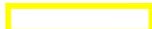
866.850.4200 www.atwell-group.com

ATTACHMENT B

Wetland Determination Map



LEGEND

	PROJECT AREA (19.62 ac)		EPHEMERAL STREAM
	PERENNIAL STREAM		OPEN WATER
	INTERMITTENT STREAM		WETLAND (FEDERAL)
	FLOW ARROW		WETLAND (ISOLATED)

19.62 ACRE, CROSSVIEW ROAD
 SUBDIVISION
 WETLAND DETERMINATION MAP
 CITY OF SEVEN HILLS
 CUYAHOGA COUNTY, OHIO

PROJECT NO. 12000647
 DATE: 9/24/2015



ATWELL
 888.850.4300 www.atwell-group.com
 7100 E. PLEASANT VALLEY RD., SUITE 220
 INDEPENDENCE, OH 44131
 440.349.2000

ATTACHMENT C

Photographic Log

PHOTOGRAPHIC LOG



Photograph 1: View facing north showing Wetland Y.

ATTACHMENT D

Jurisdictional Determination Letter



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF:

October 23, 2015

Regulatory Branch

SUBJECT: Preliminary Jurisdictional Determination for Department of the Army Application
No. 2007-01130

LSB Seven Hills, LLC
Attn. Jeffrey A. Graef
950 Peninsula Corporate Circle
Suite 2005
Boca Raton, FL 33487

Dear Mr. Graef:

I have reviewed the wetland delineation submitted on your behalf for an approximately 2.22-acre parcel, located east of Crossview Road, in the City of Seven Hills, Cuyahoga County, Ohio (Sheets 1-2 of 2).

I have evaluated your submitted wetland delineation map and have determined that the wetland and water boundaries shown on the map accurately represent on-site conditions. Please note that this is a Preliminary Jurisdictional Determination (JD). Preliminary JDs are non-binding written indications that there may be Waters of the United States (WOUS) on your parcel and approximate locations of those waters. Preliminary JDs are advisory in nature and may not be appealed.

Pursuant to Regulatory Guidance Letter 08-02, any permit application made in reliance on this Preliminary JD will be evaluated as though all wetlands or waters on the site are regulated by the Corps. Further, all waters, including wetlands will be used for purposes of assessing the area of project related impacts and compensatory mitigation. If you require a definitive response regarding Department of the Army jurisdiction for any or all of the waters identified on the submitted drawings, you may request an approved jurisdictional determination from this office. If an approved JD is requested, please be aware that this is often a lengthy process and we may require the submittal of additional information.

I have enclosed the Preliminary JD Form with this letter. The form and attached table identifies the extent of waters on the site and specific terms and conditions of the Preliminary JD. Please sign and return a copy of this form to my attention so that I may complete my evaluation of your file. If you do not respond within fifteen days of this letter, I will assume you no longer wish to pursue the jurisdictional determination and will withdraw your application.

In accordance with Regulatory Guidance Letter 05-02, "Preliminary JDs are not definitive determinations of areas within regulatory jurisdiction and do not have expirations dates." However, I strongly recommend that the boundaries of WOUS be re-evaluated by a qualified

Regulatory Branch

SUBJECT: Preliminary Jurisdictional Determination for Department of the Army Application No. 2007-01130

wetland biologist after five years of the date of this letter. This will ensure that any changes are appropriately identified and you do not inadvertently incur a violation of Federal law while constructing your project or working on your project site.

Lastly, this determination has been conducted only to identify the limits of waters that may be subject to Corps Clean Water Act or Rivers and Harbors Act jurisdiction. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

A copy of this letter has been sent to the Ohio Environmental Protection Agency and to Ms. Jessica Hickey-Miller (ATWELL, LLC).

Questions pertaining to this matter should be directed to me at 716-879-4339, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: keith.c.sendziak@usace.army.mil

Sincerely,



Keith C. Sendziak
Biologist

Enclosures

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): October 23, 2015

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:

LSB Seven Hills, LLC
Attn. Jeffrey A. Graef
950 Peninsula Corporate Circle
Suite 2005
Boca Raton, FL 33487

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Buffalo District, The Cury Group, LLC, DA No. 2007-01130

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)**

State: Ohio County/parish/borough: Cuyahoga City: Seven Hills

Center coordinates of site (lat/long in degree decimal format): Lat. 41.39609° N, Long. -81.66574° W.

Universal Transverse Mercator:

Name of nearest waterbody: unnamed tributary to the Cuyahoga River

Identify (estimate) amount of waters in the review area:

Non-wetland waters: linear feet: width (ft) and/or 0.117 acres.

Cowardin Class: Lacustrine

Stream Flow:

Wetlands: 0.058 acres.

Cowardin Class: Emergent and Forested

Name of any water bodies on the site that have been identified as Section 10 waters: N/A

Tidal:

Non-Tidal:

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination.. Date: October 22, 2015

Field Determination. Date(s): December 2, 2014

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply

- checked items should be included in case file and, where checked and requested, appropriately reference sources below):

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: ATWELL, LLC.

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Office concurs with data sheets/delineation report.

Office does not concur with data sheets/delineation report.

Data sheets prepared by the Corps:

Corps navigable waters' study:

U.S. Geological Survey Hydrologic Atlas:

USGS NHD data.

USGS 8 and 12 digit HUC maps.

U.S. Geological Survey map(s). Cite scale & quad name: Cleveland South, OH 7.5 min quad.

USDA Natural Resources Conservation Service Soil Survey. Citation:

National wetlands inventory map(s). Cite name:

State/Local wetland inventory map(s):

FEMA/FIRM maps:

100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)

Photographs: Aerial (Name & Date):

or Other (Name & Date):

Previous determination(s). File no. and date of response letter:

Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

 10/23/15

Signature and date of
Regulatory Project Manager

Signature and date of
person requesting preliminary JD

Site number	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
Wetland A	Palustrine – Emergent/Forested	0.058 acre	non-section 10 – wetland
Open Water	Lacustrine	0.117 acre	non-section 10 – non-wetland

The Cury Group, LLC
 D/A Processing No. 2007-01130
 Cuyahoga County, Ohio
 Quad: South Cleveland
 Sheet 1 of 2

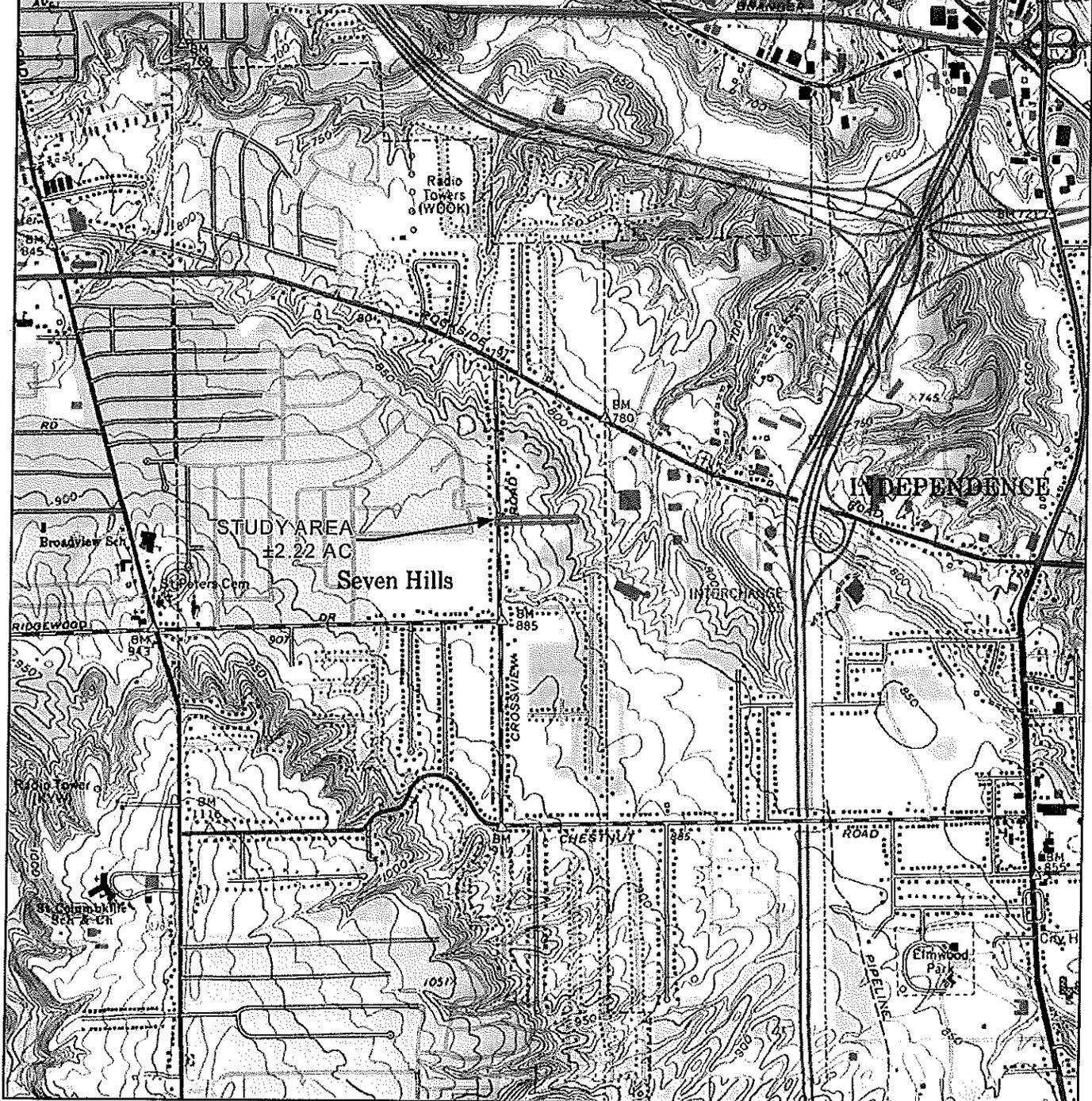
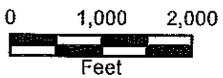


FIGURE 1: SITE LOCATION MAP
 SEVEN HILLS PUD
 CITY OF SEVEN HILLS
 CUYAHOGA COUNTY, OHIO

SOURCE: USGS 7.5 MIN TOPOGRAPHIC QUADRANGLE
 CLEVELAND SOUTH, OHIO QUADRANGLE

PROJECT NO.: 12000647.01
 DATE: 10/19/2015
 DR: BS
 GIS FILE: 12000647_01_SITE

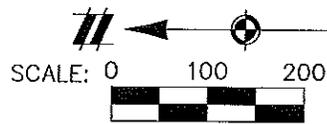
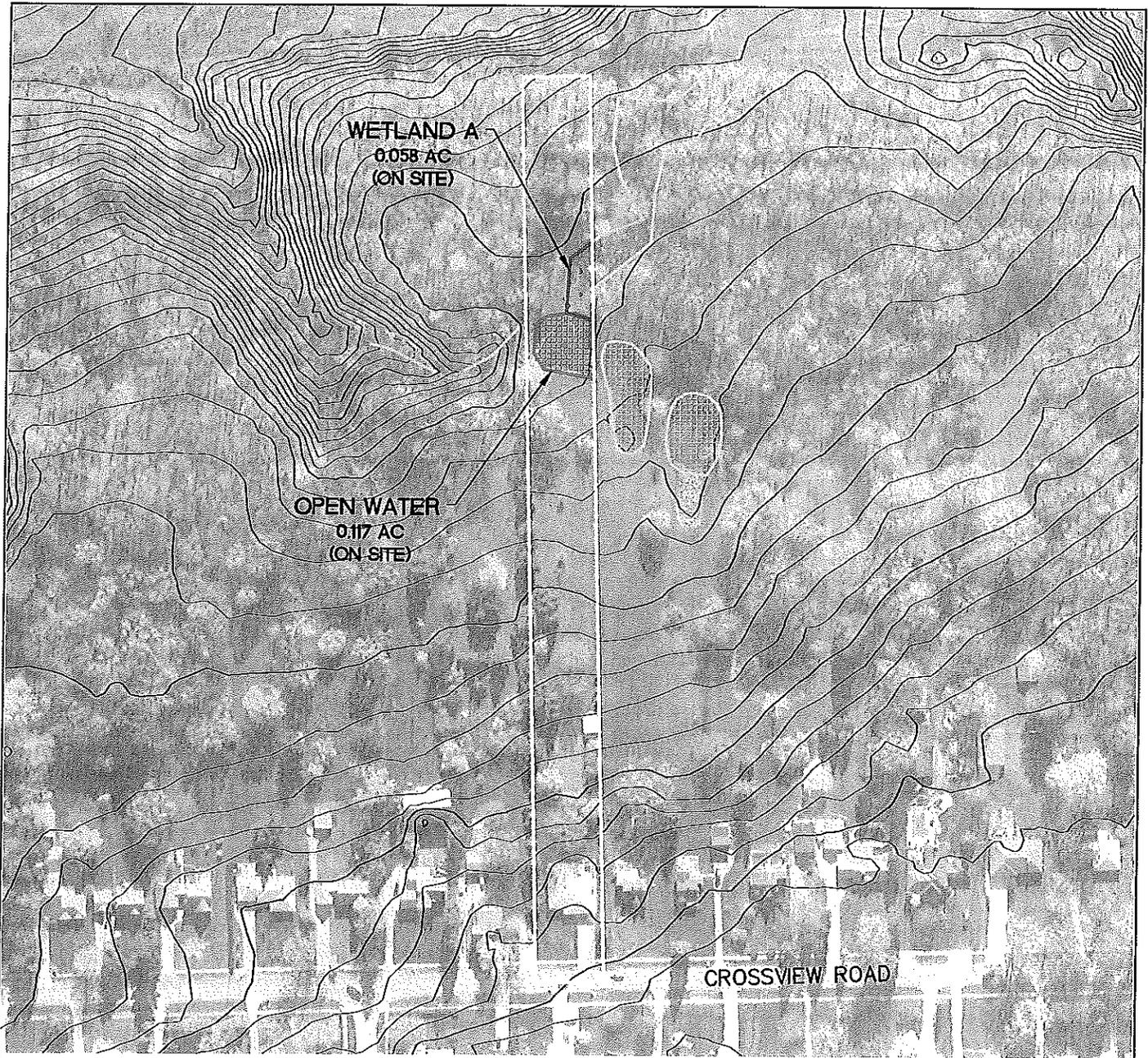


Ohio Vicinity Map

1" = 2,000 FEET



866.850.4200 www.atwell-group.com



LEGEND

	PROJECT AREA (2.22 ac)		OPEN WATER (0.117 ac)
	INTERMITTENT STREAM		WETLAND (0.058 ac)
	FLOW ARROW		

2.22 ACRE, SEVEN HILLS PUD
 WETLAND DETERMINATION MAP
 CITY OF SEVEN HILLS
 CUYAHOGA COUNTY, OHIO

The Cury Group, LLC
 D/A Processing No. 2007-01130
 Cuyahoga County, Ohio
 Quad: South Cleveland
 Sheet 2 of 2





REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

January 8, 2015

Regulatory Branch

SUBJECT: Department of the Army Application No. 2007-01130

Mr. Ed Cury
The Cury Group, LLC
1475 Centre Park Blvd.
West Palm Beach, Florida 33401

Dear Mr. Cury:

I have reviewed the wetland delineation submitted on your behalf for an approximately 58-acre parcel, located south of Rockside Road and east of Crossview Road, in the city of Seven Hills, Cuyahoga County, Ohio.

Section 404 of the Clean Water Act (CWA) establishes Corps of Engineers jurisdiction over the discharge of dredged or fill material into waters of the United States, including wetlands, as defined in 33 CFR Part 328.3.

I am hereby verifying the Federal wetland boundary as shown on the attached wetland delineation map. This verification will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the delineation before the expiration. At the end of this period, a new wetland delineation will be required if a project has not been completed on this property and additional impacts are proposed for waters of the United States. Further, this delineation/determination has been conducted to identify the limits of the Corps CWA jurisdiction for the particular site identified in this request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are United States Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

Based upon my review of the submitted delineation and on-site observations, I have determined that wetland areas A (0.114 acres), D/L/M (0.542 acres), E (0.318 acres), F (0.071 acres), G (0.566 acres), H (0.045 acres), I (0.096 acres), J (0.558 acres), K (0.368 acres), N (0.035 acres), O (0.242 acres), Q (0.031 acres), S (0.374 acres), and X (0.178 acres), totaling 3.538 acres, streams 1 (748 linear feet (LF)), 2 (357 LF), 3 (81 LF), 4 (135 LF), 5 (247 LF), 6 (221 LF), 7 (276 LF), and 8 (376 LF), totaling 2,441 LF, and open water areas 1 (0.080 acres), 2 (0.150 acres), and 3 (0.138 acres), totaling 0.368 acres, on the subject parcel are part of a surface

Regulatory Branch

SUBJECT: Department of the Army Application No. 2007-01130

-2-

water tributary system to a navigable water of the United States as noted on the attached Jurisdictional Determination (JD) form. Therefore, these waters are regulated under Section 404 of the CWA. DA authorization is required if you propose a discharge of dredged or fill material in these areas.

In addition, I have determined that there is no clear surface water connection or ecological continuum between wetland areas B (0.006 acres), C (0.048 acres), P (0.026 acres), R (0.182 acres), and Y (0.554 acres), totaling 0.816 acres, on the parcel and a surface tributary system to a navigable water of the United States. Therefore, these waters are considered isolated, non-navigable, intrastate waters and not regulated under Section 404 of the CWA. Accordingly, you do not need DA authorization to commence work in these areas.

I encourage you to contact the appropriate state and local governmental officials to ensure that the proposed work complies with their requirements.

Finally, this letter contains an approved JD for the subject parcel. If you object to this JD, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above JD, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Attn: Appeal Review Officer
Great Lakes and Ohio River Division
CELRD-PDS-O
550 Main Street, Room 10524
Cincinnati, OH 45202-3222
Phone: 513-684-7261; FAX 513-684-2460

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by March 6, 2015.

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

A copy of this letter has been sent to the Ohio Environmental Protection Agency and to Ms. Jessica Hickey-Miller (Atwell, LLC).

Regulatory Branch

SUBJECT: Department of the Army Application No. 2007-01130

-3-

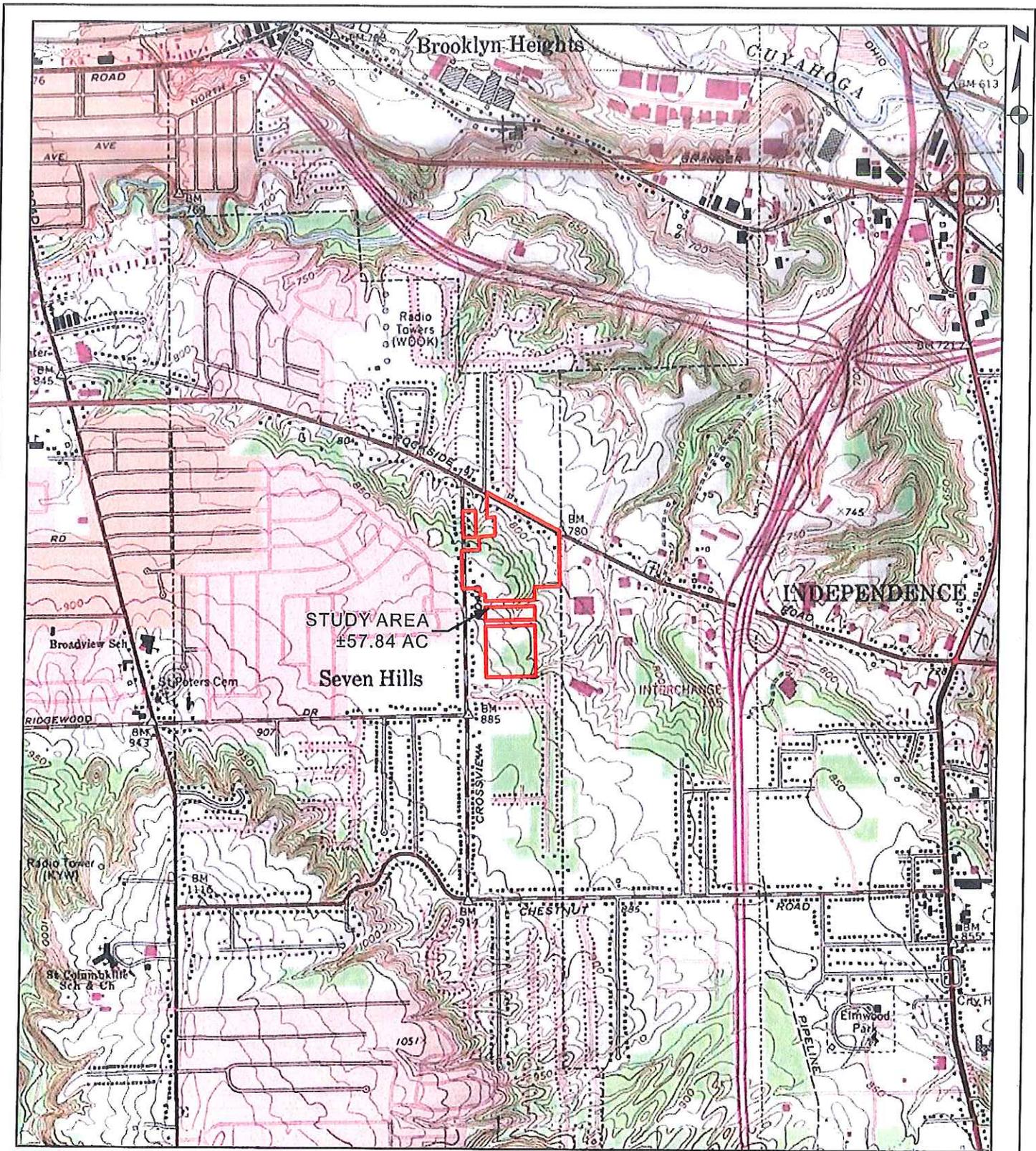
Questions pertaining to this matter should be directed to me by calling 716-879-4339, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: keith.c.sendziak@usace.army.mil

Sincerely,

A handwritten signature in black ink, appearing to read "K. Sendziak", written in a cursive style.

Keith C. Sendziak
Biologist

Enclosures

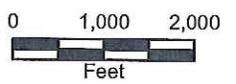


 STUDY AREA (±57.84 AC)

FIGURE 1: SITE LOCATION MAP
ROCKSIDE ROAD & CROSSVIEW ROAD SITE
CITY OF SEVEN HILLS
CUYAHOGA COUNTY, OHIO

SOURCE: USGS 7.5 MIN TOPOGRAPHIC QUADRANGLE
 CLEVELAND SOUTH, OHIO QUADRANGLE

PROJECT NO.: 12000647
 DATE: 10/1/2011

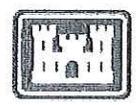


1" = 2,000 FEET

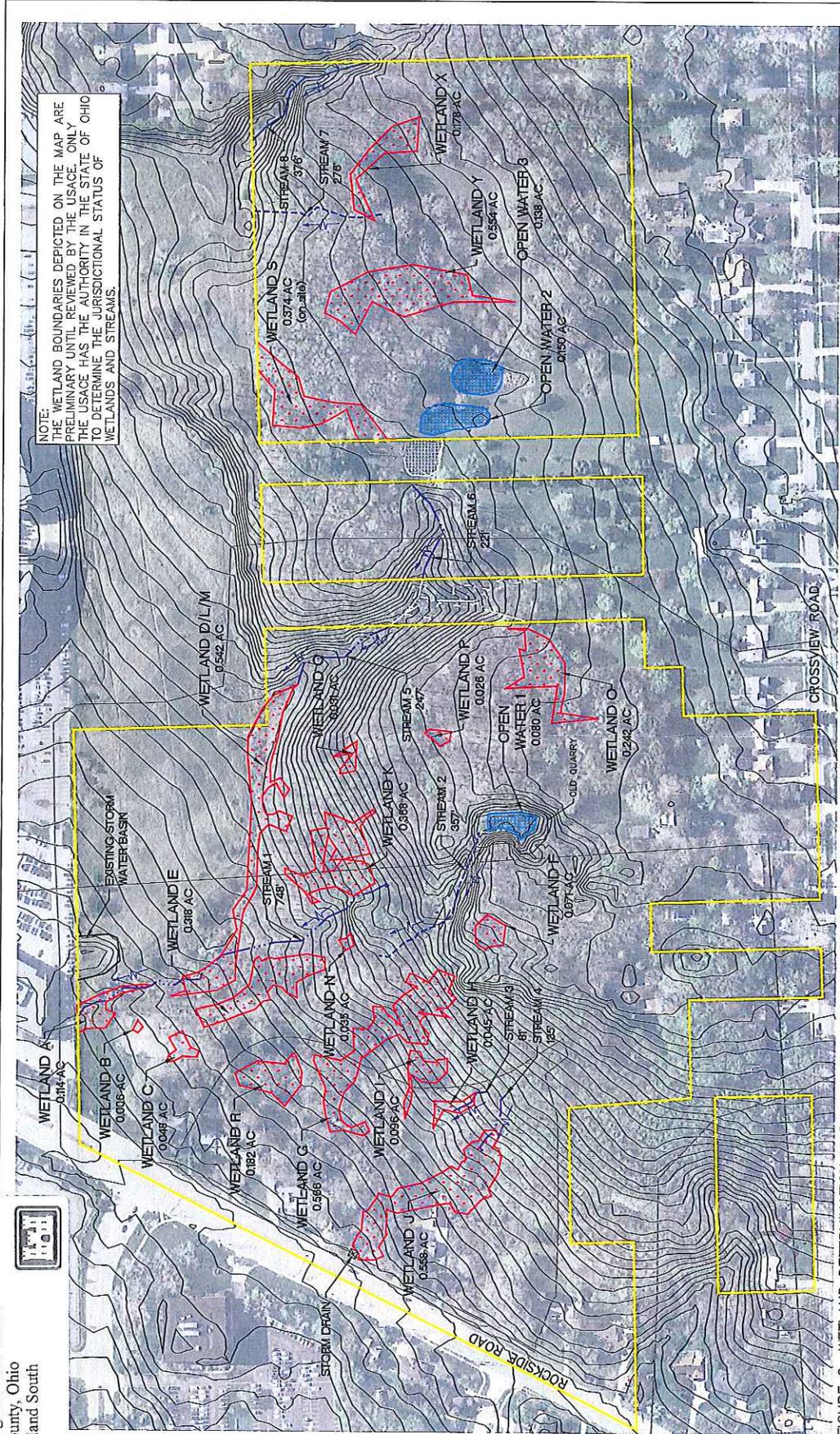


Ohio Vicinity Map

The Curry Group, LLC
 D/A Processing No. 2007-01130
 Cuyahoga County, Ohio
 Quad: Cleveland South
 Sheet 1 of 2



The Curry Group, LLC
 D/A Processing No. 2007-01130
 Cuyahoga County, Ohio
 Quad: Cleveland South
 Sheet 2 of 2



NOTE:
 THE WETLAND BOUNDARIES DEPICTED ON THE MAP ARE
 PRELIMINARY UNTIL REVIEWED BY THE USACE. ONLY
 THE USACE HAS THE AUTHORITY IN THE STATE OF OHIO
 TO DETERMINE THE JURISDICTIONAL STATUS OF
 WETLANDS AND STREAMS.

LEGEND

- PROJECT AREA (57.08 ac)
- PERENNIAL STREAM
- INTERMITTENT STREAM
- ↔ FLOW ARROW
- EPHEMERAL STREAM
- OPEN WATER
- WETLAND

DR: DPE CAD FILE: 12000647ECCB.DWG

FIGURE 2: WETLAND DETERMINATION MAP
 CITY OF SEVEN HILLS
 CUYAHOGA COUNTY, OHIO
 SCALE: 0 100 200
 PROJECT NO. 12000647:
 DATE: 10/22/2014



ATTACHMENT E

ORAM Forms

Site: Rockside and Crossview Roads, Wetland Y	Rater(s): H. Tyson	Date: 10/23/2014
--	---------------------------	-------------------------

2	2
max 6 pts.	subtotal

Metric 1. Wetland Area (size).

Reset

Select one size class and assign score.

- >50 acres (>20.2ha) (6 pts)
- 25 to <50 acres (10.1 to <20.2ha) (5 pts)
- 10 to <25 acres (4 to <10.1ha) (4 pts)
- 3 to <10 acres (1.2 to <4ha) (3 pts)
- 0.3 to <3 acres (0.12 to <1.2ha) (2pts)
- 0.1 to <0.3 acres (0.04 to <0.12ha) (1 pt)
- <0.1 acres (0.04ha) (0 pts)

12	14
max 14 pts.	subtotal

Metric 2. Upland buffers and surrounding land use.

2a. Calculate average buffer width. Select only one and assign score. Do not double check.

- WIDE. Buffers average 50m (164ft) or more around wetland perimeter (7)
- MEDIUM. Buffers average 25m to <50m (82 to <164ft) around wetland perimeter (4)
- NARROW. Buffers average 10m to <25m (32ft to <82ft) around wetland perimeter (1)
- VERY NARROW. Buffers average <10m (<32ft) around wetland perimeter (0)

2b. Intensity of surrounding land use. Select one or double check and average.

- VERY LOW. 2nd growth or older forest, prairie, savannah, wildlife area, etc. (7)
- LOW. Old field (>10 years), shrub land, young second growth forest. (5)
- MODERATELY HIGH. Residential, fenced pasture, park, conservation tillage, new fallow field. (3)
- HIGH. Urban, industrial, open pasture, row cropping, mining, construction. (1)

11	25
max 30 pts.	subtotal

Metric 3. Hydrology.

3a. Sources of Water. Score all that apply.

- High pH groundwater (5)
- Other groundwater (3)
- Precipitation (1)
- Seasonal/Intermittent surface water (3)
- Perennial surface water (lake or stream) (5)

3c. Maximum water depth. Select only one and assign score.

- >0.7 (27.6in) (3)
- 0.4 to 0.7m (15.7 to 27.6in) (2)
- <0.4m (<15.7in) (1)

3e. Modifications to natural hydrologic regime. Score one or double check and average.

- None or none apparent (12)
- Recovered (7)
- Recovering (3)
- Recent or no recovery (1)

3b. Connectivity. Score all that apply.

- 100 year floodplain (1)
- Between stream/lake and other human use (1)
- Part of wetland/upland (e.g. forest), complex (1)
- Part of riparian or upland corridor (1)

3d. Duration inundation/saturation. Score one or dbl check.

- Semi- to permanently inundated/saturated (4)
- Regularly inundated/saturated (3)
- Seasonally inundated (2)
- Seasonally saturated in upper 30cm (12in) (1)

Check all disturbances observed	
<input type="checkbox"/> ditch	<input type="checkbox"/> point source (nonstormwater)
<input type="checkbox"/> tile	<input checked="" type="checkbox"/> filling/grading
<input type="checkbox"/> dike	<input type="checkbox"/> road bed/RR track
<input type="checkbox"/> weir	<input type="checkbox"/> dredging
<input type="checkbox"/> stormwater input	<input type="checkbox"/> other _____

12	37
max 20 pts.	subtotal

Metric 4. Habitat Alteration and Development.

4a. Substrate disturbance. Score one or double check and average.

- None or none apparent (4)
- Recovered (3)
- Recovering (2)
- Recent or no recovery (1)

4b. Habitat development. Select only one and assign score.

- Excellent (7)
- Very good (6)
- Good (5)
- Moderately good (4)
- Fair (3)
- Poor to fair (2)
- Poor (1)

4c. Habitat alteration. Score one or double check and average.

- None or none apparent (9)
- Recovered (6)
- Recovering (3)
- Recent or no recovery (1)

Check all disturbances observed	
<input type="checkbox"/> mowing	<input type="checkbox"/> shrub/sapling removal
<input type="checkbox"/> grazing	<input type="checkbox"/> herbaceous/aquatic bed removal
<input type="checkbox"/> clearcutting	<input type="checkbox"/> sedimentation
<input checked="" type="checkbox"/> selective cutting	<input type="checkbox"/> dredging
<input type="checkbox"/> woody debris removal	<input type="checkbox"/> farming
<input type="checkbox"/> toxic pollutants	<input type="checkbox"/> nutrient enrichment

37
subtotal this page

Site: Rockside and Crossview Roads, Wetland Y	Rater(s): H. Tyson	Date: 10/23/2014
--	---------------------------	-------------------------

37

subtotal first page

0	37
max 10 pts.	subtotal

Metric 5. Special Wetlands.

Check all that apply and score as indicated.

- Bog (10)
- Fen (10)
- Old growth forest (10)
- Mature forested wetland (5)
- Lake Erie coastal/tributary wetland-unrestricted hydrology (10)
- Lake Erie coastal/tributary wetland-restricted hydrology (5)
- Lake Plain Sand Prairies (Oak Openings) (10)
- Relict Wet Prairies (10)
- Known occurrence state/federal threatened or endangered species (10)
- Significant migratory songbird/water fowl habitat or usage (10)
- Category 1 Wetland. See Question 1 Qualitative Rating (-10)

6	43
max 20 pts.	subtotal

Metric 6. Plant communities, interspersions, microtopography.

6a. Wetland Vegetation Communities.

Score all present using 0 to 3 scale.

- 0 Aquatic bed
- 1 Emergent
- 0 Shrub
- 2 Forest
- 0 Mudflats
- 0 Open water
- 0 Other _____

6b. horizontal (plan view) Interspersion.

Select only one.

- High (5)
- Moderately high(4)
- Moderate (3)
- Moderately low (2)
- Low (1)
- None (0)

6c. Coverage of invasive plants. Refer to Table 1 ORAM long form for list. Add or deduct points for coverage

- Extensive >75% cover (-5)
- Moderate 25-75% cover (-3)
- Sparse 5-25% cover (-1)
- Nearly absent <5% cover (0)
- Absent (1)

6d. Microtopography.

Score all present using 0 to 3 scale.

- 0 Vegetated hummocks/tussucks
- 1 Coarse woody debris >15cm (6in)
- 0 Standing dead >25cm (10in) dbh
- 0 Amphibian breeding pools

Vegetation Community Cover Scale

0	Absent or comprises <0.1ha (0.2471 acres) contiguous area
1	Present and either comprises small part of wetland's vegetation and is of moderate quality, or comprises a significant part but is of low quality
2	Present and either comprises significant part of wetland's vegetation and is of moderate quality or comprises a small part and is of high quality
3	Present and comprises significant part, or more, of wetland's vegetation and is of high quality

Narrative Description of Vegetation Quality

low	Low spp diversity and/or predominance of nonnative or disturbance tolerant native species
mod	Native spp are dominant component of the vegetation, although nonnative and/or disturbance tolerant native spp can also be present, and species diversity moderate to moderately high, but generally w/o presence of rare threatened or endangered spp
high	A predominance of native species, with nonnative spp and/or disturbance tolerant native spp absent or virtually absent, and high spp diversity and often, but not always, the presence of rare, threatened, or endangered spp

Mudflat and Open Water Class Quality

0	Absent <0.1ha (0.247 acres)
1	Low 0.1 to <1ha (0.247 to 2.47 acres)
2	Moderate 1 to <4ha (2.47 to 9.88 acres)
3	High 4ha (9.88 acres) or more

Microtopography Cover Scale

0	Absent
1	Present very small amounts or if more common of marginal quality
2	Present in moderate amounts, but not of highest quality or in small amounts of highest quality
3	Present in moderate or greater amounts and of highest quality

43

End of Quantitative Rating. Complete Categorization Worksheets.

ORAM Summary Worksheet

		circle answer or insert score	Result
Narrative Rating	Question 1. Critical Habitat	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 3.
	Question 2. Threatened or Endangered Species	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 3.
	Question 3. High Quality Natural Wetland	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 3.
	Question 4. Significant bird habitat	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 3.
	Question 5. Category 1 Wetlands	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 1.
	Question 6. Bogs	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 3.
	Question 7. Fens	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 3.
	Question 8a. Old Growth Forest	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 3.
	Question 8b. Mature Forested Wetland	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, evaluate for Category 3; may also be 1 or 2.
	Question 9b. Lake Erie Wetlands - Restricted	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, evaluate for Category 3; may also be 1 or 2.
	Question 9d. Lake Erie Wetlands – Unrestricted with native plants	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 3
	Question 9e. Lake Erie Wetlands - Unrestricted with invasive plants	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, evaluate for Category 3; may also be 1 or 2.
Question 10. Oak Openings	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, Category 3	
Question 11. Relict Wet Prairies	YES <input type="radio"/> NO <input checked="" type="radio"/>	If yes, evaluate for Category 3; may also be 1 or 2.	
Quantitative Rating	Metric 1. Size	2	
	Metric 2. Buffers and surrounding land use	12	
	Metric 3. Hydrology	11	
	Metric 4. Habitat	12	
	Metric 5. Special Wetland Communities	0	
	Metric 6. Plant communities, interspersion, microtopography	6	
	TOTAL SCORE	43	Category based on score breakpoints Modified 2

Complete Wetland Categorization Worksheet.

Wetland Categorization Worksheet

Choices	Circle one		Evaluation of Categorization Result of ORAM
Did you answer "Yes" to any of the following questions: Narrative Rating Nos. 2, 3, 4, 6, 7, 8a, 9d, 10	YES Wetland is categorized as a Category 3 wetland	<u>NO</u>	Is quantitative rating score <i>less</i> than the Category 2 scoring threshold (<i>excluding</i> gray zone)? If yes, reevaluate the category of the wetland using the narrative criteria in OAC Rule 3745-1-54(C) and biological and/or functional assessments to determine if the wetland has been over-categorized by the ORAM
Did you answer "Yes" to any of the following questions: Narrative Rating Nos. 1, 8b, 9b, 9e, 11	YES Wetland should be evaluated for possible Category 3 status	<u>NO</u>	Evaluate the wetland using the 1) narrative criteria in OAC Rule 3745-1-54(C) and 2) the quantitative rating score. If the wetland is determined to be a Category 3 wetland using either of these, it should be categorized as a Category 3 wetland. Detailed biological and/or functional assessments may also be used to determine the wetland's category.
Did you answer "Yes" to Narrative Rating No. 5	YES Wetland is categorized as a Category 1 wetland	<u>NO</u>	Is quantitative rating score <i>greater</i> than the Category 2 scoring threshold (<i>including</i> any gray zone)? If yes, reevaluate the category of the wetland using the narrative criteria in OAC Rule 3745-1-54(C) and biological and/or functional assessments to determine if the wetland has been under-categorized by the ORAM
Does the quantitative score fall within the scoring range of a Category 1, 2, or 3 wetland?	<u>YES</u> Wetland is assigned to the appropriate category based on the scoring range	NO	If the score of the wetland is located within the scoring range for a particular category, the wetland should be assigned to that category. In all instances however, the narrative criteria described in OAC Rule 3745-1-54(C) can be used to clarify or change a categorization based on a quantitative score.
Does the quantitative score fall with the "gray zone" for Category 1 or 2 or Category 2 or 3 wetlands?	YES Wetland is assigned to the higher of the two categories or assigned to a category based on detailed assessments and the narrative criteria	<u>NO</u>	Rater has the option of assigning the wetland to the higher of the two categories or to assign a category based on the results of a nonrapid wetland assessment method, e.g. functional assessment, biological assessment, etc, and a consideration of the narrative criteria in OAC rule 3745-1-54(C).
Does the wetland otherwise exhibit <i>moderate OR superior</i> hydrologic OR habitat, OR recreational functions AND the wetland was <i>not</i> categorized as a Category 2 wetland (in the case of moderate functions) or a Category 3 wetland (in the case of superior functions) by this method?	YES Wetland was undercategorized by this method. A written justification for recategorization should be provided on Background Information Form	<u>NO</u> Wetland is assigned to category as determined by the ORAM.	A wetland may be undercategorized using this method, but still exhibit one or more superior functions, e.g. a wetland's biotic communities may be degraded by human activities, but the wetland may still exhibit superior hydrologic functions because of its type, landscape position, size, local or regional significance, etc. In this circumstance, the narrative criteria in OAC Rule 3745-1-54(C)(2) and (3) are controlling, and the under-categorization should be corrected. A written justification with supporting reasons or information for this determination should be provided.

Final Category

 Choose one Category 1 Category 2 Category 3

End of Ohio Rapid Assessment Method for Wetlands.

ATTACHMENT F

USFWS and ODNR Correspondence Letters

Jessica Miller

From: susan_zimmermann@fws.gov on behalf of Ohio, FW3 <ohio@fws.gov>
Sent: Friday, November 14, 2014 9:04 AM
To: Jessica Miller
Cc: nathan.reardon@dnr.state.oh.us
Subject: ATWELL #12000647 - Rockside and Crossview Road Project, Seven Hills, Cuyahoga Co.

TAILS# 03E15000-2015-TA-0166

Dear Ms. Miller,

We have received your recent correspondence requesting information about the subject proposal. There are no federal wilderness areas, wildlife refuges or designated critical habitat within the vicinity of the project area. The following comments and recommendations will assist you in fulfilling the requirements for consultation under section 7 of the Endangered Species Act of 1973, as amended (ESA).

The Service recommends that proposed developments avoid and minimize water quality impacts and impacts to high quality fish and wildlife habitat (e.g., forests, streams, wetlands). Additionally, natural buffers around streams and wetlands should be preserved to enhance beneficial functions. If streams or wetlands will be impacted, the Corps of Engineers should be contacted to determine whether a Clean Water Act section 404 permit is required. Best management practices should be used to minimize erosion, especially on slopes. All disturbed areas should be mulched and revegetated with native plant species. Prevention of non-native, invasive plant establishment is critical in maintaining high quality habitats.

LISTED SPECIES COMMENTS: All projects in the State of Ohio lie within the range of the Indiana bat (*Myotis sodalis*), a federally listed endangered species. Since first listed as endangered in 1967, their population has declined by nearly 60%. Several factors have contributed to the decline of the Indiana bat, including the loss and degradation of suitable hibernacula, human disturbance during hibernation, pesticides, and the loss and degradation of forested habitat, particularly stands of large, mature trees. Fragmentation of forest habitat may also contribute to declines. Most recently white-nose syndrome (WNS), a novel fungal pathogen, has caused serious declines in the Indiana bat population in the northeastern U.S. WNS has also been documented in Ohio and declines of Indiana bats during winter censuses have been noted, but the full extent of the impacts from WNS in Ohio are not yet known.

During winter, Indiana bats hibernate in caves and abandoned mines. Summer habitat requirements for the species are not well defined but the following are considered important:

- (1) dead or live trees and snags with peeling or exfoliating bark, split tree trunk and/or branches, or cavities, which may be used as maternity roost areas;
- (2) live trees (such as shagbark hickory and oaks) which have exfoliating bark;
- (3) stream corridors, riparian areas, and upland woodlots which provide forage sites.

It appears that suitable habitat, capable of supporting an Indiana bat maternity colony, is present at the project site. Proposed activities would result in significant impacts to this habitat. Female Indiana bats exhibit strong site fidelity to summer roosting and foraging areas, meaning that they return to the same area, and often the same trees, to roost, year after year. Because of this, the proposed project may result in indirect adverse effects to this species, even if tree clearing is conducted during the winter season when Indiana bats are not present. **Therefore, we recommend that summer surveys be conducted to determine presence or probable absence of Indiana bats at the project site. The survey must be conducted by an approved surveyor and be designed and conducted in coordination with the Endangered Species Coordinator for this office.** Summer surveys must be conducted between June 1 and August 15. We recommend that any Indiana bats captured, especially reproductively active females, be monitored through radio-tracking to determine roost locations.

Should the proposed site contain any caves or abandoned mines that may be disturbed by the project, further coordination with this office is requested to determine if fall or spring surveys are warranted. Any survey should be designed and conducted in coordination with the Endangered Species Coordinator for this office. The survey must be conducted by an approved surveyor and be designed and conducted in coordination with the Endangered Species Coordinator for this office.

Survey results must be coordinated with this office prior to initiation of any work. Based on the results of the survey, we will evaluate potential impacts to the Indiana bat from the proposed project. If there is a federal nexus for the project (e.g., federal funding provided, federal permits required to construct), no tree clearing on any portion of the parcel should occur until consultation under section 7 of the ESA, between the Service and the federal action agency, is completed. If sufficient information is not provided to document a "not likely to adversely" determination, formal consultation under section 7 of the Endangered Species Act of 1973, as amended, will be necessary.

Due to the project type, size, and location, we do not anticipate adverse effects to any other federally endangered, threatened, proposed, or candidate species. Should the project design change, or during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the Service should be initiated to assess any potential impacts.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (ESA), as amended, and are consistent with the intent of the National Environmental Policy Act of 1969 and the U. S. Fish and Wildlife Service's Mitigation Policy.

This letter provides technical assistance only and does not serve as a completed section 7 consultation document. We recommend that the project be coordinated with the Ohio Department of Natural Resources due to the potential for the project to affect state listed species. Contact John Kessler, Environmental Services Administrator, at (614) 265-6621 or at john.kessler@dnr.state.oh.us.

Sincerely,

A handwritten signature in blue ink that reads "Angela L. Boyer". The signature is written in a cursive style.

Angela Boyer
Acting Field Supervisor

cc: Nathan Reardon, ODNR-DOW

Jennifer Norris, ODNR-DOW



Ohio Department of Natural Resources

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December 3, 2014

Jessica Miller
Atwell Group, LLC.
7100 E. Pleasant Valley Rd. Suite 220
Independence, Ohio 44131

Re: 14-854; Rockside Road and Crossview Road Project, Endangered Species Consultation

Project: The proposed project involves the construction of a commercial and residential development and associated infrastructure.

Location: The proposed project is located in Independence, Cuyahoga County, Ohio.

The Ohio Department of Natural Resources (ODNR) has completed a review of the above referenced project. These comments were generated by an inter-disciplinary review within the Department. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the National Environmental Policy Act, the Coastal Zone Management Act, Ohio Revised Code and other applicable laws and regulations. These comments are also based on ODNR's experience as the state natural resource management agency and do not supersede or replace the regulatory authority of any local, state or federal agency nor relieve the applicant of the obligation to comply with any local, state or federal laws or regulations.

Natural Heritage Database: A review of the Natural Heritage Database produced the following comments.

The Natural Heritage Database has no records within a one mile radius of the project.

We are unaware of any unique ecological sites, geologic features, animal assemblages, scenic rivers, state wildlife areas, state nature preserves, state parks or national parks, state or national forests or national wildlife refuges within the project area. The review was performed on the project area you specified in your request as well as an additional one mile radius. Records searched date from 1980 to present.

Please note that Ohio has not been completely surveyed and we rely on receiving information from many sources. Therefore, a lack of records for any particular area is not a statement that rare species or unique features are absent from that area. Although all types of plant communities have been surveyed, we only maintain records on the highest quality areas.

Fish and Wildlife: The Division of Wildlife (DOW) has the following comments.

The DOW recommends that impacts to wetlands and other water resources be avoided and minimized to the fullest extent possible, and that best management practices be utilized to minimize erosion and sedimentation.

The project is within the range of the Indiana bat (*Myotis sodalis*), a state and federally endangered species. The following species of trees have relatively high value as potential Indiana bat roost trees: Shagbark hickory (*Carya ovata*), Shellbark hickory (*Carya laciniosa*), Bitternut hickory (*Carya cordiformis*), Black ash (*Fraxinus nigra*), Green ash (*Fraxinus pennsylvanica*), White ash (*Fraxinus americana*), Shingle oak (*Quercus imbricaria*), Northern red oak (*Quercus rubra*), Slippery elm (*Ulmus rubra*), American elm (*Ulmus americana*), Eastern cottonwood (*Populus deltoides*), Silver maple (*Acer saccharinum*), Sassafras (*Sassafras albidum*), Post oak (*Quercus stellata*), and White oak (*Quercus alba*). Indiana bat habitat consists of suitable trees that include dead and dying trees with exfoliating bark, crevices, or cavities in upland areas or riparian corridors and living trees with exfoliating bark, cavities, or hollow areas formed from broken branches or tops. If suitable trees occur within the project area, the DOW recommends that these trees be conserved. If suitable habitat occurs on the project area and trees must be cut, the DOW recommends cutting occur between October 1 and March 31. If suitable trees must be cut during the summer months, the DOW recommends a net survey be conducted between June 1 and August 15, prior to cutting. Net surveys should incorporate either nine net nights per square 0.5 kilometer of project area, or four net nights per kilometer for linear projects. If no tree removal is proposed, the project is not likely to impact this species. The DOW appreciates the Cury Group's commitment to seasonal tree clearing between October 1 and March 31 to minimize any potential impacts to the Indiana bat.

The project is within the range of the bigmouth shiner (*Notropis dorsalis*), a state threatened fish. Due to the location, and that there is no in-water work planned in a perennial stream of sufficient size, this project is not likely to impact this species.

The project is within the range of the piping plover (*Charadrius melodus*), a state and federally endangered bird species, and the Kirtland's warbler (*Setophaga kirtlandii*), a state and federally endangered species. These species do not nest in the state but only utilize stopover habitat as they migrate through the region. Due to the location, this project is not likely to impact these species.

The project is within the range of the king rail (*Rallus elegans*), a state endangered bird. Nests for this species are deep bowls constructed out of grass and usually hidden very well in marsh vegetation. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 1 to August 1. If this type of habitat will not be impacted, the project is not likely to impact this species.

The project is within the range of the upland sandpiper (*Bartramia longicauda*), a state endangered bird. Nesting upland sandpipers utilize dry grasslands including native grasslands, seeded grasslands, grazed and ungrazed pasture, hayfields, and grasslands established through the Conservation Reserve Program (CRP). If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of April 15 to July 31. If this type of habitat will not be impacted, the project is not likely to impact this species.

The project is within the range of the spotted turtle (*Clemmys guttata*), a state threatened species. This species prefers fens, bogs and marshes, but is also known to inhabit wet prairies, meadows,

pond edges, wet woods, and the shallow sluggish waters of small streams and ditches. Due to the location, and the type of habitat present at the project site, and within the vicinity of the project area, this project is not likely to impact this species.

The project is within the range of the black bear (*Ursus americanus*), a state endangered species. Due to the mobility of this species, the project is not likely to impact this species.

Due to the potential of impacts to federally listed species, as well as to state listed species, we recommend that this project be coordinated with the US Fish & Wildlife Service.

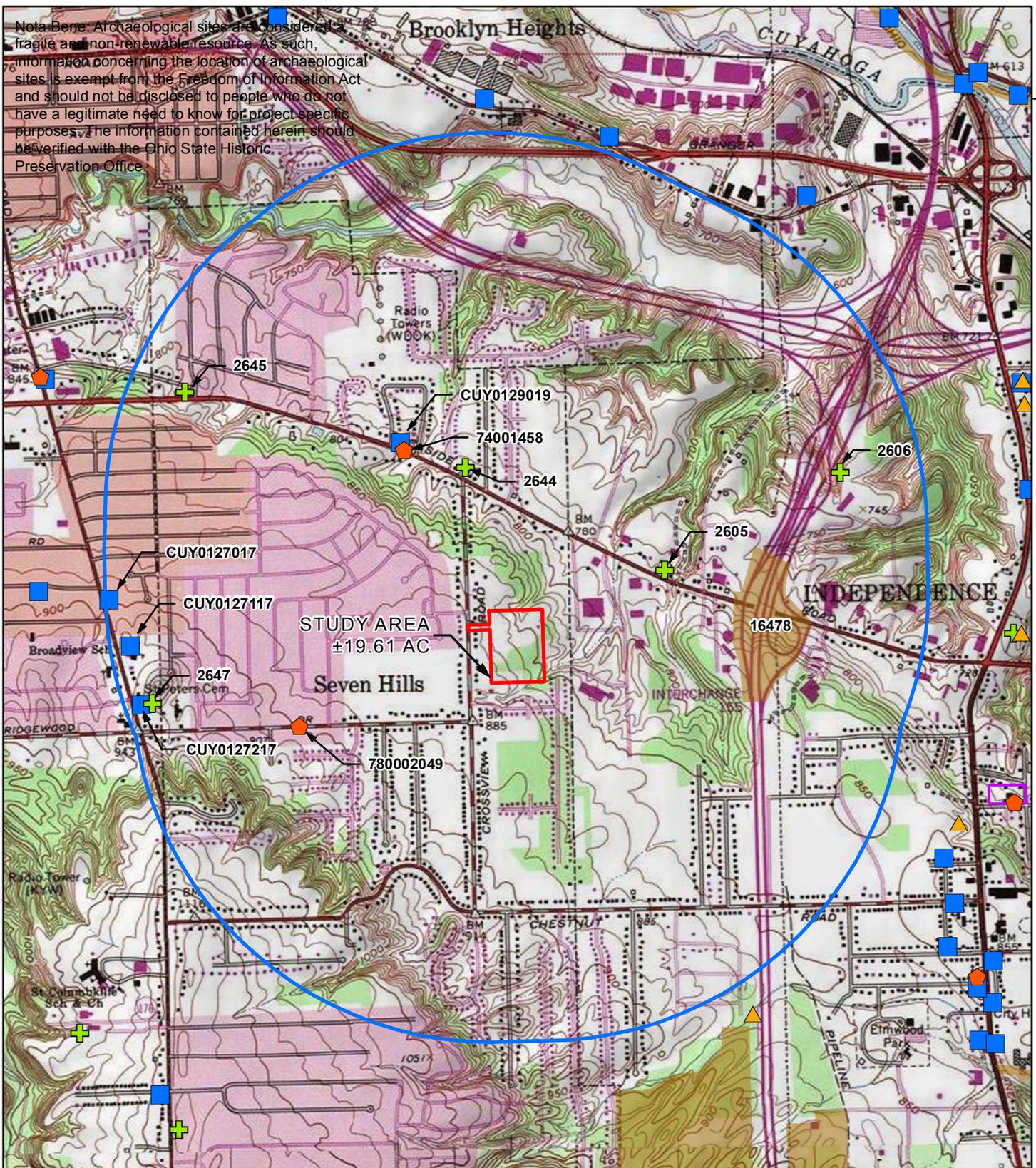
ODNR appreciates the opportunity to provide these comments. Please contact John Kessler at (614) 265-6621 if you have questions about these comments or need additional information.

John Kessler
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2045 Morse Road, Building E-2
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ATTACHMENT G

SHPO Map

Nota Bene: Archaeological sites are considered a fragile and non-renewable resource. As such, information concerning the location of archaeological sites is exempt from the Freedom of Information Act and should not be disclosed to people who do not have a legitimate need to know for project specific purposes. The information contained herein should be verified with the Ohio State Historic Preservation Office.



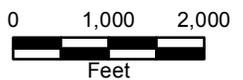
- STUDY AREA (±19.61 AC)
- 1 MILE BUFFER
- ▲ ARCHAEOLOGICAL SITE
- + CEMETERY
- HISTORIC STRUCTURE
- ◆ NATIONAL REGISTER OF HISTORIC PLACES (NRHP)
- NRHP DISTRICT
- PREVIOUS ARCHAEOLOGICAL SURVEY



SHPO ONLINE MAPPING INVENTORY MAP
OMNI SENIOR LIVING
CITY OF SEVEN HILLS
CUYAHOGA COUNTY, OHIO

SOURCE: USGS 7.5 MIN
 TOPOGRAPHIC QUADRANGLE
 CLEVELAND SOUTH, OHIO QUADRANGLE
 OHIO STATE HISTORIC PRESERVATION OFFICE

PROJECT NO.: 12000647.01
 DATE: 1/11/2016
 DR: LWP
 GIS FILE: 12000647_SHPO



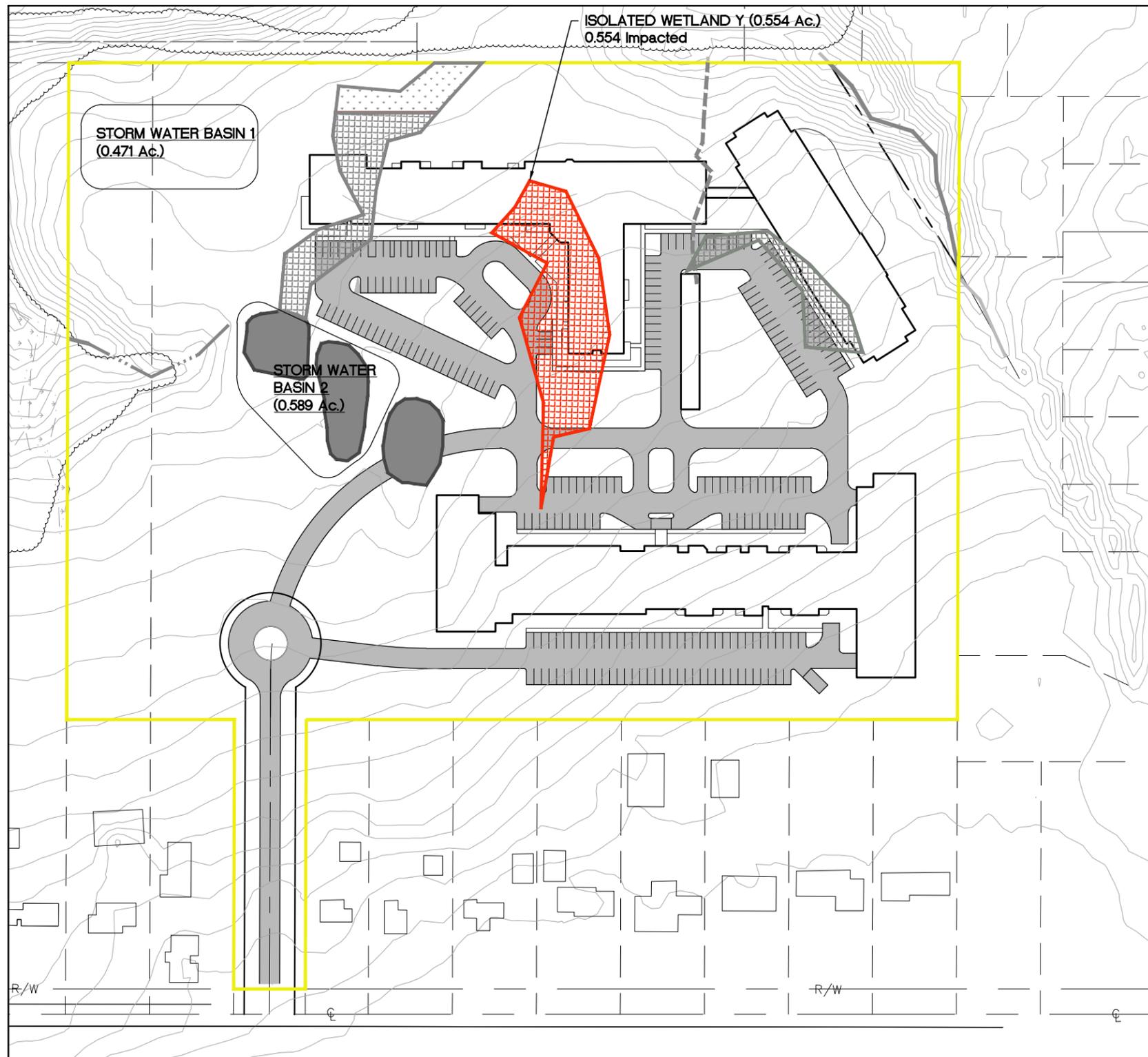
1" = 2,000 FEET



866.850.4200 www.atwell-group.com

ATTACHMENT H

Project Design Map



SCALE: 1" = 150'

-  EXISTING ISOLATED WETLANDS - 0.554 AC.
-  IMPACTED ISOLATED WETLANDS - 0.554 AC.
-  PROJECT AREA - 19.61 AC.

ISOLATED WETLAND
IMPACT EXHIBIT

PROJECT NO.: 12000647
 DATE: 2016-1-6
 DR: BS
 CAD FILE: 12000647EC-10-ISOLATED_IMPACTS.DWG



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