

# KAUFMAN & CANOLES

— | A Professional Corporation | —  
**Attorneys and Counselors at Law**

Marina Liacouras Phillips  
757 / 624-3279  
mlphillips@kaufcan.com

757 / 624-3000  
fax: 757 / 624-3169

*Mailing Address:*  
P.O. Box 3037  
Norfolk, VA 23514

150 West Main Street  
Suite 2100  
Norfolk, VA 23510

October 6, 2003

## VIA HAND DELIVERY

Pamela J. Lazos, Esq.  
Sr. Assistant Regional Counsel  
USEPA – Region III  
Office of Regional Counsel (3RC20)  
1650 Arch Street  
Philadelphia, PA 19103-2029

**Re: J. Denbigh Site  
Newport News, Virginia**

**Our Matter No. 57856**

Dear Pam:

In furtherance of our negotiations to settle the J. Denbigh matter, I am providing you with the following:

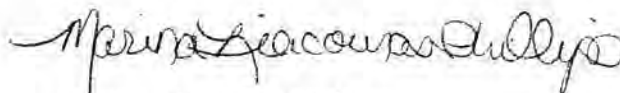
1. a conceptual development plan for the site;
2. a plan identifying wetlands and uplands on the site; and
3. a letter from Stokes Environmental, Inc. setting forth the proposed mitigation plan for the site.

Our proposal is based upon a model similar to that used previously in which ten acres of the property is made available for development through a consent order.

Please call me if you have any questions or comments regarding this submission.

Thank you for your consideration of this matter.

Very truly yours,



Marina Liacouras Phillips

MLP:ku  
Enclosures

Pamela J. Lazos, Esq.  
Sr. Assistant Regional Counsel  
USEPA – Region III  
October 6, 2003  
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cc: Jerry L. Bowman, Esq. (w/encls.)  
Mr. Thomas L. Stokes, Jr. (w/encls.)  
Hunter W. Sims, Jr., Esq. (w/encls.)  
Beth V. McMahon, Esq. (w/encls.)

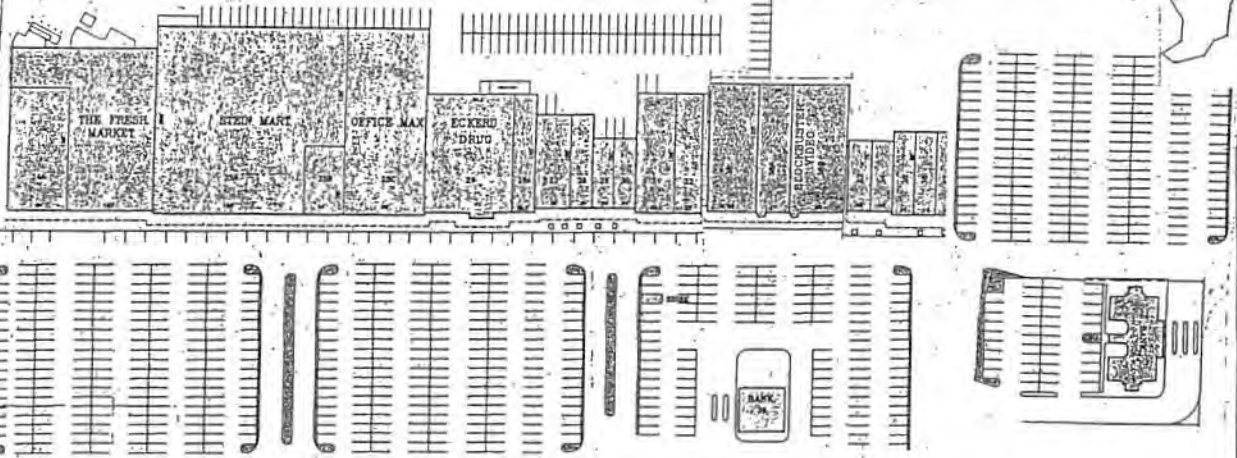
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~ 18 acres Preservation

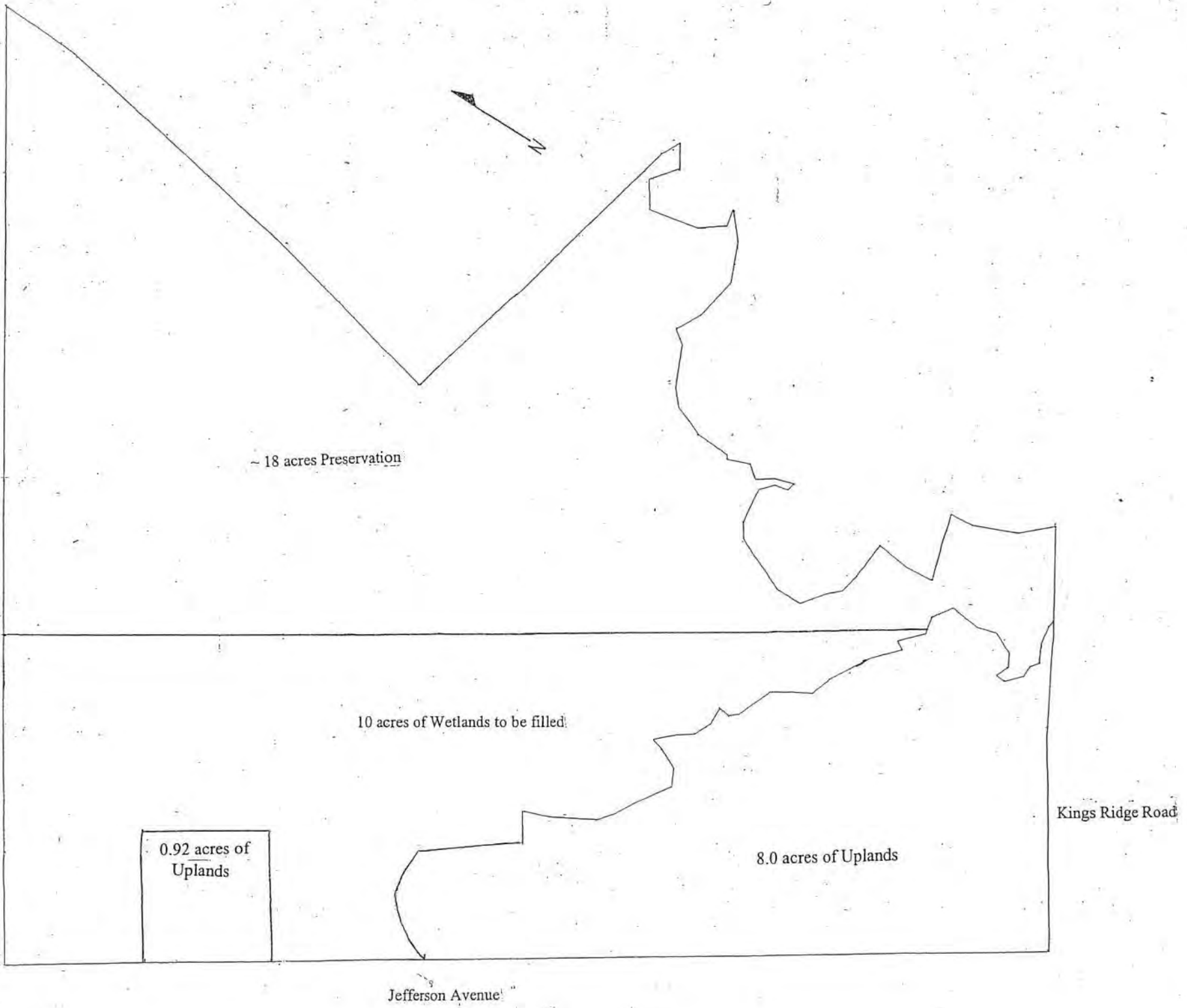
Self-Storage



Kings Ridge Road

Jefferson Avenue





~ 18 acres Preservation

10 acres of Wetlands to be filled

0.92 acres of Uplands

8.0 acres of Uplands

Jefferson Avenue

Kings Ridge Road



**STOKES  
ENVIRONMENTAL  
ASSOCIATES, LTD.**

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29 September 2003

Ms. Marina L. Phillips, Esq.  
Kaufman and Canoles  
150 West Main Street  
Norfolk, Virginia 23510

RE: J. Denbigh Associates  
Jefferson Avenue  
Newport News, Virginia

Dear Ms. Phillips:

This letter is to outline a proposed mitigation plan for the J. Denbigh Associates property on Jefferson Avenue in Newport News, Virginia. The assumption is that 10 acres of wetlands will be impacted by development based on the drainage effect of Tullock ditching of a portion of the site. The following table outlines the recommended mitigation proposal:

<u>Source</u>	<u>Acres</u>	<u>Proposed Ratio</u>	<u>Fill acres Mitigated</u>
On-site preservation	18.00	10:1	1.80
Cook Road/Harrold Lane/Ballfield Grafton Pond System mitigation site	4.10	1:1	4.10
Shoulders Hill preservation site	<u>20.50</u>	5:1	<u>4.10</u>
Total	42.60		10.00

The on-site preservation acreage needs to be verified by survey. This component may change, increasing the acreage and mitigation credit, should the impact area be reduced by development configuration considerations. Changes in the amount of on-site mitigation will affect the requirement for off-site mitigation. Enclosed is a map of the preservation area and a proposed conservation easement.

The Cook Road/Harrold Lane/Ballfield mitigation area is a Grafton Pond complex located off Cook Road and Harrold Lane in York County, Virginia. The proposed additional preservation area has two relatively deep ponds, a shallow pond, and bordering low areas that allow the ponds to be connected during wet seasons. Approximately 6.1 acres of Grafton Ponds vernal pool ecosystems have been preserved at this location, and 4.10 acres are still available for preservation. The largest known population of Harpers fimbriatilis (*Fimbristylis perpusilla*) in the world is contained within this preservation area. Other rare, threatened, or endangered species associated



Ms. Marina Phillips, Esq.  
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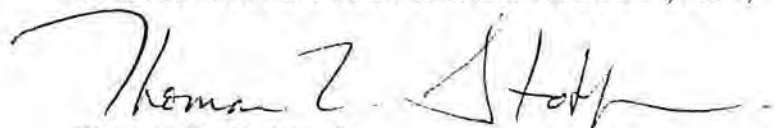
contained within this preservation area. Other rare, threatened, or endangered species associated with this type of vernal pond ecosystem are discussed in the enclosed fact sheet on Virginia's Rare Natural Environments. Grafton Ponds are depressional areas which hold water, with most ponds being shallow enough to dry out during a typical warm dry summer season. The periodic drying of the ponds makes them ideal habitat for terrestrial amphibians which use the ponds for reproduction, but spend most of their adult life in adjoining wooded upland areas. The proposed preservation area at this mitigation site includes ponds, wetlands, and wooded upland areas adjacent to the ponds. Please refer to the enclosed Natural Heritage Resources Fact Sheet for Virginia's Rare Natural Environments, Seasonal Ponds. Also enclosed are maps showing the site location photograph of the mitigation site, and proposed conservation easement. Precedent has been set for a 1:1 mitigation ratio for impacts at the J. Denbigh property by preservation of these isolated wetlands which have a high ecologic value, and are a unique geographic feature.

The Shoulders Hill preservation site is located in Suffolk, Virginia, and is in the James River watershed. It is a mature forested wetland of 200 acres of contiguous wetlands with small upland areas included. Tree species on the site are predominated by large size-class oaks (*Quercus falcata*, *Q. michauxii*, *Q. phellos*), red maple (*Acer rubrum*), and sweet gum (*Liquidambar styraciflua*). The open understory is predominated by giant cane (*Arundinaria gigantea*), blueberry (*Vaccinium* spp.), sweet pepper (*Clethra alnifolia*), musadine grape (*Vitis rotundifolia*), and greenbrier (*Smilax rotundifolia*). Soils are weston loams, and the hydrology regime ranges from temporarily saturated to semi-permanently flooded. Black bear, fox, and other large mammals have been observed at the site. It is at the headwaters of three separate drainages; one forms Deanes Branch of Bennett Creek, one flows into Knotts Creek thence along with Bennett Creek to the Nansemond River, and one is a tributary of Drum Point Creek a tributary of the Western Branch Elizabeth River. Approximately 34.7 acres of wetlands have been previously preserved within this site, and the proposed 20.5 acres of additional preservation will bring the total preserved area at this site to 55.2 acres. Please refer to enclosed maps showing the Shoulders Hill preservation site and the proposed conservation easement.

Please do not hesitate to call George Bangs or me if you have any questions.

With best regards.

Sincerely,  
STOKES ENVIRONMENTAL ASSOCIATES, LTD,

  
Thomas L. Stokes, Jr.

Enclosures