



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: January 9, 2008
Comment Deadline: February 8, 2008
Corps Action ID #: 2007-3208-381

The Wilmington District, Corps of Engineers (Corps) has received an application from Devin McCarthy Land Development, LLC seeking Department of the Army authorization to impact approximately 2,020 linear feet of stream channel, 0.16 acre of wetland, and 0.22 acre of open water associated with the construction of a golf course and residential development known as Queen's Gap, near Painters Gap Road, in Thermal City in Rutherford and McDowell counties, 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

Applicant: Mr. Burt Baine
Devin McCarthy Land Development, LLC
315 Oak Springs Road
Rutherfordton, NC 28139

AGENT (if applicable): Ms. Jennifer Robertson
Wetland & Natural Resource Consultants, Inc.
P.O. Box 882
Canton, NC 28716

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 404 of the Clean Water Act (33 U.S.C. 1344).

Location

The site is approximately 3,500 acres in size and is located along Painters Gap Road, Thermal City Road, Doubleview Drive, and Tight Run Road, near Thermal City, in both Rutherford and McDowell Counties, North Carolina (35.312933°N, -82.031179°W). The site contains several named streams and unnamed tributaries with adjacent wetlands. The names of the tributaries are listed below. All stream channels on the site ultimately drain into the Broad River which flows into the Atlantic Ocean through South Carolina.

Existing Site Conditions

The property is 3,500 acres in size and is predominately forested with an extensive logging road network throughout the site. The dominant forest type is Mixed Mesic Forest with American beech (*Fagus grandifolia*) and oaks, specifically northern red oak (*Quercus rubra*) and white oak (*Quercus alba*) as the dominant tree species. Other tree species that are common in these forests include: ash, hickory, red maple, tulip poplar, hemlock, and buckeye. The site also has a very diverse shrub and herbaceous layer to include heart's-a-busting, mountain laurel, pepperbush, ironwood, rhododendron, spice bush, wild hydrangea, black cohosh, bloodroot, doll's eye, false soloman's seal, galax, jewelweed, mayapple, Christmas fern, liverleaf, and alumroot.

There are approximately 28 different soil types on the property. The dominant soil types are Evard-Cowee complex (EwE), Hayesville-Evard complex (HeD), and Ashe-Cleveland-Rock outcrop complex (AcF). The EwE map unit consists of very deep, well-drained soil on mountain side slopes. The HeD map unit consists of very deep, well-drained soil in intermountain areas and on side slopes of foothills. The AcF map unit occurs as somewhat excessively drained soils on very steep areas of rock outcrop and on side slopes in the mountains.

Named stream channels on the property include: Chalk Creek, Stone Creek, Old Boney Creek, Morgan Creek, Rock Creek, Cobb Branch, Harris Creek, and Lewis Creek. Unnamed tributaries to these named channels are also present along with unnamed tributaries to Gringer Branch and Stoney Creek. The unnamed tributaries to Stoney Creek, and Harris and Lewis Creek ultimately flow into the Second Broad River. The remaining channels and their unnamed tributaries of Chalk Creek, Stone Creek, Old Boney Creek, Morgan Creek, Rock Creek, and Cobb Branch ultimately drain into the Broad River. Lewis Creek, Harris Creek, unnamed tributaries to Stoney Creek, and Cobb Branch make up the hydrologic systems on the southeastern portion of the property where the golf course is proposed. These streams are all classified by the North Carolina Division of Water Quality (DWQ) as "WS-V" waters. The other named streams and their tributaries on site make up the north and northwest portions of the project and are Old Boney Creek, Morgan Creek, Chalk Creek, Stone Creek, Rock Creek, unnamed tributaries to Gringer Branch, and unnamed tributaries to the named streams. All of these streams are classified by DWQ as "C; Tr" except for Rock Creek which is classified as "WS-V". A detailed description of the surface water classification system can be found at [:http://h2o.enr.state.nc.us/csu/swc.html](http://h2o.enr.state.nc.us/csu/swc.html)

There are numerous small wetlands located on the site. The majority of these wetlands have been identified as wetland seeps and are contiguous with their associated channel. These seeps are on moderate to steep slopes. Their substrate is rock and silt, and they may or may not contain wetland vegetation. The other wetlands on site are the result of human impacts, mostly from mining, that have become naturalized. The majority of these wetlands are located around the proposed golf course area.

Applicant's Stated Purpose

The purpose of the proposed project as described by the applicant is to construct a residential development with a championship golf course amenity in Rutherford County.

Project Description

The proposed project includes the development of a residential community with 1189 single-family lots, an 18-hole golf course, and all associated infrastructure. Proposed impacts to stream channels and wetlands are associated with road crossings and golf course construction. Based on the table below, the applicant is proposing impacts to 860 linear feet of stream channel, 0.16 acre of wetlands, and 0.22 acre of open water associated with the construction of the golf course. A majority of these impacts are due to the construction of fairways for the golf course. The remainder of the impacts total 1,160 linear feet of stream channel associated with the construction of road crossings to access the residential development. In some cases, the applicant is proposing to use existing logging road crossings which are the historical impacts reflected in the 'Existing Impact' column in the table below. Total proposed impacts associated with this development are 2,220 linear feet of stream channel, 0.16 acre of wetlands, and 0.22 acre of open water.

The applicant is proposing on-site mitigation to compensate for the above described impacts. Based upon the current plans, the applicant is proposing to enhance approximately 15,741 linear feet of stream channel within the Queens Gap development. The focus of the stream channel enhancement will be on Harris Creek which is a third order tributary to the Second Broad River. The Harris Creek watershed has been manipulated from past mining and regional logging practices. Certain reaches along Harris Creek exhibit bank failures, entrenchment, and overall degradation. The proposed enhancement will be conducted using bio-engineering techniques including root wads, rock vanes, bank stabilization, and vegetative plantings.

Golf Impacts:

Site #	Type	Stream Impact (linear feet)	Wetland Impact (acres)	Open Water Impact (acres)	Stream
1	perennial	200			UT to Harris
2	open water			0.17	UT to Harris
3	linear		0.065		UT to Harris
4a	linear		0.076		UT to Harris
4b	linear		0.01		UT to Harris
5a	open water			0.051	UT to Harris
5b	herbaceous		0.01		UT to Harris
6	perennial	410			Harris
7	intermittent	250			UT to Harris
total		860	0.161	0.221	

Road Crossing Impacts:

Site #	Stream Type	Stream Impact	Existing Impact	New Impact	
8	perennial	50	0	50	UT to Harris
9	perennial	60	0	60	UT to Harris
10	perennial	50	0	50	UT to Harris
11	perennial	50	25	25	UT to Harris
12	perennial	40	0	40	Harris
13	perennial	40	0	40	Harris
14	perennial	40	0	40	Harris
15	perennial	50	0	50	UT to Harris
16	perennial	50	0	50	UT to Harris
17	perennial	60	0	60	UT to Harris
18	perennial	60	0	60	UT to Harris
19	perennial	40	0	40	UT to Stoney
20	perennial	50	0	50	Harris
21	perennial	60	0	60	UT to Harris
22	perennial	60	0	60	UT to Harris
23	perennial	40	20	20	UT to Morgan
24	perennial	40	20	20	UT to Morgan
25	perennial	40	20	20	Morgan Creek
26	perennial	40	0	40	Rock Creek
27	perennial	50	20 (UG)	30	Rock Creek
28	perennial	50	40	10	UT to Rock
29	perennial	40	0	40	UT to Rock
30	perennial	40	0	40	UT to Rock
31	perennial	50	0	50	UT to Lewis
32	perennial	40	0	40	Lewis Creek
33	perennial	40	0	40	Old Boney
34	perennial	40	0	40	UT to Old Boney
35	perennial	50	15 (UG)	35	UT to Old Boney
36	perennial	40	40	0	UT to Old Boney
		1360	200	1160	

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, Raleigh, North Carolina 27604-2260 Attention: Ms Cyndi Karoly by February 8, 2008.

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 is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. A final determination on the effects of the proposed project will be made upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service."

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.

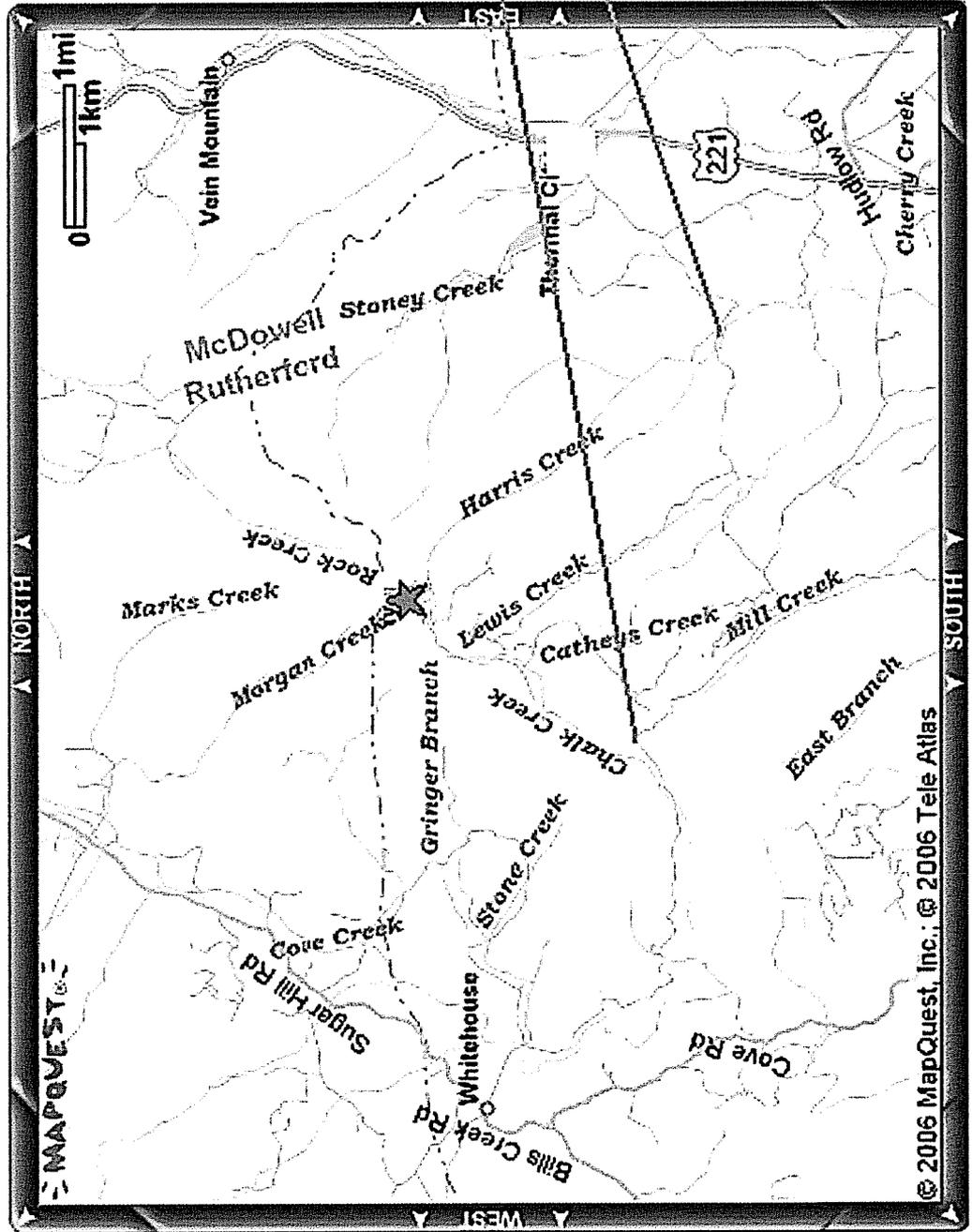
Commenting Information

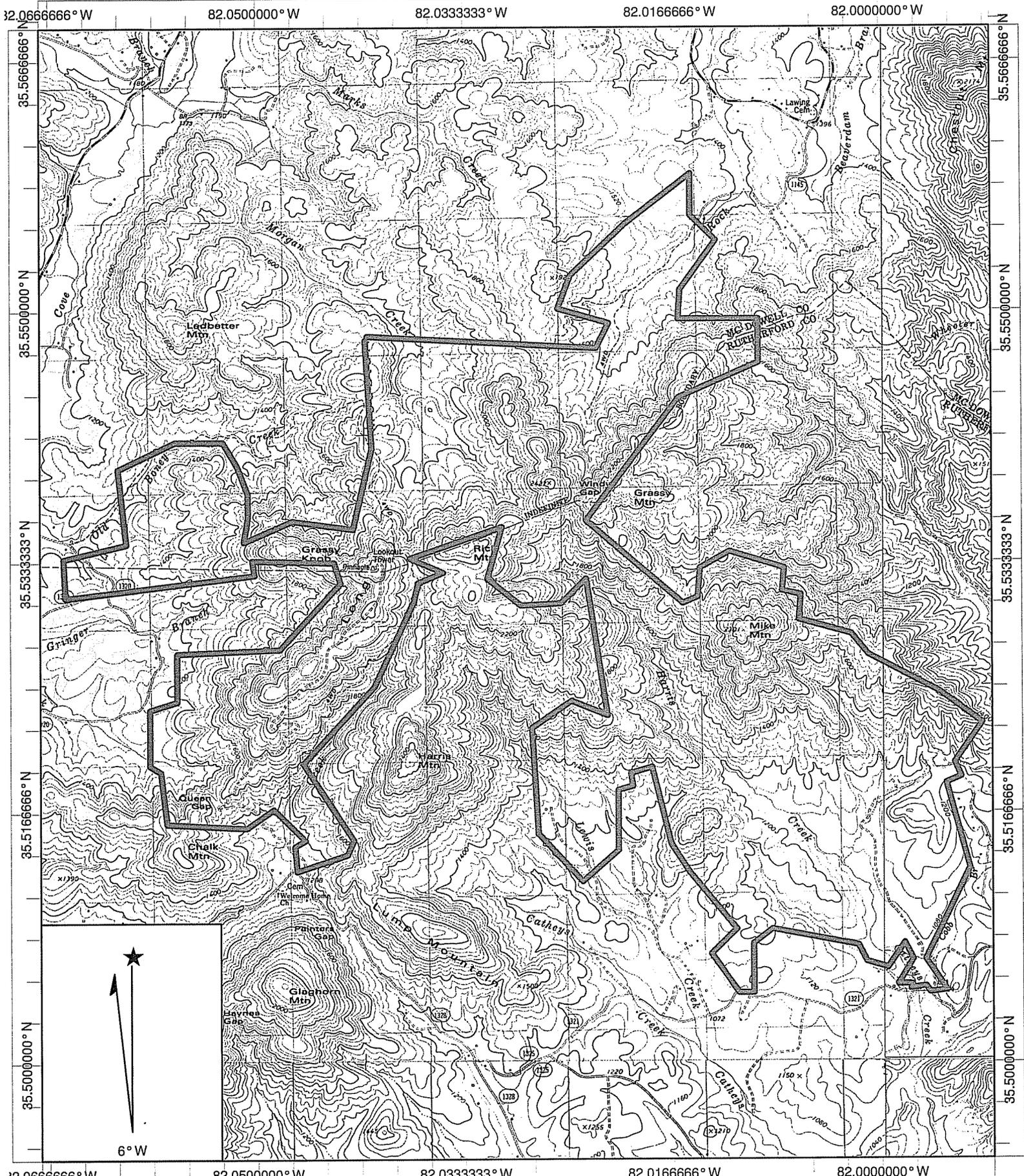
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. 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, February 8, 2008. Comments should be submitted to USACE, Attn: Amanda Jones, 151 Patton Avenue Room 208, Asheville, North Carolina 28801.

Queen's Gap - Vicinity Map Rutherford and McDowell Counties





Name: SUGAR HILL
 Date: 11/1/2007
 Scale: 1 inch equals 2857 feet

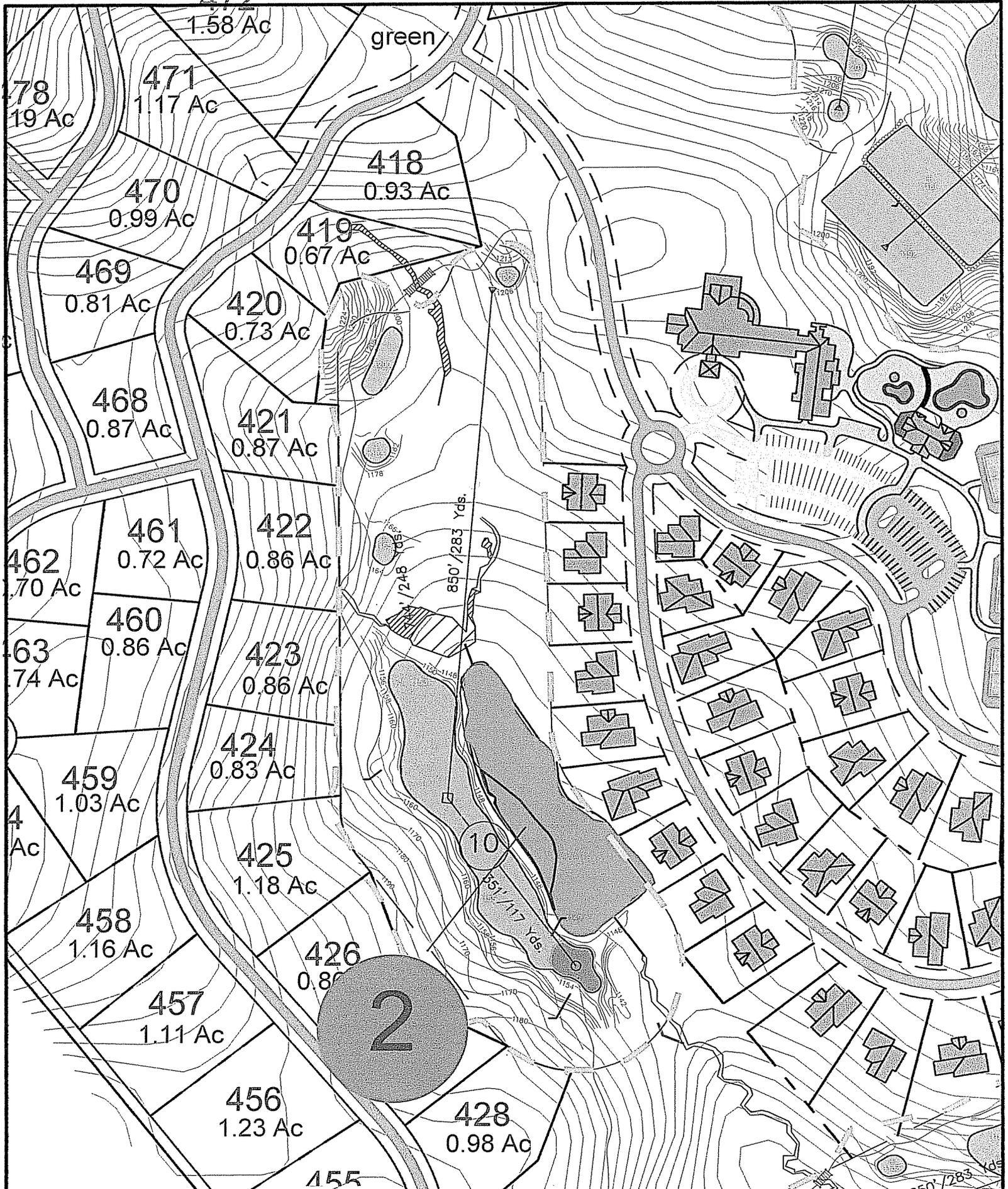
Location: 035.5312539° N 082.0293266° W
 Caption: Queens Gap
 Rutherford and McDowell Counties

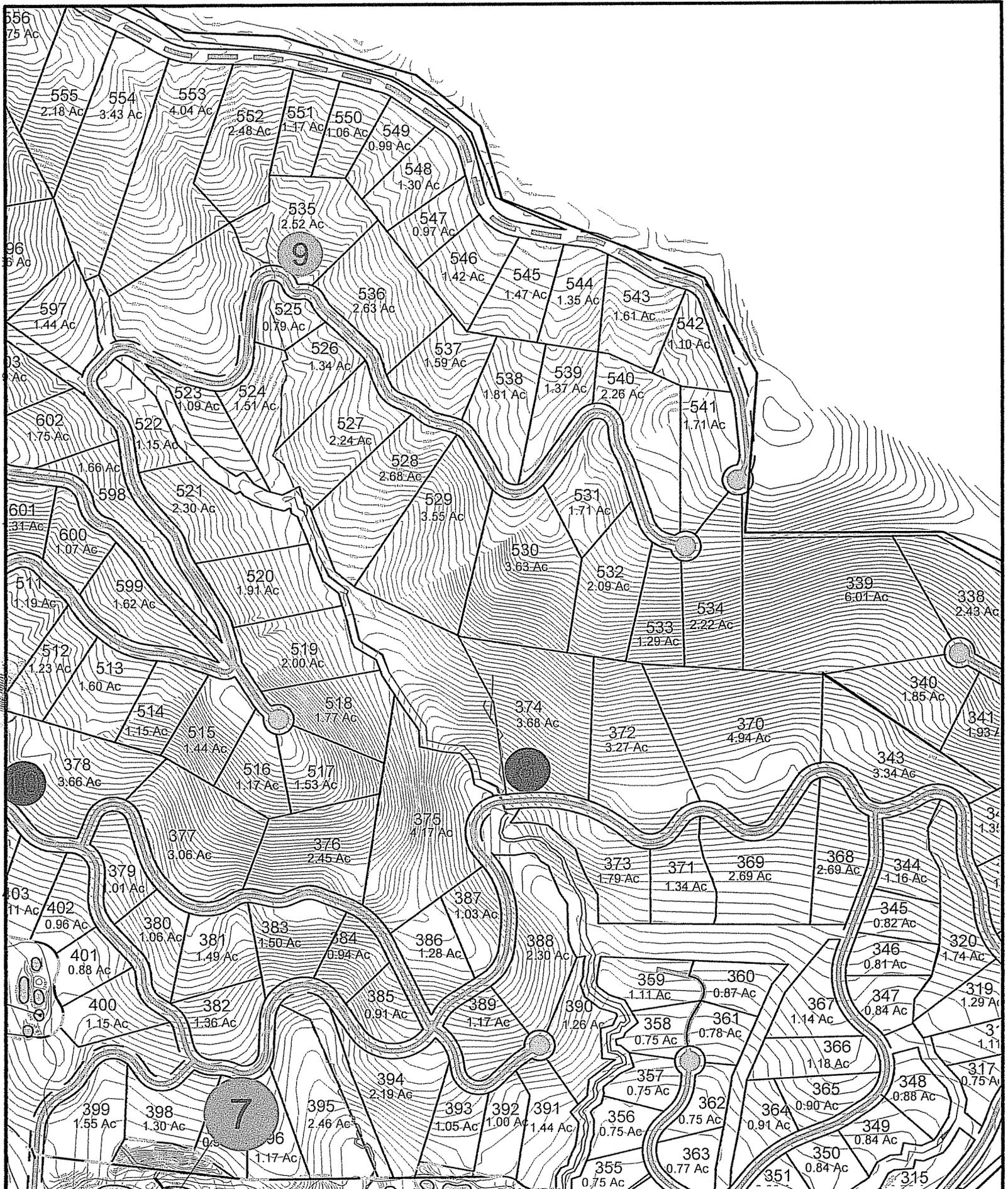


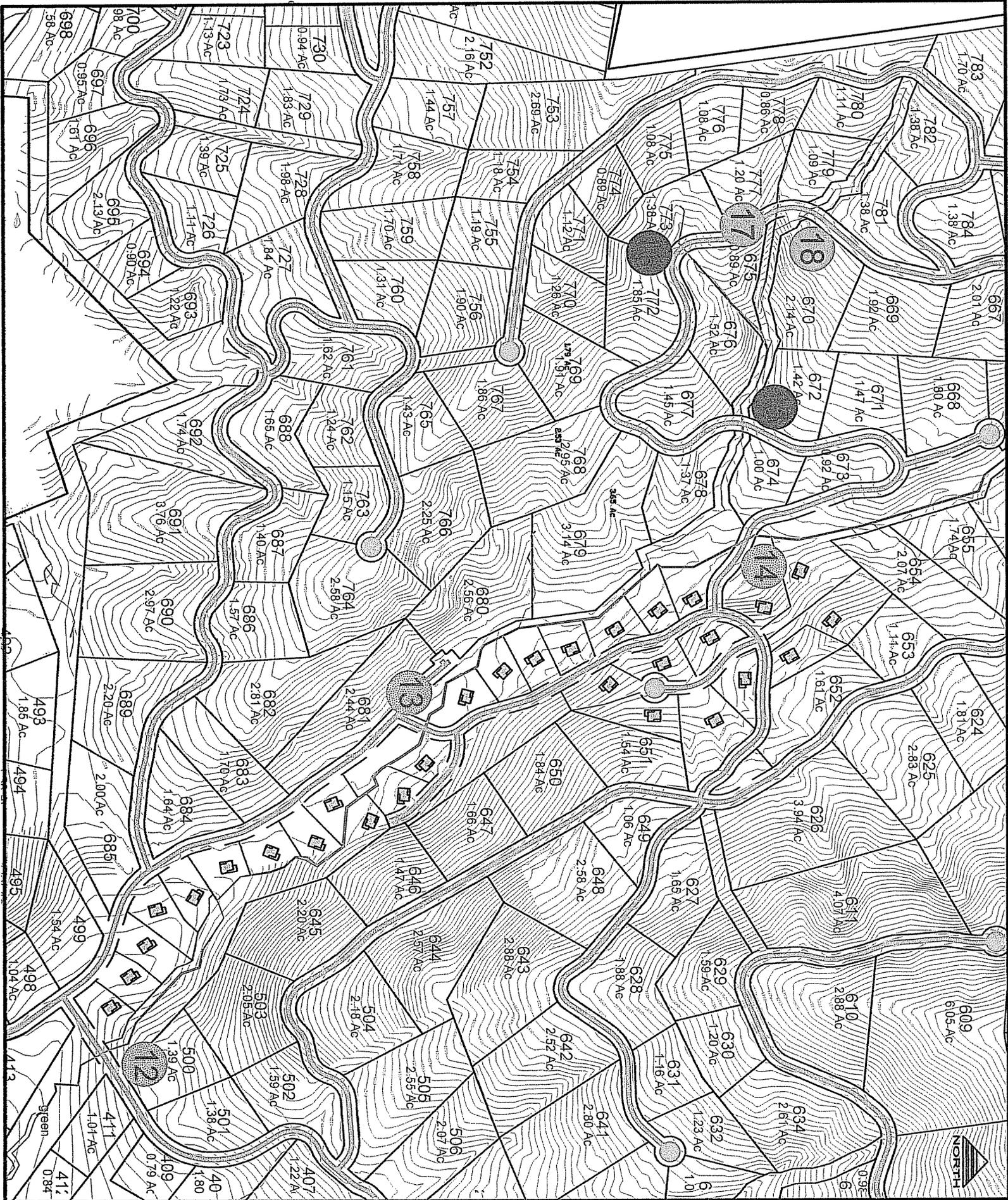
Queens Gap Impact Map

Overview

Scale: 1"=2500'



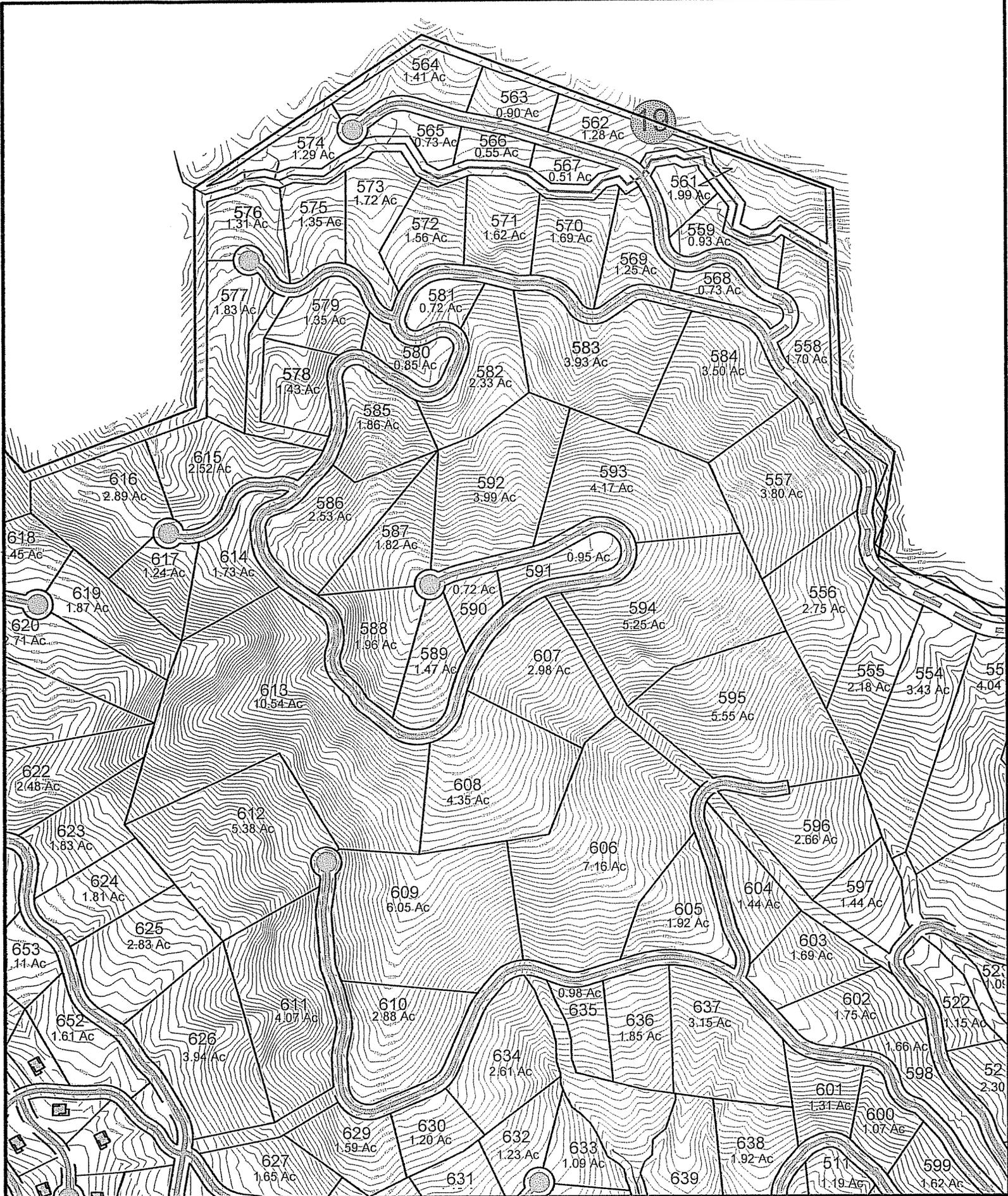




Queens Gap Impact Map

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Scale: 1"=400'

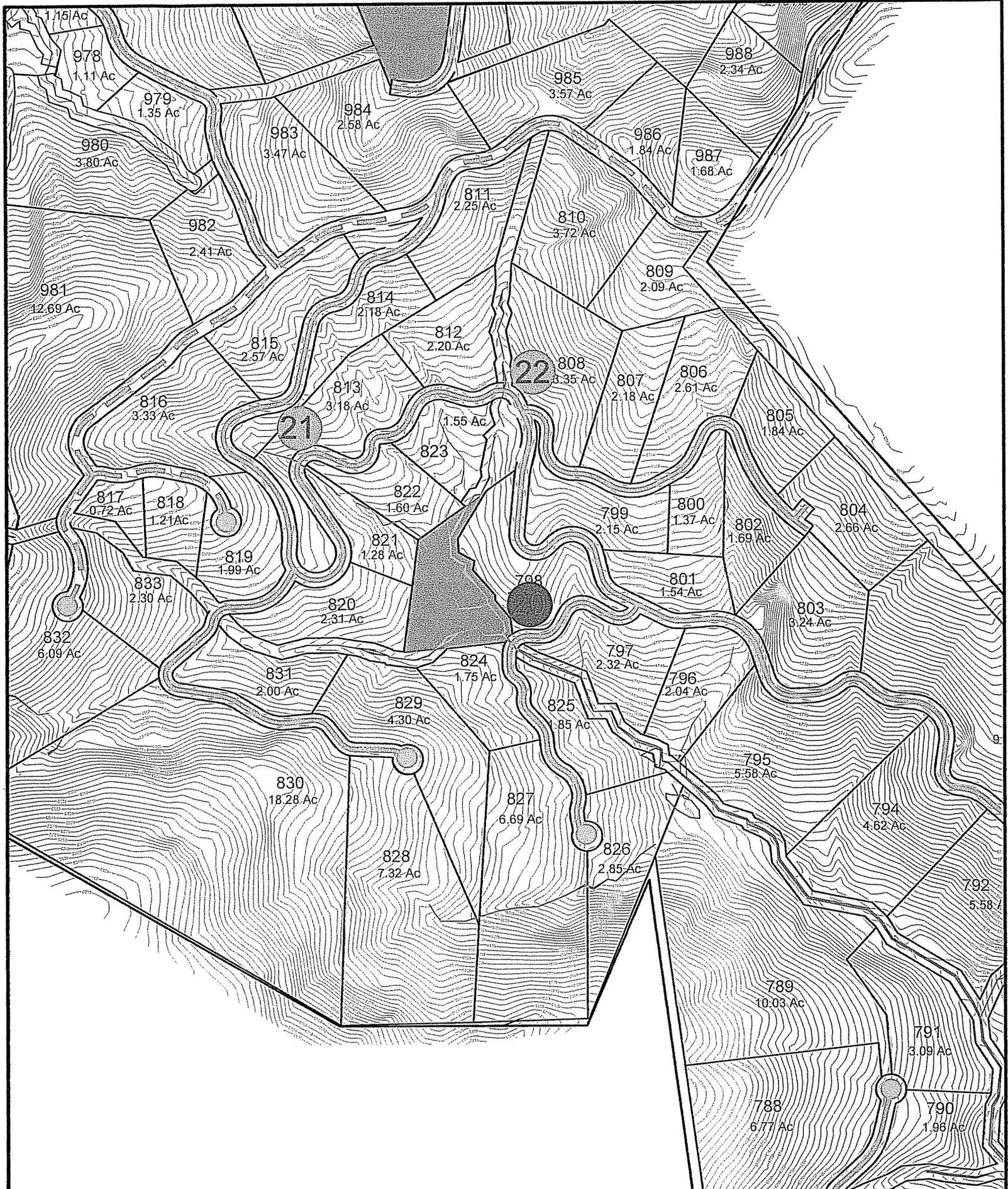


Queens Gap Impact Map

Impact: 19

Scale: 1"=400'



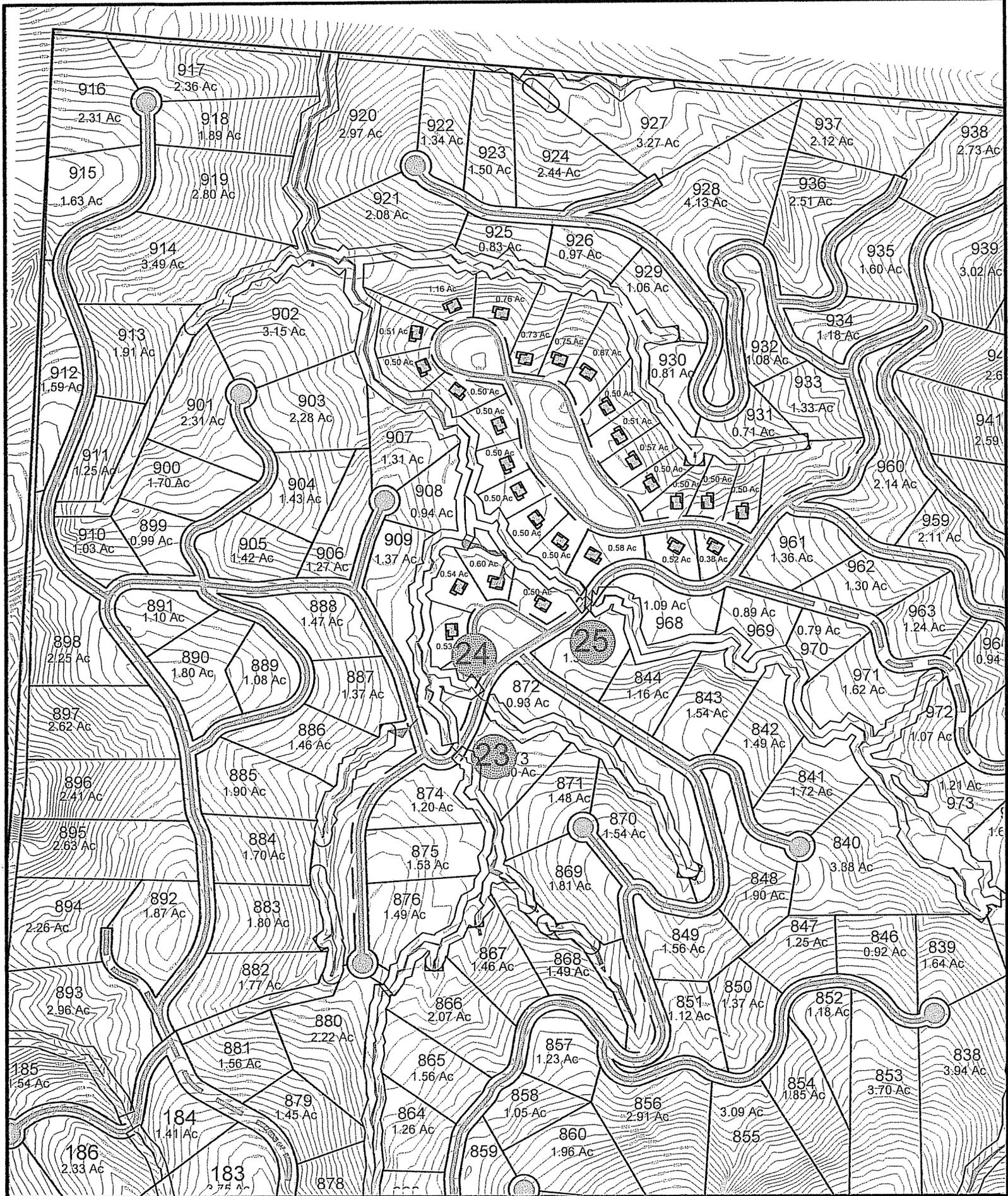


Queens Gap Impact Map

Impact: 20-22

Scale: 1"=400'



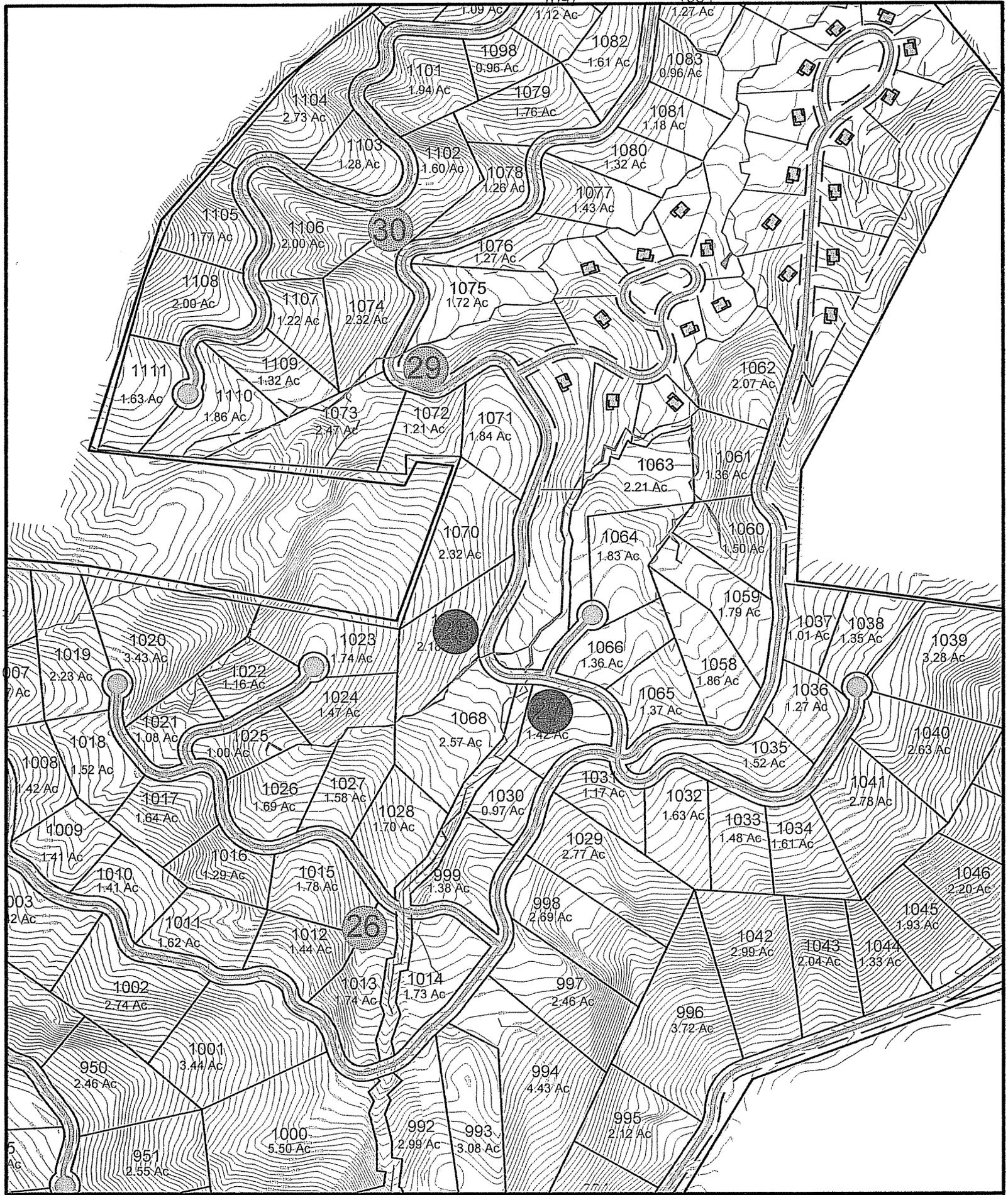


Queens Gap Impact Map

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Scale: 1"=400'



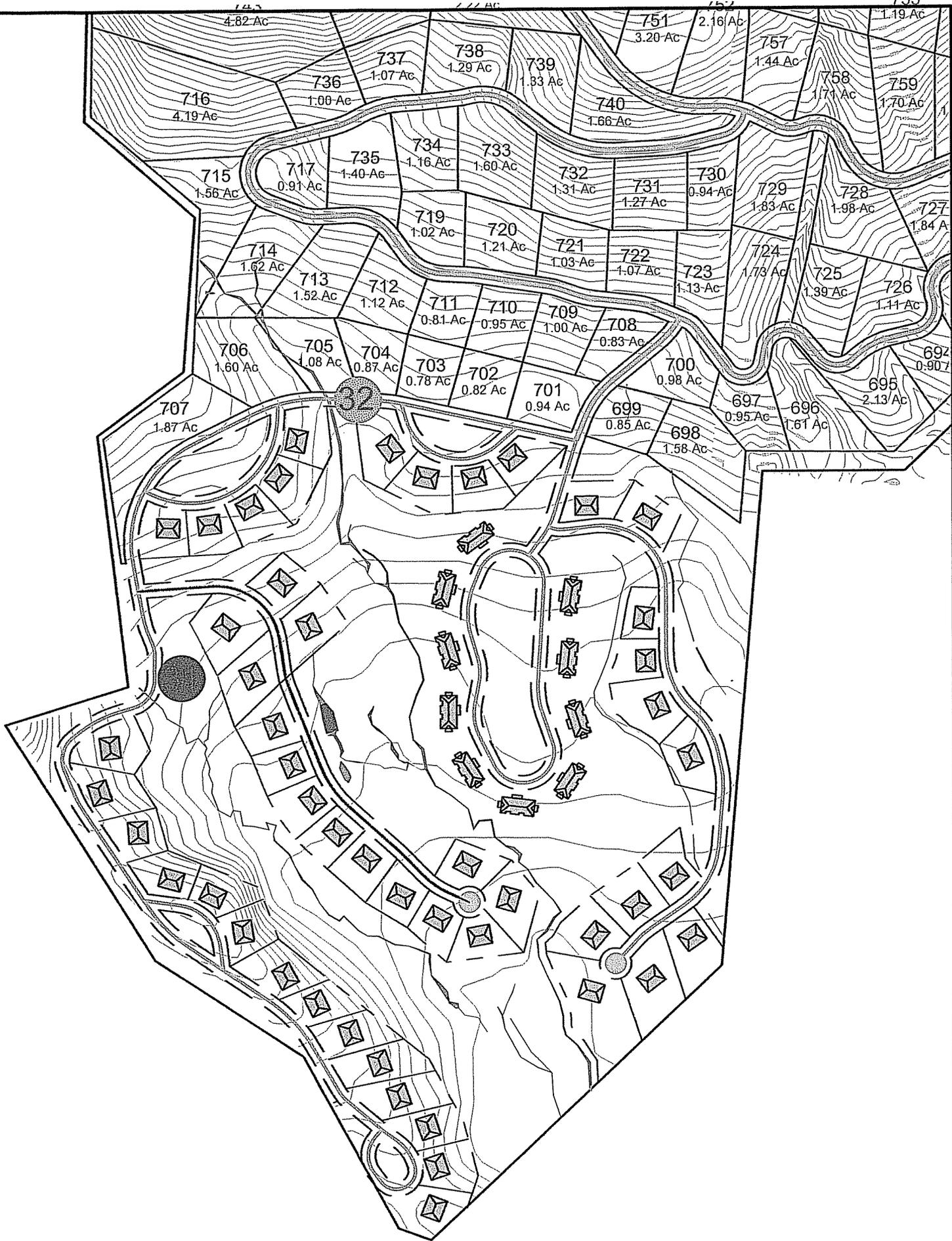


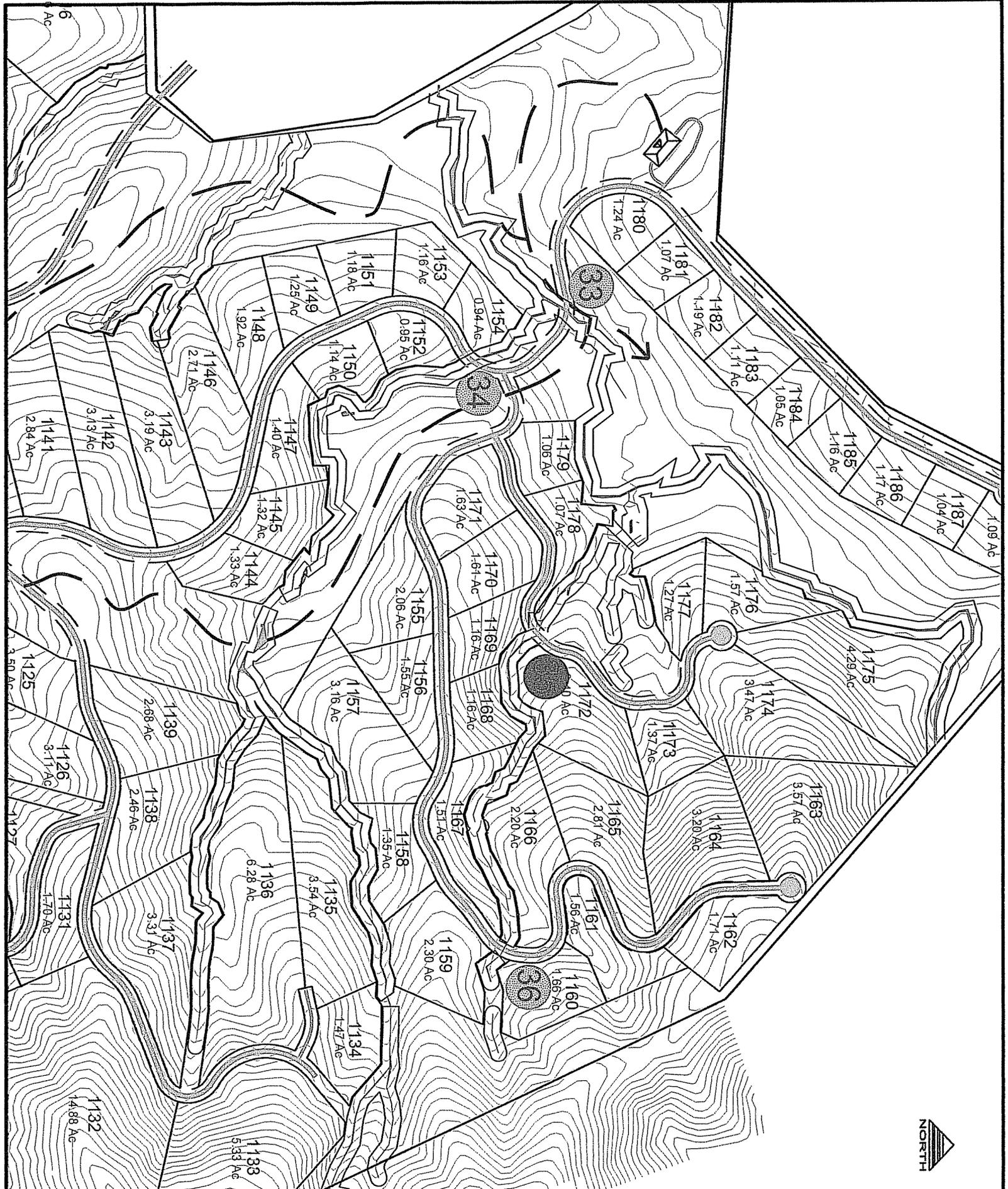
Queens Gap Impact Map

Impact: 26-30

Scale: 1"=400'







Queens Gap Impact Map

Impact: 33-36

Scale: 1"=400'

