



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

Public Notice

In reply refer to Public Notice No.

200301109

Issuance Date:

November 4, 2005

Stream:

Closing Date:

UNTriB Margaret Creek (Section 10: Hocking River)

December 4, 2005

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.

APPLICANT: Mr. Kevin Schwarzel
362 Richland Avenue
Athens, Ohio 45701

LOCATION: The project is located in waters of the United States in the Margaret Creek watershed and is south of State Route 56, north of Baker Road and west of Radford Road. This location is just southwest of the City of Athens, Athens 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 the Walnut Grove residential subdivision. The applicant has placed approximately 100 cubic yards of clean fill material into 940 linear feet of perennial stream in association with the construction of two controlled-discharge treatment ponds, which are proposed to be part of the subdivision's centralized sanitary sewer treatment system. This 940' stream segment was relocated east of its original location to a 754' channel. During construction of these ponds, an additional 210 linear feet of ephemeral channel was impacted by the placement of approximately 15 cubic yards of fill material. An additional 176 linear feet of intermittent stream was impacted by the placement of fill material in association with the construction of a road crossing (Kelsie Drive).

To compensate for impacts to waters of the United States, the applicant has proposed the following:

- The incorporation of eddy rocks and gravel riffles within the 754' channelized stream segment to encourage the development of natural stream characteristics. Because of proximity to the sewer treatment facility, the applicant has indicated a maximum 10' wide riparian zone would be planted with grasses on the western stream bank. On the eastern stream bank, a 50' wide riparian zone would be planted with native trees. The applicant proposes to establish white pine (*Pinus strobus*) seedlings, which would be planted on 4-foot centers;
- The relocation of a previously channelized stream segment located upstream of the project area and off-site of the current proposal. The applicant has provided information that an approximate 600' stream segment was relocated to an approximate 350' channel in the 1980's. The applicant proposes to relocate the existing 350' stream to its historical location. Natural stream channel design techniques, including the construction of meanders, riffle-pool sequences and the placement of eddy rocks would be incorporated into the relocated stream. A 50' wide riparian zone would be established on each stream side and planted with native vegetation. The applicant proposes to establish white pine seedlings, which would be planted on 4-foot centers; and
- The preservation of a total of 2,348 linear feet of stream (477 linear feet of intermittent stream located in the western portion of the Walnut Grove subdivision, 600' of relocated stream as described above, 754' of stream channelized in association with treatment facility construction and 517' of stream located upstream of the project area and downstream of the proposed stream relocation). These stream lengths are proposed to be preserved and protected in perpetuity by a deed restriction or other method of protection.

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.

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 sent to the State Historic Preservation Office (SHPO) for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

THREATENED & ENDANGERED SPECIES: This project is located within the known or historic range of the Indiana bat (Endangered); American burying beetle (E); sheepsnose mussel (Candidate) and timber rattlesnake (pre-listing conservation plan being developed).

Based on site location and habitat availability, it has been determined this project would have no effect on the sheepsnose mussel or the timber rattlesnake.

Based on site location and information provided by the US Fish and Wildlife Service, the proposal is located in an area of concern for the American burying beetle. Based on habitat availability, it has been determined this project is not likely to adversely affect this species.

Based on habitat availability and location, it has been determined the proposal 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.

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 U.S. Fish and Wildlife Service for any additional information they may have whether any listed or proposed to be listed endangered or threatened species may be present in the area that would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST: Any person who has an interest, which 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.

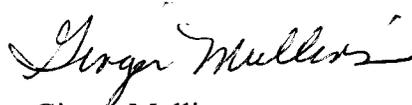
Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which 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; among 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. Persons wishing to submit comments, objections or requests for public hearings concerning the Corps of Engineers permit should write:

U.S. Army Corps of Engineers
ATTN: CELRH-OR-F Public Notice No. 200301109
502 8th 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 call Ms. Desiree L. Hann of the North Regulatory Section at 304-399-5210.

A handwritten signature in cursive script that reads "Ginger Mullins".

Ginger Mullins
Chief, Regulatory Branch

(O)

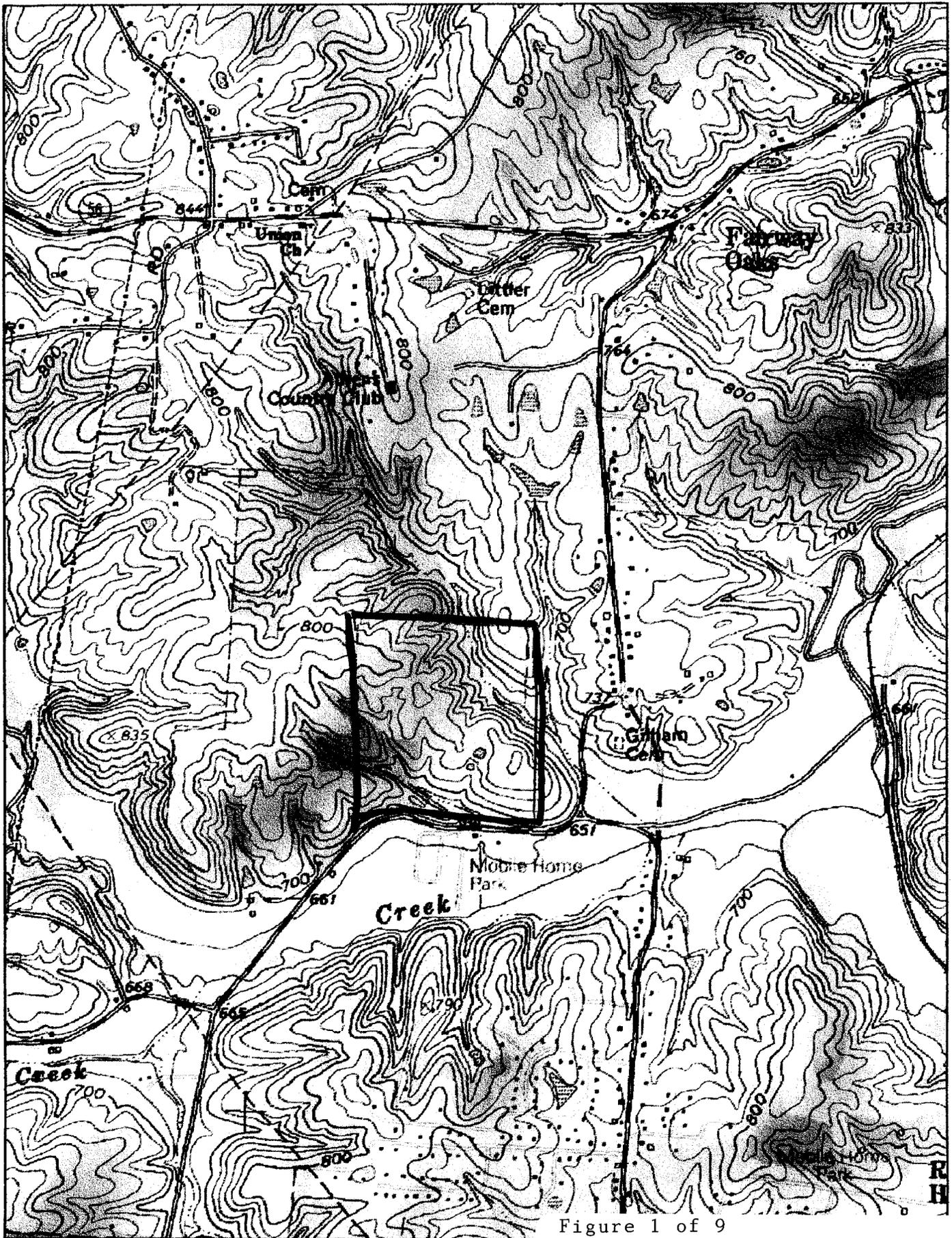


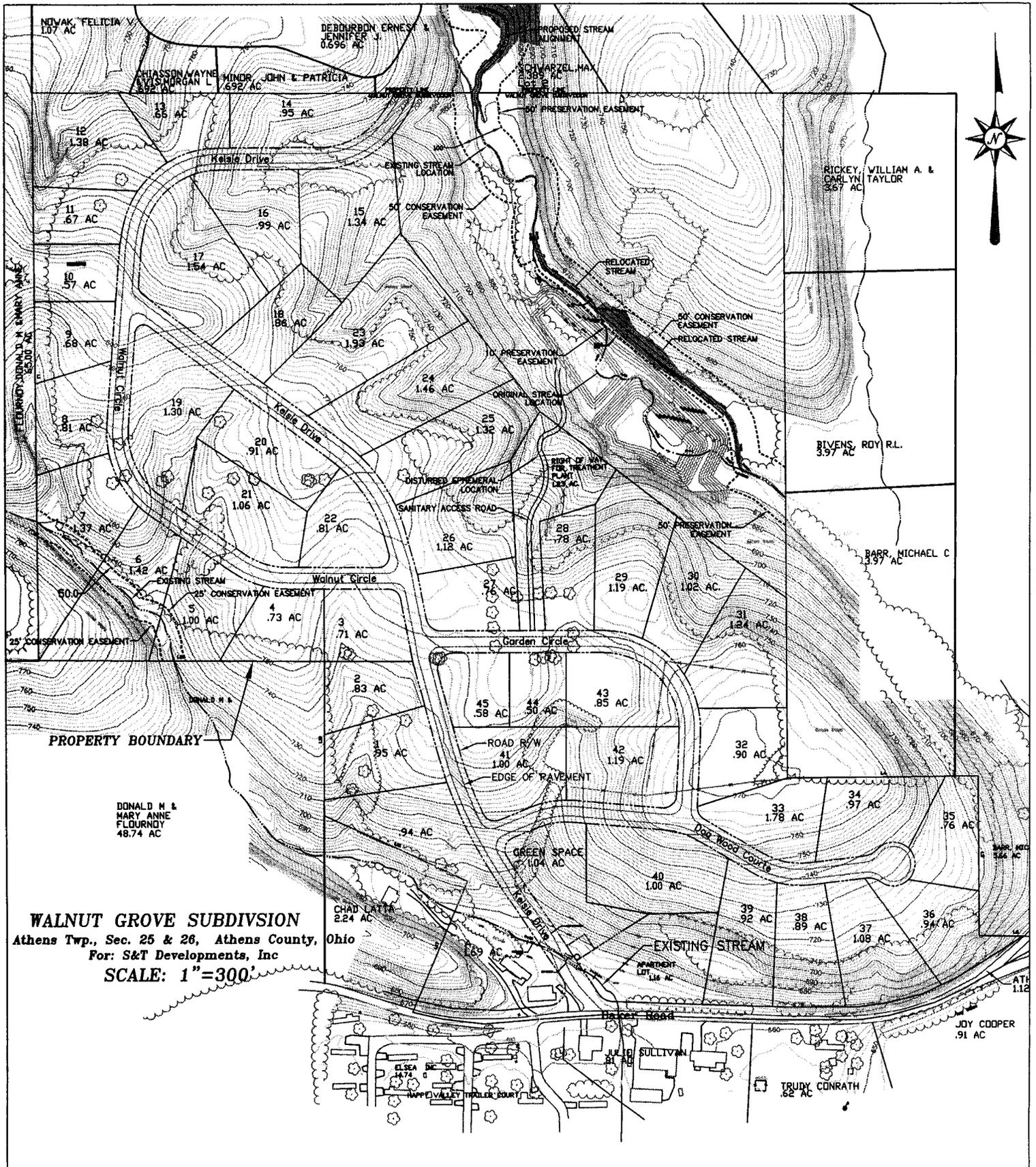
Figure 1 of 9
 Site Location Map
 Mr. Kevin Schwarzel
 UNtrib Margaret Creek - 200301109

DE LORME

© 2002 DeLorme. XMap® 3.5. Data copyright of content owner.
 Zoom Level: 13-6 Datum: WGS84



R
H



GEORGE A. MARA ENGINEERING, INC.



CONSULTING ENGINEERS
55 EAST 2ND STREET
LOGAN, OHIO 43138
740-385-8138

JOB NO.

AS-527

DATE

10-08-05

DRAWN BY:

CRK

CHECKED BY

PWM

APPROVED BY

THIS DRAWING IS THE PROPERTY OF GEORGE A. MARA ENGINEERING INCORPORATED. MARA ENGINEERING CLAIMS ALL PROPRIETARY RIGHTS IN THE MATERIAL DISCLOSED. THIS DRAWING IS DISTRIBUTED IN CONFIDENCE FOR ENGINEERING INFORMATION ONLY AND MAY NOT BE COPIED.

WALNUT_GROVE_SUBDIVISION

DEVELOPER: S+T_DEVELOPM

CLIENT

SUBDIVISION_PLAN_VIEW

Figure 2 of 9
Plan View of Development
Mr. Kevin Schwarzel

UNTriB Margaret Creek - 200301109

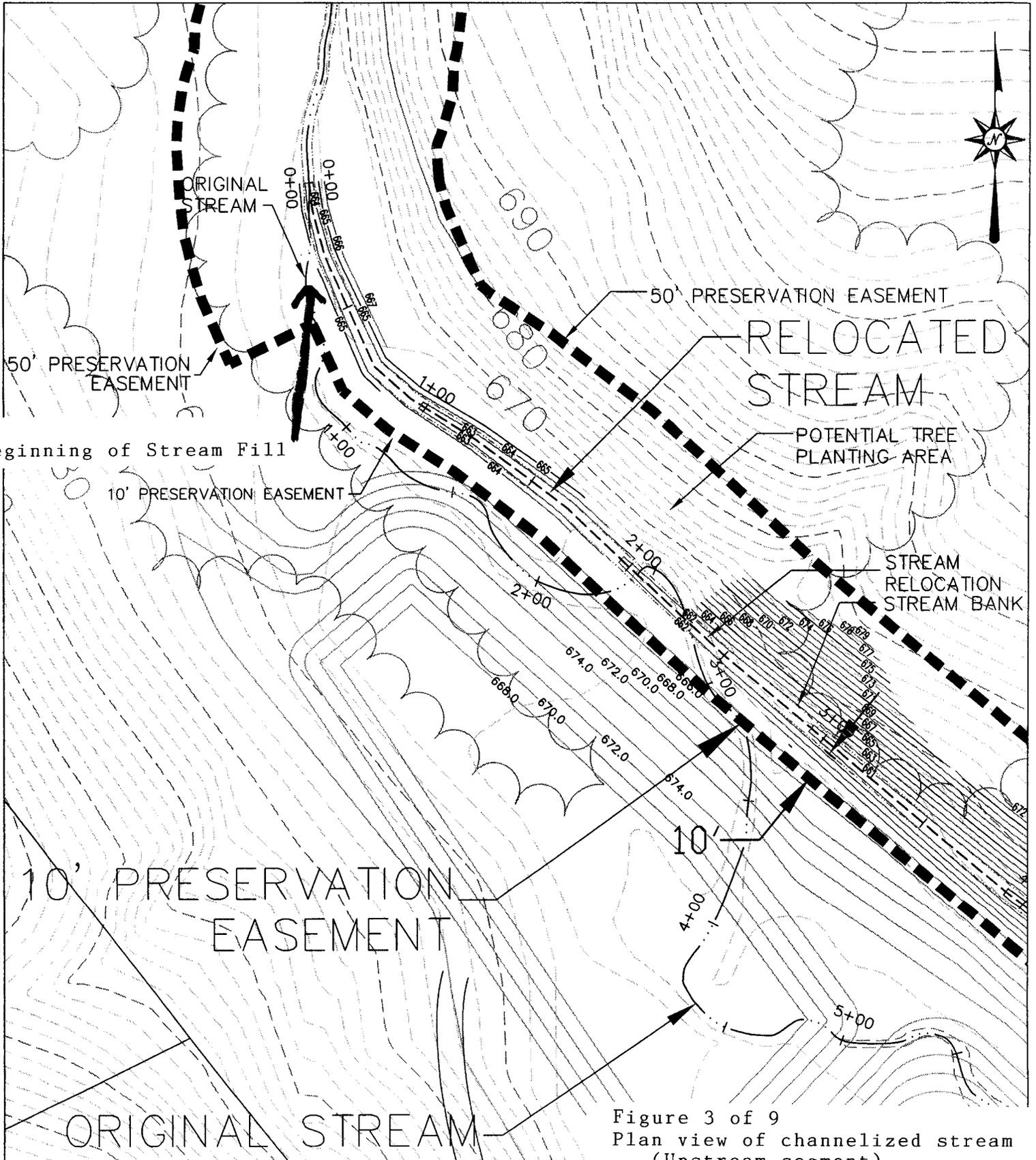


Figure 3 of 9
 Plan view of channelized stream
 (Upstream segment)
 Mr. Kevin Schwarzel
 UNtrib Margaret Creek - 200301109

GEORGE A. MARA ENGINEERING, INC.

JOB NO. AS-527 DATE 10-08

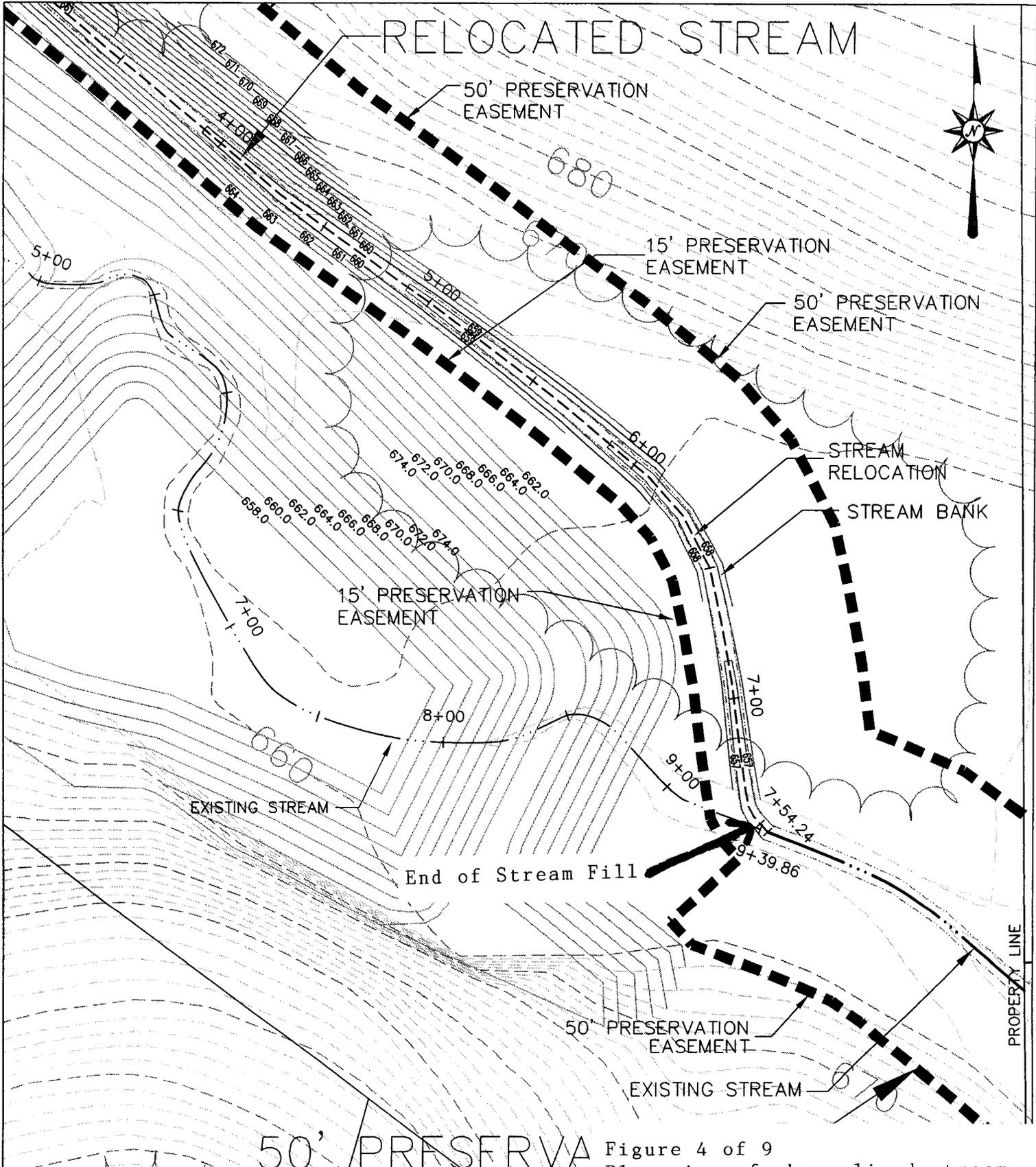


CONSULTING ENGINEERS

55 EAST 2ND STREET
 LOGAN, OHIO 43138
 740-385-8138

WALNUT_GROVE_SUBDIVI
 DEVELOPER: S+T_DEVELOPMENTS
 CLIENT
 STREAM_RESTORATION_PLAN

SCALE 1"=50'	SHOWN WITHOUT WRITTEN PERMISSION FROM GEORGE A. MARA ENGINEERING INCORPORATED.
REVISION REV	SHEET 2 OF 6



RELOCATED STREAM

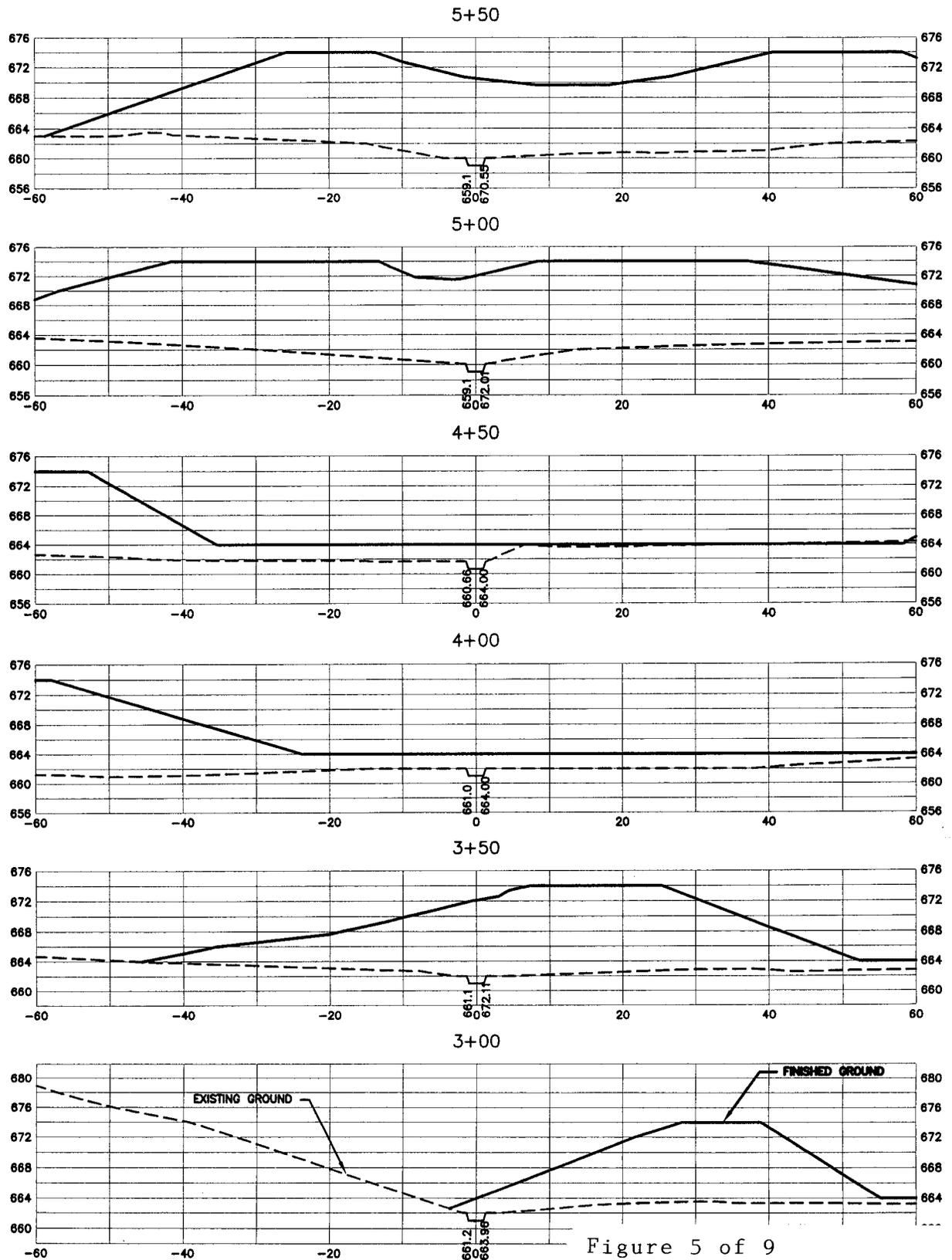


Figure 4 of 9
 Plan view of channelized stream
 (Downstream segment)
 Mr. Kevin Schwarzel
 UNtrib Margaret Creek - 200301109

GEORGE A. MARA ENGINEERING, INC.
CONSULTING ENGINEERS
 55 EAST 2ND STREET
 LOGAN, OHIO 43138
 740-385-8138

JOB NO.	AS-527	DATE	10-08-
WALNUT_GROVE_SUBDIVIS			
DEVELOPER: S+T_DEVELOPMENTS			
CLIENT			
STREAM_RESTORATION_PLAN			

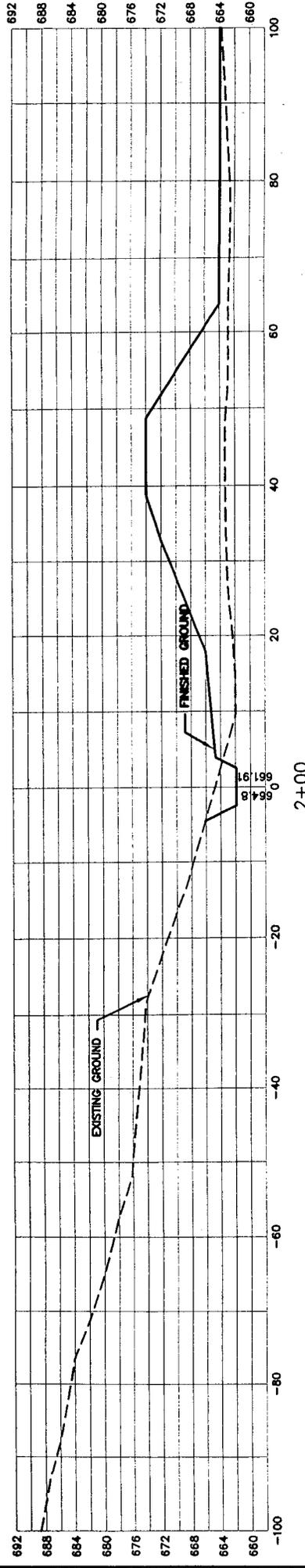
1"=50'		GEORGE A. MARA ENGINEERING INCORPORATED.	
REVISION	REV	SHEET	3 OF 6



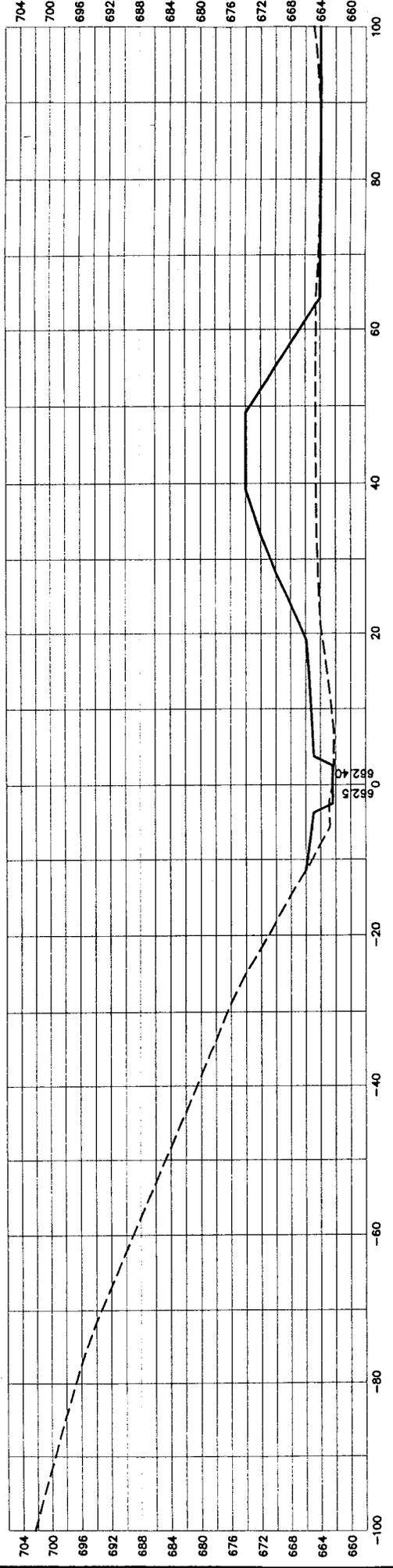
STREAM NEAR LAGOON PRIOR TO DISTURBANCE

Figure 5 of 9
 Cross-section (select) of stream
 filled in association with work
 Mr. Kevin Schwarzel
 UNTri Margaret Creek - 200301109

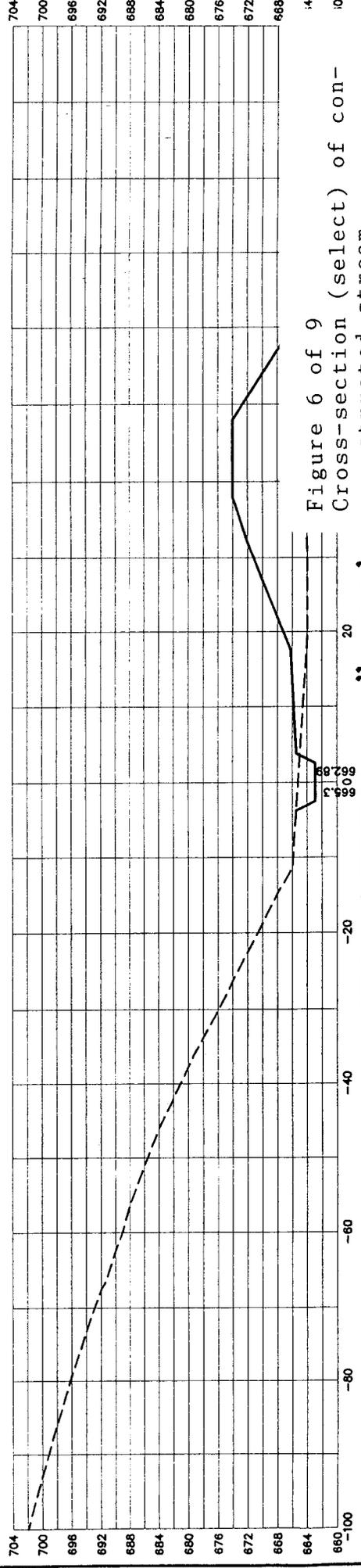
2+50



2+00



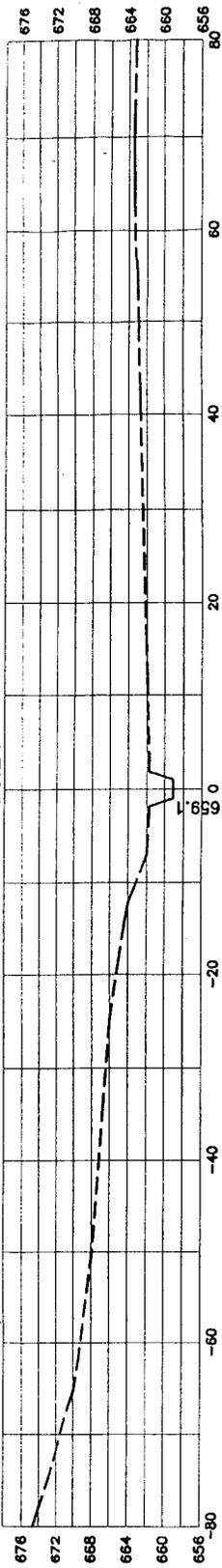
1+50



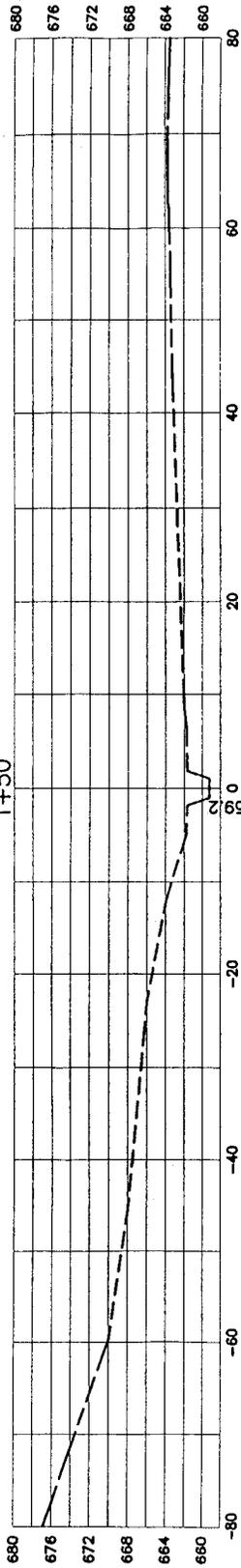
CONSTRUCTED STREAM 1"=20'

Figure 6 of 9
 Cross-section (select) of constructed stream
 Mr. Kevin Schwarzel
 UNtrib Margaret Creek - 200301109

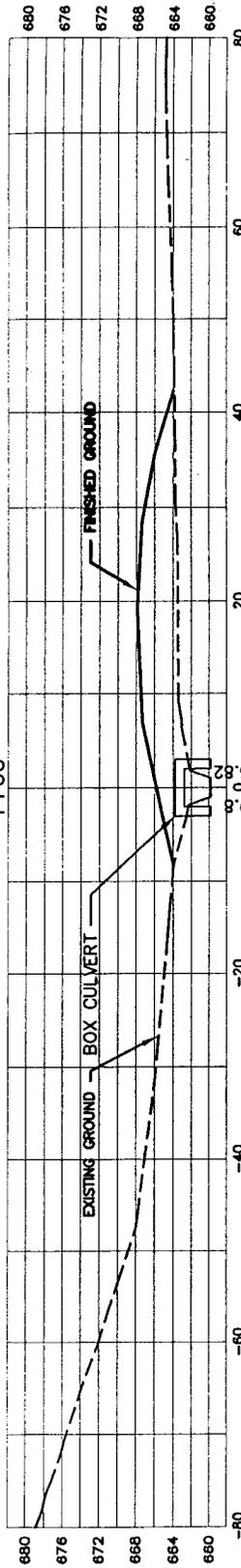
1+76.24



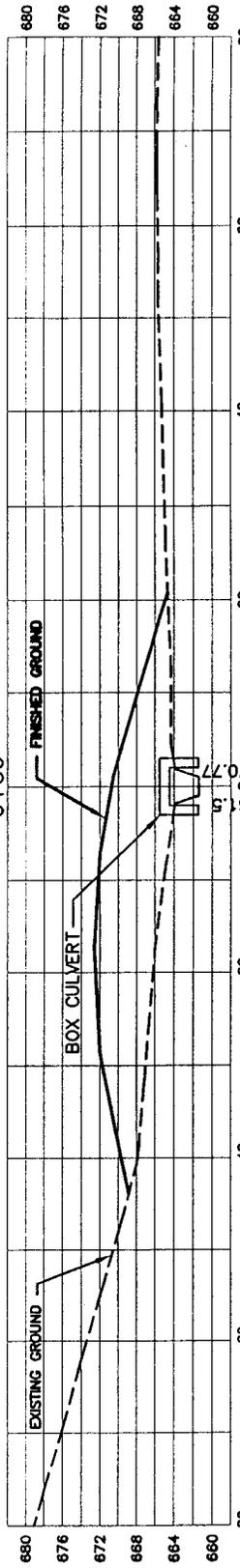
1+50



1+00



0+50



0+00

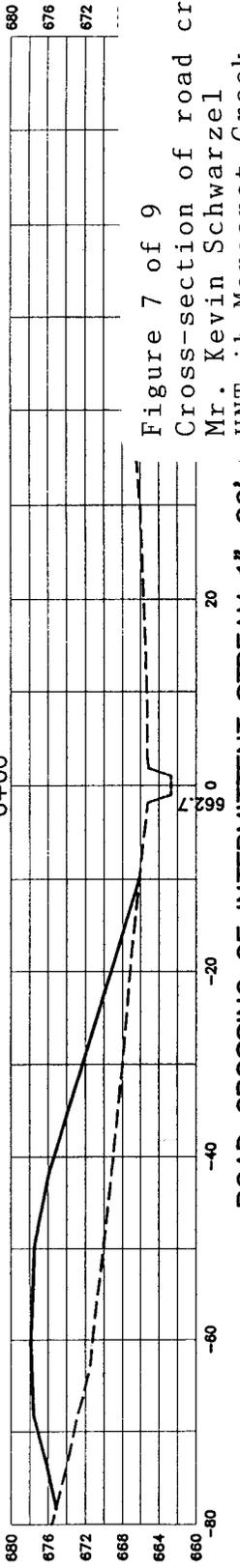


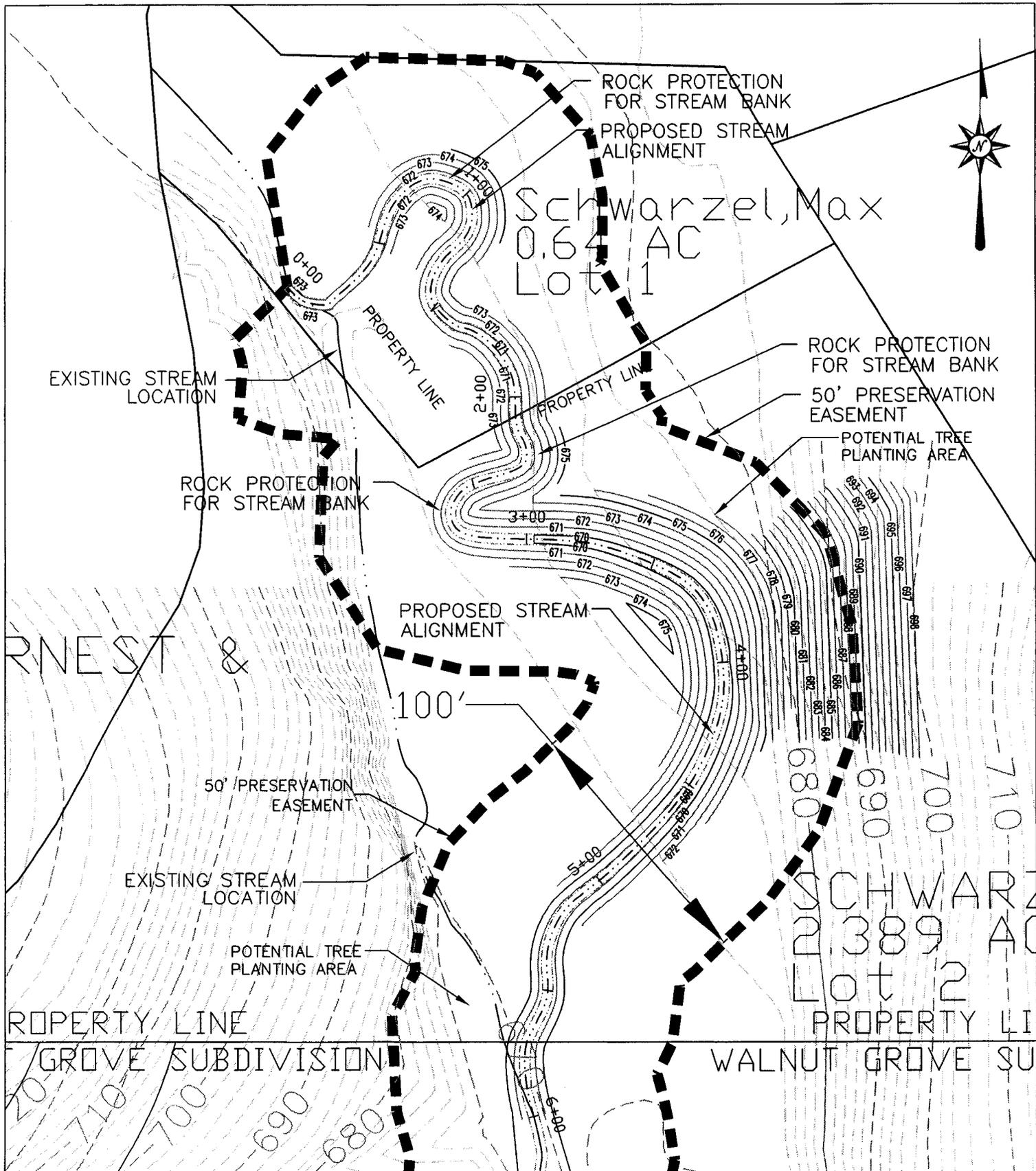
Figure 7 of 9

Cross-section of road crossing

Mr. Kevin Schwarzel

UNTriB Margaret Creek - 200301109

ROAD CROSSING OF INTERMITTENT STREAM 1"=20'

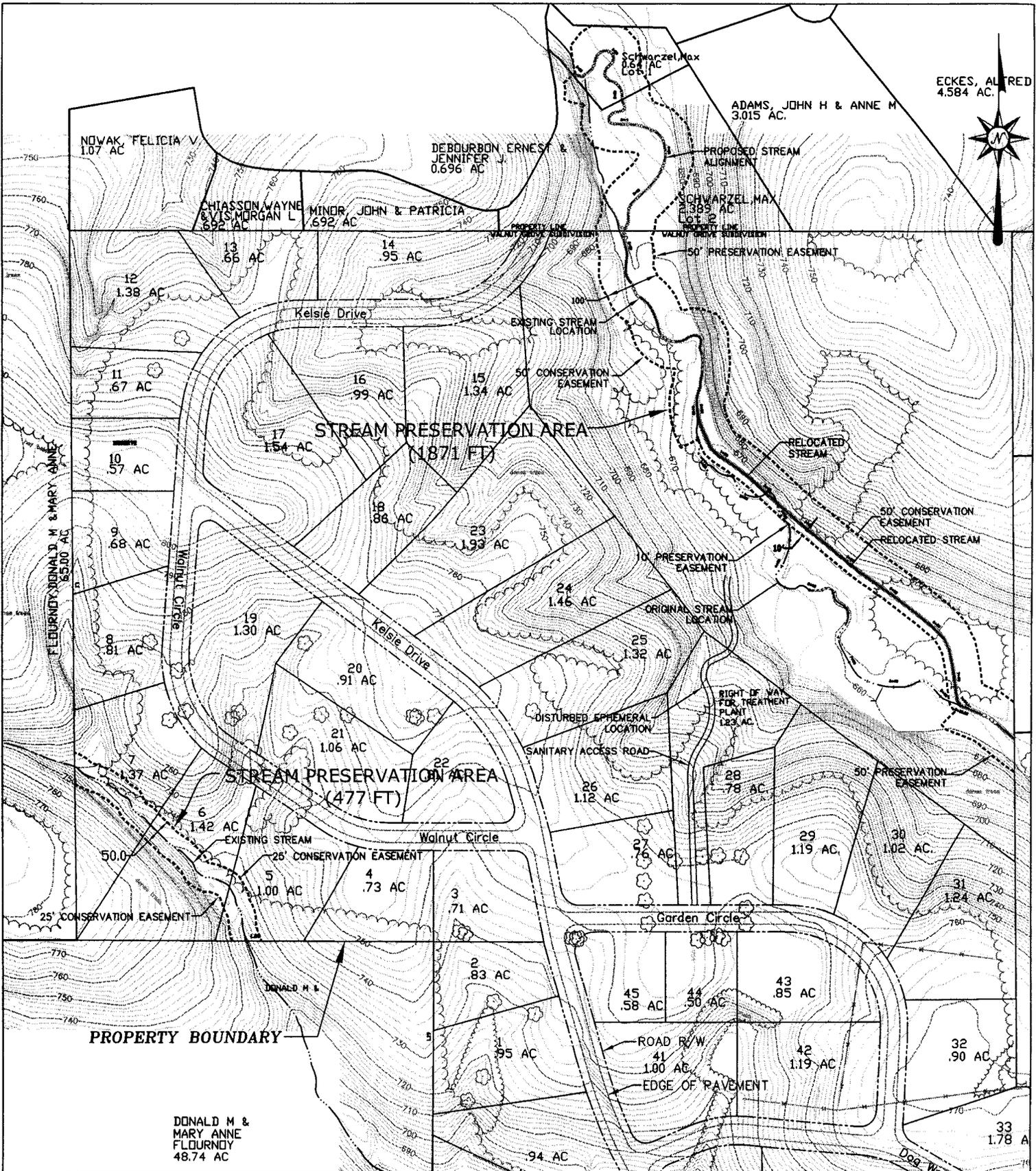


GEORGE A. MARA ENGINEERING, INC.

CONSULTING ENGINEERS
 55 EAST 2ND STREET
 LOGAN, OHIO 43138
 740-385-8138

JOB NO.	AS-527	DATE	10-08-05	DRAWN BY:	CRK
WALNUT GROVE SUBDIVISION		Figure 8 of 9			
DEVELOPER: S+T_DEVELOP		Plan view of proposed mitigation (stream relocation)			
CLIENT		Mr. Kevin Schwarzel			
STREAM_MITIGATION_PLAN		UNTri Margaret Creek - 200301109			

CHECKED BY
 APPROVED BY
 THIS DRAWING IS THE PROPERTY OF GEORGE A. MARA ENGINEERING INCORPORATED. MARA ENGINEERING CLAIMS ALL PROPRIETARY RIGHTS IN THE MATERIAL DISCLOSED. THIS DRAWING IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF GEORGE A. MARA ENGINEERING INCORPORATED.



 <p>GEORGE A. MARA ENGINEERING, INC. CONSULTING ENGINEERS 55 EAST 2ND STREET LOGAN, OHIO 43138 740-385-8138</p>	JOB NO. AS-527	DATE 10-08-05	DRAWN BY: CRK	CHECKED BY: PWM	THIS DRAWING IS THE PROPERTY OF GEORGE A. MARA ENGINEERING INCORPORATED. MARA ENGINEERING CLAIMS ALL PROPRIETARY RIGHTS IN THE MATERIAL DISCLOSED. THIS DRAWING IS DISTRIBUTED IN CONFIDENCE FOR ENGINEERING INFORMATION ONLY AND MAY NOT BE COPIED.
	WALNUT_GROVE_SUBDIVISION			APPROVED BY:	