



**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.
200600507

Issuance Date:
November 28, 2006

Stream:
UNTrib Great Miami River

Closing Date:
December 28, 2006

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Huntington District
ATTN: CELRH-OR-F Public Notice No. (*reference above*)
502 Eighth Street
Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Fort Scott Development LLC
6581 Harrison Avenue
Cincinnati, Ohio 45247

LOCATION: The proposed project is located on unnamed tributaries to the Great Miami River within a 142-acre site along River Road north of New Baltimore in Crosby Township, Hamilton County, Ohio.

DESCRIPTION OF PROPOSED WORK: The applicant has requested an After-The-Fact Permit to authorize completed activities in waters of the United States associated with the construction of Fort Scott residential subdivision. The applicant has placed fill material into 1,235 feet of intermittent streams and 1,075 linear feet of ephemeral streams in association with the construction of internal access roads, utility line installation, and lot development.

Remaining waters of the United States onsite total 370 linear feet of ephemeral stream. To compensate for impacts to waters of the United States, the applicant proposes to create two streams onsite and restore one of the impacted streams. Approximately 1,768 linear feet of new intermittent stream channel would be constructed in the southeastern corner of the site incorporating a naturalized stream channel design with meanders, riffles and pools and a vegetated buffer. About 708 linear feet of ephemeral stream would be constructed as a tributary to this stream, with some meanders, pools, and a vegetated buffer. An intermittent stream would be reestablished along the east side of River Road, incorporating a series of grade control structures and step pools. Approximately 510 linear feet of intermittent stream would be reconstructed, with about 230 linear feet of ephemeral tributaries created for stormwater conveyance to the stream. Existing forested buffer along the east bank would remain protected, with additional vegetated buffer incorporated into the stream reconstruction project. The streams and vegetated buffers would be protected in perpetuity by easement and restrictive covenant.

As previously described, the work was completed without prior authorization. As required by the rules and regulations governing the Department of the Army permit program, it was determined that since this work does not present an immediate threat to life or property, an after-the-fact application would be accepted and processed. All investigations and legal proceedings will be suspended pending the outcome of the permit review process. This application will be evaluated on its own merits and no consideration will be given to the applicant's unauthorized work activities or prior expenditures.

Plans of the proposed work are attached to this notice.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain the certification from the Ohio Environmental Protection Agency.

HISTORIC & CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be furnished to the State Historic Preservation Office for their review. Comments concerning archaeological sensitivity of the project area should be based on collected data.

THREATENED & ENDANGERED SPECIES: The project is located within the known or historic range of the Indiana bat (Endangered), running buffalo clover (E), and sheepnose mussel (Candidate).

Based on site location and habitat availability, it has been determined this project will have no effect on the sheepnose mussel.

Based on site location and information provided by the United States Fish and Wildlife Service (USFWS), the proposal is located in an area of concern for running buffalo clover and the Indiana bat. Available evidence indicates that this project will have no effect on running buffalo clover. Habitat suitable for the Indian bat may have occurred onsite along the stream corridors. Tree clearing was conducted in association with the access road construction and lot development that occurred without authorization from this office, as described above. Tree clearing was conducted outside of the designated summer roosting months for this species. The applicant proposes to maintain any remaining riparian stream buffer. Based on avoidance and minimization measures, available evidence the proposal is not likely to adversely affect the Indian bat.

The Huntington District has consulted the most recently available information and has determined the project is not likely to adversely affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This public notice serves as a request to the USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit 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 benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain 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. In addition, the evaluation of the impact of the activity on the public interest will include

application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

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.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

Ms. Denise Marmer, Project Manager
 U. S. Army Corps of Engineers, Huntington District
 ATTN: CELRH-OR-FN Public Notice No. 200600507
 502 Eighth Street
 Huntington, West Virginia 25701-2070

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Ms. Denise Marmer of the North Regulatory Section, Cincinnati Regulatory Field Office, at 513-825-4518.

(L)(O)


 for Ginger Mullins
 Chief, Regulatory Branch

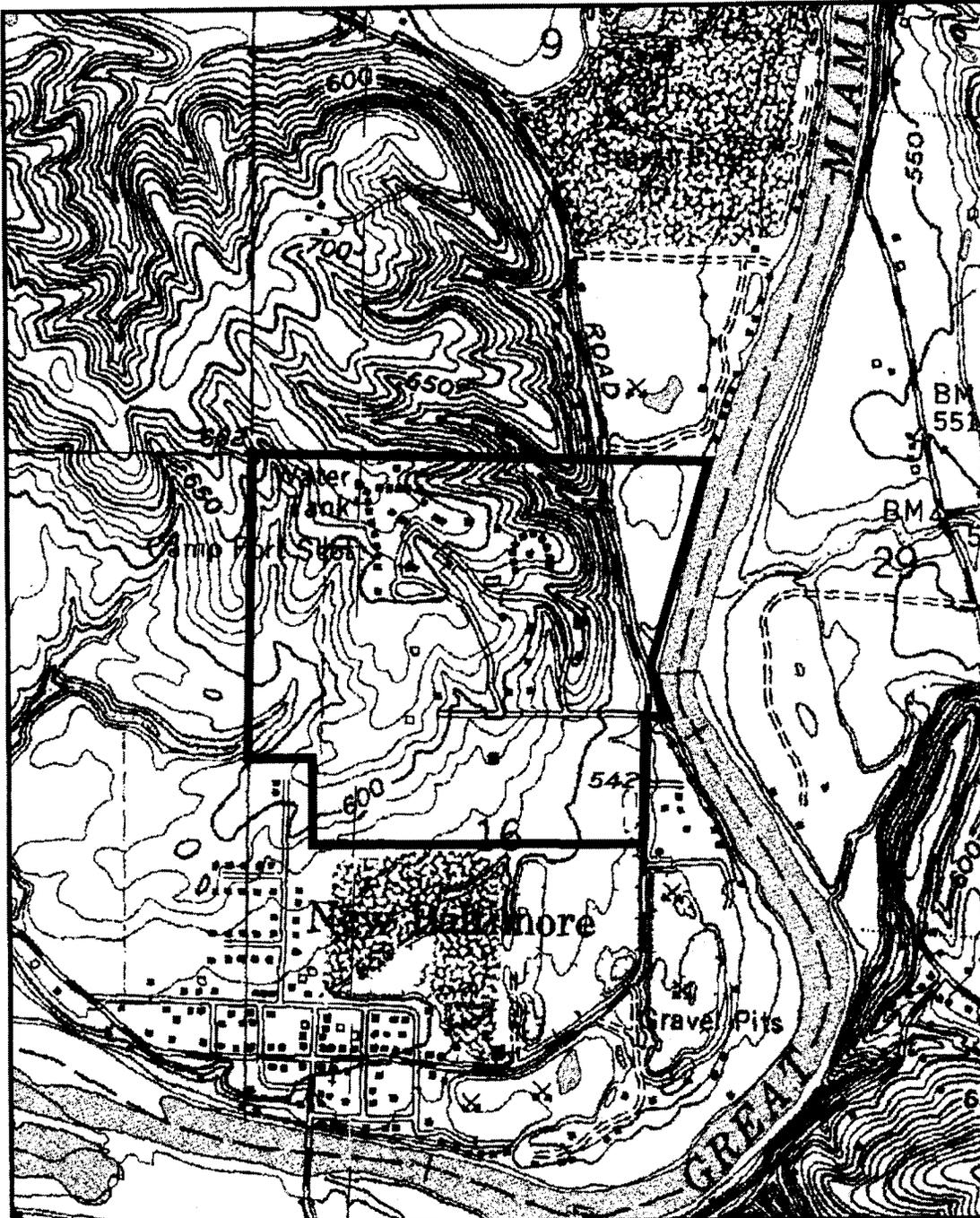


Figure 2: USGS 7.5" Topographic Map
 Fort Scott Development
 Meyer Builders
 Crosby Twp., Hamilton Co., OH
 Shandon Quadrangle



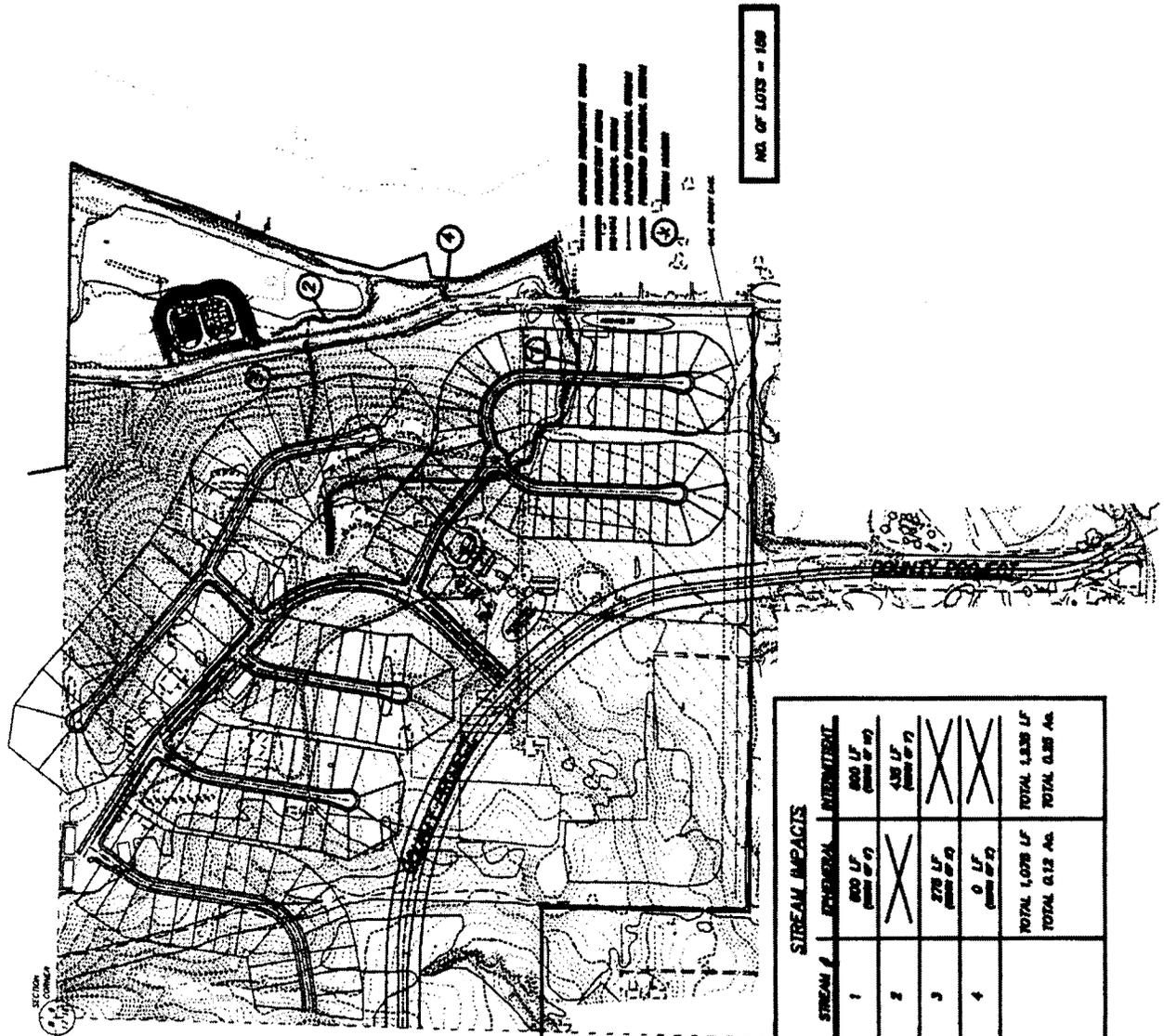
JFNew

11156 Luscek Drive
 Cincinnati, OH 45241
 Phone: 513-489-2402
 Fax: 513-489-2404
www.jfnew.com

October 2006
 File No. 05-11-12

0 250 500 1,000 1,500 2,000
 Feet

Fort Scott Development, LLC
 UNtrib Great Miami River 200600507
 Hamilton County, Ohio
 Location Map
 Figure 1 of 7



STREAM IMPACTS	
STREAM #	PERMANENT / INTERMITTENT
1	800 LF (PERMANENT) / 800 LF (INTERMITTENT)
2	X / 435 LF (INTERMITTENT)
3	278 LF (PERMANENT) / X
4	0 LF (PERMANENT) / X
TOTAL 1,078 LF (PERMANENT) / TOTAL 1,235 LF (INTERMITTENT)	
TOTAL 0.12 AC (PERMANENT) / TOTAL 0.55 AC (INTERMITTENT)	

EXHIBIT 2.

MINIMAL DEGRADATION ALTERNATIVE

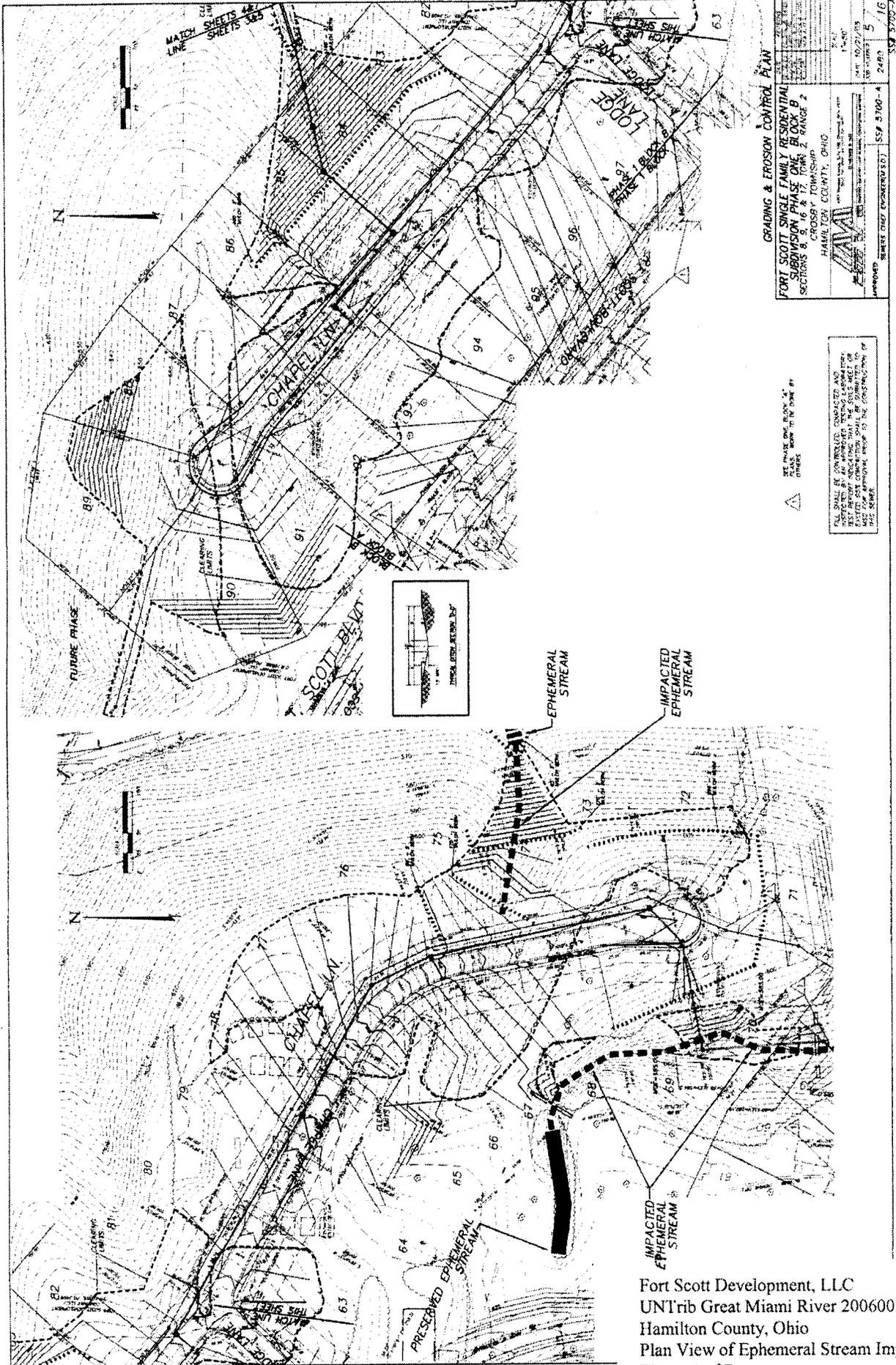
FORT SCOTT DEVELOPMENT
CROSBY TRIP, HAMILTON COUNTY



SCALE 1" = 200'
0 100 200 400

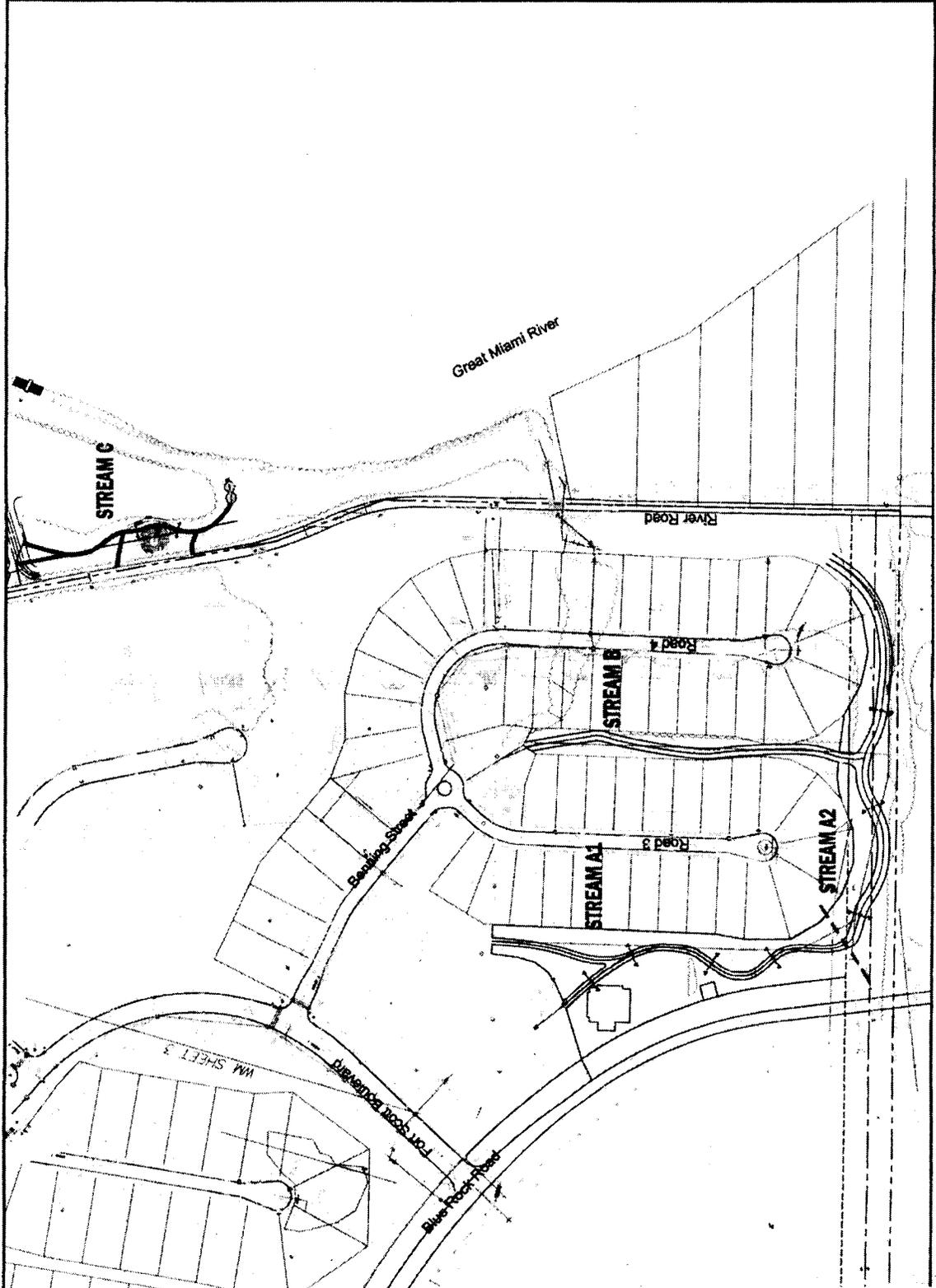


NO. OF LOTS = 100



Fort Scott Development, LLC
 UNtrib Great Miami River 200600507
 Hamilton County, Ohio
 Plan View of Ephemeral Stream Impact
 Figure 4 of 7

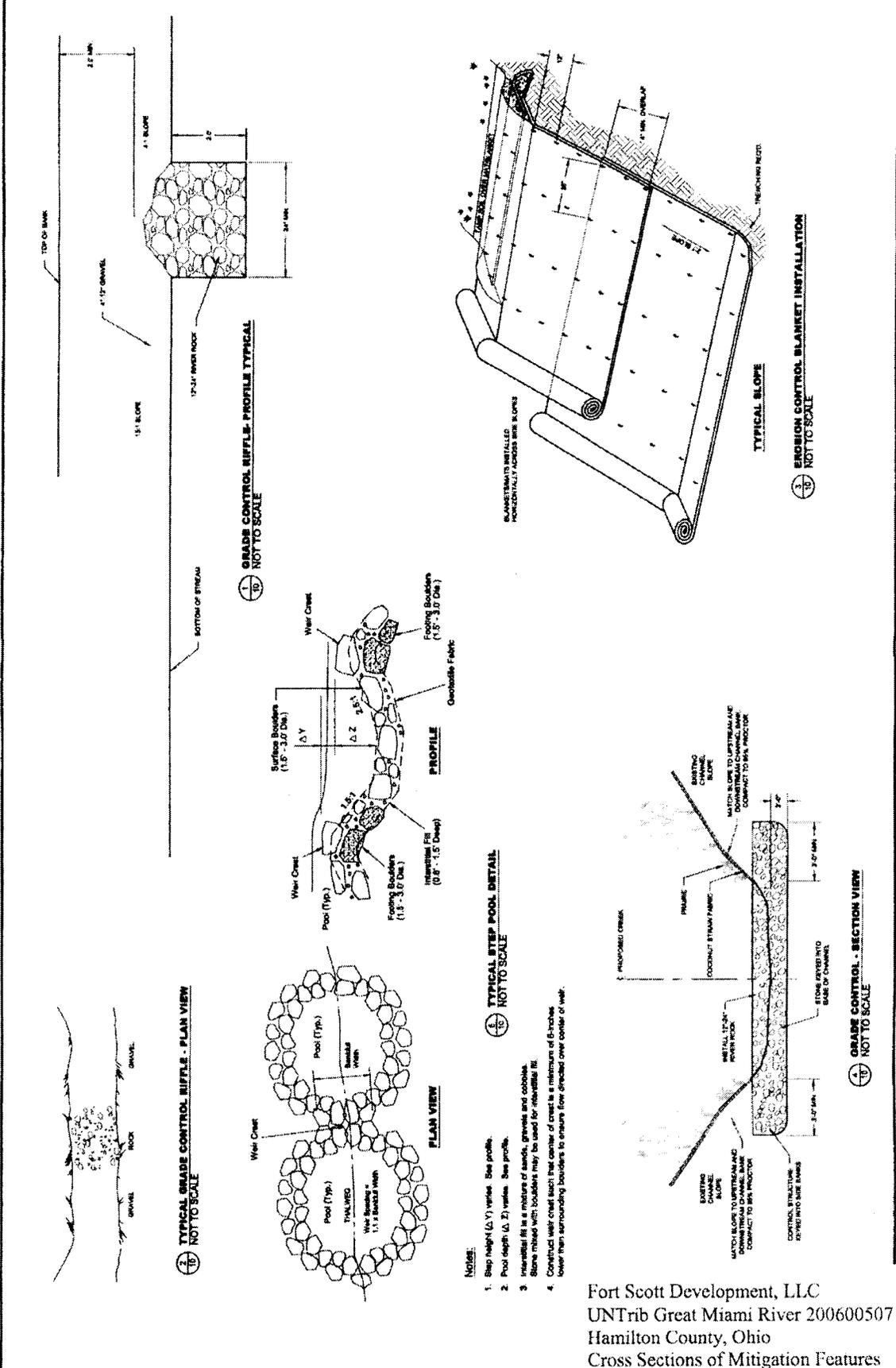
	JNEW JAMES NEWBORN & ASSOCIATES 17700 State Road 163 Columbus, Ohio 43240 (614) 291-1100 www.jnew.com	DRAWN BY: JPN CHECKED BY: JPN DATE: OCT 2006 JOB NO: 061113	OVERALL SITE PLAN Fort Scott Mitigation Plan Fort Scott Development, LLC Hamilton County, Ohio	DRAWING NO. 2 OF 31



Fort Scott Development, LLC
 UNtrib Great Miami River 200600507
 Hamilton County, Ohio
 Plan View of Mitigation
 Figure 5 of 7

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Miscellaneous Details
 Fort Scott Mitigation Plan
 Fort Scott Development, LLC



Fort Scott Development, LLC
 UNTribe Great Miami River 200600507
 Hamilton County, Ohio
 Cross Sections of Mitigation Features
 Figure 7 of 7