Public Notice

U S Army Corps of Engineers
Huntington District

In reply refer to Public Notice No. **LRH-2008-109-GMR**

Issuance Date: APR 17 2008

Stream: **UNTrib Great Miami River**

Closing Date: MAY 16 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: RBDB Investments, LLC
312 Walnut Street Suite 1140
Cincinnati, Ohio 45202

LOCATION: The proposed project is located on unnamed tributaries to the Great Miami River on a 66.7-acre parcel of land south of Mt. Nebo Road and west of Timberline Court in Miami Township, Hamilton County, Ohio. Latitude 39° 09' 15", Longitude 84° 45' 41".

DESCRIPTION OF PROPOSED WORK: The applicant proposes to place fill material in waters of the United States to facilitate the construction of a residential development. The applicant proposes to place an estimated 150 cubic yards of clean soils and bedrock obtained on-site into an approximate total of 1,000 linear feet of three ephemeral streams to create level building space for lot development and road construction. Additionally, the applicant proposes to place concrete fill within 20 linear feet of an intermittent tributary for the construction of a weir for a stormwater detention structure. The applicant's stated purpose is to construct Vista View Residential Community to provide 105 single-family lots with associated infrastructure just outside of the metropolitan area of Greater Cincinnati. Plans of the proposal are attached to this notice.

MITIGATION PLAN: To offset ephemeral stream impacts associated with the project, the applicant proposes to construct six stormwater drainage swales totaling 2,600 linear feet. The swales would be constructed on-site, planted with grass and designed to filter stormwater prior to discharge to detention basins or on-site tributaries. In addition, the applicant proposes to preserve the avoided reaches of the intermittent stream and three ephemeral streams. The streams would be protected in perpetuity by conservation easement to be held by a third party. Approximately 1,130 linear feet of intermittent stream and a total of 1,125 linear feet of ephemeral streams and their associated buffers would be preserved within designated green space.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain 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), sheepnose mussel (Candidate) and snuffbox mussel (Species of Concern).

To determine if the proposed project would have any affect on threatened or endangered species, the applicant has recently consulted the United States Fish and Wildlife Service (USFWS). The Huntington District has consulted the most recently available information and information provided by the applicant, including results of a habitat survey, and has determined that habitats suitable for the sheepnose and snuffbox mussel are not present; therefore the project would have no effect on the sheepnose and snuffbox mussel. The project site contains limited habitat

suitable for the Indiana bat and running buffalo clover. Based on limited habitat and the proposal to preserve the majority of the intermittent stream, the Huntington District has determined the project is not likely to adversely affect the Indiana bat, provided the applicant does not cut suitable habitat trees during the designated summer roosting months for this species. Based on the limited habitat availability and the proposal to preserve green space, it has been determined the project is not likely to adversely affect running buffalo clover. Based on this information, the proposed 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. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. 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. 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.

SOLICITATION OF COMMENTS: 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. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. 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.

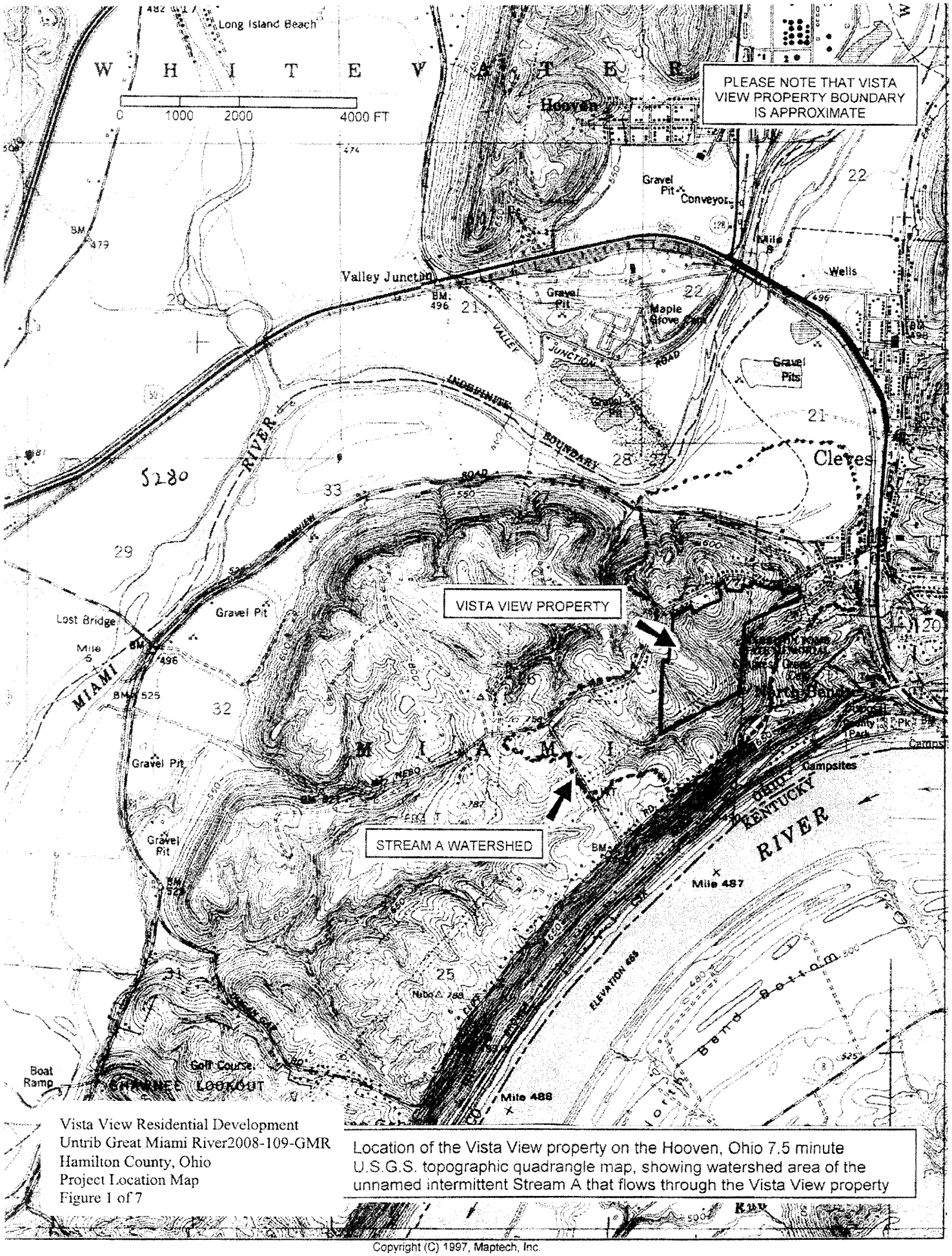
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for 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-2008-109-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

(O) (L)



Vista View Residential Development
Untrib Great Miami River2008-109-GMR
Hamilton County, Ohio
Project Location Map
Figure 1 of 7

Location of the Vista View property on the Hooven, Ohio 7.5 minute U.S.G.S. topographic quadrangle map, showing watershed area of the unnamed intermittent Stream A that flows through the Vista View property

Copyright (C) 1997, Maptech, Inc.

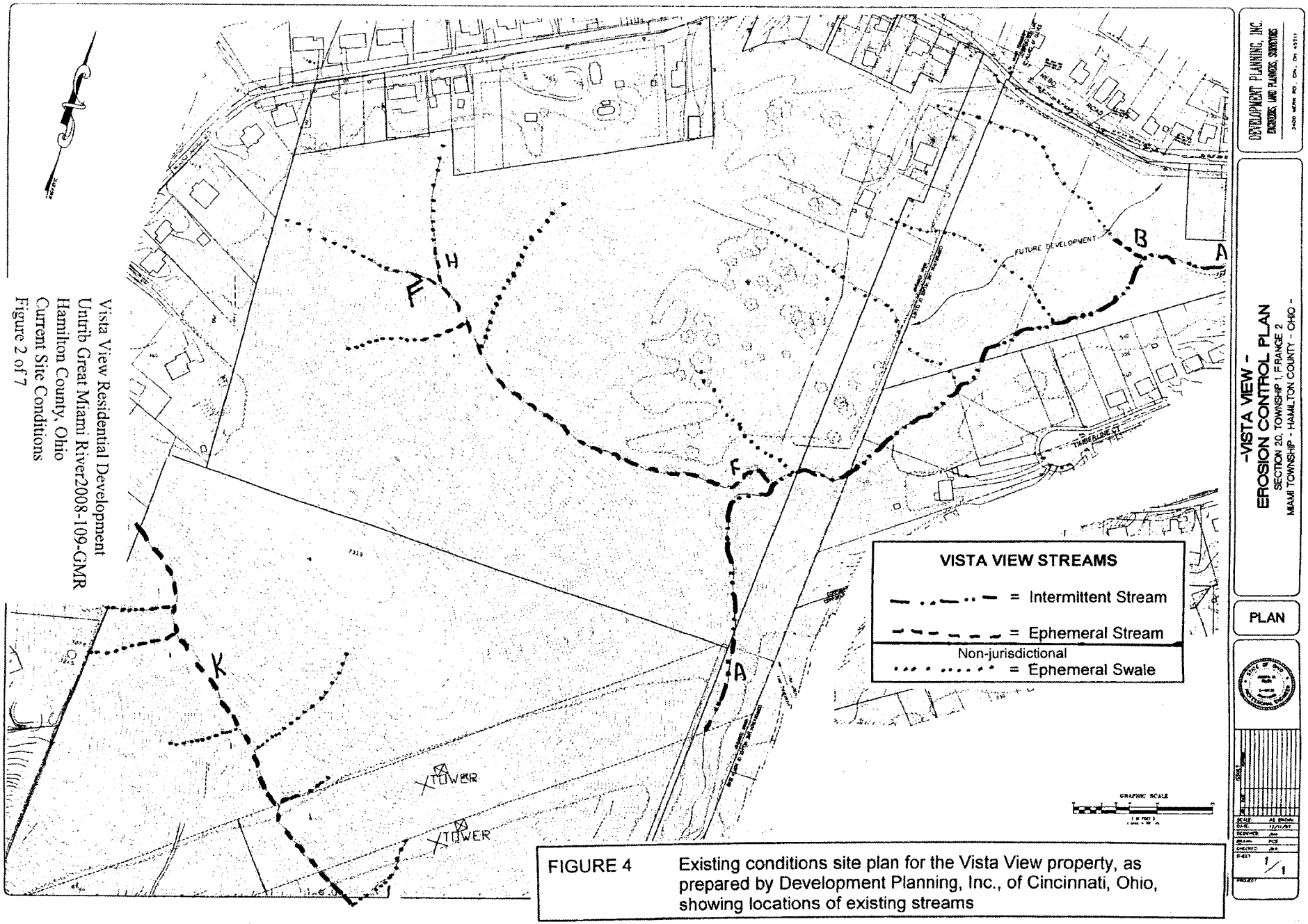
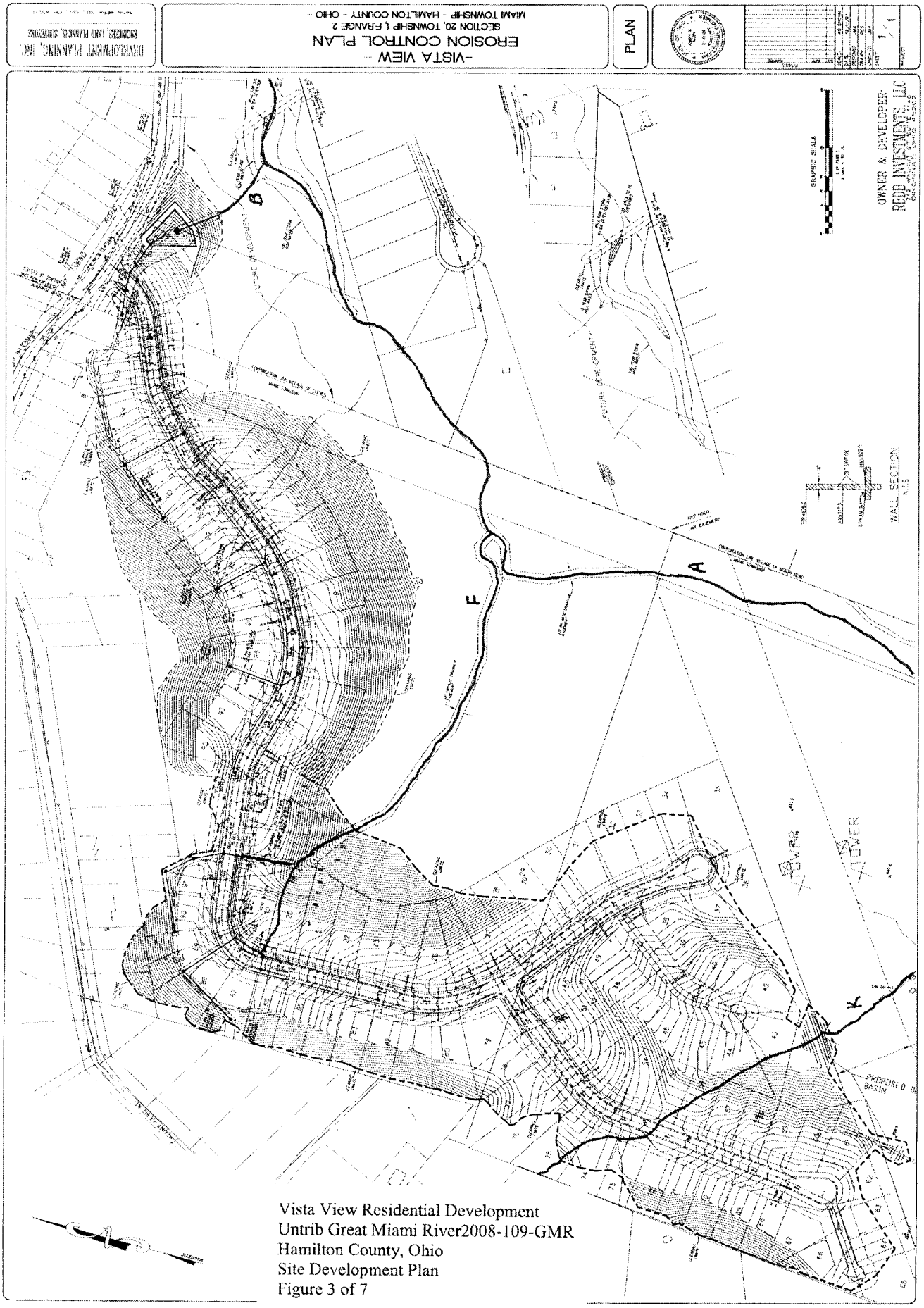


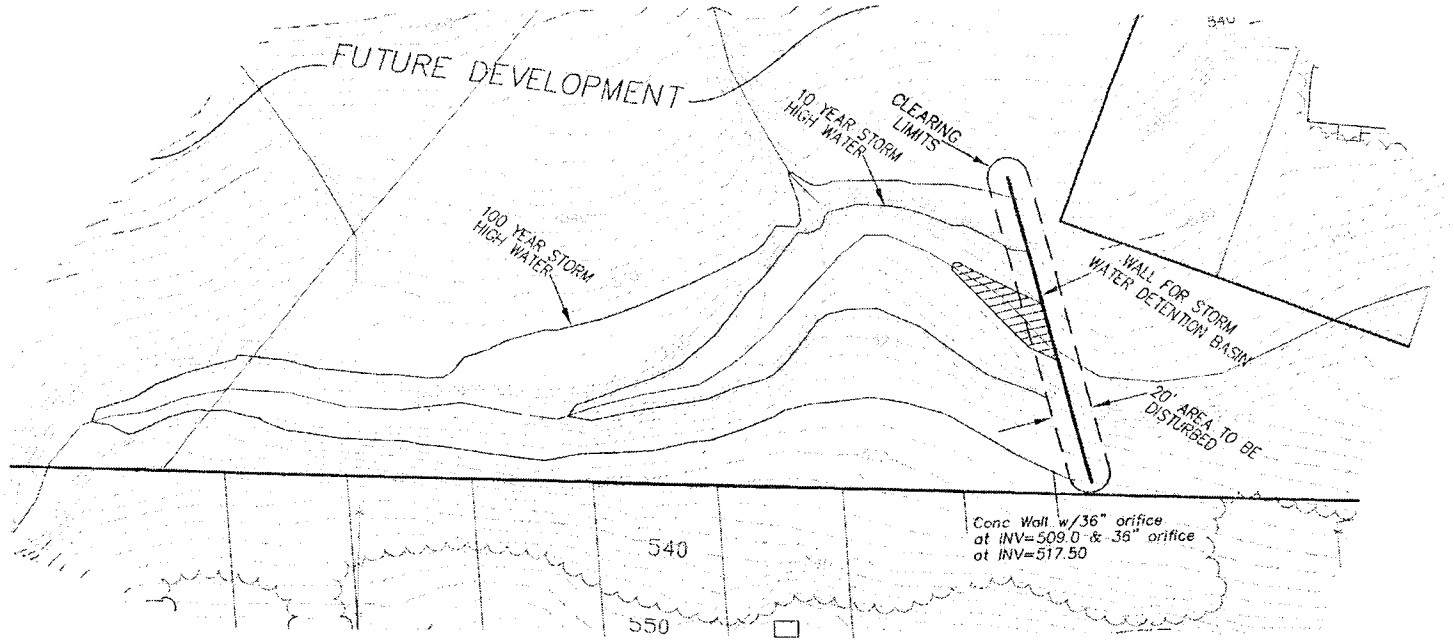
FIGURE 4 Existing conditions site plan for the Vista View property, as prepared by Development Planning, Inc., of Cincinnati, Ohio, showing locations of existing streams

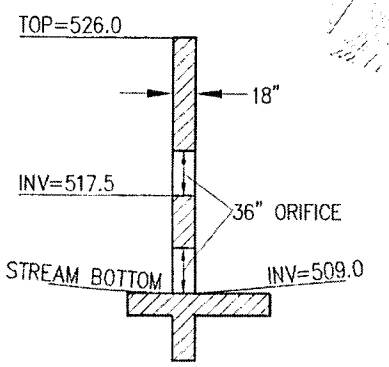
Vista View Residential Development
Untrib Great Miami River2008-109-GMR
Hamilton County, Ohio
Current Site Conditions
Figure 2 of 7



Vista View Residential Development
Untrib Great Miami River2008-109-GMR
Hamilton County, Ohio
Site Development Plan
Figure 3 of 7

Vista View Residential Development
Untrib Great Miami River2008-109-GMR
Hamilton County, Ohio
Plan Detail – Intermittent Stream
Figure 4 of 7





WALL SECTION
N.T.S.

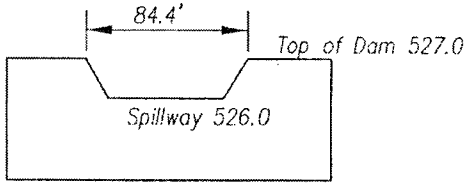
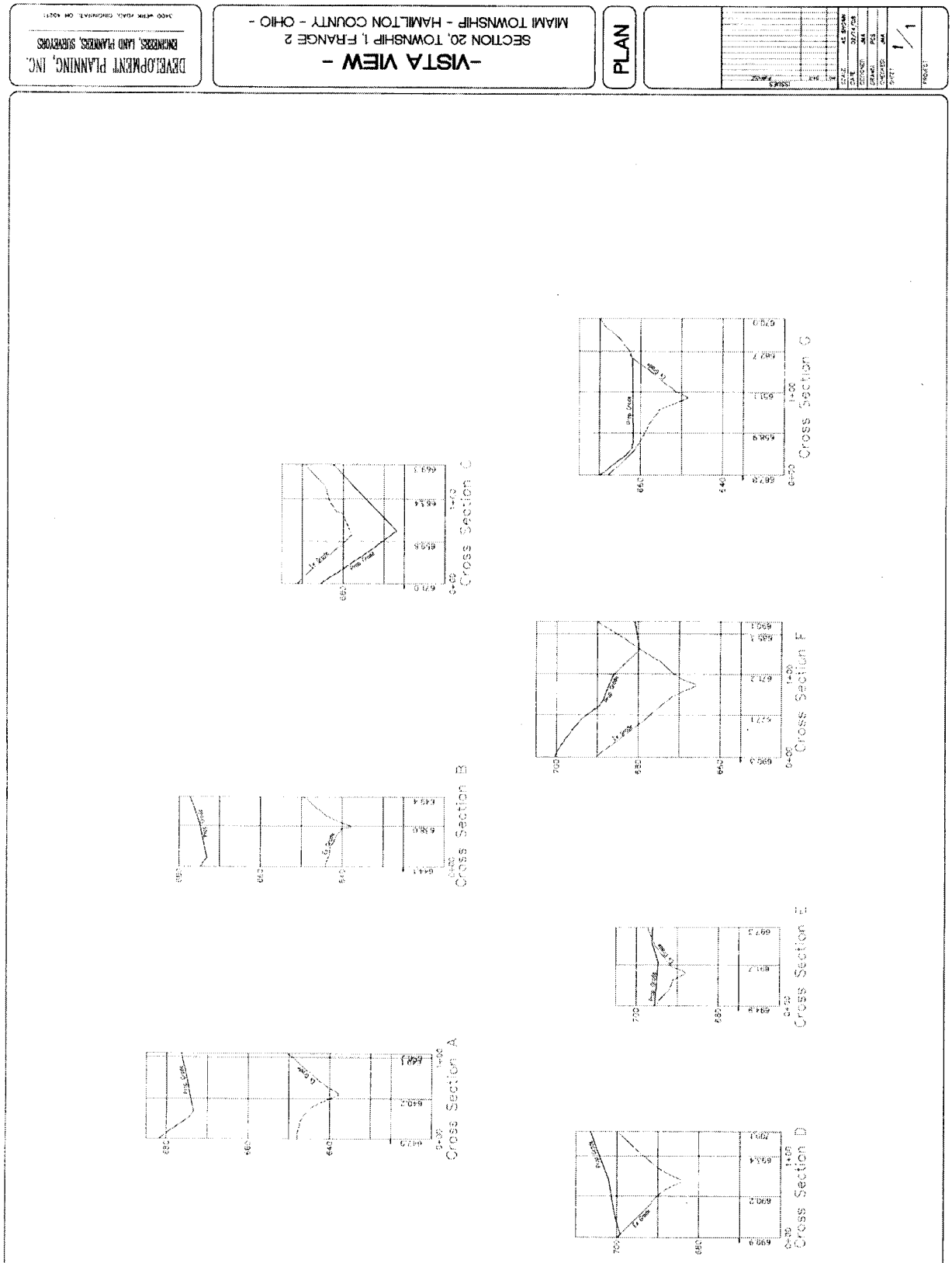


FIGURE 7 Detailed plan for the concrete weir and stormwater detention basin to be located on intermittent Stream A, on the Vista View property

Vista View Residential Development
Untrib Great Miami River2008-109-GMR
Hamilton County, Ohio
Cross Section Location Map
Figure 5 of 7



Vista View Residential Development
Untrib Great Miami River2008-109-GMR
Hamilton County, Ohio
Cross Sections – Ephemeral Streams
Figure 6 of 7

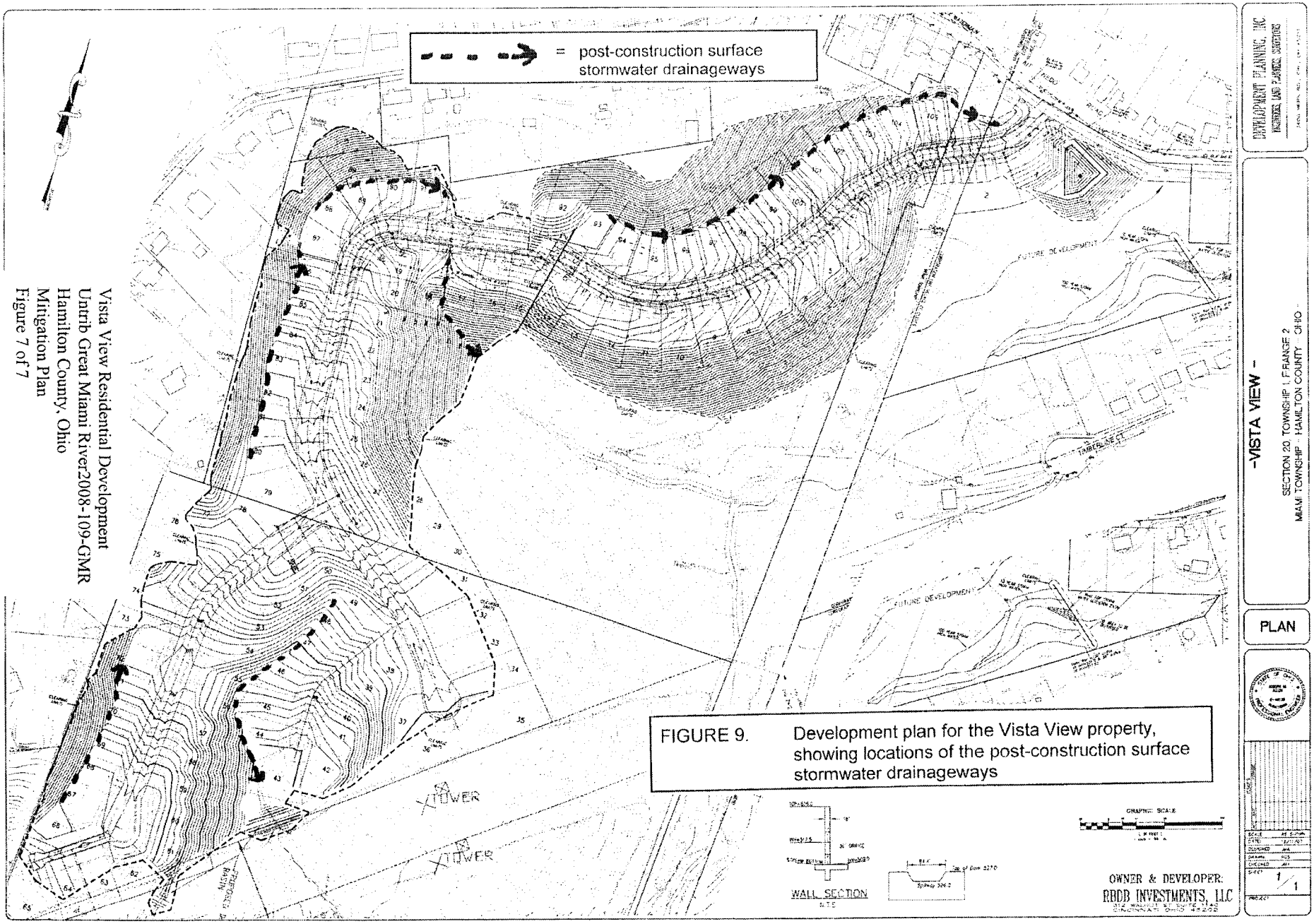


FIGURE 9. Development plan for the Vista View property, showing locations of the post-construction surface stormwater drainageways

Vista View Residential Development
Untrib Great Miami River2008-109-GMR
Hamilton County, Ohio
Mitigation Plan
Figure 7 of 7