



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: March 13, 2007  
Comment Deadline: April 12, 2007  
Corps Action ID #: SAW-2006-20262-253

The Wilmington District, Corps of Engineers (Corps) has received an application from Nottingham Property Associates, LLC, seeking After-the-Fact Department of the Army authorization for permanent impacts to 566 linear feet of stream channel associated with the construction of Nottingham, a residential subdivision in Sanford, Lee County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at [www.saw.usace.army.mil/wetlands](http://www.saw.usace.army.mil/wetlands)

**Applicant:** Nottingham Property Associates, LLC  
PO Box 3367  
Sanford, NC 27331

**AGENT (if applicable):** ECS Carolinas, LLP  
Attn: Christina Breen  
9001 Glenwood Avenue  
Raleigh, NC 27617

## Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures Section 404 of the Clean Water Act

## Location

Nottingham Subdivision is a 71.2 acre property located off Burns Drive in Sanford, Lee County, North Carolina. The project site contains one unnamed perennial and two intermittent streams which drain to Big Buffalo Creek in the Cape Fear River Basin (8-Digit Cataloging Unit 03030003). Latitude and Longitude in Decidegrees of the site is 35.4893 N. and 79.1901 W.

## **Existing Site Conditions**

The property is currently being developed with 152 single-family lots, which are being constructed in three phases. Residential and infrastructure construction is already complete in Phases I and II. Infrastructure construction has started in Phase III, but residential construction has not begun. The sewer and power easements have been constructed on the site.

The project site contains one unnamed perennial and two intermittent streams which drain to Big Buffalo Creek in the Cape Fear River Basin. A U.S. Army Corps of Engineers (Corps) jurisdictional determination has been completed for the impact area which verifies these aquatic features.

Impacts to the jurisdictional features listed above have occurred for the construction of all three Phases.

## **Applicant's Stated Purpose**

The project purpose is to complete construction of a residential subdivision to satisfy a demand for single-family homes.

## **Project Description**

The activity involved the construction of a residential subdivision. This includes all roadways, utility lines, stormwater features, and amenities. Since impacts to jurisdictional features have occurred without a Section 401 or 404 permit, a Notice of Violation was issued by the North Carolina Division of Water Quality on September 29, 2005, and a Notice of Unauthorized Activity/Permit Noncompliance was issued by the Corps on December 29, 2005. An After-the-Fact Individual DA Permit application was completed by the applicant to alleviate the violations and satisfy the stipulations of the Clean Water Act.

Approximately 206 linear feet of streams have been impacted by the placement of three culverts to allow for road crossings of streams. There are impacts to 360 linear feet of streams for the purpose of placing rip-rap in the streambed for stream stability during the construction of utility easements and culverts, which is a requirement of the North Carolina Division of Land Resource's Sediment and Erosion Control Permit.

To mitigate for impacts to jurisdictional features, the applicant has proposed payment into the North Carolina Ecosystem Enhancement Program (NCEEP). In a letter dated October 18, 2006, the NCEEP has indicated that they would accept payment for impacts associated with this proposal.

### **Other Required Authorizations**

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice combined with appropriate application fee at the North Carolina Division of Water Quality central office in Raleigh will constitute initial receipt of an application for a 401 Water Quality Certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 2321 Crabtree Boulevard, Suite 250, Raleigh, North Carolina 27604, Attention: Ms Cyndi Karoly by April 2, 2007.

### **Essential Fish Habitat**

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed project will not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

### **Cultural Resources**

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

### **Endangered Species**

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined pursuant to the Endangered Species Act

of 1973, that the proposed project will have no effect on federally listed endangered or threatened species or their formally designated critical habitat.

### **Evaluation**

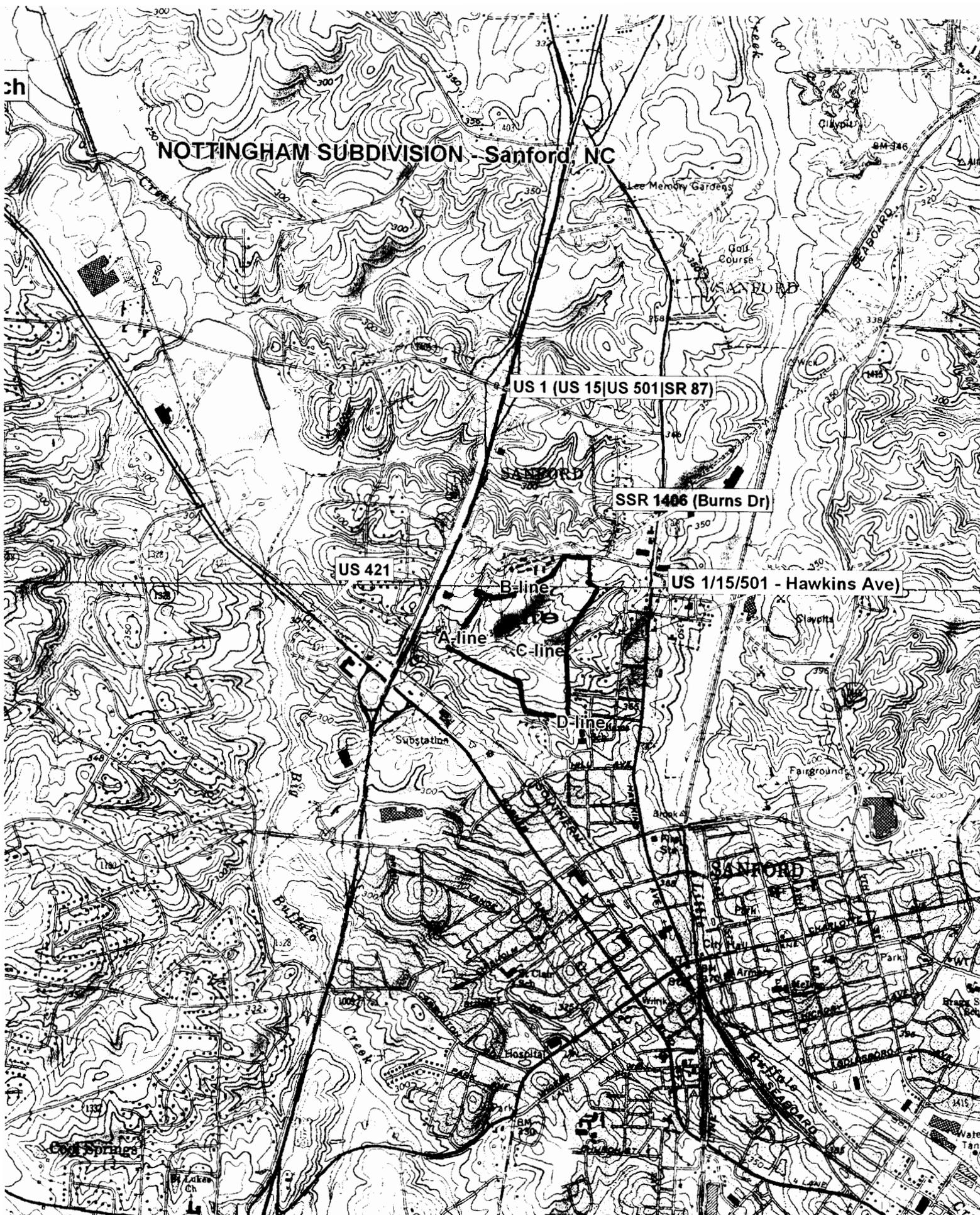
The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which 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, flood plain values (in accordance with Executive Order 11988), 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. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

### **Commenting Information**

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate State Viewpoint or written position of the Governor; 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 (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, April 12, 2007. Comments should be submitted to Monte Matthews, Raleigh Regulatory Field Office, 6508 Falls of Neuse Road, Suite 120, Raleigh, North Carolina 27615.



NOTTINGHAM SUBDIVISION - Sanford, NC

US 1 (US 15|US 501|SR 87)

SSR 1406 (Burns Dr)

US 421

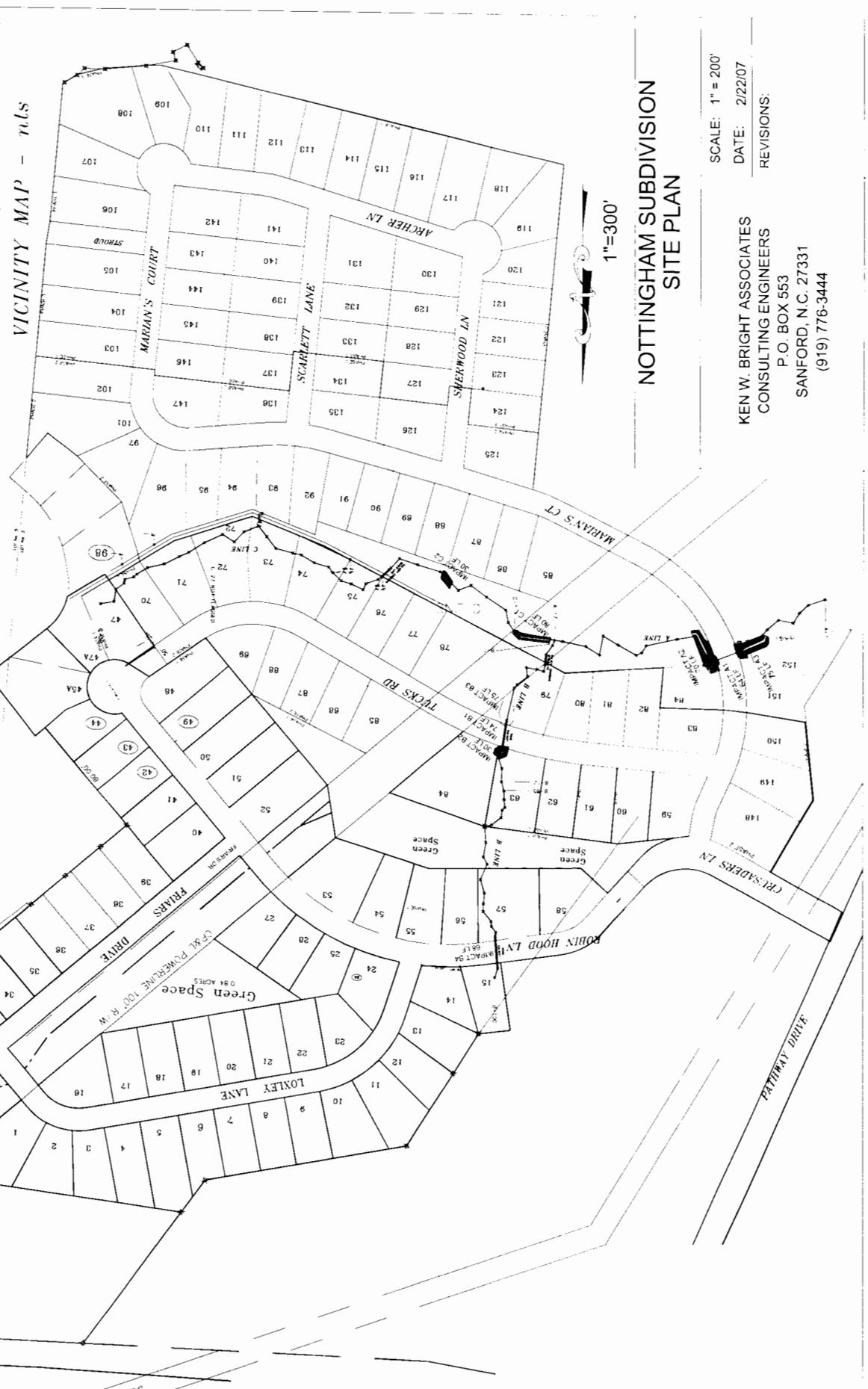
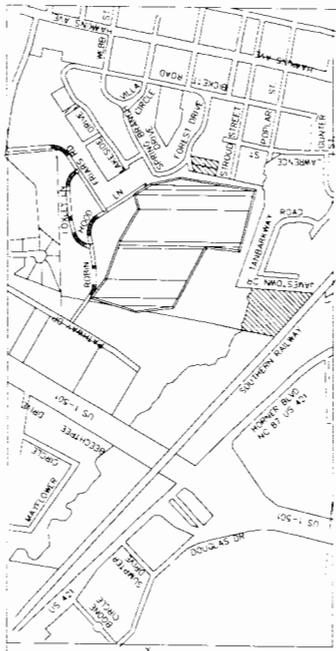
US 1/15/501 - Hawkins Ave)

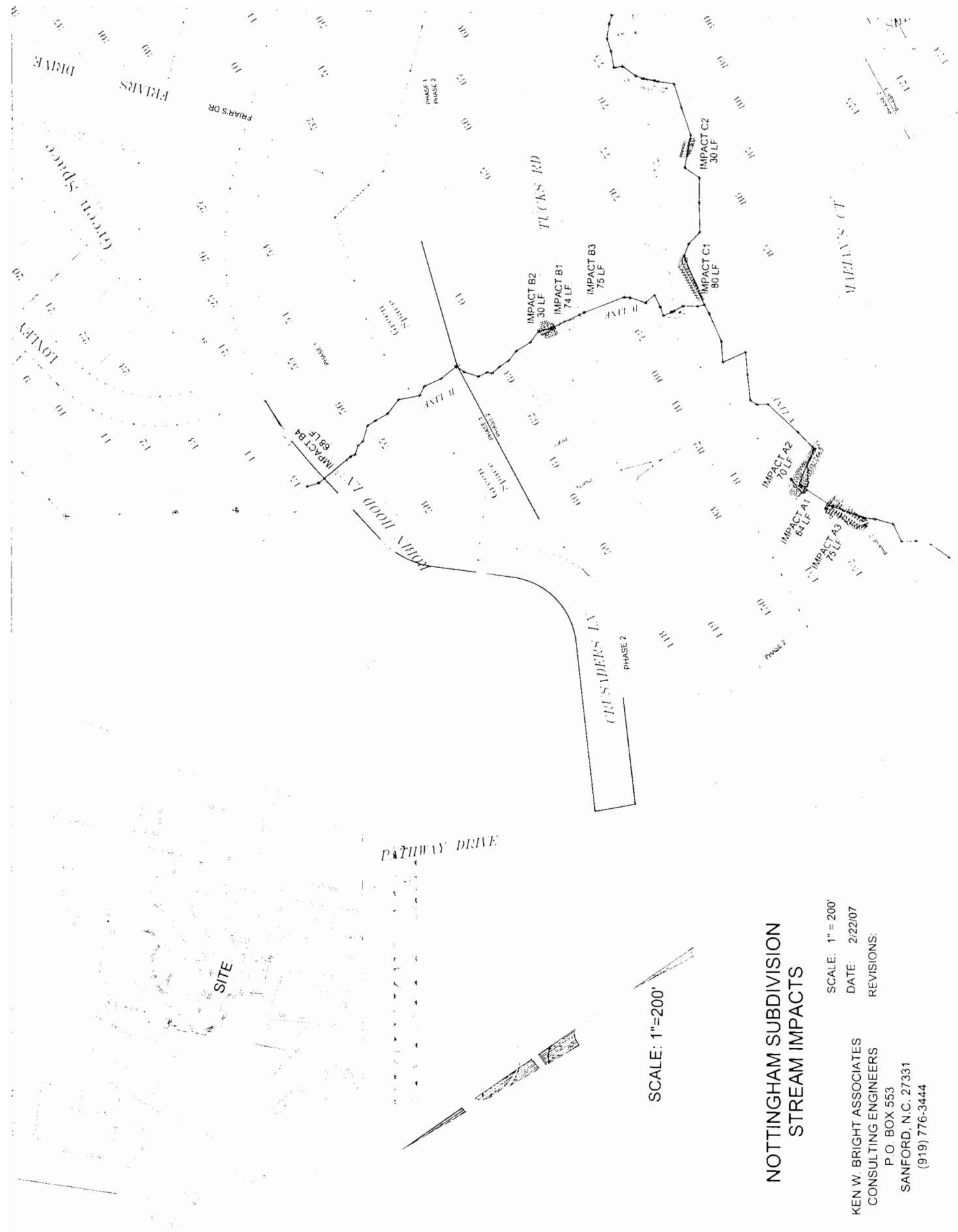
B-line  
A-line  
C-line

D-line

Substation

SANFORD





**NOTTINGHAM SUBDIVISION  
STREAM IMPACTS**

SCALE: 1" = 200'  
DATE: 2/22/07  
REVISIONS:

KEN W. BRIGHT ASSOCIATES  
CONSULTING ENGINEERS  
P.O. BOX 553  
SANFORD, N.C. 27331  
(919) 776-3444

Stream Impact Number	Stream Name	Type of Impact	Perennial or Intermittent?	Average Stream Width Before Impact	Impact Length (linear feet)	Area of Impact (acres)
A1 - Marion's Ct	UT to Big Buffalo Creek	72" RCP	Perennial	6 ft	64	.009
A2	UT to Big Buffalo Creek	Rip-Rap Inlet	Perennial	6 ft	70	.01
A3	UT to Big Buffalo Creek	Rip-Rap Outlet	Perennial	6 ft	75	.01
B1 - Tuck's Rd	UT to Big Buffalo Creek	54" RCP	Intermittent	3ft	74	.005
B2	UT to Big Buffalo Creek	Rip-Rap Inlet	Intermittent	3ft	30	.002
B3	UT to Big Buffalo Creek	Rip-Rap Outlet	Intermittent	3ft	75	.005
B4 - Robin Hood_Ln	UT to Big Buffalo Creek	48" RCP	Intermittent	3ft	68	.005
C1	UT to Big Buffalo Creek	Rip-Rap Power Easement	Intermittent	3ft	80	.006
C2	UT to Big Buffalo Creek	Rip-Rap Sewer Easement	Intermittent	3ft	30	.002
Total Stream Impact (by length and acreage)					566	.054

CULVERT

EXIST STREAM BED

APRON

# TYPICAL CULVERT INSTALLATION-STREAM

JOB #

CULVERT

SCALE: NTS

DATE: 2/7/06

REVISIONS:

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