



**US Army Corps
of Engineers**®
New England District
Vermont Project Office
11 Lincoln Street, Room 210
Essex Junction, Vermont 05452

PUBLIC NOTICE

Comment Period Begins: December 9, 2014
Comment Period Ends: January 8, 2015
File Number: NAE-2013-2592
In Reply Refer To: Marty Abair
Phone: (802) 872-2893
E-mail: Martha.a.abair@usace.army.mil

The District Engineer has received a permit application to conduct work in waters of the United States as described below.

APPLICANT: Berlin Mall, LLC c/o Heidenberg Properties, ATTN: Ken Simon, 234 Closter Dock Road, Closter, New Jersey 07624

ACTIVITY: Place fill in a total of 9474 sq. ft. (0.22 acre) of wetlands adjacent to an unnamed tributary to Stevens Branch in conjunction with the construction of a 55,502 sq. ft. Kohl's department store, parking and appurtenant facilities at the Berlin Mall south of Fisher Road in Berlin, Vermont. Approximately 0.92 acre of wetland was previously filled for the construction of the mall. Total impacts of the Berlin Mall will be 1.14 acres. A detailed description and plans of the activity are attached.

WATERWAY AND LOCATION OF THE PROPOSED WORK:

This work is proposed in wetlands adjacent to an unnamed tributary to Stevens Branch south of Fisher Road in Berlin, Vermont. (Latitude 44° 13' 9.5" N; Longitude 72° 33' 46.9" W).

AUTHORITY

Permits are required pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899
- Section 404 of the Clean Water Act
- Section 103 of the Marine Protection, Research and Sanctuaries Act).

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 benefit which may reasonably 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 those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production 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

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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.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended.

NATIONAL HISTORIC PRESERVATION ACT

Based on his initial review, the District Engineer has determined that the proposed work may impact properties listed in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfil requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the permit review process.

ENDANGERED SPECIES CONSULTATION

The New England District, Army Corps of Engineers has reviewed the list of species protected under the Endangered Species Act of 1973, as amended, which might occur at the project site. It is our preliminary determination that the proposed activity for which authorization is being sought is designed, situated or will be operated/used in such a manner that it is not likely to adversely affect any Federally listed endangered or threatened species or their designated critical habitat. By this Public Notice, we are requesting that the appropriate Federal Agency concur with our determination.

The following authorizations have been applied for, or have been, or will be obtained:


- Permit, License or Assent from State.
- Permit from Local Wetland Agency or Conservation Commission.
- Water Quality Certification in accordance with Section 401 of the Clean Water Act.

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing by the above date.** If you have any questions, please contact Marty Abair at (978) 318-8484 or (802) 872-2893.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.


Frank J. DelGiudice
Chief, Permits and Enforcement Branch
Regulatory Division

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If you would prefer not to continue receiving Public Notices by email, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____
ADDRESS: _____
PHONE: _____

PROPOSED WORK AND PURPOSE

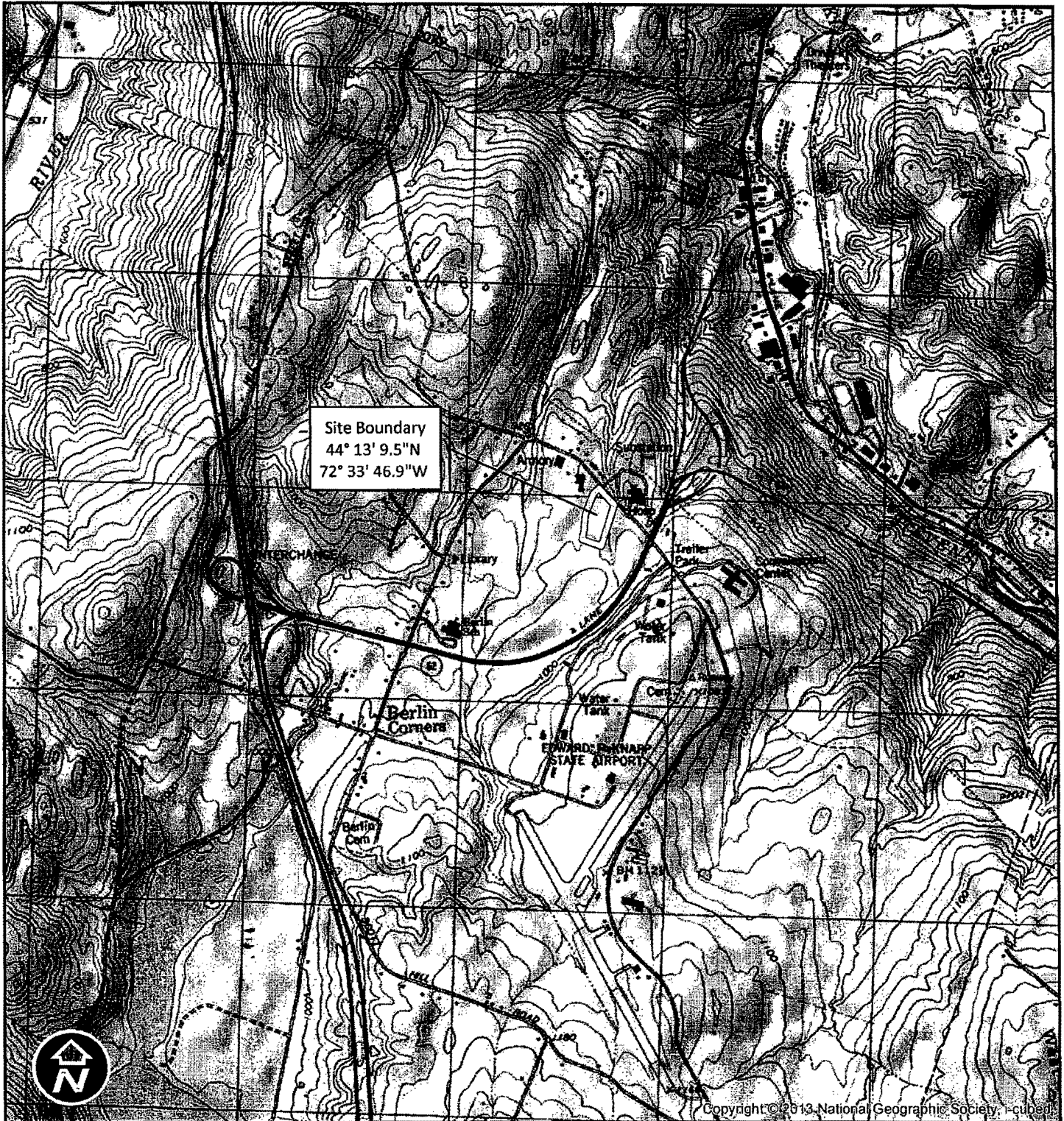
The work includes the discharge of fill material fill in 9474 sq. ft. (0.22 acre) of wetlands adjacent to an unnamed tributary to Stevens Branch in conjunction with the construction of a 55,502 sq. ft. Kohls department store, associated parking, access roads, landscaping, product delivery areas, and stormwater treatment facilities. Approximately 0.92 acre of wetland was previously filled for the construction of the mall under the Nationwide Permit #26.

The purpose of the project is to construct a new department store within the Berlin Mall commercial complex.

The work is described on the enclosed plans, in three sheets, entitled "Berlin Mall – Out Parcel "E"" (dated "September 18, 2014") and "Kohl's Department Store, Berlin, Vt" (dated "September 4, 2014 Revised November 10, 2014" and "November 19, 2014").

The project will re-occupy the footprint of fill for a grocery store that was proposed in the mid-1980's but later abandoned. Fills for the proposed/abandoned grocery store impacted about 0.92 acre of wetland. The wetland proposed to be impacted is situated within the footprint of this fill pad. The wetland to be impacted is a very low value depressionnal wet meadow. In that the project is within a previously impacted portion of an existing commercial development, and given the nature of the resource to be impacted, it is extremely unlikely that any alternative site would have a lesser environmental impact.

To compensate for unavoidable impacts to waters of the U.S. of the proposed project, the applicant proposes to make a payment of \$28,611.48 to the Ducks Unlimited – Vermont In-Lieu Fee Program.



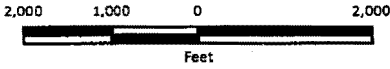
Site Boundary
 44° 13' 9.5"N
 72° 33' 46.9"W



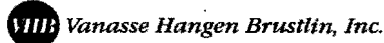
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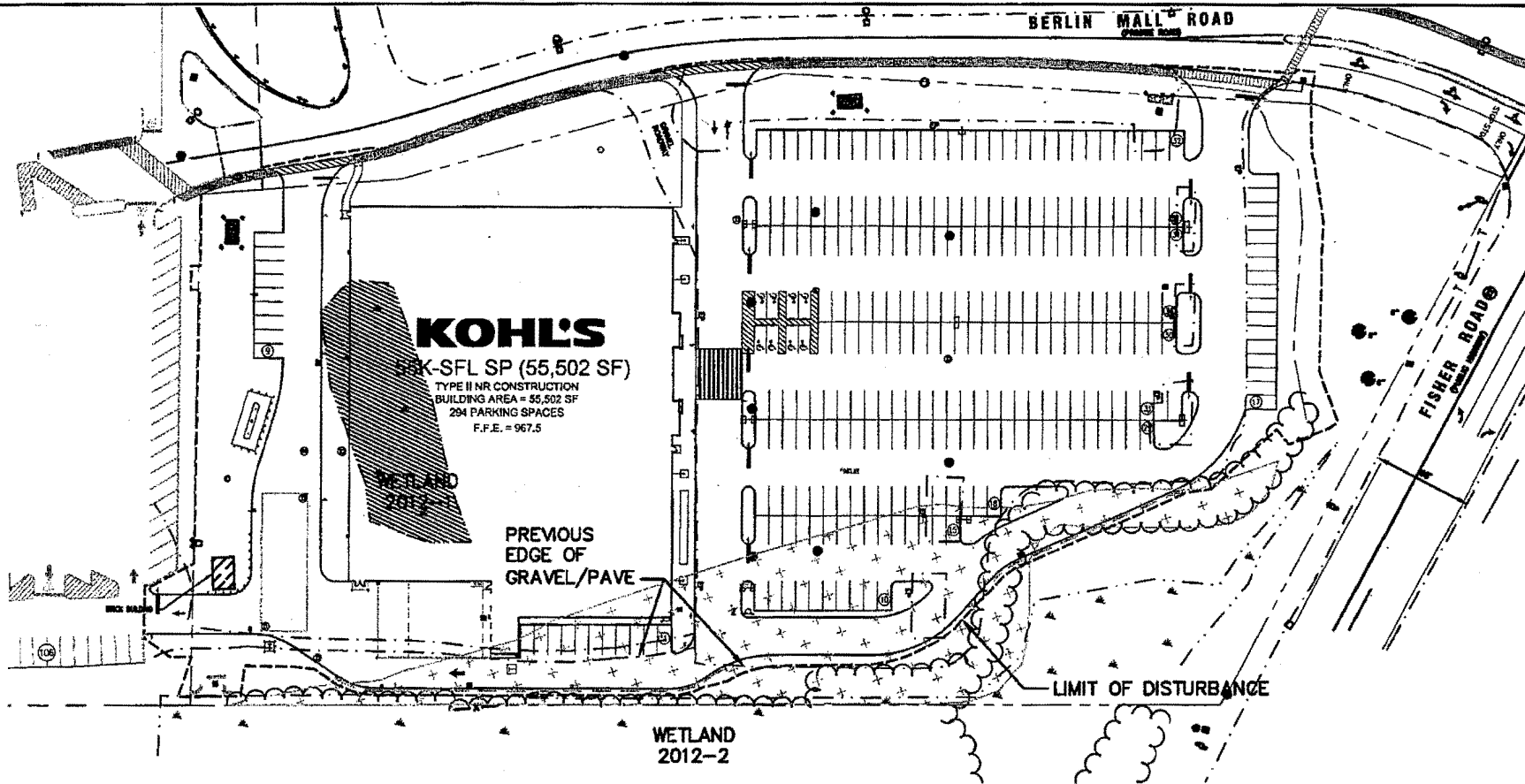
Berlin Mall - Out Parcel "E"
Berlin, Vermont
Site Location Map
 September 18, 2014

Legend
 Out Parcel E Site Boundary



Sources: Background - USGS Topographic
 Quadrangle Barre West (1988); Property
 Parcels from VCGI (2008). Site Boundary VHB (2013);





KOHL'S
 WAK-SFL SP (55,502 SF)
 TYPE II NR CONSTRUCTION
 BUILDING AREA = 55,502 SF
 294 PARKING SPACES
 F.F.E. = 967.5


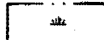



WETLAND
 2012-1

PREVIOUS
 EDGE OF
 GRAVEL/PAVE

LIMIT OF DISTURBANCE

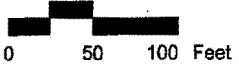
WETLAND
 2012-2

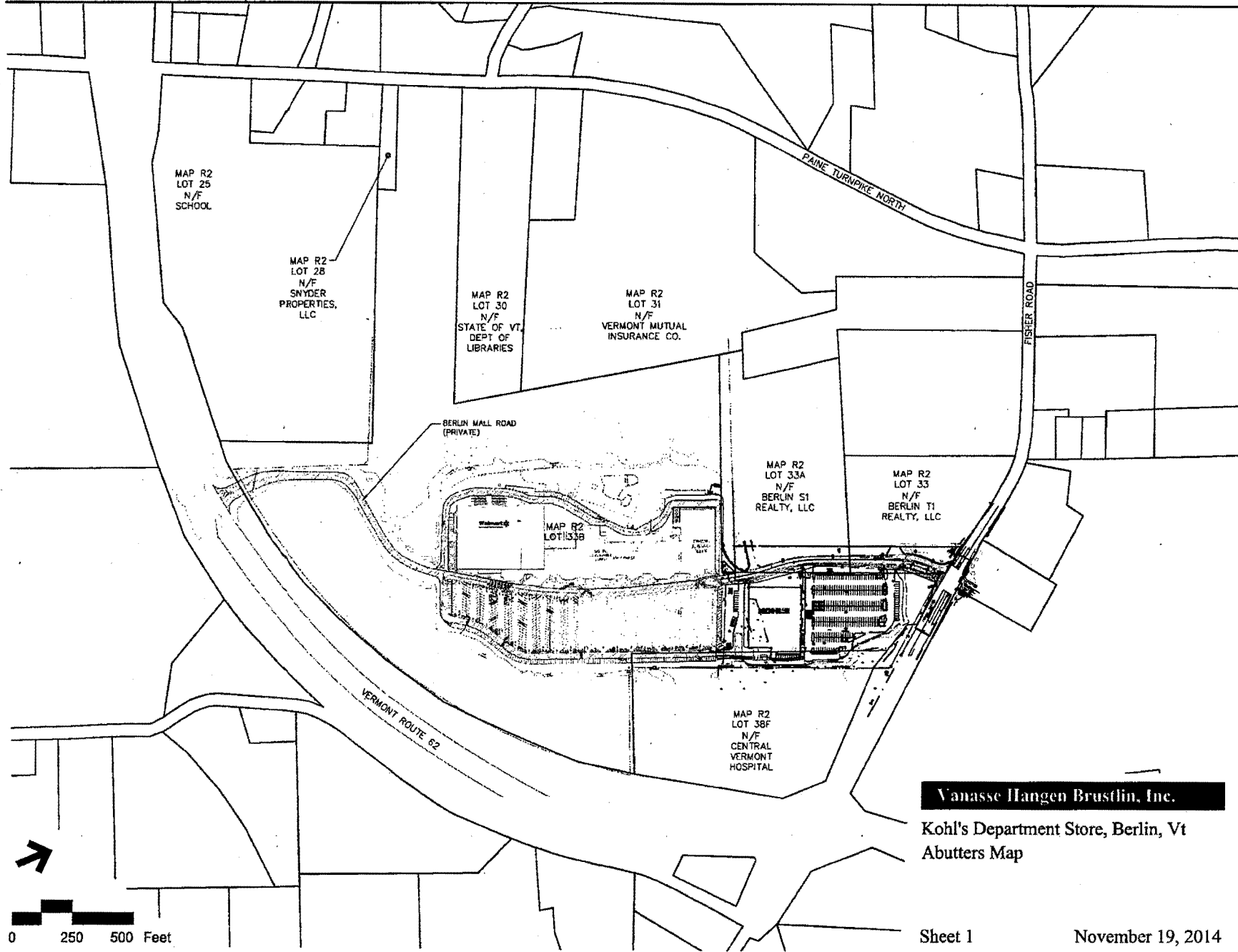
IMPACT AREA 1
WETLAND 2012-1

-  PERMANENT IMPACT 9,474 S.F.
-  WETLAND BOUNDARY
-  50' CLASS II WETLAND BUFFER
-  PREVIOUS EXTENT OF GRAVEL/PAVED SURFACES
-  AREA OF WETLAND IMPACT AUTHORIZED PREVIOUSLY UNDER NWP-26 40,075 S.F.

Vanasse Hangen Brustlin, Inc.

Kohl's Department Store, Berlin, Vt
 Wetland Impact Exhibit





Vanasse Hangen Brustlin, Inc.

Kohl's Department Store, Berlin, Vt
Abutters Map