

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

Public Notice

In reply refer to Public Notice No.
200600401

Issuance Date:
September 27, 2006

Stream:
UNTribe Nine Mile Creek

Closing Date:
October 16, 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.

APPLICANT: Grand Communities, LTD
2670 Chancellor Drive, Suite 300
Crestview Hills, KY 41017

LOCATION: The proposed project is located in unnamed tributaries of Ninemile Creek at the intersection of Tobasco and Bradbury Roads in Clermont County, Ohio.

DESCRIPTION OF PROPOSED WORK: In a Public Notice (PN) issued on May 19, 2006, the applicant's proposal to place fill material into jurisdictional waters of the United States in association with a residential development was advertised. At the time this PN was issued, the applicant requested authorization from the Department of the Army to place fill material into 1,105 linear feet of intermittent stream and 1,149 linear feet of ephemeral stream in association with the construction of this development.

The applicant has provided recent information that proposes additional impacts to jurisdictional waters of the United States on-site. Due to impacts in association with necessary grading activities, the applicant proposes impacts to an additional 440 linear feet of intermittent stream and 201 linear feet of ephemeral stream on-site. Because impacts to jurisdictional waters of the United States have increased since the initial PN advertising this proposal, it has been determined necessary to re-advertise this proposal.

MITIGATION: To compensate for impacts to waters of the United States, the applicant proposes preservation of 3,995 linear feet of perennial stream (Ninemile Creek), 4,286 linear feet of intermittent stream and 790 linear feet of ephemeral stream on-site. With the exception of 560 linear feet of preserved stream on-site, the applicant proposes to ensure a 50' wide vegetated buffer is preserved along each side of all preserved streams. A total of 51.5 acres of forested upland riparian buffer would be preserved along streams. An additional 5.9 acres of land disturbed during construction activities would be replanted with native trees including sugar maple, Ohio buckeye, shagbark hickory and others.

ATTACHMENTS: 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 that certification from the Ohio Environmental Protection Agency.

HISTORIC & CULTURAL RESOURCES: The applicant has completed and submitted the *Phase I Archaeological Survey of the Proposed Brooks Property Development, Pierce Township, Clermont County, Ohio*. The results of this survey have been reviewed by this office and it has been determined one property within the site boundaries may be eligible for listing on the National Register of Historic Places. This office will coordinate this determination with the Ohio Historic Preservation Office and will assess whether avoidance of this property may occur or whether further study will be required to assess this property's eligibility.

A copy of this public notice will be sent to the Ohio Historic Preservation Office (OHPO) 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); running buffalo clover (E); rayed bean mussel and sheepsnose mussel (both currently under evaluation for Federal Candidate species).

The applicant has coordinated the proposed project with the United States Fish and Wildlife Service. Based on this coordination, it has been determined the proposal would have no effect on the running buffalo clover, the rayed bean mussel or the sheepsnose mussel.

Based on submitted information, the project area does contain suitable habitat for the Indiana bat. The applicant has proposed to preserve 51.5 acres of upland and riparian forest along Ninemile Creek and five intermittent streams on-site. Clearing of suitable habitat trees would be limited to the maximum extent practicable. Any clearing of suitable habitat would not occur during the designated summer roosting period of April 15 to September 15. Following completion of construction activities on-site, 5.9 acres of land temporarily disturbed in association with construction activities would be replanted with native trees including sugar maple, Ohio buckeye, shagbark hickory and others. Based on the applicant's measures to avoid, minimize and compensate for impacts to forested habitat on-site, it has been determined the proposal is not likely to adversely affect the Indiana bat.

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:

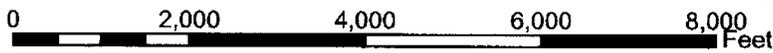
U.S. Army Corps of Engineers
ATTN: CELRH-OR-F Public Notice No. 200600401
502 8th Street
Huntington, West Virginia 25701-2070

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.


for Ginger Mullins
Chief, Regulatory Branch

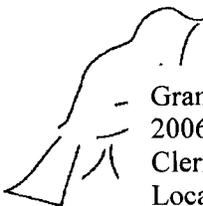
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Source: USGS 7.5-minute Topographic Quadrangle Map; Withamsville, Ohio

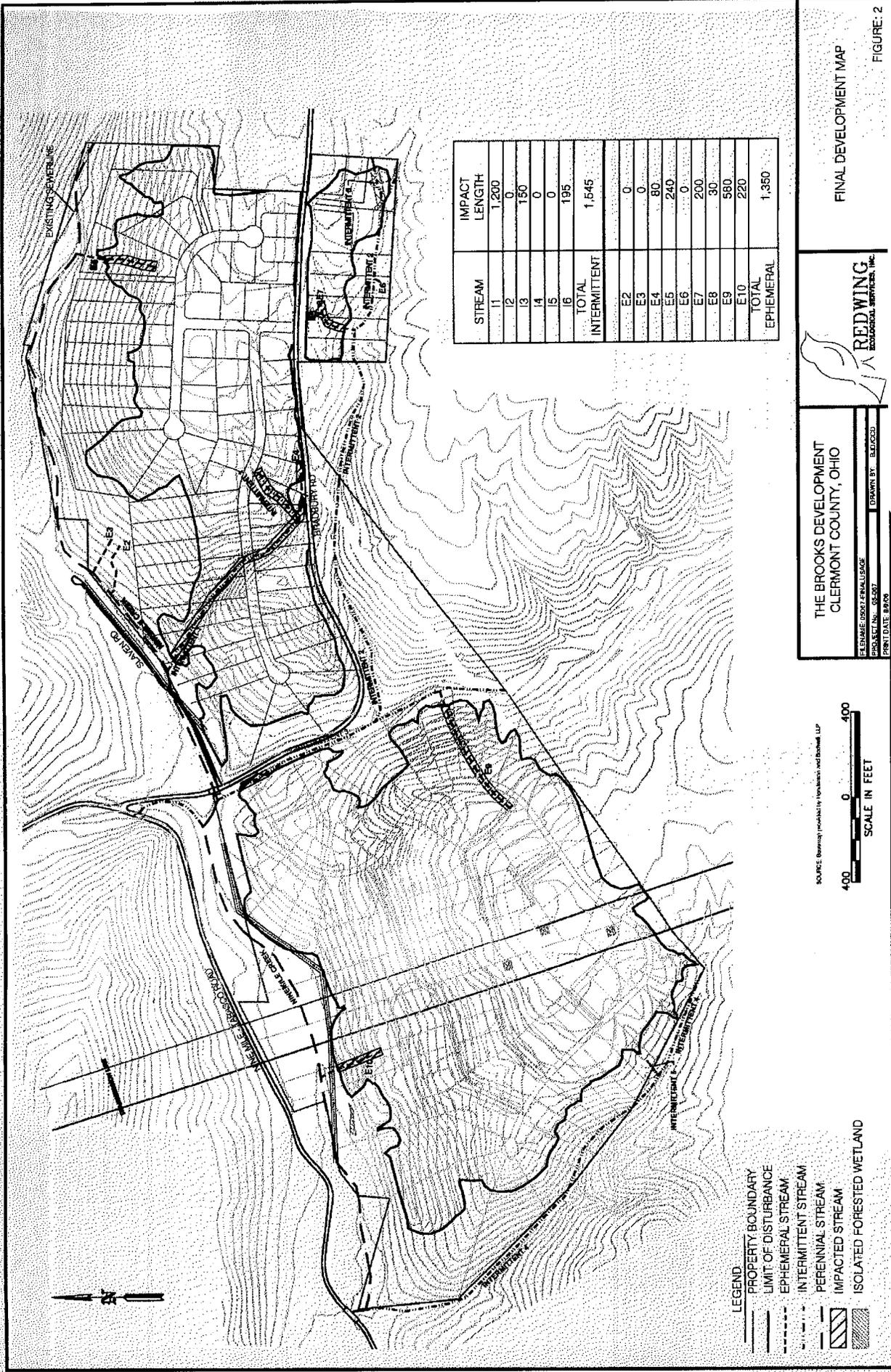


THE BROOKS DEVELOPMENT
CLERMONT COUNTY, OHIO

REDWING PROJECT 05-067



Grand Communities, LTD.
200600401 - UNtrib Nine Mile Creek
Clermont County, Ohio
Location Map
Sheet 1 of 3



THE BROOKS DEVELOPMENT
CLERMONT COUNTY, OHIO

REDWINING
ECOLOGICAL SERVICES, INC.

FILE NAME: 0507-FINAL/USAGE
PROJECT NO.: 05107
DRAWN BY: BJA/2020
PRINT DATE: 8/26/20

FINAL DEVELOPMENT MAP

FIGURE: 2

Grand Communities, LTD.
200600401 – UNTriB Nine Mile Creek
Clermont County, Ohio
Plan View – Proposed Development
Sheet 2 of 3