



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

# Public Notice

In reply refer to Public Notice No.

**LRH-2007-20-GMR**

Issuance Date:

**January 15, 2008**

Stream:

**UNTri Gregory Creek**

Closing Date:

**February 14, 2008**

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:** HMR06, LLC  
7404 Liberty One Drive  
Liberty Township, Ohio 45044

**LOCATION:** The proposed project is located on unnamed tributaries of Gregory Creek within a 45-acre property on the north side of Hamilton Mason Road east of Maud Hughes Road in Liberty Township, Butler County, Ohio. Latitude 39° 22' 26", Longitude 84° 23' 26".

**DESCRIPTION OF PROPOSED WORK:** The majority of the applicant's project impacting waters of the United States was completed without the required authorization from this office. The applicant has placed fill material into 930 feet of an intermittent unnamed tributary of Gregory Creek for the construction of a commercial development known as Liberty Office Park. Specifically, the stream was relocated to the west for the construction of a detention basin, and a future building and associated parking. In addition, the applicant is requesting authorization to impact an additional 65 linear feet of an ephemeral tributary for the construction of an access road. A total of 500 cubic yards of dredged or fill material would be placed into an approximate total of 995 linear feet of jurisdictional streams for this proposal. Remaining waters of the United States on-site total 470 linear feet of ephemeral stream, 940 linear feet of undisturbed intermittent stream, and 950 linear feet of created channel. The site also contains 280 linear feet of an ephemeral tributary that does not meet the "Significant Nexus" standard and is not considered to be a water of the United States.

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, our office has 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.

**MITIGATION PLAN:** To compensate for impacts to waters of the United States, the applicant proposes to modify the created channel to incorporate natural channel designs. A two-stage channel with meanders and riffle/pool complexes with a length of 1,080 linear feet would be created within the area of the constructed channel. A riparian buffer ranging from 60 to 95 feet in width would be planted with native species along the channel. The reach would be stabilized utilizing erosion control blanketing, mulch and native plantings. A 0.39-acre forested wetland shelf would be created within the floodplain of the relocated channel. The applicant proposes to protect the relocated channel, wetland and riparian buffer in perpetuity by restrictive covenant and conservation easement. The 940 linear feet of the intermittent tributary that was not previously impacted would also be preserved in perpetuity by the above referenced instruments. In addition, the applicant proposes to modify the constructed 0.72-acre storm water detention basin to create a wetland with fore bays, micro pools and native plantings.

**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 Phase I Cultural Resources Survey has been performed by the applicant for an 18.27-acre portion of the site. Our office is currently reviewing this survey. A copy of this public notice and a copy of the Phase I Archaeological Reconnaissance Survey 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).

Limited habitat suitable for the Indiana bat occurs on-site along the stream corridor, and may have occurred along the relocated stream corridor. Tree clearing was conducted in association with the stream relocation that occurred without authorization from this office, as described above. Based on habitat availability, it has been determined this proposal may affect, but is not likely to adversely affect the Indiana bat. This public notice serves as a request to the US Fish and Wildlife Service 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.

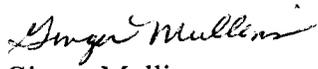
Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national 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.

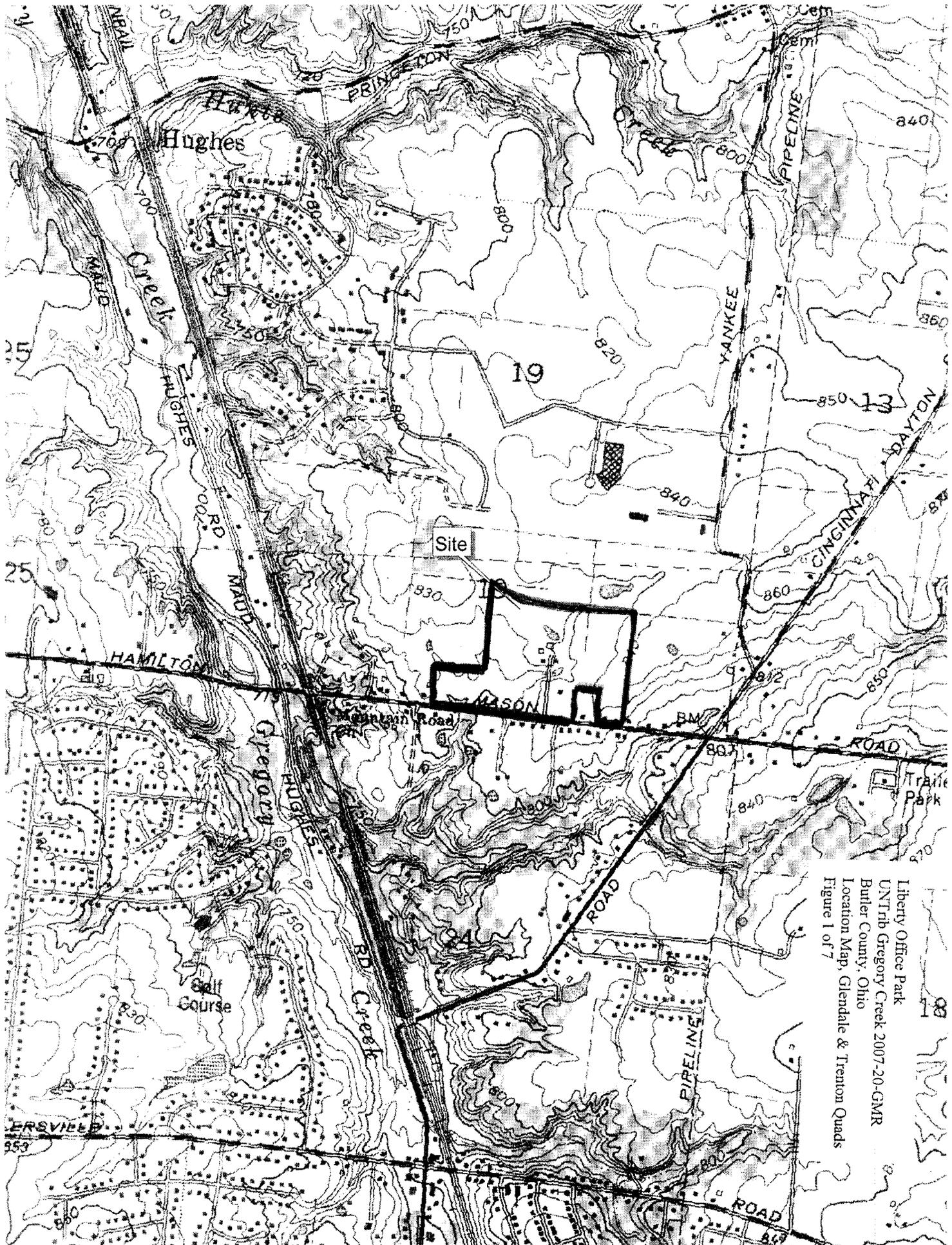
**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests 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. LRH-2007-20-GMR  
502 Eighth Street  
Huntington, West Virginia 25701-2070

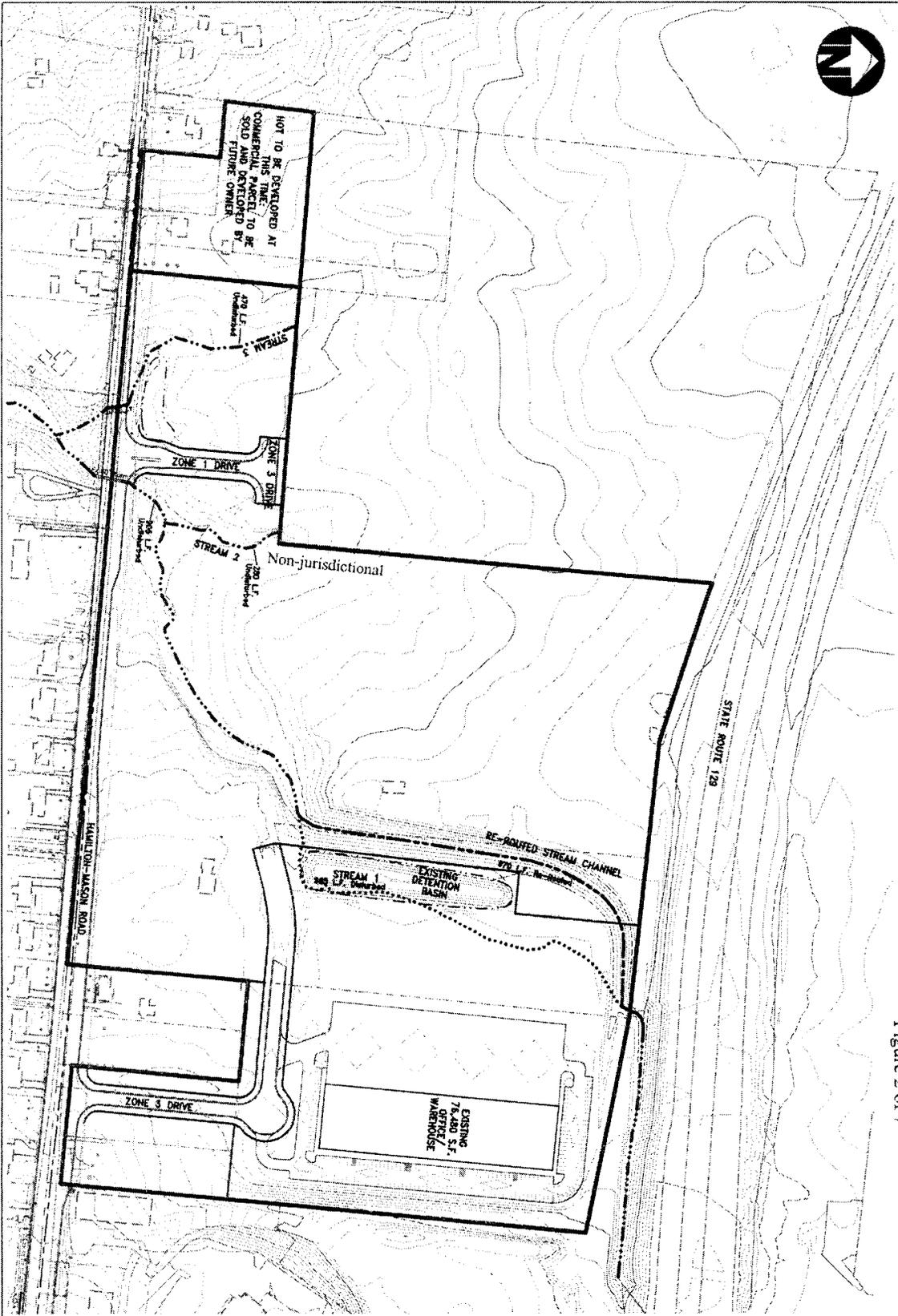
Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you 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.

  
Ginger Mullins  
Chief, Regulatory Branch

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Liberty Office Park  
UNTRB Gregory Creek 2007-20-GMR  
Butler County, Ohio  
Location Map, Glendale & Trenton Quads  
Figure 1 of 7



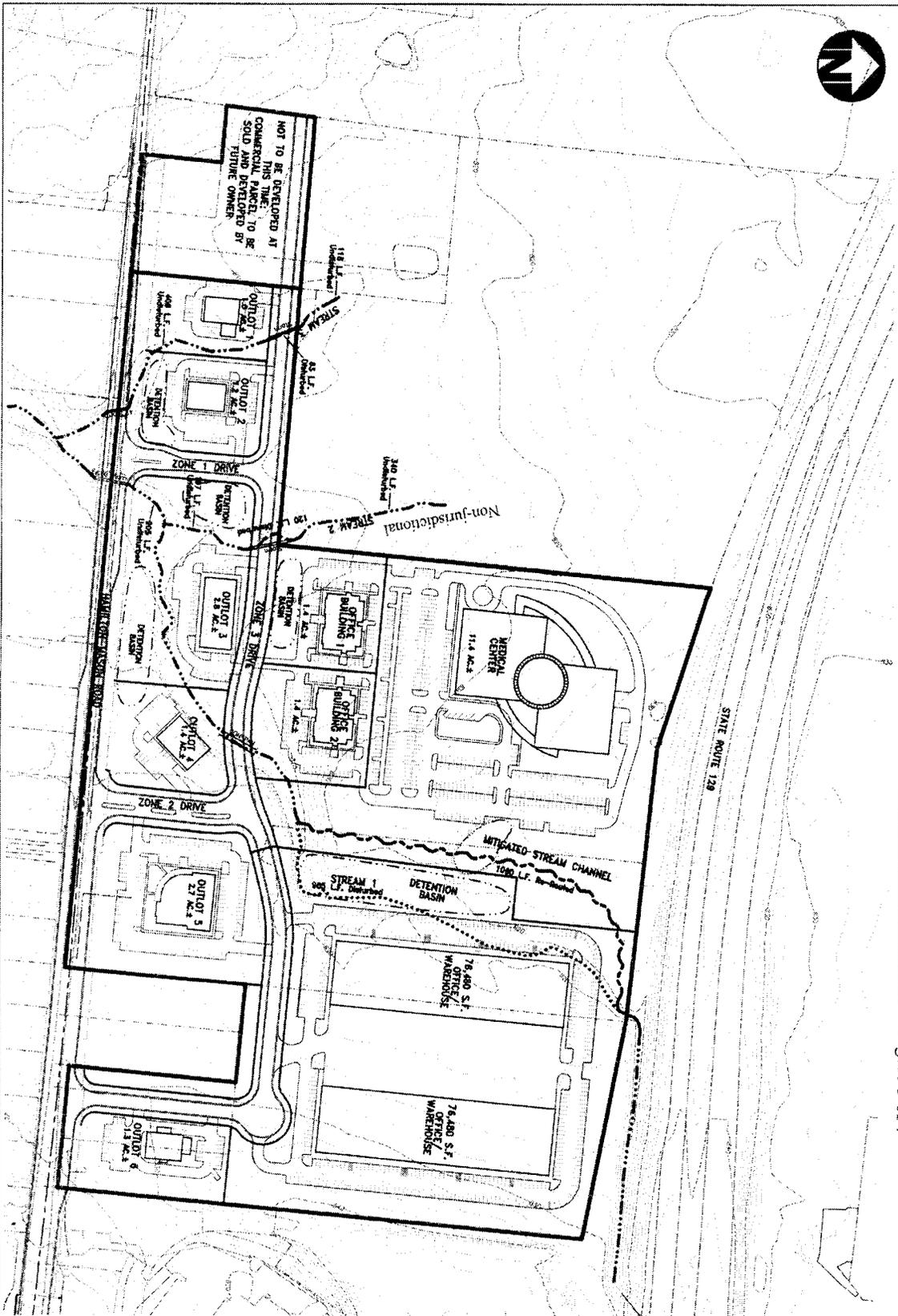
Liberty Office Park  
 UNTrib Gregory Creek 2007-20-GMR  
 Butler County, Ohio  
 Current Site Conditions  
 Figure 2 of 7

Drawing: 06F063-002  
 EXHIBIT-CURRENT B-W  
 Scale: 1"=200'  
 Drawn by: TAC  
 Checked by: TAC  
 Issue Date: 11-15-07

**LIBERTY OFFICE PARK & MIXED USE DEVELOPMENT**  
 SECTION 19, TOWN 3, RANGE 3  
 LIBERTY TOWNSHIP, BUTLER COUNTY, OHIO  
**CURRENT SITE CONDITIONS**

- Stream Legend
- ..... Identical
  - ..... Identical
  - ..... Disturbed
  - Non-Identical Stream Channel
  - Ephemeral

700 Niles Road  
 Fairfield, OH 45014 - 513.829.2149

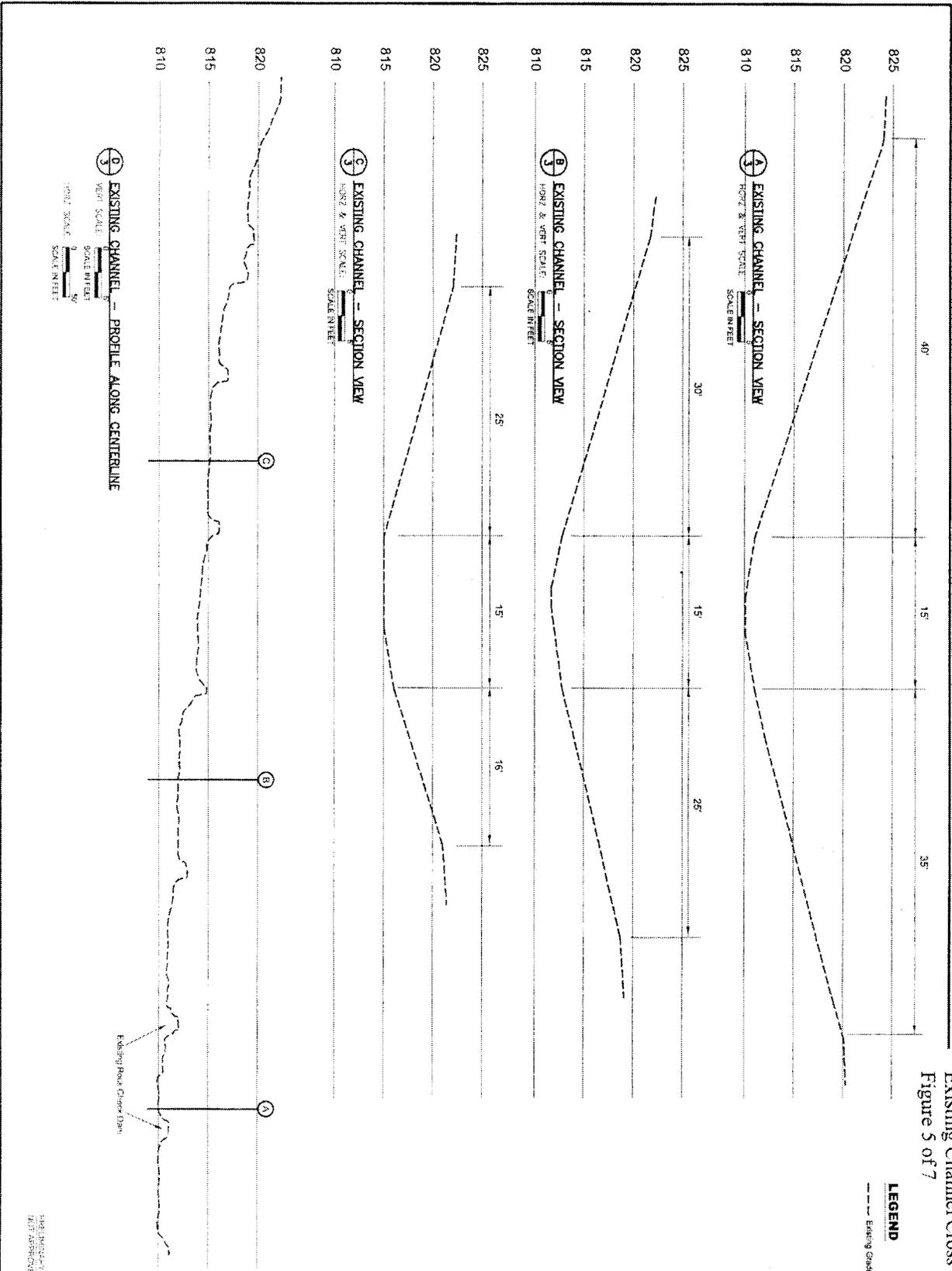


Liberty Office Park  
 UNTrib Gregory Creek 2007-20-GMR  
 Butler County, Ohio  
 Site Development Plan  
 Figure 3 of 7

 <p>700 Nilles Road          Fairfield, OH 45014 - 513.829.2149</p>	<p><b>Stream Legend</b></p> <ul style="list-style-type: none"> <li>— Intermittent</li> <li>- - - - - Disrupted</li> <li>..... Mitigated</li> <li>— Stream Channel</li> <li>..... Ephemeral</li> <li>— Disturbed</li> </ul>	<p><b>LIBERTY OFFICE PARK &amp; MIXED USE DEVELOPMENT</b>          SECTION 19, TOWN 3, RANGE 3          LIBERTY TOWNSHIP, BUTLER COUNTY, OHIO</p> <p><b>EXHIBIT 2A:</b>  <b>MINIMAL DEGRADATION ALTERNATIVE</b></p>	<p>Drawing: 06F063-002 EXHIBIT2A          Scale: 1"=200'          Drawn by: TAC          Checked by:          Issue Date: 11-14-07</p>
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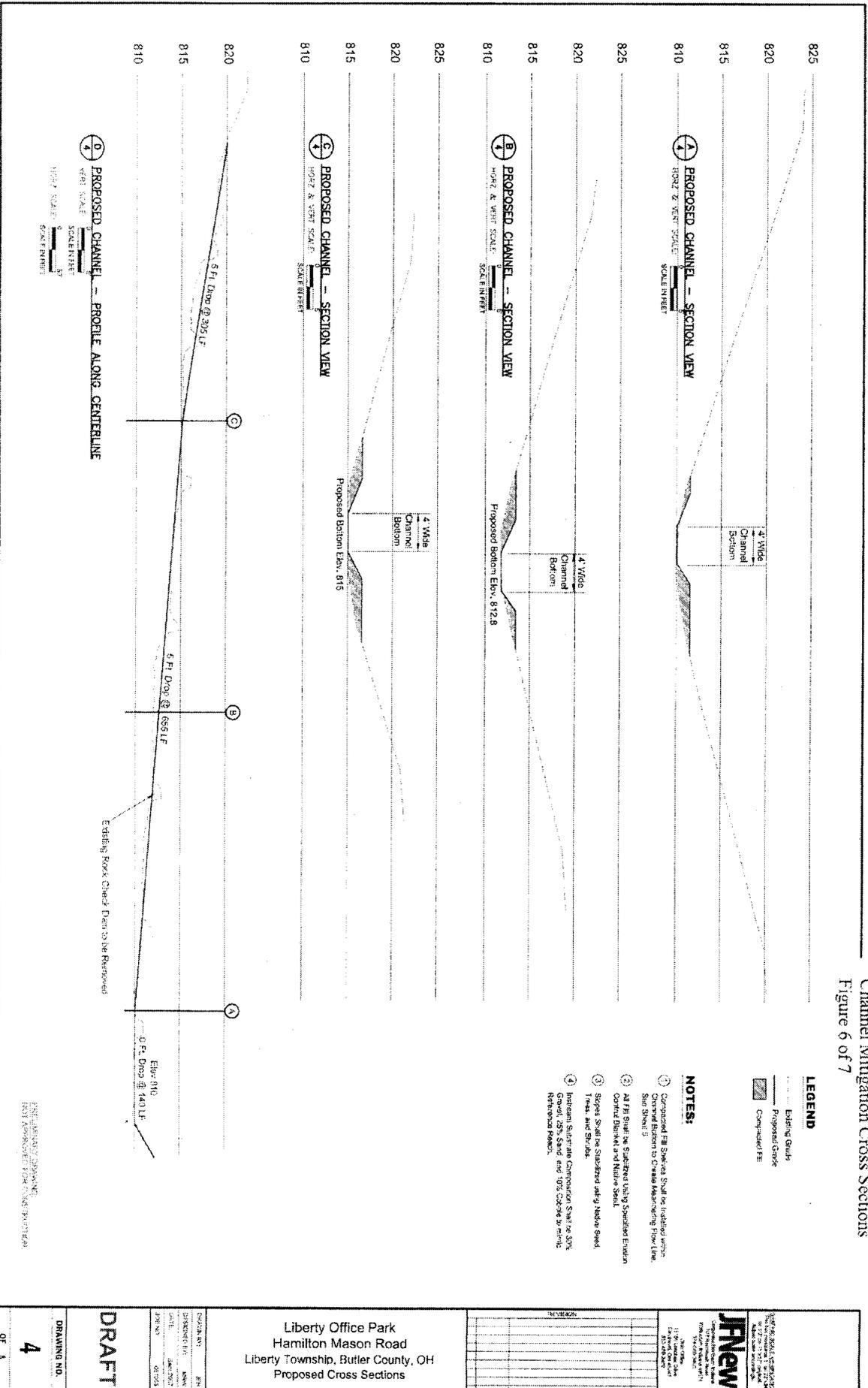


Liberty Office Park  
 UNTrib Gregory Creek 2007-20-GMR  
 Butler County, Ohio  
 Existing Channel Cross Sections  
 Figure 5 of 7



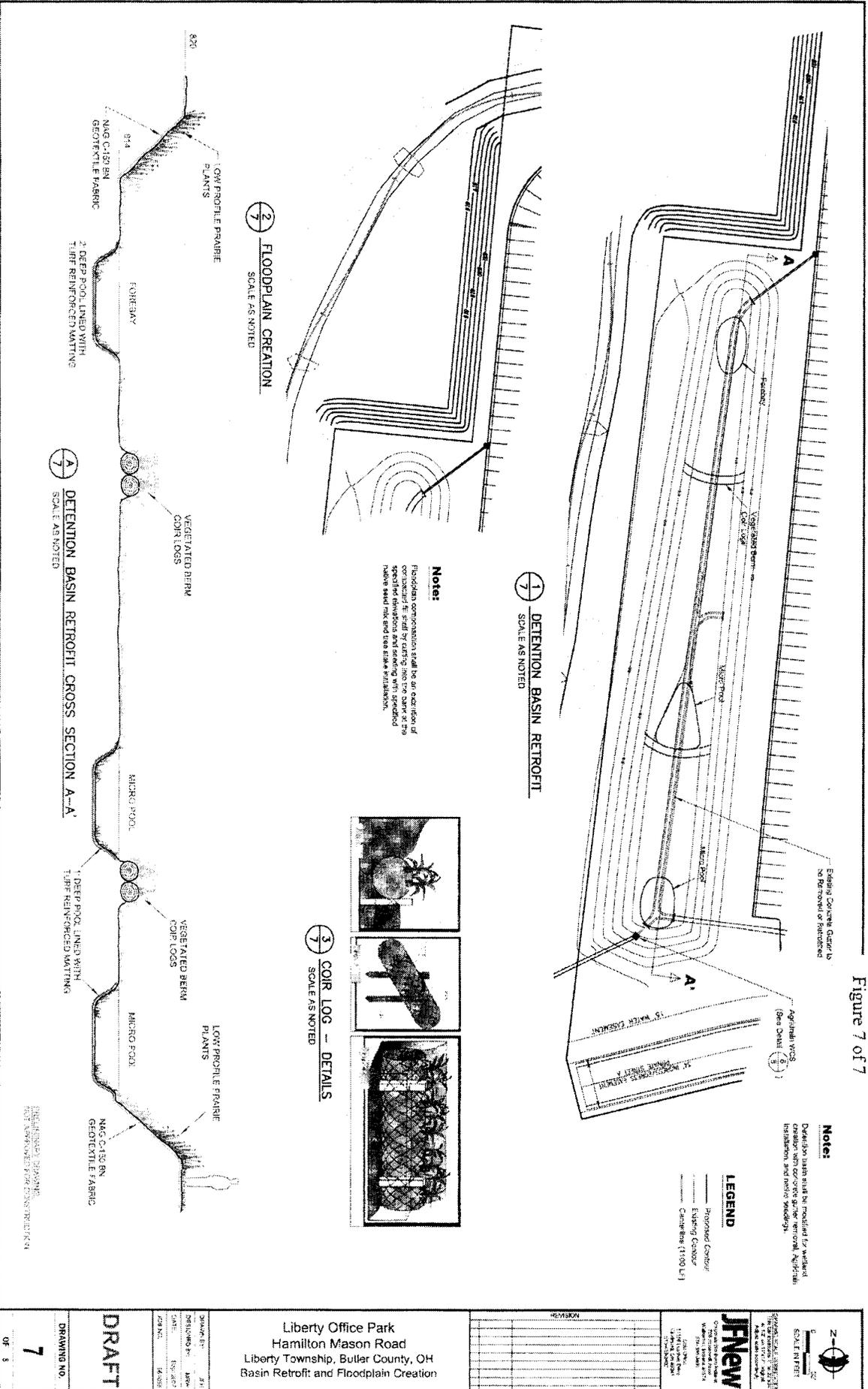
 JFnew 1115 LITTLE LANE SUITE 200 WILSON, OHIO 45394 (513) 383-1111 FAX: (513) 383-1112 WWW.JFNEW.COM	REVISION <table border="1"> <tr><td> </td><td> </td><td> </td><td> </td></tr> </table>																
LIBERTY OFFICE PARK HAMILTON MASON ROAD LIBERTY TOWNSHIP, BUTLER COUNTY, OH EXISTING CROSS SECTIONS	DRAWING NO. <b>3</b> OF 5																

Liberty Office Park  
 UNTRIB Gregory Creek 2007-20-GMR  
 Butler County, Ohio  
 Channel Mitigation Cross Sections  
 Figure 6 of 7



<p>LIBERTY OFFICE PARK          HAMILTON MASON ROAD          LIBERTY TOWNSHIP, BUTLER COUNTY, OH          PROPOSED CROSS SECTIONS</p>		<p>DATE: 08/20/23          DRAWN BY: JFW          CHECKED BY: JFW          DATE: 08/20/23</p>	<p>PROJECT NO.: 2007-20-GMR          DRAWING NO.: 4          OF 5</p>
<p><b>DRAFT</b></p>			

Liberty Office Park  
 UNTrib Gregory Creek 2007-20-GMR  
 Butler County, Ohio  
 Other On-site Mitigation Details  
 Figure 7 of 7



 NORTH SCALE 1" = 100' <b>JFNEW</b> JACOBS FIELD ENGINEERING & ARCHITECTURE 11111 W. STATE ST., SUITE 100 COLUMBIANA, OH 43081 (614) 491-1111 www.jfnew.com	SHEET NO. 7 OF 3
	DRAFT DRAWING NO. 7

Liberty Office Park  
 Hamilton Mason Road  
 Liberty Township, Butler County, OH  
 Basin Retrofit and Floodplain Creation