

OHIO E.P.A.
DEC 29 2006
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Avon Land Group LTD.
7530 Lucerne Drive
Suite 101
Middleburg Heights, Ohio 44130

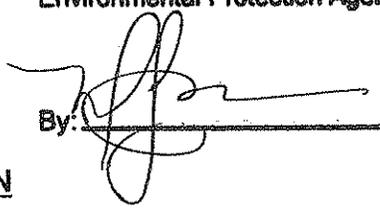
Director's Final Findings
and Orders

Respondent

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: 

Date: 12/29/06

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Avon Land Group LTD. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or the Site (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111., and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent is the developer of the Vineyard Estates Subdivision, a 44-acre development consisting of single family residences, located in the City of Avon, Lorain County, Ohio, ("Site"). Respondent's ownership or control over the unsold individual building lots or common areas of the Site, as of the effective date of these Orders, is set forth in Exhibit 1 attached hereto ("Owned Site").
2. Storm water from the Site discharges to a tributary of French Creek known as Schwartz Ditch. Schwartz Ditch constitutes "waters of the state," as defined in

ORC § 6111.01 (H). Sediment contained in said storm water constitutes "other wastes," as defined in ORC § 6111.01 (D). Placement of this waste into waters of the state constitutes "pollution," as defined in ORC § 6111 .01 (A).

3. Because construction of the Site disturbed more than one acre of land, Respondent was required to submit to Ohio EPA a Notice of Intent ("NOI") to obtain coverage under Ohio EPA's National Pollution Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity ("Storm Water General Permit").
4. Ohio EPA received an NOI for the Site on February 7, 2001, and granted Respondent coverage for the Site, effective on February 13, 2001, under Storm Water General Permit No. OHR109929. On September 22, 2003, Ohio EPA received an NOI for Phases 4, 5, and 6 of the Site and granted Respondent coverage for the Site, effective on September 25, 2003, under Storm Water General Permit No. 3GC00372*AG.
5. On June 25, 2001, January 31, 2002, May 1, 2002, June 12, 2002, and August 8, 2003, Ohio EPA staff conducted construction storm water inspections at Phases 1 and 2 of the Site for compliance with Ohio's Water Pollution Control Laws under Storm Water General Permit No. OHR109929, documenting the violations described below.
 - A. Part III.C.5.b.i.(A) of Storm Water General Permit No. OHR 109929 requires that all disturbed areas that would remain dormant for more than forty-five (45) days be stabilized within seven (7) days of the most recent disturbance. The Storm Water General Permit also requires that all disturbed areas within fifty (50) feet of a stream be stabilized within two (2) days of the most recent disturbance. Respondent failed to implement the required vegetative stabilization practices on numerous disturbed areas at the Site, in violation of ORC §§ 6111.04 and 6111.07.
 - B. Part III.C.5.b.i.(B)(1) of Storm Water General Permit No. OHR 109929 requires that sediment control structures be functional throughout earth disturbing activity. Sediment ponds and perimeter sediment barriers are to be implemented as the first step of grading and within seven days from the start of grubbing. The sediment ponds and perimeter sediment barriers are to be functional until the upslope development area had been restabilized. Respondent failed to implement the sediment pond at the Site in accordance with the timing condition of the Storm Water General Permit to treat concentrated storm water runoff from disturbed areas flowing at rates which exceeded the design capacity of sediment barriers and failed to ensure that silt fence and inlet protection were functioning in many locations at the Site, in violation of ORC §§ 6111.04 and 6111.07.

- C. Part III.C.5.b.i.(B)(2) of Storm Water General Permit No. OHR 109929 requires that concentrated storm water runoff from disturbed areas flowing at rates which exceeded the design capacity of sediment barriers pass through a sediment settling pond. Respondent failed to have sediment ponds constructed at the Site to treat concentrated storm water runoff flowing at rates which exceeded the design capacity of sediment barriers, in violation of ORC §§ 6111.04 and 6111.07.
- D. Part III.C.5.b.i.(B)(2) of Storm Water General Permit No. OHR 109929 requires that a sediment settling pond have a storage capacity of sixty-seven (67) cubic yards per acre of total drainage area. Until the date the Site reached final stabilization, Respondent failed to construct the sediment settling pond at the Site to have a storage capacity of sixty-seven (67) cubic yards per acre of drainage area, in violation of ORC §§ 6111.04 and 6111.07.
- E. Part III.C.5.b.i.(B)(4) of Storm Water General Permit No. OHR 109929 requires that structural practices be designed and implemented on Site to protect all adjacent streams from the impacts of sediment runoff. Respondent conducted dewatering activities of the sediment basin that discharged sediment laden water directly into Schwartz Ditch without proper treatment to prevent turbid discharges, in violation of ORC §§ 6111.04 and 6111.07.
- F. Part III.C.5.b.i.(B)(5) of Storm Water General Permit No. OHR 109929 requires that erosion control practices be installed to stabilize channels from erosive flows. Respondent failed to install erosion control practices at the Site to stabilize the channel of the sediment basin's outfall to Schwartz Ditch from erosive flows, in violation of ORC §§ 6111.04 and 6111.07.
- G. Part III.C.5.b.v. of Storm Water General Permit No. OHR 109929 requires that all temporary and permanent control practices be maintained and repaired as needed to assure continued performance of their intended function. Respondent failed to maintain and repair many of the Site's temporary and permanent control practices to ensure continued performance, in violation of ORC §§ 6111.04 and 6111.07.
- H. Part III.C.5.c. of Storm Water General Permit No. OHR 109929 requires that all erosion and sediment control practices used to satisfy the conditions of the permit meet the standards and specifications in the current edition of Rainwater and Land Development, previously Water Management and Sediment Control in Urbanizing Areas. Respondent's erosion and sediment control practices at the Site failed to meet the standards and specifications in the current edition of Rainwater and Land Development, previously Water Management and Sediment Control in Urbanizing Areas, in violation of ORC § 6111.07.

6. On June 17, 2004, July 7, 2004, August 4, 2004, October 19, 2004, and March 16, 2005, Ohio EPA staff conducted construction storm water inspections at Phases 4, 5, and 6 of the Site for compliance with Ohio's Water Pollution Control Laws under Storm Water General Permit No. 3GC00372*AG, documenting the violations described below:
 - A. Part III.G.2.b.i. of Storm Water General Permit No. 3GC00372*AG requires that all disturbed areas 50 feet or more from a stream that will remain dormant for more than twenty-one (21) days be temporarily stabilized within seven (7) days of the most recent disturbance. Respondent failed to stabilize dormant areas within seven days of the last disturbance, in violation of ORC §§ 6111.04 and 6111.07.
 - B. Part III.G.2.d.ii. of Storm Water General Permit No. 3GC00372*AG requires that concentrated storm water runoff and runoff from drainage areas, which exceed the design capacity of silt fence or inlet protection, shall pass through a sediment settling pond. For common drainage locations that serve an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment settling pond must be provided until final stabilization of the Site. Respondent failed to direct concentrated storm water runoff and runoff from drainage areas to a temporary sediment settling pond, in violation of ORC §§ 6111.04 and 6111.07.
 - C. Part III.G.2.d.v. of Storm Water General Permit No. 3GC00372*AG requires that if construction activities disturb areas adjacent to streams, structural practices shall be designed and implemented on Site to protect all adjacent streams from the impacts of sediment runoff. No structural sediment controls (e.g., the installation of silt fence or a sediment settling pond in-stream) shall be used in a stream. Respondent failed to protect Schwartz Ditch from the impacts of sediment runoff and also installed a retention pond or sediment settling pond within Schwartz Ditch, both in violation of ORC §§ 6111.04 and 6111.07.
 - D. Part III.G.2.g.ii. of Storm Water General Permit No. 3GC00372*AG requires that off-Site vehicle tracking of sediments and dust generation shall be minimized. Respondent failed to minimize off-Site vehicle tracking of sediment resulting in large amounts of sediment accumulating in streets off-Site, in violation of ORC §§ 6111.04 and 6111.07.
 - E. Part III.G.2.h. and Part III.G.2.i. of Storm Water General Permit No. 3GC00372*AG require that all temporary and permanent control practices be inspected, maintained and repaired as needed to assure continued performance of their intended function. Respondent failed to maintain and repair many of the Site's temporary and permanent control practices to

ensure continued performance, in violation of ORC §§ 6111.04 and 6111.07.

- F. Part III.G.2.i. of Storm Water General Permit No. 3GC00372*AG requires the permittee to maintain until three years following the submittal of a notice of termination form, a record summarizing the results of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the Storm Water Pollution Prevention Plan (SWP3) and a certification as to whether the facility is in compliance with the SWP3 and the permit and identify any incidents of non-compliance. Respondent failed to maintain a record for the Site, in violation of ORC §§ 6111.04 and 6111.07.
 - G. Part III.G.2.i.i. of Storm Water General Permit No. 3GC00372*AG requires that if an inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment settling pond, it must be repaired or maintained within three days of the inspection. Sediment settling ponds must be repaired or maintained within 10 days of the inspection. Respondent failed to repair or maintain best management practices ("BMPs") in accordance with the Storm Water General Permit No. 3GC00372*AG time frames, in violation of ORC §§ 6111.04 and 6111.07.
7. On July 6, 2004, Ohio EPA Division of Emergency and Remedial Response (DERR) received a complaint that Schwartz Ditch had been discolored a chocolate brown color for the past several days and had had an abnormally high flow. On July 7, 2004, DERR investigated the complaint and documented that sediment was entering Schwartz Ditch at a newly installed culvert. Failing sediment barriers were also discovered along Schwartz Ditch. A Notice of Violation of ORC Chapter 6111 was issued to Respondent on July 7, 2004.
 8. By letters dated July 5, 2001, January 31, 2002, May 7, 2002, July 5, 2002, August 8, 2003, June 22, 2004, and March 25, 2005, Ohio EPA notified Respondent that the construction activities occurring at the Site were in violation of the Storm Water General Permits. In a letter dated August 6, 2001, Ohio EPA stated that the Site was in compliance during an inspection on August 2, 2001.
 9. On October 1, 2003, the United States Army Corps of Engineers, Buffalo District Office (USACOE) conducted a jurisdictional wetland determination on the Site at the request of Respondent. The USACOE determined that 2,004 acres of jurisdictional wetlands and 3,031.25 linear feet of jurisdictional streams existed on the Site that were subject to the regulation of the Clean Water Act. Respondent has disagreed that some of the streams are jurisdictional.

10. On July 7, 2004, Ohio EPA's 401 Section conducted a pre-application inspection of the Site to determine the quality of the wetlands present on Site. The inspection revealed that fill had been illegally placed into jurisdictional wetlands and streams located on the Site. Ohio EPA estimates that 1.7 acres of category II wetland and 1333 linear feet of stream have been impacted.
11. A Section 401 water quality certificate or other authorization from Ohio EPA is required to perform the activity described in Finding No. 10.
12. Respondent has not obtained a Section 401 water quality certificate or such other authorization, as would authorize the activity described in Finding No. 10, nor has Respondent applied for such certificate or other authorization.
13. By a Notice of Violation dated July 13, 2004, Ohio EPA notified Respondent that fill had been illegally placed into wetlands and streams at the Site in violation of ORC § 6111.04.
14. By letter dated July 29, 2004, Respondent responded to Ohio EPA's letter, as described in Finding No. 13, stating that "it was our understanding that a submittal was being prepared to obtain a permit which included mitigation of the fill areas. Because of the timing, we felt we needed to proceed."
15. Pursuant to ORC § 6111.04, no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit and also provides that no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state unless the person holds a valid, unexpired permit, a renewal of a permit, or if the person's application for renewal of such a permit is pending.
16. Pursuant to ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
17. Respondent has caused pollution by discharging or placing or causing to be placed other wastes into waters of the state in violation of Storm Water General Permits and without a Section 401 water quality certificate or other authorization from Ohio EPA, in violation of ORC §§ 6111.04 and 6111.07.
18. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the

people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Within fourteen (14) days of the effective date of these Orders, Respondent shall implement the following best management practices (BMPs) to bring the Owned Site into compliance with Storm Water General Permits No. OHR 109929 and No. 3GC00372*AG:
 - a. Phases 1, 2, and 3
 - i. Stabilize all disturbed areas of the Owned Site, in accordance with the specifications of Storm Water General Permit No. OHR 109929, to prevent discharges of sediment-laden storm water runoff to Schwartz Ditch.
 - ii. Install silt fence along the retention basins and along the drainage channels and jurisdictional wetlands and streams that divert surface flows to the retention basins.
 - b. Phases 4, 5, and 6
 - i. Stabilize all disturbed areas of the Owned Site, in accordance with the specifications of Storm Water General Permit No. 3GC00372*AG, to prevent discharges of sediment-laden storm water runoff to Schwartz Ditch.
 - ii. Install silt fence along the retention basins and along the drainage channels and jurisdictional wetlands and streams that divert surface flows to the retention basins.
 - iii. Install curb inlet protection to remove sediment from storm water prior to it entering the Site's storm sewer system and discharging to Schwartz Ditch.
 - iv. Assure that all disturbed areas on individual building lots currently owned by Respondent (as set forth in Exhibit 1) are stabilized in their entireties in accordance with the specifications contained in Rainwater and Land Development and within the time frames specified in Table 2 of Part III.G.2.b.i. of Storm Water General Permit No. 3GC00372*AG, or no later than seven (7) days prior to the transfer of ownership of the individual building lot, whichever comes first.

- c. The fourteen (14) day time period specified in Order No. 1 above may be extended due to specific site conditions that prohibit implementation only with written approval of the extension of time from the Division of Surface Water in the Northeast District Office of Ohio EPA.
2. Respondent's revised and current SWP3 for the Site, approved for the phase of the development as of the effective date of these Orders, is attached hereto as Exhibit 2 and incorporated as if fully rewritten herein. Respondent shall continuously amend the Site's SWP3, in accordance with Part III.D. of the Storm Water General Permit No. 3GC00372*AG, and in accordance with Part III.C.3. of Storm Water General Permit No. OHR 109929, to reflect any changes in grade or the placement, installation, or removal of any erosion and sediment BMPs, as defined in the Storm Water General Permit, as construction activities progress.
3. Until all disturbed areas at the Owned Site meet the criteria for final stabilization as set forth in the applicable Storm Water General Permit, Respondent shall comply with the Site's SWP3 as amended in accordance with Order No. 2, above, and the Storm Water General Permits.
4. By August 31, 2007, Respondent shall complete installation of structural post-construction BMPs as required in Part III.G.2.e. of Storm Water General Permit No. 3GC00372*AG. Any structural post-construction BMP installed to satisfy this Order shall be physically separated from Schwartz Ditch so as to treat storm water runoff prior to its discharge to waters of the state. Respondent shall include post-construction storm water management requirements in the SWP3 for the Site. Detail drawings and maintenance plans for all post-construction BMPs shall be provided by Respondent to the post-construction operator of the Site prior to termination of Storm Water General Permit No. 3GC00372*AG.
5. Respondent shall submit a Notice of Termination (NOT) for each individual building lot that Respondent has sold as of the effective date of these Orders or sells after the effective date of these Orders, in accordance with Part 1.D. of Storm Water General Permit No. 3GC00372*AG. As required by Part 1.D. of Storm Water General Permit No. 3GC00372*AG, Respondent shall inform the individual lot owner of the obligations under the Storm Water General Permit and ensure that the Individual Lot NOI application is submitted to Ohio EPA.
6. Respondent shall obtain easements from individual building lot owners if necessary to access, construct, or maintain BMPs for the Owned Site.
7. By August 31, 2007, Respondent shall remove the retention pond or sediment settling pond that was installed within Schwartz Ditch and complete the restoration of Schwartz Ditch in accordance with the plans approved by Ohio EPA, attached hereto as Exhibit 3 and incorporated as if fully rewritten herein.

8. By August 31, 2007, Respondent shall complete mitigation of 1,502 linear feet of stream segments within the Site, including 175 linear feet of Schwartz Ditch, in accordance with a Stream Mitigation Plan (SMP) approved by Ohio EPA, attached hereto as Exhibit 3 and incorporated as if fully rewritten herein.
9. Respondent shall also provide for 500 linear feet of stream segment preservation with a minimum of fifty (50) foot buffers on either side of the stream within the Beaver Creek Club (also called Beaver Creek Shooting Club) mitigation site located within the Black River watershed, near Amherst in Lorain County (the "Beaver Creek Club Mitigation Site"). Within thirty (30) days of the effective date of these Orders, Respondent shall provide to Ohio EPA in accordance with Section X. of these Orders, a letter of agreement from the Beaver Creek Club confirming that the mitigation will occur on its site and a map of the location of the segment to be preserved.
10. Ohio EPA and Respondent agree that it is not practical to perform wetland mitigation on Site. In satisfaction of Respondent's wetland mitigation obligations for the Site, Ohio EPA approves Respondent's acquisition of 1.8 acres of forested category II wetland at the Wellington Reservoir Mitigation Bank and the mitigation of 4.3 acres of forested category II wetland compensation at the Beaver Creek Club Mitigation Site. Wetland compensation may include restoration and/or creation and/or enhancement of forested category II wetlands and upland buffers. Within thirty (30) days of the effective date of these Orders, Respondent shall provide to Ohio EPA in accordance with Section X. of these Orders, proof that the credits at the Wellington Reservoir Mitigation Bank have been purchased.
11. Within sixty (60) days of the effective date of these Orders, Respondent shall use its best efforts to enter into a contract (the "Contract") with the Beaver Creek Club for the mitigation of 4.3 acres of forested category II wetland compensation at the Beaver Creek Club Mitigation Site. Prior to execution of the Contract, it shall be submitted to Ohio EPA's 401 Section for approval in accordance with Section X. of these Orders. A copy of the executed Contract shall be submitted to Ohio EPA's 401 Section in accordance with Section X. of these Orders. At a minimum:
 - a. The Contract shall include a provision requiring the Beaver Creek Club to develop and implement a Wetland Mitigation Plan (WMP) for 4.3 acres of forested category II wetland compensation at the Beaver Creek Club Mitigation Site.
 - b. The Contract may include a provision acknowledging that Ohio EPA is a third party beneficiary of the wetland mitigation to be provided by the Beaver Creek Club and that Ohio EPA is entitled to directly enforce the obligations of the Beaver Creek Club under the Contract.
 - c. The Contract shall require that within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit or require the

Beaver Creek Club to submit the WMP for the 4.3 acres of forested category II wetland compensation to Ohio EPA's 401 Section for approval in accordance with Section X. of these Orders. The WMP shall, at a minimum, include the following:

- i. An approved delineation of waters of the state at the Beaver Creek Club Mitigation Site;
- ii. Description of the location of the project Site on a USGS quadrangle;
- iii. Description of the category II forested wetland habitat restoration or enhancement proposed;
- iv. A five (5) year monitoring plan that will focus on the re-establishment of habitat and other water quality functions for the wetland mitigation project to ensure the achievement of an Amphibian Index of Biotic Integrity (AmphIBI) representative of a category II wetland or higher. The monitoring plan shall meet the following requirements at a minimum:
 - (a) Monitoring shall occur in the first, third and fifth year after construction. Monitoring reports shall be submitted to Ohio EPA in accordance with Section X. of these Orders by December 31 of each of those years.
 - (b) Monitoring reports shall include values for the raw data collected as well as calculated areal cover percentages of invasive species and AmphIBI (Amphibian IBI) scores.
 - (c) Representative observation points shall be selected in each plant community type in each wetland mitigation area. This shall be a point which best represents the characteristics of the entire plant community. The observation points shall be marked on the base map.

Photographs shall be taken from these observation points during each monitoring event. The photographs shall be included in the monitoring report.
 - (d). Wetland delineation using the United States Army Corps of Engineers 1987 Wetland Delineation Manual (or successor document) shall occur at the end of the monitoring period and the results, including a map showing wetland boundaries, shall be reported in the fifth year report.

- v. Performance standards which must be met for the mitigation areas to receive wetland restoration, creation or enhancement credits shall include:
 - (a) Mitigation areas shall meet wetland criteria in the 1987 Army Corps of Engineers Wetland Delineation Manual (or successor document);
 - (b) A planting plan under which the mitigation site shall not include more than five percent (5%) areal coverage of the invasive species listed in Table 1 of the ORAM Version 5.0; and
 - (c) AmphIBI scores of 20 or greater.
 - vi. If the mitigation area is meeting all performance standards in Order No. 11.b.v. at the end of the five year monitoring period, Respondent and the Beaver Creek Club shall be released from further mitigation obligations at the Beaver Creek Club Mitigation Site. If the mitigation areas are not performing as required by the end of the fifth year of post construction monitoring, the monitoring period may be extended and/or corrective actions may be required.
 - vii. Authorized representatives from Ohio EPA shall be allowed access to the mitigation site at all reasonable times to monitor the progress of the restoration and compliance with these requirements.
 - d. The Contract shall require the execution, within one hundred twenty (120) days of the effective date of these Orders, of a mechanism for preserving the 4.3 acres of forested category II wetland compensation in perpetuity, such as an environmental covenant among the Beaver Creek Club, Ohio EPA, and Respondent or other third party Holder, identical in substance to Exhibit 4, which is attached hereto and incorporated as if fully rewritten herein. Such an environmental covenant shall be executed, recorded, and submitted to Ohio EPA as set forth in Order No. 13 of these Orders.
 - e. If the Contract does not include a provision like that set out in Order No. 11.b. of these Orders, Respondent shall ensure that the Beaver Creek Club complies with the terms of the Contract and completes the mitigation of 4.3 acres of forested category II wetland compensation at the Beaver Creek Club Mitigation Site.
12. Respondent shall notify Ohio EPA in writing in accordance with Section X. of these Orders if Respondent is unable to reach an agreement with the Beaver Creek Club on the terms of a contract within sixty (60) days of the effective date of these Orders despite good faith efforts to do so. If Ohio EPA agrees that

agreement between Respondent and the Beaver Creek Club on terms of a contract will not be reached, and the Contract is not executed within seventy-five (75) days of the effective date of these Orders, by no later than the seventy-fifth day after the effective date of these Orders Respondent shall deposit one hundred seven thousand five hundred dollars (\$107,500.00) into an escrow account. The funds in the escrow account shall be disbursed, as directed by Ohio EPA's 401 Section, by no later than December 1, 2007, and shall be used only for wetland mitigation in the Ohio Department of Natural Resources Vernal Pool Mitigation Program at one or more sites chosen by Ohio EPA's 401 Section. Respondent shall notify Ohio EPA's 401 Section in writing in accordance with Section X. of these Orders within seven (7) days of the deposit of the money into an escrow account.

13. Within sixty (60) days of the effective date of these Orders, Respondent shall ensure execution of the following environmental covenants, identical in substance to Exhibit 4, which is attached hereto and incorporated as if fully rewritten herein, pursuant to the requirements of ORC § 5301.80 to ORC § 5301.92: (1) among Respondent, Ohio EPA, and a third party Holder to preserve the 1,502 linear feet of mitigated stream on Site in perpetuity; and (2) among the Beaver Creek Club, Ohio EPA, and Respondent or another third party Holder to preserve the 500 linear feet of stream at the Beaver Creek Club Mitigation Site in perpetuity. After each Environmental Covenant is executed, Respondent shall record it or ensure that the Beaver Creek Club records it with the Lorain County Recorder. Respondent shall submit to Ohio EPA a certified copy of each Environmental Covenant as recorded with the County Recorder.
14. Respondent shall pay to Ohio EPA eighty-seven thousand dollars (\$87,000.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to Chapter 6111. of the Ohio Revised Code. The penalty shall be paid by tendering official checks payable to the "Treasurer, State of Ohio" in accordance with the schedule below. The official checks shall be submitted to Brenda Case, or her successor, together with letters identifying the Respondent and the Site, at the following address:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

- a. Within sixty (60) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twenty-six thousand one hundred dollars (\$26,100.00).
- b. Within one hundred twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of forty-three thousand five hundred dollars (\$43,500.00).

15. In lieu of paying the remaining seventeen thousand four hundred dollars (\$17,400.00) of civil penalty, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of seventeen thousand four hundred dollars (\$17,400.00) to the Ohio EPA Clean Diesel School Bus Fund (Fund 5CD). Within sixty (60) days after the effective date of these Orders, Respondent shall tender an official check made payable to "**Treasurer, State of Ohio**" for seventeen thousand four hundred dollars (\$17,400.00). The official check and a cover letter identifying the Respondent and the Site shall both reference the Ohio EPA Clean Diesel School Bus Fund (Fund 5CD), and shall be submitted to Brenda Case, or her successor, at the following address:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of each check shall be sent to Mark Mann, Manager, Stormwater and Enforcement Section, or his successor, at the following address:

Ohio Environmental Protection Agency
Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1049

16. Photocopies of the checks submitted pursuant to Orders Nos. 14 and 15 shall be sent to Ohio EPA's Northeast District Office at:

Ohio Environmental Protection Agency
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: DSW Enforcement Coordinator

17. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 15, within fourteen (14) days of the date the SEP payment was due, Respondent shall pay to Ohio EPA seventeen thousand four hundred dollars (\$17,400.00) as a civil penalty in accordance with the procedures in Order No. 14.
18. Respondent shall not make any distributions to its members that causes the net worth of Respondent to fall below the aggregate value of the uncompleted obligations of these Orders. Respondent shall not make any distributions to its members prior to making the payments required for (a) the wetland mitigation at the Wellington Reservoir Mitigation Bank; (b) the stream preservation and

wetland mitigation at the Beaver Creek Club Mitigation Site; (c) the escrow account, if required, in accordance with Order No. 12; (d) the stream mitigation on Site; and (e) the civil penalty in accordance with Orders Nos. 14 and 15 of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(D)(1).

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring on or at the Site.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to Orders Nos. 1 through 7 shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Enforcement Coordinator

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

All documents required to be submitted by Respondent pursuant to Orders Nos. 7 through 13 shall be addressed to:

Ohio Environmental Protection Agency
Division of Surface Water
401 Section
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: 401 Section Manager

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all

rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency



Joseph P. Koncelik
Director

11/30/06

Date

IT IS SO AGREED:
Avon Land Group LTD.

By: Flair Realty, L.L.C., Member



By

12/29/2006

Date

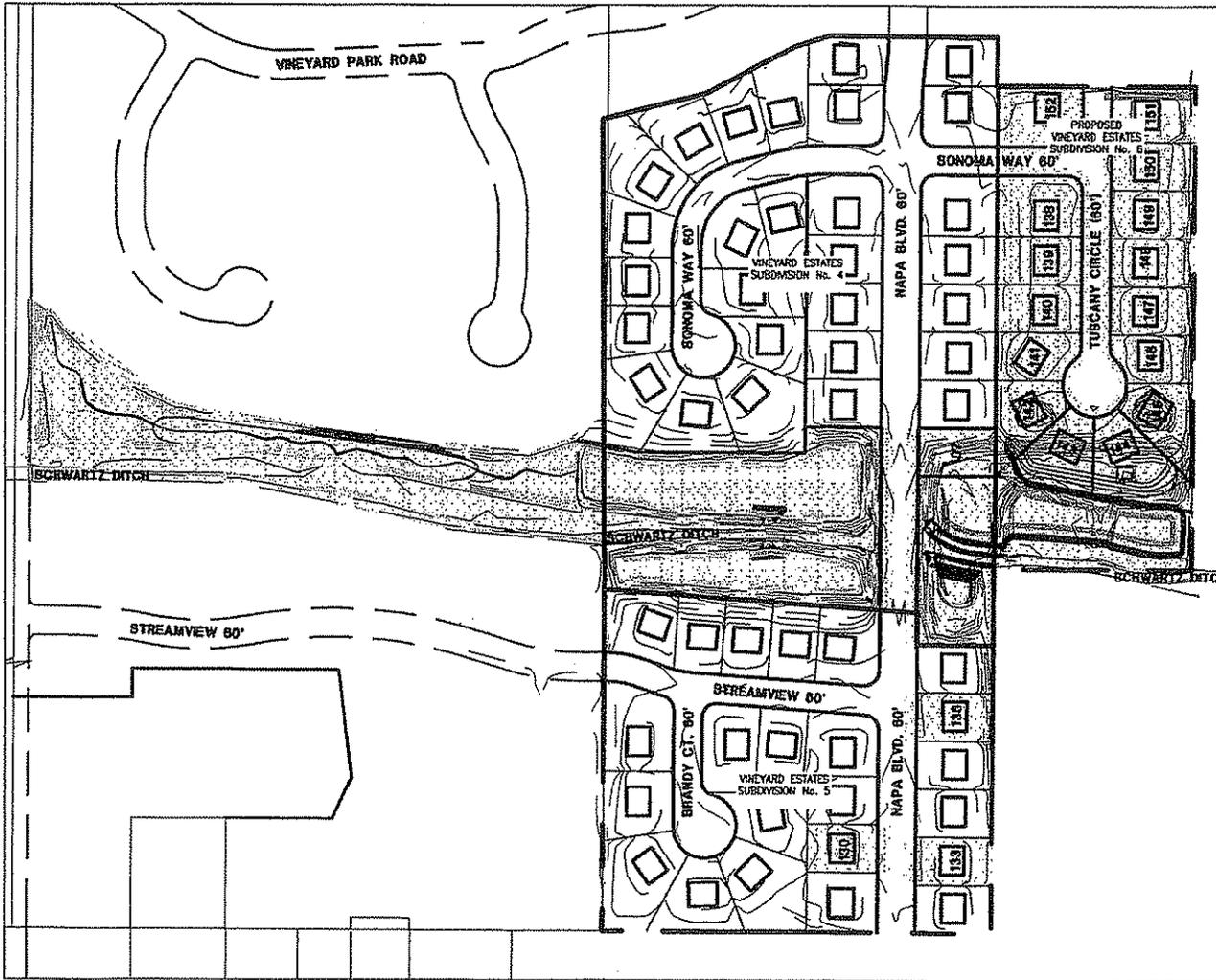
PAUL MADOW

Print Name

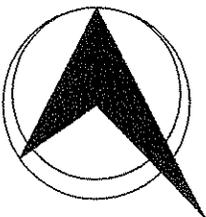
Member

Title

N:\LAND DEVELOPMENT\Proj\12886\dwg\Site Control Exhibit.dwg, Layout1, 12/27/2006 4:40:43 PM



UNSOLD SUBLOTS, OPEN SPACE,
STORMWATER MANAGEMENT PONDS, WATER
QUALITY PONDS, STREAM MITIGATION
UNDER CONTROL OF THE OWNER



NORTH

Not to Scale



NEFF & ASSOCIATES
A PROFESSIONAL CORPORATION

ENGINEERS • PLANNERS
LANDSCAPE ARCHITECTS
SURVEYORS

5405 York Road, Parma Heights, Ohio 44130
(440) 816-3100 FAX: (440) 866-6443

CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO
12-27-06 12886

AVON LAND GROUP CONTROLLED PROPERTY

VINEYARD ESTATES SUBDIVISION - PHASES 4, 5, & 6

SITE DESCRIPTION

Project Name and Location: Vineyard Estates Subdivision - Phases 4, 5, & 6 (see above the control at the Ann (Long) Drive) City of Avon, County of Lorain, State of Ohio

Owner Name and Address: Ann Land Group Ltd. 6940 S. Ferguson Road Brecksville, Ohio 44131-3147

Activities: (Purpose and Types of Soil Disturbing Activities)

This project will consist of Storm Water Retention Basins. Soil disturbing activities will include: clearing and grubbing; installing a finished construction entrance, perimeter, and other erosion and sediment control practices; excavation for the sedimentation pond or traps, storm sewer, utilities, and building foundations; construction of curb and gutter, road, and parking areas; and preparation for final planting and seeding as shown on the Storm Water Pollution Prevention Plan.

Soil Erodibility: Pre-development run-off coefficient = 0.22 Post-development run-off coefficient = 0.25

SMA Area: The site is approximately 25 acres within Phases 4, 5 & 6. Only areas that are under the control of the Ann Land Group are indicated with the Storm Water Pollution Prevention Specs, Plan and Details.

Site Description: (check one)

- Residential
- Commercial
- Industrial
- PUD
- Other

Sequence of Major Activities:

Implementation of all necessary erosion, sediment, non-erosion pollution control, storm water management practices or facilities, and post-construction best management practices to be employed during each operation of the project.

The order of activities will be as follows:

1. Silt fence installed (repair as necessary)
2. Clear site as necessary
3. Install storm sewers and Water Quality structures
4. Commence earthwork activities
5. Complete grading and install permanent seeding
6. All temporary sediment controls shall be removed upon permanent stabilization.
7. Stakele punched areas & structures within 7 days of last construction activity in that area.
8. Re-seed any disturbed areas.

(Remove accumulated sediment from basins (as necessary))

Hours of Service Notice: The water site will drain into Schuette, which is a tributary to the Rock River.

CONTROLS

Erosion and Sediment Control Practices:

Sedimentation Practices:

Temporary Stabilization: Top and stock piles and disturbed portions of the site shall be stabilized within 7 days if the area is disturbed to its deepest for greater than 21 days, or within 2 days if the area is within 50 feet of a residential water. Any disturbed areas that will be dormant over winter shall be stabilized prior to the onset of winter. The temporary seed shall be applied as per the temporary seeding specifications, see sheet 02.2. Note that 70% vegetative density is required on all disturbed soil areas for stabilization.

Permanent Stabilization: Disturbed portions of the site over 50 feet from a stream receiving channel for over 21 days will be stabilized within 8 days of reaching final grade. Disturbed portions of the site whose construction activities permanently cease, or remain dormant for over 1 year, shall be stabilized with permanent seed no later than 7 days after the last construction activity. The permanent seed shall be applied as per the permanent seeding specifications, see sheet 02.2. Note that 70% vegetative density is required on all disturbed soil areas for stabilization.

Stormwater Management:

Stormwater discharges will be provided by curb and gutter, storm sewers, and catch basins for the developed areas. The areas which are not developed will be treated at least 1:1 and have permanent seeding or planting. Once construction is complete, the entire site will drain to the On-site Storm Water Management Basins already constructed.

Stormwater Detention:

Stormwater detention is to be accomplished by an 0.5 acre storm water management basin that has already been constructed in the Phase I individual phases. These basins are being modified to account for Water Quality (see plan).

Sediment Control Practices: (Implemented in this plan)

Sediment control practices shall be used to control erosion and trap sediment from the site remaining disturbed for more than 14 days.

- Water Quality Basins 5
- Silt Fences 2
- Soil Protection 2
- Temp. Seeding 2
- Permanent Seeding 2

OTHER CONTROLS

Waste Materials:

Waste materials will be collected and stored in a primary 55-gal metal dumpster rented from a licensed waste management company. The dumpster will meet all local, city and state waste management regulations. All trash and construction debris from the site will be deposited in the dumpster. The dumpster will be emptied a minimum of twice per week or more often if necessary, and the trash will be hauled off-site. No construction waste materials will be burned on-site. All personnel will be instructed regarding the correct procedure for waste disposal. Notice stating these practices will be posted in the office trailer. The individual who manages the day-to-day site operations will be responsible for seeing that these practices are followed.

Hazardous Waste:

All hazardous waste materials will be disposed of in the manner specified by local or state regulation or by the manufacturer. Site personnel will be trained in these practices. The individual who manages day-to-day site operations will be responsible for seeing that these practices are followed.

Sanitary Waste:

All sanitary waste will be collected from the portable toilets a minimum of three times per week by a licensed sanitary waste management contractor, as required by local regulation.

Off-site Vehicle Tracking:

Off-site vehicle tracking sediment shall be minimized. Construction vehicles are limited to the construction access roads noted on the plan. A stabilized construction entrance will be provided to help reduce vehicle tracking of sediments. All paved streets adjacent to the site will be swept daily to remove any excess mud, dirt or rock tracked from the site. Dump trucks hauling material from the construction site will be covered with a tarpaulin.

TIMING OF CONTROLS/MEASURES

As indicated in the Sequence of Major Activities, all areas to be constructed and/or repaired prior to clearing or grading of any other portions of the site. Areas where construction activity temporarily ceases for more than 21 days will be stabilized with a temporary seed and mulch within 7 days of the last disturbance. Once construction activity ceases permanently in an area, that area will be stabilized with permanent seed and mulch. After the entire site is stabilized, the accumulated sediment will be removed from the basin.

Disturbed areas that are to remain dormant for over 1 year or at final grade shall have permanent erosion controls applied within 7 days.

MAINTENANCE/INSPECTION PROCEDURES

Erosion and Sediment Control Inspection and Maintenance Practices:

These are the inspection and maintenance practices that will be used to maintain erosion and sediment controls.

Less than 5% of the site will be disturbed at one time.

All control measures will be inspected at least once each week and following any storm event of 0.3 inches or greater.

All measures will be maintained in good working order. If a repair is necessary, it will be initiated within 24 hours of report.

Build up sediment will be removed from silt fences when it has reached one-third the height of the fence.

Silt fences will be inspected for depth of sediment, holes, to see if the fabric is securely attached to the fence posts, and to see that the fence posts are firmly in the ground.

The sediment basins will be inspected for depth of sediment, and built up sediment will be removed when it reaches 80 percent of the design capacity or at the end of the job.

Division ditches will be inspected and any breaches promptly repaired.

Temporary and permanent seeding and planting will be inspected for bare spots, washouts, and healthy growth. A maintenance inspection report will be made after each inspection. A copy of the report form to be completed by the inspector.

The site superintendent will select individuals who will be responsible for inspections, maintenance and report activities, and filing out the inspection and maintenance report.

Non-Stormwater Discharges:

It is expected that the following non-stormwater discharges will occur from the site during the construction period:

Water from water line flushing.

Payment wash waters (where no spills or leaks of toxic or hazardous materials have occurred).

Uncontaminated groundwater (from existing excavation).

All non-stormwater discharges will be directed to the sediment basin prior to discharge.

There shall be no sediment-laden discharges to surface waters resulting from dewatering activities. It is recommended that if a trench or ground water conditions exist that it must pass through a sediment settling pond or other equally effective sediment control device prior to being discharged from the construction site.

Dewatering Practices:

Should dewatering be required, it, from trenches, etc. during construction, all water shall be pumped to the temporary sediment basin if possible before being released to downstream channels, storm sewers, etc. If a temporary sediment basin is not shown on the plan, or not suitable for dewatering, the water shall be pumped into a sediment trap or through sediment bags into a stability test surface away from final basins, streams, etc.

GENERAL NOTES:

Notice of Intent (NOI) must be submitted to the Ohio EPA for NPDES Permit 43 days prior to the start of clearing and grading.

All construction activities must comply with all local erosion and sediment control regulations.

All erosion and sediment control practices must meet the standards and specifications of the Ohio Rainwater and Land Development Handbook (1998) and any updates or amendments.

Other erosion control items may be necessary due to environmental conditions.

Regular inspection and maintenance will be provided for all erosion and sediment control practices.

Inspections are to be performed with the Office of Reclamation (ORR) in Ohio. Permanent records of inspections and inspections must be kept throughout the construction period and for 2 years after the (NOI) is filed with the Ohio EPA. Inspections must be made a minimum of once every 7 days and immediately after storm events greater than 0.3 inches of rain in a 24 hour period. Photos must of inspection, major observations, date of inspection and corrective measures taken.

Sediment Ponds/Traps and Perimeter Controls shall be implemented as a first step of grading and within 7 days from the start of grading and shall continue to function until upland areas are stabilized.

The contractor shall use erosion control measures as necessary to prevent sediment movement into areas designated as wetlands.

No yard or liquid waste shall be discharged into storm water runoff.

The contractor shall use indicated areas designated for the storage of solid, sanitary, and toxic wastes, including dumpsters, cement block washes, and vehicle washing areas.

Do not catch basins, crates, and hold covers with messages such as "Dump No Reels, Drums or Containers" shall be utilized as a non-structural best management practice that promotes pollution prevention and conservation awareness. At catch basin gates and hold covers shall be specified with an equivalent message.

SOIL PROTECTION CHART

STABILIZATION TYPE	P	T	Y	W	A	V	J	J	A	S	D	R	E
PERMANENT SEEDING													
DORMANT SEEDING													
TEMPORARY SEEDING													
SEEDING													
MULCHING													

P = PRECAUTION NEEDED
T = PRECAUTION NEEDED FOR 2-3 WEEKS AFTER SOO IS APPLIED

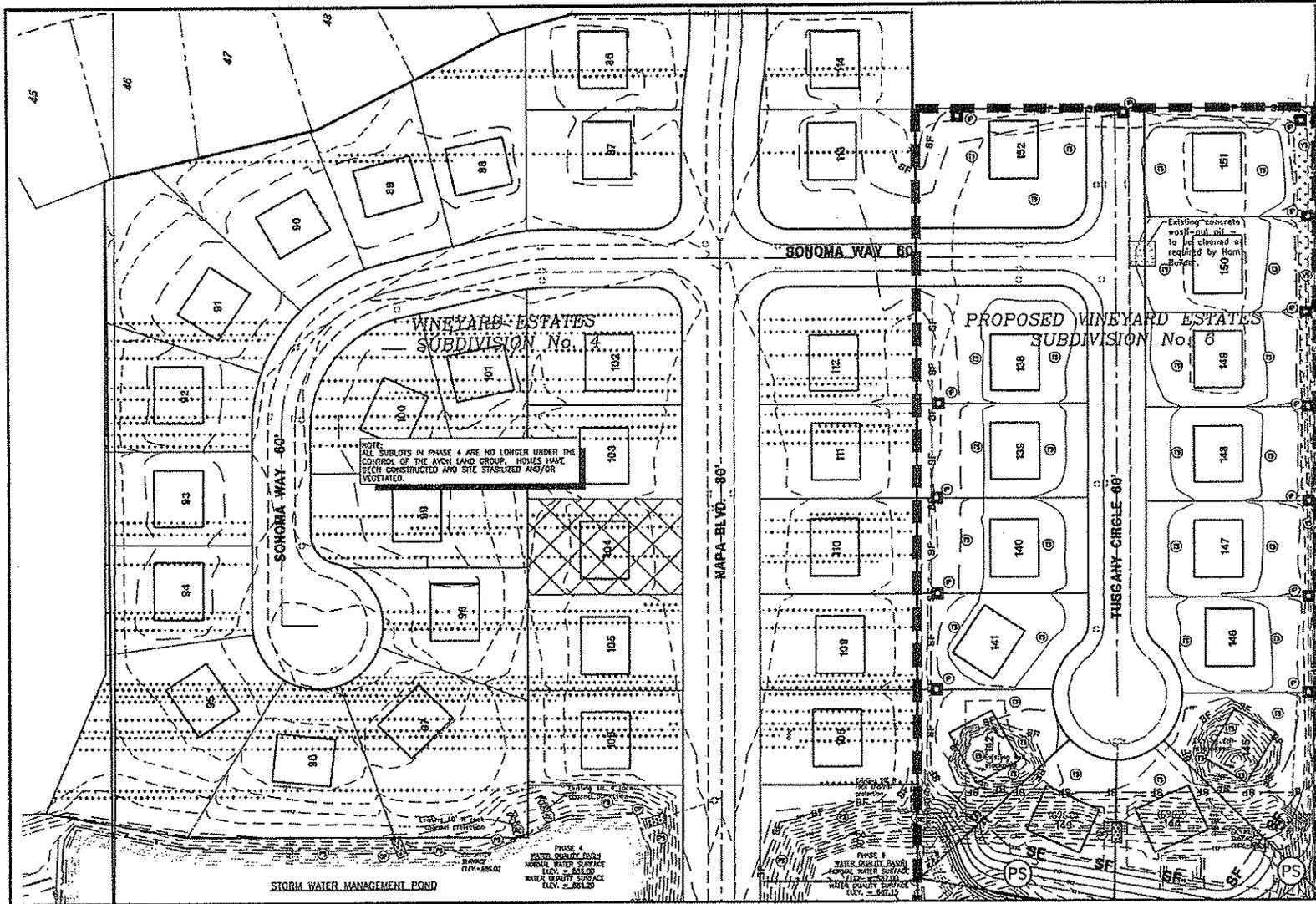
DATE	ISSUED	BY	REVISION
12/27/05	JAP	DMV	PT
DATE	ISSUED	BY	REVISION
12/20/05	DMV	DMV	PT

VINEYARD ESTATES SUBDIVISION - PHASES 4, 5, & 6
STORMWATER POLLUTION PREVENTION SPECS
CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO



REV NO	DATE	DESCRIPTION	BY	SHEET NO.
7	12/27/05	REV. PER 12/21/05 DRG. EPL. COMMENTS	EJK	00.0
6	12/20/05	REV. PER OHIO EPA COMMENTS	EJK	
5	12/12/05	GROUND ISSUE	JAP	

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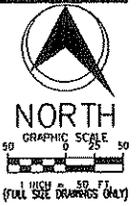


LEGEND

- (TS) EX. TEMPORARY SEEDING
 - (PS) EX. PERMANENT SEEDING
 - (IP) EX. INLET PROTECTION SQUARE
 - (OP) EX. OUTLET PROTECTION
 - (VS) EX. VEGETATIVE STRIP
 - (RC) EX. ROCK CHANNEL PROTECTION
 - (TS) TEMPORARY SEEDING REQUIRED
 - (PS) PERMANENT SEEDING REQUIRED
 - (RC) ROCK CHANNEL PROTECTION REQUIRED
 - (SF) SILT FENCE REQUIRED
 - 1' CONTOUR
 - 2' CONTOUR
 - PROPOSED 1' CONTOUR
 - PROPOSED 2' CONTOUR
 - BF EX. SILT FENCE
 - SF SILT FENCE REQUIRED
- PERMANENT SEED TO BE PLACED ON ALL EROSION MANAGEMENT & WATER QUALITY PRACTICES AND ON ALL EXPOSED SWALES. TEMPORARY SEED TO BE PLACED ON ALL OTHER EXPOSED AREAS. SWALE AREAS SHALL BE SEEDS IMMEDIATELY UPON INSTALLATION. DERIVED AREAS WITHIN 50 FEET OF ANY STREAM OR WETLAND AREAS SHALL BE SEEDS WITHIN 48 HOURS OF READING FINAL ENGINE.

- [Hatched Box] SUBLOTS NO LONGER UNDER THE CONTROL OF THE OWNER
- [Cross-hatched Box] SUBLOTS UNDER THE CONTROL OF RURAL HOMES

- [Dashed Box] SILT PROTECTION FOR EXISTING PROTECT PILES OR BERTS REQUIRED AS OCCURRED AREAS HAVE BEEN STABILIZED AND PROTECTED EARTH
- [Dotted Box] ALL EXPOSED AREAS MUST BE TEMPORARILY SEEDS AS APPROVED BY THE OHIO EPA REQUIREMENTS (SEE SHEET C0.2)
- [Dotted Box] PERMANENT SILT FENCE AT THE TOP OF BANK AS THE PERMANENT SEED FOR ALL CONTROL PRIOR TO THE WATER QUALITY PLAN



MATCH LINE A-A

MATCH LINE A-A (SEE SHEET C-2)

MATCH LINE A-A

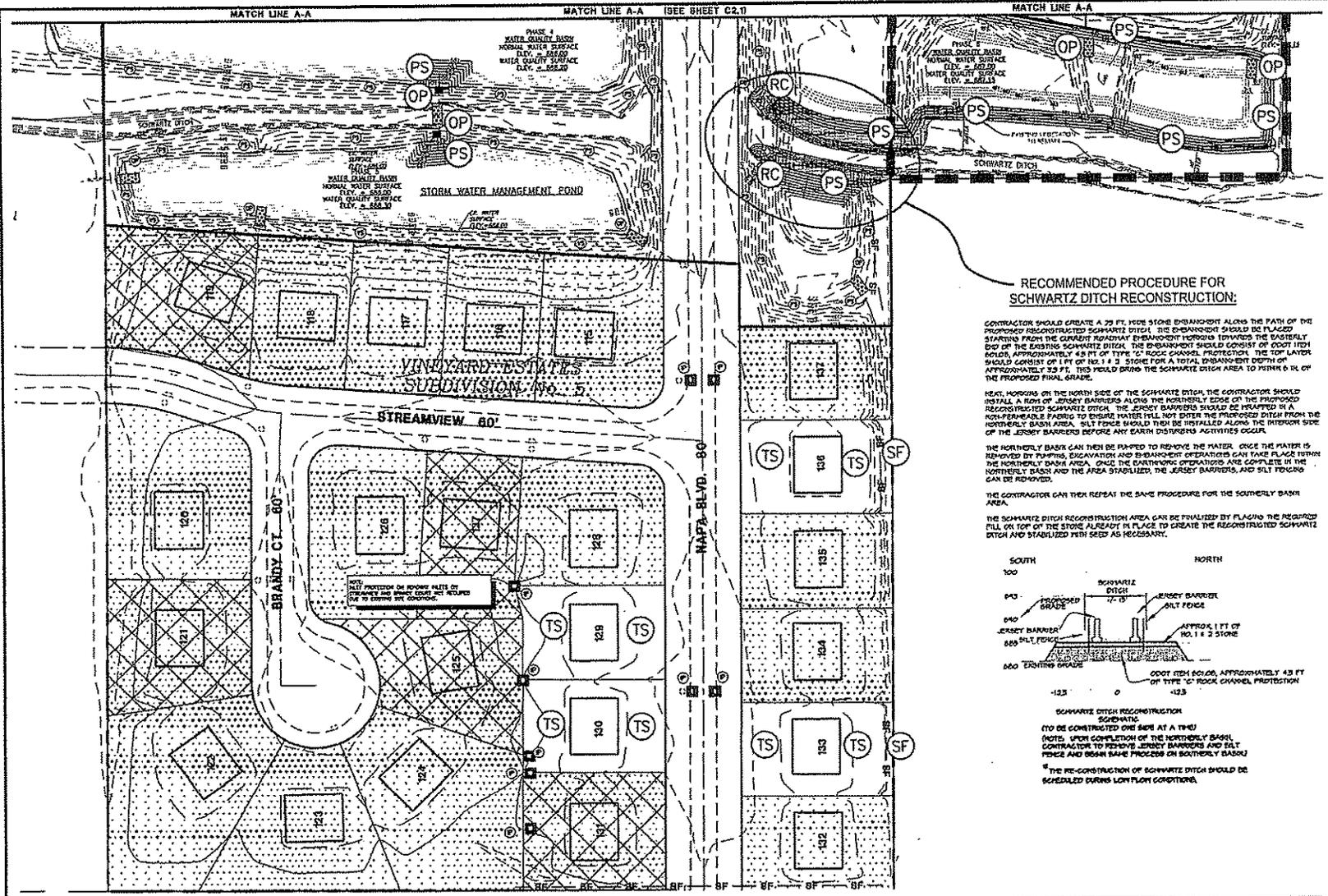
PLAN NO.	12186	SCALE	1"=40'
DESIGNED BY	JGP	DRAWN BY	
PROJECT NO.	12186-3000	DATE	DECEMBER, 2006

VINEYARD ESTATES SUBDIVISION - PHASES 4, 5, & 6
STORMWATER POLLUTION PREVENTION PLAN
 CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO

NA **NEFF & ASSOCIATES**
 PROFESSIONAL CORPORATION
 ENGINEERS - PLANNERS
 LANDSCAPE ARCHITECTS
 SURVEYORS
 4000 W. 12th Street, Suite 200, Avon, OH 44011
 419.285.1200 FAX 419.285.1201

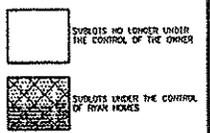
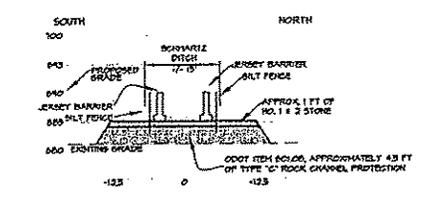
REV NO.	DATE	DESCRIPTION	BY	SHEET NO.
1	12/17/06	REV. FOR 12/17/06 OHIO EPA COMMENTS	ELM	C0.2
2	12/20/06	REV. PER OHIO EPA COMMENTS	ELM	
3	12/12/08	ORIGINAL ISSUE	ANP	

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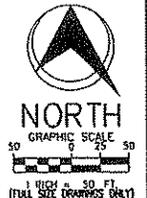


LEGEND	
(TS)	EX. TEMPORARY SEEDING
(PS)	EX. PERMANENT SEEDING
(IP)	EX. INLET PROTECTION SQUARE
(OP)	EX. OUTLET PROTECTION
(VS)	EX. VEGETATIVE STRIP
(RC)	EX. ROCK CHANNEL PROTECTION
(TS)	TEMPORARY SEEDING REQUIRED
(PS)	PERMANENT SEEDING REQUIRED
(RC)	ROCK CHANNEL PROTECTION REQUIRED
(SF)	SILT FENCE REQUIRED
---	EX. 1" CONTOUR
---	EX. 3" CONTOUR
---	PROP. 1" CONTOUR
---	PROP. 3" CONTOUR
---	EX. SILT FENCE
---	SILT FENCE REQUIRED

PERMANENT SEED TO BE PLACED ON ALL STORMWATER SUBSIDIARY & WATER QUALITY POND ARE ON ALL DRAINAGE SWALES. TEMPORARY SEED TO BE PLACED ON ALL STEEP DISTURBED AREAS. BASIN AREAS SHALL BE SEEDED IMMEDIATELY UPON INSTALLATION. DISTURBED AREAS WITHIN 50 FEET OF ANY STREAM OR NEARBY AREAS SHALL BE SEEDED WITHIN 48 HOURS OF READING FINAL GRADE.



NOTE: SILT PROTECTION FOR DRAINAGE SWALES IS TO BE MAINTAINED AS DESCRIBED UNTIL PERM SEEDING AND VEGETATION ESTABLISH.



NO. 12110	SCALE	1"=50'
DRAWN BY	DATE	NOV 22
CHKD BY	DATE	NOV 22
DATE	DATE	DECEMBER, 2004

VINEYARD ESTATES SUBDIVISION - PHASES 4, 5, & 6
STORMWATER POLLUTION PREVENTION PLAN
CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO

NA NEFF & ASSOCIATES
PROFESSIONAL ENGINEERS
DESIGNERS - PLANNERS
LANDSCAPE ARCHITECTS
SURVEYORS
STATE LICENSE NO. 9303
EXPIRES 12/31/06

REV NO	DATE	DESCRIPTION	BY
7	12/21/05	REV. PER 12/21/05 OHIO EPA COMMENTS	CLB
8	12/20/05	REV. PER OHIO EPA COMMENTS	CLB
5	12/08/05	ORIGINAL ISSUE	JUP

SHEET NO.
C0.3

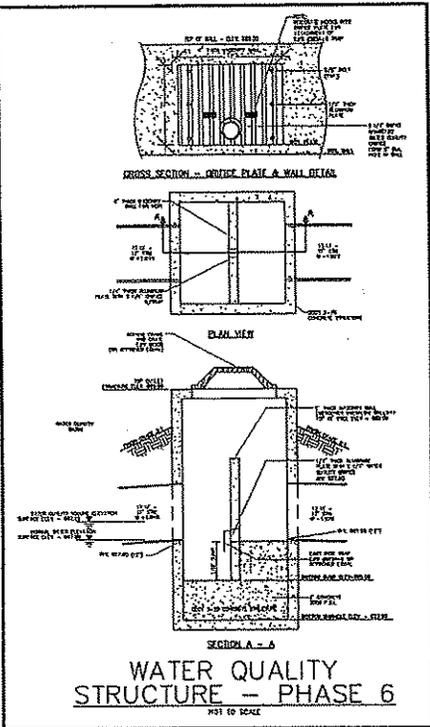
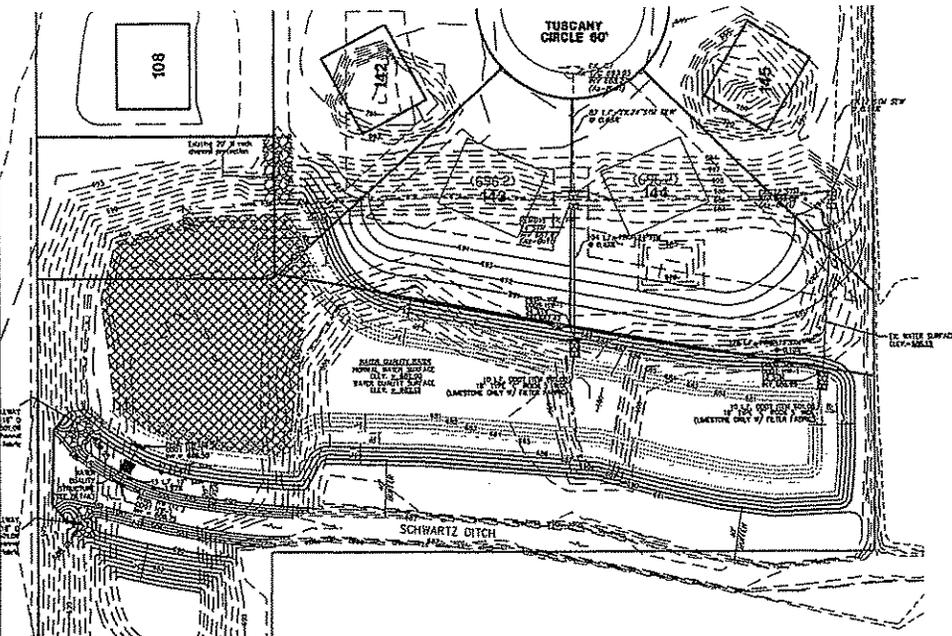
WILSON DEVELOPMENT COMPANY 11255A WILSON AVENUE, WILSON, OHIO 43084 REVISED STORMWATER QUALITY PLAN 12/27/00 R22.24.4A

WATER QUALITY POND AREAS

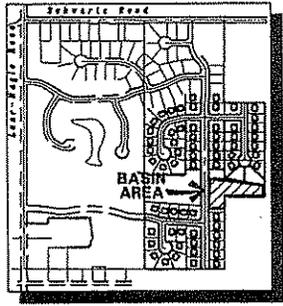
EL. (FT.)	AREA (SQ. FT.)
691.00	20,362
691.00	33,339
693.00	48,030
694.00	43,820
695.00	42,887
696.00	37,150
696.50	59,135
697.00	61,377
697.50	63,363
698.00	63,868

OVERFLOW SPILLWAY
 24" x 20" x 4" x 2"
 Type 2 rock channel
 protection 1/10th bank

OVERFLOW SPILLWAY
 24" x 18" x 4" x 2"
 Type 2 rock channel
 protection 1/10th bank



WATER QUALITY STRUCTURE - PHASE 6
NOT TO SCALE



VICINITY MAP
NOT TO SCALE

APPROXIMATE EARTHWORK VOLUMES (C.Y.)

AREA OF WORK	CUY.	FEET
EXCAVATION & EMBANKMENT	3,743	18,083
EX. SPOIL VOLUMES (SUBLOTS 142A-142E)	1,692	
12" STROP (SUBLOTS 138-142, 143-145)	2,932	
3.5' UNDERCUT POND AREA	3,618	
RET.		0 (FAS)

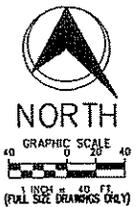
NO TOPSOIL STRIPPING OR RE-SPEREAD IS INCLUDED OR ANTICIPATED.

UNDERCUT POND AREA FOR EMBANKMENT FILL
 APPROXIMATE AREA = 20,325 SQ. FT.

PHASE 6 WATER QUALITY SCHEMATIC EXHIBIT
SCALE: 1"=40'

LEGEND

	EX. 1' CONTOUR
	EX. 3' CONTOUR
	PROP. 1' CONTOUR
	PROP. 3' CONTOUR

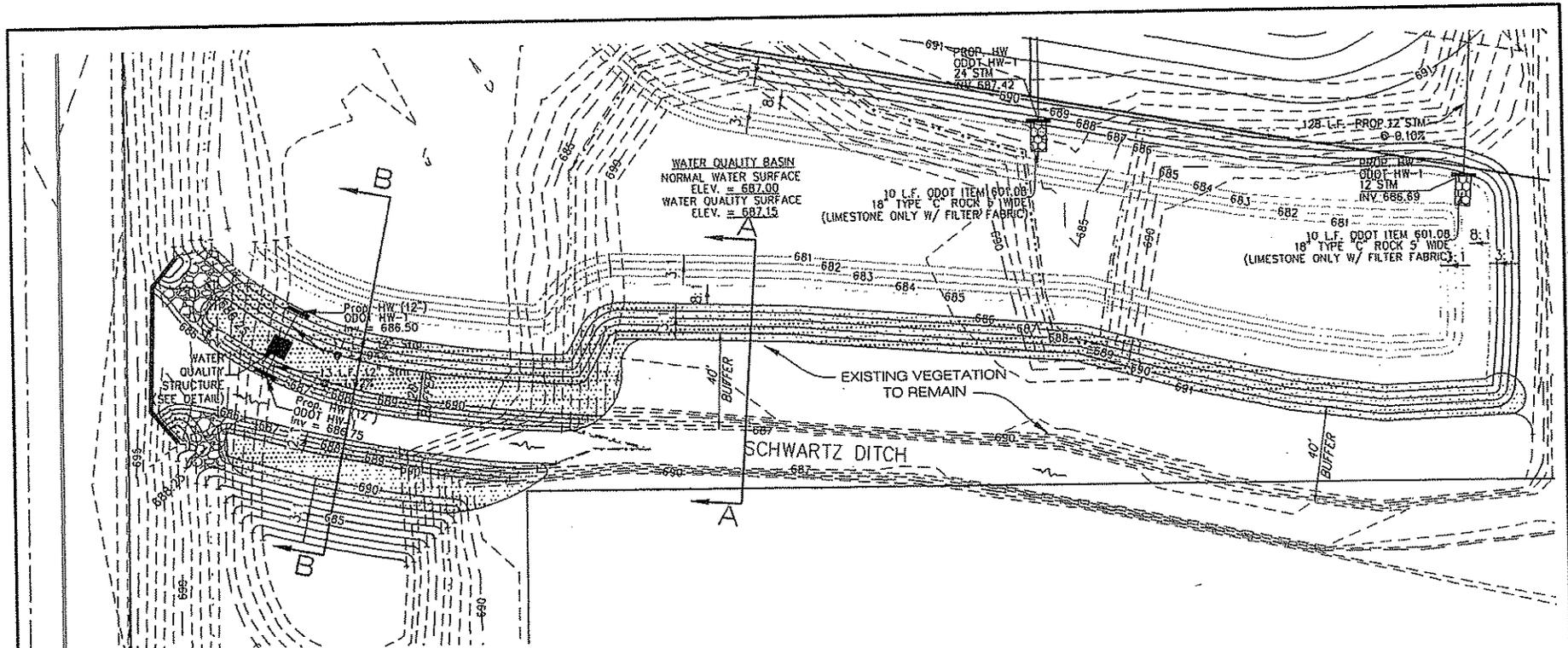


REV. NO.	DATE	BY	DESCRIPTION
1	12/27/00	JMP	AS NOTED
2	12/27/00	JMP	AS NOTED
3	12/27/00	JMP	AS NOTED
4	12/27/00	JMP	AS NOTED
5	12/27/00	JMP	AS NOTED
6	12/27/00	JMP	AS NOTED
7	12/27/00	JMP	AS NOTED

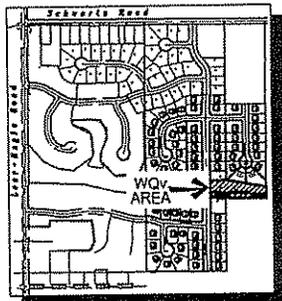
VINEYARD ESTATES SUBDIVISION - PHASE 6
STORM WATER QUALITY PLAN
 CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO



REV. NO.	DATE	DESCRIPTION	BY	SHEET NO.
7	12/27/00	REV. PER 12/21/00 OHIO EPA COMMENTS	ELK	C12
6	12/20/00	REV. PER OHIO EPA COMMENTS	ELK	
5	12/13/00	REV. PER AS-BUILT'S	JMP	
4	9/29/00	REV. POND SLOPES	JMP	
3	8/14/00	REV. PER OWNER'S COMMENTS	JMP	
2	7/21/00	REV. PER EPA HQ &	JMP	
1		ISSUED FOR OWNER REVIEW		



PHASE 6 - WATER QUALITY EXHIBIT
SCALE: 1" = 30'



VICINITY MAP
NOT TO SCALE

- LANDSCAPE NOTES**
1. CONTRACTOR TO CONTACT THE OHIO UTILITIES PROTECTION SERVICE (OUPS) 1-800-363-2764, 48 HOURS PRIOR TO COMMENCING ANY WORK.
 2. ALL ELEVATIONS SHOWN ARE TO FINISHED GRADE.
 3. ANY PLANT MATERIAL SUBSTITUTIONS TO BE VERIFIED AND APPROVED BY OWNER OR LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
 4. ALL PANSICUTS AND EXPOSURE TO BE REPAIRED AND STABILIZED AT CONTRACTOR'S EXPENSE OR AS AGREED UPON WITH OWNER IN WRITING PRIOR TO STARTING WORK.
 5. ALL DISTURBED AREAS ARE TO IMMEDIATELY RECEIVE EROSION CONTROL MATERIALS AND SEEDING MATERIALS AS SPECIFIED IN PLANS AND DETAILS.
 6. ALL EROSION CONTROL BLANKETS SHALL BE NORTH AMERICAN GREEN BOKET G25-01 OR APPROVED EQUIVALENT.
 7. PLANTING MATERIAL LOCATIONS MAY REQUIRE FIELD ADJUSTMENT AS DIRECTED BY THE LANDSCAPE ARCHITECT.
 8. SEEDING TO BE INSTALLED IMMEDIATELY FOLLOWING COMPLETION OF EARTHWORK ACTIVITIES.
 9. CONTRACTOR TO SEED ALL DISTURBED AREAS. SEEDING TYPES AND PERCENTAGES ARE LISTED ON THIS SHEET. COMBINE WITH THREE TIMES ITS VOLUME IN FERTILIZER (0-20-20 NPK).
 10. CONTRACTOR SHALL MAINTAIN SITE AS DIRECTED BY THE OHIO EPA AND THE ARMY CORPS OF ENGINEERS.
 11. EROSION CONTROL SHEETS IN DRAWING FILED TAKEN IN AN AS-BUILT SURVEY DATED NOVEMBER 2008 BY K&V ASSOCIATES AND ARE ACCURATE.

WOODY SHRUB SPECIES

COMMON NAME	BOTANICAL NAME	INDICATOR	COND.
SLYLY DOGWOOD	CORUS AMOMUM	PAGE1	12-18 (RU)
STIFF DOGWOOD	CORUS FOENICIA	PAGE	12-18 (RU)
REDSTEM DOGWOOD	CORUS STOLONIFERA	PAGE1	12-18 (RU)
POPPLEBERRY	TEUK VERTICILLATA	PAGE1	12-18 (RU)
HEAVEN TREE	SPURZA ALBA	PAGE1	12-18 (RU)
ARROWWOOD VIBURNUM	VIBURNUM PRICOCENTUM	PAGE1	12-18 (RU)
HAWTHORNE	VIBURNUM LINDLAYI	PAGE	12-18 (RU)
HANSHU GRABERBERY	VIBURNUM TAILOIDUM	PAGE1	12-18 (RU)

*THE MAJORITY OF WOODY SHRUB PLANTINGS SHALL BE SLYLY DOGWOOD AND REDSTEM DOGWOOD. THE REMAINDER SHALL BE SELECTED FROM THE ABOVE LIST, BUT NO LESS THAN 4 SPECIES SHOULD BE USED.

LEGEND

BARE ROOT PLANTING AREAS & SEEDING APPROXIMATELY - 14255 SQ. APPROXIMATELY - 255 PLANTS

EROSION CONTROL SEEDING MIXTURE

Seed lbs	Seeding Rate	
	sq/ft.	sq/1000 ft.
Overall Use		
Creeping Red Fescue	20-40	1/2 - 1
Common Ryegrass	10-20	1/4 - 1/2
Hardtail Phalaris	10-20	1/4 - 1/2
Tall Fescue	40	1
Sheep Fescue	40	1



REV NO	DATE	BY	REVISION
1	12/12/09	REV. PER AS-BUILTS	JWP
2	7/21/05	REV. PER EPA H2O B.	JWP

VINEYARD ESTATES SUBDIVISION - PHASE 6
STORM WATER QUALITY PLANTING PLAN
CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO

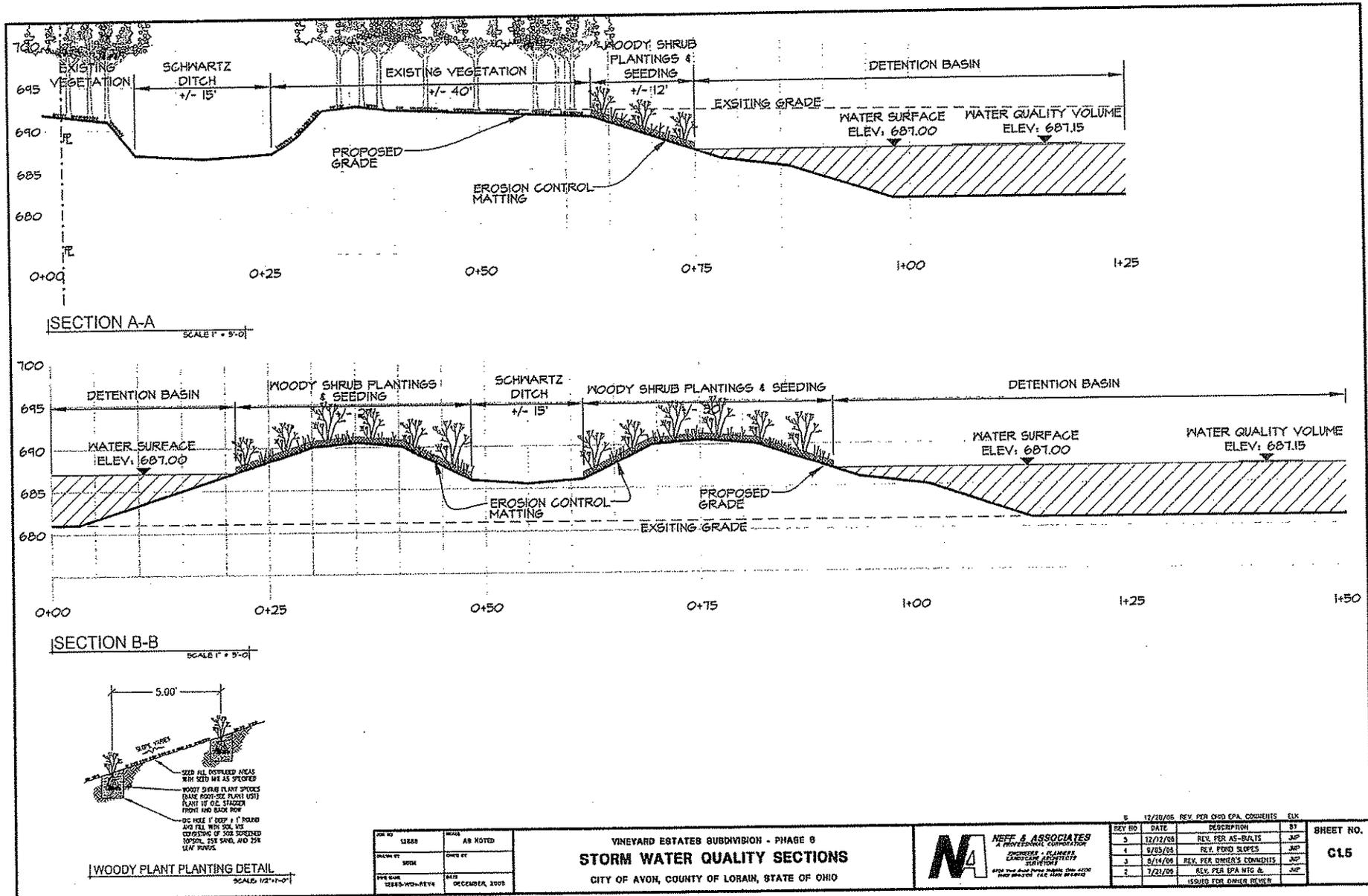


REV NO	DATE	DESCRIPTION	BY
3	8/09/08	REV. POND SLOPES	JWP
4	8/09/08	REV. PER OWNER'S COMMENTS	JWP
5	7/21/05	REV. PER EPA H2O B.	JWP

ISSUED FOR OWNER REVIEW

SHEET NO. C14

11/15/09 11:53 AM
 C:\Users\jwp\Documents\111509\111509.dwg
 11/15/09 11:53 AM



12/15/05 11:51 AM C:\PROJECTS\11884\11884-001.dwg PLANTING C1.5 12/15/2005 8:00:37 AM

JOB NO.	LEAD	SCALE	AS NOTED
	BOOK		DATE EC
PREP BY	DATE	DATE	DATE
2004-10-15	NOV-04	NOV-04	NOV-04

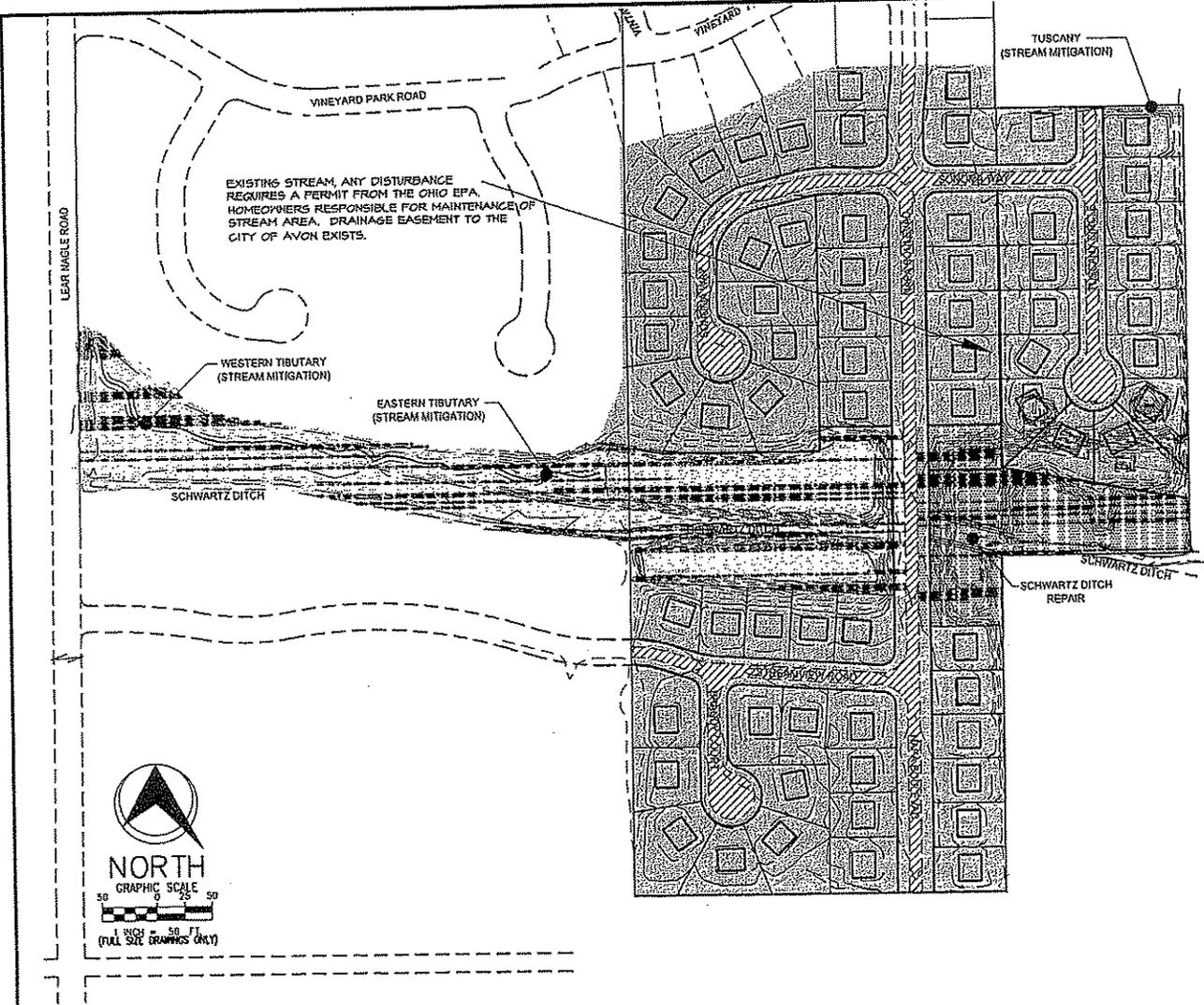
VINEYARD ESTATES SUBDIVISION - PHASE 6
STORM WATER QUALITY SECTIONS
 CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO



REV NO.	DATE	DESCRIPTION	BY
5	12/15/05	REV. PER OHIO EPA COMMENTS	ELK
3	12/12/05	REV. PER AS-BUILT'S	JMP
4	9/23/05	REV. PER DAVIS	JMP
3	8/14/05	REV. PER OWNER'S COMMENTS	JMP
2	7/21/05	REV. PER EPA MFG #	JMP

ISSUED FOR OWNER REVIEW

SHEET NO.
C1.5



LEGEND AND MAINTENANCE SCHEDULE	
	LONG-TERM MAINTENANCE BY HOMEOWNER
	IT WILL BE THE HOMEOWNER'S RESPONSIBILITY TO ASSURE THAT ALL EXPOSED SURFACES NOT COVERED BY BUILDING OR PAVEMENT WILL BE COVERED WITH VEGETATION AND OR MULCH. ALL VEGETATION WILL BE MAINTAINED BY HOMEOWNER IN ACCORDANCE WITH STANDARDS SET BY LOCAL ZONING ORDINANCE AND/OR HOMEOWNERS ASSOCIATION DOCUMENTS.
	STABILIZED WITH CONCRETE PAVEMENT AND MAINTAINED BY THE CITY OF AVON
	IT WILL BE THE CITY OF AVON'S RESPONSIBILITY TO MAINTAIN THE ROADWAY PAVEMENT, AND TO ASSURE THAT THE PAVEMENT IS RELATIVELY CLEAN AND FREE OF EXCESS DUST, SOIL, TRASH, ETC. THAT MAY CAUSE EXCESS SEDIMENT AND/OR POLLUTION DOWNSTREAM.
	OPEN SPACE, STORMWATER MANAGEMENT PONDS, WATER QUALITY PONDS, STREAM MITIGATION TO BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
	THE HOMEOWNERS ASSOCIATION WILL BE RESPONSIBLE FOR THE LONG TERM MAINTENANCE OF THE FOLLOWING ITEMS AS FOLLOWS:
	1. STORMWATER MANAGEMENT PONDS/EXTENDED WATER QUALITY BASIN
	THIS IS A SUGGESTED SCHEDULE ONLY, DEPENDING ON RAINFALL AND SITE CONDITIONS THE NEED FOR MAINTENANCE MAY VARY. MONTHLY: CLEAN TRASH AND DEBRIS FROM OUTLET STRUCTURE. ADDRESS ANY ACCUMULATION OF WEEDS/ROCKS. ANNUALLY: INSPECT IN-CHANNEL AND OUTLET STRUCTURE FOR PROPER FLOW. REMOVE POISON VEGETATION (SEE VEGETATION MAINTENANCE) AND FOR ANY EROSION AREAS. MONITOR SEDIMENT ACCUMULATIONS IN PONDS. SEASONALLY: INSPECT AREAS FOR INVASIVE PLANTS (SEE VEGETATION MAINTENANCE). AS NEEDED: REMOVE SEDIMENT FROM PONDS AS NEEDED. AS NEEDED: MONITOR SEDIMENT THROUGHOUT ENTIRE BASIN AND CLEAN AS THE BASIN BECOMES EUTROPHIC OR BASIN VOLUME IS REDUCED SIGNIFICANTLY.
	* THIS MAINTENANCE OPERATIONS SHOULD BE SCHEDULED WITH THE FORECAST CALLS FOR DRY WEATHER, AND IN CONJUNCTION WITH ANY SCHEDULED VEGETATION MAINTENANCE TO ALLOW ALL DISTURBED OR DAMAGED AREAS TO BE PROPERLY RESTORED.
	2. SCHWARTZ DITCH (STREAM MITIGATION)
	BARRIER STAKES & PROTECTIVE TAPE SHALL BE REMOVED COMPLETELY AFTER ONE YEAR, OR WHEN VEGETATION HAS ESTABLISHED TO A HEIGHT THAT WILL NOT BE A HAZARD FOR LIFE.
	THIS IS A SUGGESTED SCHEDULE ONLY, DEPENDING ON RAINFALL AND SITE CONDITIONS THE NEED FOR MAINTENANCE MAY VARY. MONTHLY: INSPECT FOR EROSION BANKS AND/OR DEBRIS IF EROSION IS FOUND, AREA SHALL BE REPAIRED, REPLANTED AND STABILIZED AS NECESSARY. SEASONALLY: INSPECT AREAS FOR INVASIVE PLANTS, (SEE VEGETATION MAINTENANCE)
	3. ALL REMAINING AREAS
	ASSURE THAT ALL EXPOSED SURFACES NOT COVERED BY BUILDING, PAVEMENT, OR POND AREAS, WILL BE COVERED WITH VEGETATION AND OR MULCH.
	ALL REMAINING VEGETATION WILL BE MAINTAINED BY HOMEOWNERS ASSOCIATION IN ACCORDANCE WITH THE STANDARDS SET BY LOCAL ZONING ORDINANCE AND/OR HOMEOWNERS ASSOCIATION DOCUMENTS.

VEGETATION MAINTENANCE PLAN	
	THIS IS A SUGGESTED SCHEDULE ONLY, VEGETATIVE NEEDS MAY VARY DEPENDING ON SITE CONDITIONS, SOME MAINTENANCE NEEDS INCLUDE:
	-MULCHING (AS REQUIRED)
	-WEEDING
	-PEST CONTROL
	-PRUNING (IN PARTICULAR AFTER MAINTENANCE OF FOREST AND MICRO POOL, IF DISTURBANCES HAVE OCCURRED)
	-THATCH AND FLEED REMOVAL
	THATCH REMOVAL INCLUDES THE FOLLOWING UNWANTED PONDY SEEDLINGS IN SHORELINE AREAS:
	-COTTONGRASS (OTLOHUS DOLYTOIDES)
	-YELLOW ISLEX SPP.
	-SILVER MAPLE (ACER SACCHARINUM)
	FLEED REMOVAL INCLUDES THE FOLLOWING SPECIES DETRIMENTAL TO PERLAND PLANTINGS:
	-COMMON REED (PHALARIS ARISTATA)
	-CATTAILS (TYPHA SPP.)
	-PURPLE LOOSESTRIFE (LYTHRUM SALICARIA)
	WHEN REMOVING THE PURPLE LOOSESTRIFE IT IS IMPORTANT TO REMOVE THE LARGE ROOT SYSTEMS AS WELL AS THE PLANT FROM THE FLOWERS (SEE THROUGH SHEET). THE PLANT AND ITS PARTS SHOULD BE IMMEDIATELY PLACED IN A BAG TO PREVENT FURTHER SPREAD OF THE SPECIES. IF THIS PROCEDURE IS NOT POSSIBLE, REGULAR REMOVE THE FLOWER HEADS BEFORE SEEDS ARE DISPENSED.
	IF WEED GROWTH EXCEEDS 10" IN HEIGHT IN SEEDED AREAS WITH OR WITHIN 4'; DO NOT CUT AREAS WHERE LIVE PLANTS WERE INSTALLED. SECONDLY DO NOT OVER FERTILIZE SURROUNDING VEGETATION THIS MAY LEAD TO EXCESS NUTRIENTS BEING PUSHED INTO THE POND, WHICH CAN CAUSE EXCESSIVE ALGAE GROWTH.

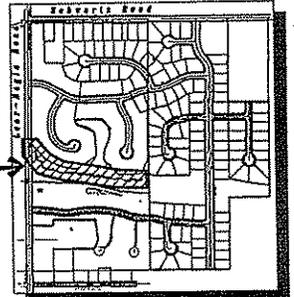
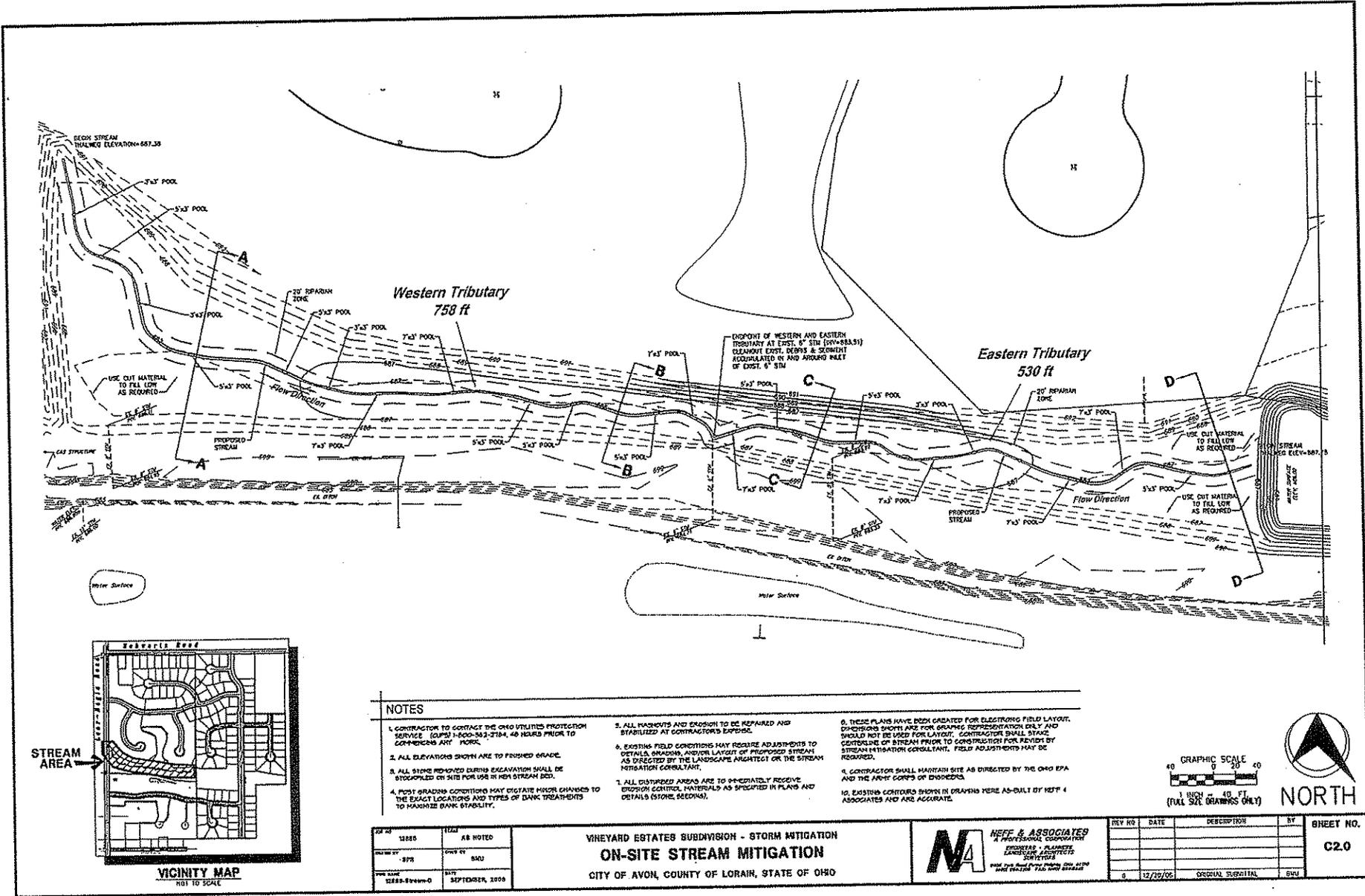
DATE	12/07
DESIGN BY	SM
CHECK BY	SM
DATE	DECEMBER, 2008

VINEYARD ESTATES SUBDIVISION - PHASES 4, 5, & 6
POST CONSTRUCTION MAINTENANCE PLAN
 CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO



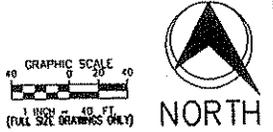
REV NO	DATE	DESCRIPTION	BY	SHEET NO.
7	12/27/08	REV. FOR 11/27/08 AND 12/10/08	ELK	C16
8	1/27/09	ORIGINAL ISSUE	SM	

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NOTES

1. CONTRACTOR TO CONTACT THE OHIO UTILITIES PROTECTION SERVICE (OUPS) 1-800-542-2784, 48 HOURS PRIOR TO COMMENCEMENT OF WORK.
2. ALL ELEVATIONS SHOWN ARE TO FINISHED GRADE.
3. ALL STONE MENTIONED DURING EXCAVATION SHALL BE STOCKPILED ON SITE FOR USE IN NEW STREAM BED.
4. POST GRADING CONDITIONS MAY REQUIRE MIXTURE CHANGES TO THE EXACT LOCATIONS AND TYPES OF BANK TREATMENTS TO MAXIMIZE BANK STABILITY.
5. ALL MAINTENANCE AND EROSION TO BE REPAIRED AND ESTABLISHED AT CONTRACTOR'S EXPENSE.
6. EXISTING FIELD CONDITIONS MAY REQUIRE ADJUSTMENTS TO DETAILS, GRADING, AND/OR LAYOUT OF PROPOSED STREAM AS DIRECTED BY THE LANDSCAPE ARCHITECT OR THE STREAM MITIGATION CONSULTANT.
7. ALL DISTURBED AREAS ARE TO BE REVEGETATED WITH SPECIFIC EROSION CONTROL MATERIALS AS SPECIFIED IN PLANS AND DETAILS (SEEDS, SEEDS).
8. THESE PLANS HAVE BEEN GRABBED FOR ELECTRONIC FIELD LAYOUT. DIMENSIONS SHOWN ARE FOR GRAPHIC REPRESENTATION ONLY AND SHOULD NOT BE USED FOR LAYOUT. CONTRACTOR SHALL BRIDGE CENTERLINE OF STREAM PRIOR TO CONSTRUCTION FOR REVIEW BY STREAM MITIGATION CONSULTANT. FIELD ADJUSTMENTS MAY BE REQUIRED.
9. CONTRACTOR SHALL MAINTAIN SITE AS DIRECTED BY THE OHIO EPA AND THE ARMY CORPS OF ENGINEERS.
10. EXISTING CONDITIONS SHOWN IN GRAPHS WERE AS-DRAWN BY NETP 4 ASSOCIATES AND ARE ACCURATE.



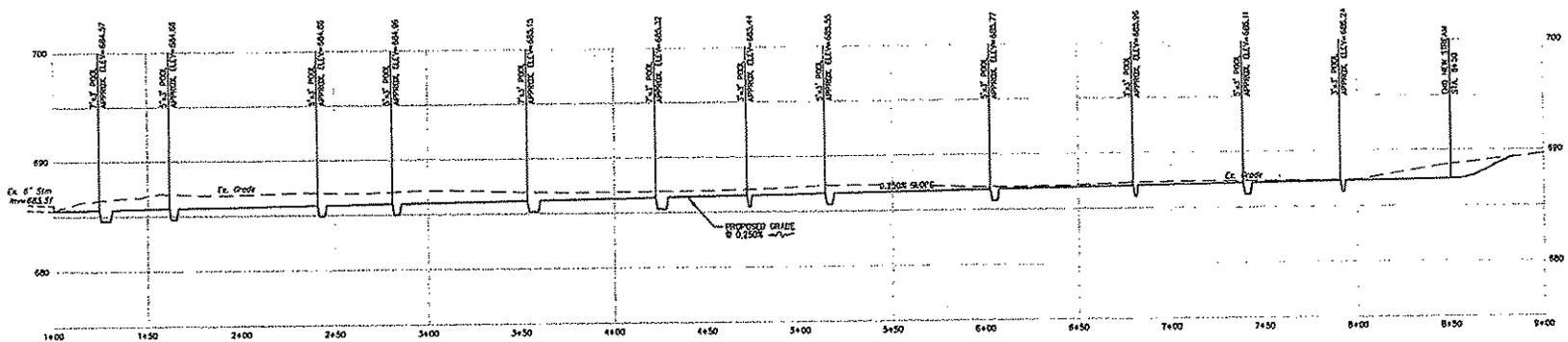
REV NO	DATE	DESCRIPTION	BY
1	12/29/02	ORIGINAL SUBMITTAL	SPV

VINEYARD ESTATES SUBDIVISION - STORM MITIGATION
ON-SITE STREAM MITIGATION
 CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO

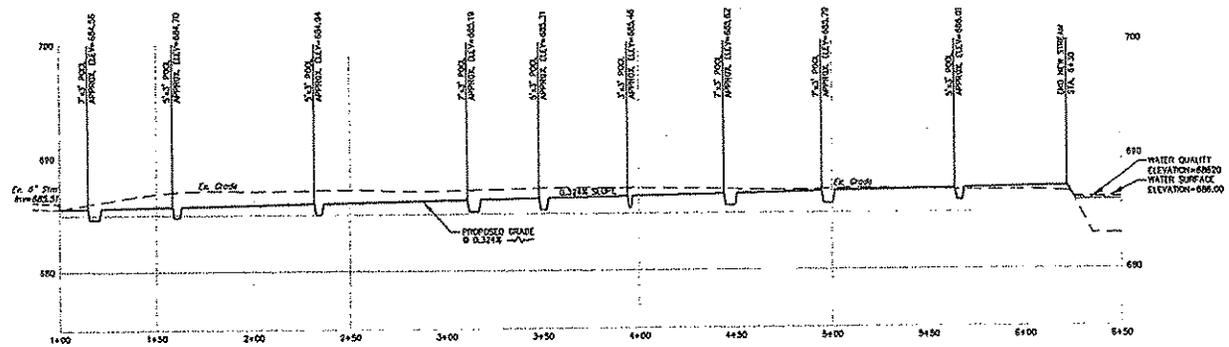


REV NO	DATE	DESCRIPTION	BY	SHEET NO.
1	12/29/02	ORIGINAL SUBMITTAL	SPV	C2.0

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**WESTERN TRIBUTARY PROFILE
ON-SITE STREAM MITIGATION
EXHIBIT**
VERT. SCALE: 1"=5'
HOR. SCALE: 1"=20'



**EASTERN TRIBUTARY PROFILE
ON-SITE STREAM MITIGATION
EXHIBIT**
VERT. SCALE: 1"=5'
HOR. SCALE: 1"=20'

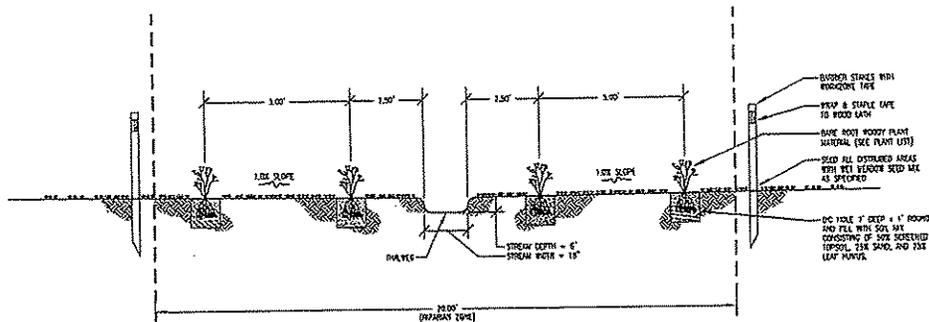
DATE	BY	AS NOTED
12/21/12	SMJ	
DATE	BY	DESCRIPTION
SEPTEMBER, 2010		

VINEYARD ESTATES SUBDIVISION - STORM MITIGATION
ON-SITE STREAM MITIGATION - WEST BASIN
CITY OF AVON, COUNTY OF LORAIN, STATE OF OHIO

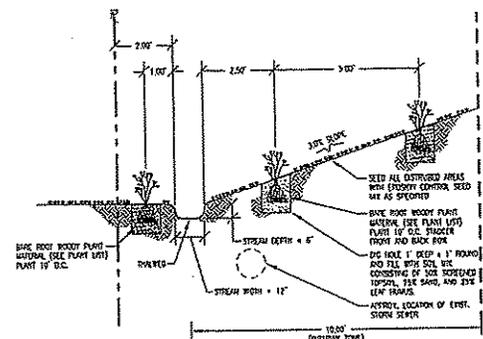


REV. NO.	DATE	DESCRIPTION	BY
5	12/20/12	ORIGINAL SUBMITTAL	SMJ

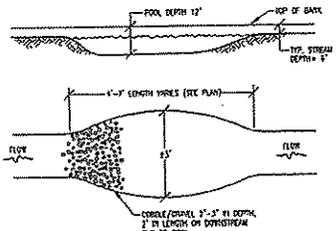
**SHEET NO.
C2.2**



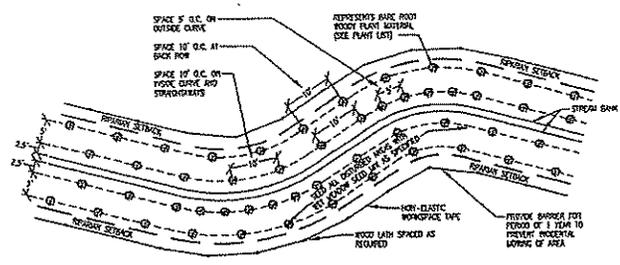
TYPICAL STREAM SECTION - WEST BASIN
SCALE: 3/4"=1'-0"



TYPICAL STREAM SECTION - TUSCANY
SCALE: 3/4"=1'-0"



POOL DETAIL
SCALE: 3/4"=1'-0"



PLANT SPACING & BARRIER DETAIL - WEST BASIN
SCALE: 1"=1'-0"

LANDSCAPE NOTES

1. ANY PLANT MATERIAL SUBSTITUTIONS TO BE VERIFIED AND APPROVED BY OWNER OR LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
2. ALL PERMITS AND EROSION TO BE REPAIRED AND STABILIZED AT CONTRACTOR'S EXPENSE OR AS AGREED UPON WITH OWNER IN WRITING PRIOR TO STARTING WORK.
3. REFER TO STREAM DESIGN TYPICAL SECTION FOR DETAILED LOCATION OF PLANTINGS, EROSION CONTROL, BARRIERS AND ADDITIONAL STREAM DETAILS.
4. ACTUAL STREAM LAYOUT AND PLANTING MATERIAL LOCATIONS MAY REQUIRE FIELD ADJUSTMENT AS DIRECTED BY THE MITIGATION CONSULTANT.
5. SEEDING TO BE INSTALLED IMMEDIATELY FOLLOWING COMPLETION OF EARTHWORK ACTIVITIES.
6. CONTRACTOR TO SEED ALL DISTURBED AREAS, RECORD TYPES AND PERCENTAGES FOR STREAM BANKS & FLOODPLAIN ARE LISTED ON THIS SHEET.
7. SEED MIX RATE = 19 LBS/ACRE, COMBINE WITH THREE TIMES THIS VOLUME IN FERTILIZER (0-20-10 NPK)

WET MEADOW

SEED MIX - SEE NOTES FOR SEEDING RATES

COMMON NAME	BOTANICAL NAME	INDICATOR	PERCENT
REDTOP	AGROSSIS ALBA	FACH	15%
SPOTTED JOE-PYE WHEAT	EUPATORIUM ADLPHUS MACULATUS	FACH	10%
BONSETT	EUPATORIUM ADLPHUS PERFORIATUS	FACH	10%
ROUND BLADES STAR	LAIUS SPICATA	FAG	5%
SOFT FISH	LINDUS EFFUSUS	FACH	10%
ROUGH BLUEGRASS	PDA TRIVIALIS	FACH	10%
POOL GRASS	SCIRPUS CYPERINUS	FAC-	10%
BLUE WHEATGRASS	VIORIDIA BARBATA	FAG-	10%
SILKY DOGWOOD	CORNUS AMOMUM	FACH	10%
HIGHBUSH CRANEBERRY	VIBURNUM TRICOLOR	FACH	5%
			100%

BARE ROOT

WOODY PLANT MATERIALS

COMMON NAME	BOTANICAL NAME	INDICATOR	COND.
SILKY DOGWOOD	CORNUS AMOMUM	FACH	12-18 INJ
STRIP DOGWOOD	CORNUS ROEMERII	FAG	12-18 INJ
REDTOP DOGWOOD	CORNUS STYLOSOMERA	FACH	12-18 INJ
WINTERBERRY	ILEX VERTICILLATA	FACH	12-18 INJ
MEADOW SWEET	SPIREA ALBA	FACH	12-18 INJ
ARUNWOOD VIBERNUM	VIBURNUM REGIENSIUM	FACH	12-18 INJ
WINTERBERRY	VIBURNUM LETAID	FAG	12-18 INJ
HIGHBUSH CRANEBERRY	VIBURNUM TRICOLOR	FACH	12-18 INJ

THE MAJORITY OF BARE ROOT PLANTINGS SHALL BE SILKY DOGWOOD AND REDTOP DOGWOOD, THE REMAINDER SHALL BE SELECTED FROM THE ABOVE LIST.

EROSION CONTROL

Seed Mix	Seeding Rate	
	lb./ac.	sq. ft./1,000 sq. ft.
General Use		
Grassing Red Fescue	20-40	1/2 - 1
Domestic Ryegrass	10-20	1/4 - 1/2
Perennial Ryegrass	10-20	1/4 - 1/2
ToT Fescue	40	1
Onion Fescue	40	1

JOB NO.	12859	DATE	AS NOTED
DESIGN BY	SPR	CHECK BY	SMU
DATE	12/16/05	DATE	SEPTEMBER, 2006

VINEYARD ESTATES SUBDIVISION - STORM MITIGATION
ON-SITE STREAM MITIGATION - DETAILS
CITY OF AVON, COUNTY OF LOHAIN, STATE OF OHIO



REV NO.	DATE	DESCRIPTION	BY	SHEET NO.
5	12/20/05	ORIGINAL SUBMITTAL	SMU	C2.4

To be recorded with Deed
Records - R.C. § 317.08

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into pursuant to Ohio Revised Code ("R.C.") §§ 5301.80 to 5301.92 by _____, a _____ (the "Owner"), having an address of _____ and _____, a _____ (the "Holder"), having an address of _____, and the Ohio Environmental Protection Agency ("Ohio EPA"), as a non-holder agency, for the purpose of subjecting certain property ("the Covenant Area") to the activity and use limitations set forth herein.

[Insert appropriate background information here. By way of example only, as your situation may differ:

WHEREAS, the Owner is the owner in fee of certain real property, which contains the Covenant Area and is situated in _____ County, Ohio, in the _____ watershed;

WHEREAS, Company X (*either a third party doing the project needing the 401, which sometimes could be the Owner*) has proposed to construct a certain project on certain other real property ("the Company X Property"), [also] located in _____ County, Ohio ("the Project"), which Project impacts certain surface water features located on the Company X Property and the approvals for which project required that Company X obtain a water quality certification pursuant to Section 401 of the Clean Water Act, 33 U.S.C. § 1344 from the Ohio EPA and Nationwide Permit ("NWP") coverage from the Army Corps of Engineers ("the Army Corps");

WHEREAS, in order to mitigate such impacts on the Company X Property and as a condition of being issued the 401 water quality certification [or state isolated wetland permit], Ohio EPA ID No. _____ (the "401 Certification") and the NWP, the Army Corps and the Ohio EPA have required that Company X obtain mitigation property and to protect this property in perpetuity with an environmental covenant;

WHEREAS, to meet the conditions in the 401 Certification, Company X has entered into an agreement with the Owner which provides, among other things, that Company X will construct and implement the mitigation requirements contained in Company X's 401 Certification and the mitigation plan on a specific area ("the Covenant Area") of the Owner's property;

WHEREAS, the Covenant Area possesses substantial value in conserving and protecting the physical, biological and chemical integrity of XYZ Stream and is important in the protection of the existing or designated use of the waters of the state pursuant to § 303 of the Clean Water Act, 33 U.S.C. § 1313 and § 6111.041 of the Ohio Water

Pollution Control Act. The specific conservation values (hereinafter "Conservation Values") of the Covenant Area have been documented in a document entitled "Wetland and Stream Mitigation Plan, Proposed Company X Building, _____ Township, _____ County, Ohio, XYZ File # 20221, [month and day], 200_" (the "Mitigation Plan").

WHEREAS, Company X proposes to fulfill its obligation to ensure the Covenant Area and the Covenant Area's Conservation Values are protected in perpetuity by this Environmental Covenant.]

Now therefore, Owner and Holder and Ohio EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to R.C. §§ 5301.80 to 5301.92.

2. Covenant Area. The Covenant Area is [*an approximately _____ acre tract of real property; OR real property parcels numbered _____*], located at _____, in _____ County, Ohio, and more particularly described in Exhibit A [narrative] and Exhibit B [map] attached hereto and hereby incorporated by reference herein ("the Covenant Area").

3. The Owner is the fee simple owner of the Covenant Area.

4. The Holder is the holder of this Environmental Covenant. [*There may be more than one holder. The Owner may be a holder.*]

5. Activity and Use Limitations. As part of the conditions set forth in the 401 Certification issued to Company X and given the conservation values of the Covenant Area, the Owner hereby imposes and agrees to comply with the following activity and use limitations on the Covenant Area:

- a. Division: Any division or subdivision of the Covenant Area is prohibited;
- b. Commercial Activities: Commercial development or industrial activity on the Covenant Area is prohibited;
- c. Construction: The placement or construction of any man-made modifications such as buildings, structures, fences, roads and parking lots on the Covenant Area is prohibited, other than construction activities that are authorized by the 401 mitigation plan approved by the Ohio EPA;
- d. Cutting and Other Control of Vegetation: Any cutting of trees, ground cover or vegetation, or destroying by means of herbicides or

pesticides on the Covenant Area is prohibited, other than the removal or control of invasive and noxious species and control activities that are authorized by the 401 mitigation plan approved by the Ohio EPA;

- e. Dumping: Waste, garbage and unsightly or offensive materials are not permitted and may not be accumulated on the Covenant Area; and
- f. Water Courses: Natural water courses and streams and adjacent riparian buffers may not be dredged, straightened, filled, channelized, impeded, diverted or otherwise altered on the Covenant Area, other than as part of activities that are authorized by the 401 mitigation plan approved by the Ohio EPA.

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to R.C. § 5301.85, subject to amendment or termination as set forth herein. The term "Transferee" as used in this Environmental Covenant, shall mean any future owner of any interest in the Covenant Area or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to R.C. § 5301.91 or other applicable law. Failure to timely enforce compliance with this Environmental Covenant or the use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any provision of this Covenant. Nothing in this Environmental Covenant shall restrict the Director of Ohio EPA from exercising any authority under applicable law in order to protect public health or safety or the environment.

8. Rights of Access. Owner hereby grants to Ohio EPA, its agents, contractors, and employees and the Holder or its agents the right of access to the Covenant Area in connection with the implementation or Enforcement of this Environmental Covenant.

9. Compliance Reporting. Owner and any Transferee shall submit to Ohio EPA, upon request by the Ohio EPA, written documentation verifying that the activity and use limitations remain in place and are being complied with.

10. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Covenant Area or any portion of the Covenant Area shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN

ENVIRONMENTAL COVENANT, DATED _____, 200_, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE _____ COUNTY RECORDER ON _____, 200_, IN [DOCUMENT _____, or BOOK _____, PAGE _____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

[In the notice, restate restrictions from Paragraph 5 of this Covenant]

Owner shall notify Ohio EPA within ten (10) days after each conveyance of an interest in any portion of the Covenant Area. Owner's notice shall include the name, address and telephone number of the Transferee, and a copy of the original document that imposed restrictions on the Covenant Area.

11. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- a. that the Owner is the sole owner of the Covenant Area;
- b. that the Owner holds fee simple title to the Covenant Area that is free, clear and unencumbered and, for example, is not subject to any utility, road or other easement;
- c. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder; and
- d. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner is a party or by which Owner may be bound or affected.

12. Amendment or Termination. This Environmental Covenant may be amended or terminated only by consent of all of the following: the Owner or a Transferee, the Holder[s], and the Ohio EPA, pursuant to R.C. §§ 5301.89 or 5301.90 and other applicable law. "Amendment" means any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. "Termination" means the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant. Amendment or termination shall not affect Company X's obligations pursuant to the 401 Certification.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by the Director of Ohio EPA, the Holder[s], and the Owner[s] or Transferee[s] of the Covenant Area or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this

Environmental Covenant, the Owner[s] or Transferee[s] shall file such instrument for recording with the _____ County Recorder's Office, and shall provide a true copy of the recorded instrument to Ohio EPA.

13. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

14. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

15. Recordation. Within [thirty (30)] days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the property, with the _____ County Recorder's Office.

16. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Covenant Area with the _____ County Recorder.

17. Distribution of Environmental Covenant. The Owner[s] shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA; the [City, County, Township, Village] of _____; [any "Holder," any lessee, each person who signed the Environmental Covenant, each person holding a recorded interest in the Property, and any other person designated by Ohio EPA; see ORC § 5301.83].

18. Notice. Unless otherwise notified in writing by or on behalf of the current owner or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

[title or position]
Division of [_____]]
Ohio EPA
P.O. Box 1049
Columbus, Ohio 43216-1049

[title or position]
[address]

19. Counterparts. This Covenant may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Covenant. {This section is optional. To be used where there are numerous parties and forwarding a single original copy to each party in series will be

difficult and having each copy sign a signature page to be assembled in one original is acceptable to all parties.}

The undersigned [representatives of] the Owner[s] and Holder[s] represent and certify that they are authorized to execute this Environmental Covenant.

IT IS SO AGREED:

OWNER:

[E.g., The covenant area owner]

By: _____

Its: _____

Date: _____

State of _____)
County of _____)

ss:

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of _____, who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of _____.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this ____ day of _____, 200__.

Notary

Public

OHIO ENVIRONMENTAL PROTECTION AGENCY

By: _____
Director

Date: _____

State of Ohio)
) ss:
County of Franklin)

Before me, a notary public, in and for said county and state, personally appeared _____, the Director of Ohio EPA, who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this ____ day of _____, 200__.

Notary Public