



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: June 5, 2008
Comment Deadline: July 7, 2008
Corps Action ID #: SAW-2008-1512

The Wilmington District, US Army Corps of Engineers (Corps) has received an application from Mr. Robert Johnson of Forge Cove, LLC, seeking Department of the Army (DA) authorization to impact 785 linear feet of stream channel associated with the development of an 83 lot residential subdivision near Brevard, in Transylvania 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

Applicant: Mr. Robert Johnson
Forge Cove, LLC
1548 The Greens Way, Suite 4
Jacksonville Beach, Florida 32250

AGENT (if applicable): Clement Riddle
ClearWater Environmental Consultants, Inc.
718 Oakland Street
Hendersonville, North Carolina 28792

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.

Location

The Forge Cove subdivision is proposed for an approximately 427 acre tract located off Sutton Creek Road, on the west side of NC Highway 280, northeast of Brevard, Transylvania County, North Carolina. The site is approximately 1.5 miles south of the Henderson/Transylvania county line and is bordered to the north by Sandy Gap, to the south by Sutton Creek Road, to the east by Dog Creek, and to the west by Sutton Creek and Hunting Club Road. Lat. 35.322015N, Long. 82.675624W.

Existing Site Conditions

The site is forested, with the exception of the southern portion of the property, which contains a home site, several outbuildings, and a pond; surrounded by maintained lawn. An access road was built on site to provide entrance to the proposed dam (previous application) location. The Mixed Mesic Forest community type dominates the landscape. This forest type occupies rich, acidic, moist, well-drained sites and contains the most diverse plant communities in the Southeast. The dominant tree species are American beech (*Fagus grandifolia*) and oaks, specifically northern red oak (*Quercus rubra*) and white oak (*Quercus alba*). Other tree species that are abundantly common in these forests include: ash (*Fraxinus spp*), hickory (*Carya spp*), Fraser's magnolia (*Magnolia fraseri*), red maple (*Acer rubrum*), tulip poplar (*Liriodendron tulipifera*), hemlock (*Tsuga spp*), and buckeye (*Aesculus spp*). All of these tree species were observed within the Forge Cove project boundary. This forest type also has a very diverse shrub and herbaceous layer. Species observed at this site include heart's-a-bustin' (*Euonymus americanus*), mountain laurel (*Kalmia latifolia*), pepperbush (*Clethra acuminata*), ironwood (*Carpinus caroliniana*), rhododendron (*Rhododendron spp*), spicebush (*Lindera benzoin*), wild hydrangea (*Hydrangea arborescens*), black cohosh (*Cimicifuga racemosa*), bloodroot (*Sanguinaria canadensis*), doll's eye (*Actaea pachypoda*), false Solomon's seal (*Maianthemum racemosa*), galax (*Galax spp*), jewelweed (*Impatiens capensis*), mayapple (*Podophyllum peltatum*), Christmas fern (*Polystichum acrostichoides*), liverleaf (*Hepatica americana*), and alumroot (*Heuchera americana*).

The Forge Cove project site is located within the Mountain physiographic region of North Carolina and more specifically the Broad Basin; and Southern Crystalline Ridges and Mountains Ecoregions. Two soil associations are present on site; they are the Chester-Edneyville-Hayesville association and the Chandler-Fannin-Watuaga association. The Chester-Edneyville-Hayesville association is classified as well drained, rolling to steep soils that have a subsoil of fine sandy loam to clay. This association is found on broad, smooth ridgetops and side slopes. The Chandler-Fannin-Watuaga association is classified as somewhat excessively drained and well drained, rolling to very steep, micaceous soils that have a subsoil of fine sandy loam to clay loam. This soil association is found on narrow ridgetops and side slopes. Soil series present on site include: Ashe, Brevard, Chandler, Chester, Edneyville, Fannin, Hayesville, Tusquitee, and Watauga.

Tributaries on site include Long Branch, Osborne Branch, and unnamed tributaries to Osborne Branch. There are approximately 4 miles of stream channel within the property boundary. All of the streams within the Forge Cove project boundary are tributaries to Boylston Creek. Boylston Creek is a tributary to the French Broad River, which is a navigable-in-fact water at the Wilson Bridge east of Brevard. Osborne Branch makes up the largest hydrologic system on site and is classified by the NC Division of Water Quality (DWQ) as a class "C" water. Long Branch has a considerably smaller drainage area on site and is also classified as a class "C" water.

There is one wetland located on site. This wetland has been identified as a wetland seep and is adjacent to the head of a jurisdictional channel in the northeast corner of the property. This seep is on a steep slope and its substrate is rocky.

There is one off line pond located within the property boundary; it is south of the existing house and east of the driveway.

The table below summarizes the amounts of jurisdictional waters on site.

On-site Totals

Feature	Amount	Unit
Stream	21,630	linear feet
Wetlands	0.006	acres
Open Water	0.08	acres

Project History

A permit application for this site was submitted on March 7, 2006 by Wetland and Natural Resource Consultants, Inc. (WNR). The US Army Corps of Engineers (Corps) assigned Action ID 200630708; and the North Carolina Division of Water Quality (DWQ) assigned project number 06-0385. This original project plan consisted of a residential community and a lake with a surface area of approximately 27 acres. Impacts on site were associated with the dam and impoundment and totaled approximately 7,055 linear feet. By letter dated August 30, 2006, the DWQ denied the 401 Certification request and by letter dated September 6, 2006, the Corps denied without prejudice the request for DA authorization.

Applicant's Stated Purpose

The basic project purpose of the proposed development at Forge Cove is to provide residential housing and recreational opportunities. More specifically, the overall project purpose of the proposed development at Forge Cove is to develop a viable, upscale, residential, community with a central park and trail system amenity in Transylvania County, North Carolina.

Project Description

The applicant proposes to construct an 83 lot residential subdivision on an approximately 427 acre tract. Lot sizes will range from approximately 1.7 to 16.3 acres with an average lot size of approximately 4.5 acres. Community amenities will include walking trails, a central park with pavilion and 10 parking spaces, and an overlook tower.

The applicant proposes to permanently impact 785 linear feet of stream channel to achieve the previously stated project purpose through the development of a residential community. There are eleven permanent stream impacts associated with development at Forge Cove. Impacts have been identified on the attached site plan.

The project will include the construction of eleven stream crossings associated with road crossings and related infrastructure. Permanent fill impacts associated with road and infrastructure development are identified in the table below.

Impact Number	Linear Feet of Impact
1	100
2	90
3	95
4	75
5	25
6	95
7	85
8	95
9	25
10	25
11	75
Total	785

The applicant’s agent has provided the following information regarding steps the applicant has taken to avoid and minimize impacts and proposed compensatory mitigation for unavoidable impacts:

Avoidance: Forge Cove, LLC was willing to considered sites other than the proposed project site for development of Forge Cove. A set of criteria was developed to aid in the search for a site and ultimate selection of a site. It is important to note that an alternatives site analysis was done prior to the purchase of the property when Forge Cove, LLC was proposing the construction of a lake. The best-suited parcel was chosen with that development plan in mind. After denial of permits associated with the previous development plan, Forge Cove, LLC still wants to develop the property but a second site alternatives analysis was not completed because the property had already been purchased. The project plans have significantly changed, eliminating the construction of the lake and lodge; and significantly reducing density and impacts.

The proposed project would not be able to be completed without impacts to jurisdictional streams. The costs of bridges, alone, would be prohibitive to development and in some cases not feasible due to topography. Long stream segments bisect the property, making it necessary to construct stream crossings to access all portions of the property.

Minimization: In preparing the plan and application, the project team, comprised of Forge Cove, LLC, CEC, LandForm Studio, PA, and WNC Professional Engineers & Surveyors has considered a variety of constraints including impacts to wetlands and waters of the US. Forge Cove, LLC has avoided and minimized impacts to streams and wetlands.

During design of the proposed plan, the applicant considered many development alternatives, some of which included impacts to substantially more streams than the proposed plan depicts. The table below summarizes the impacts proposed in a previous application for a 233-lot subdivision with a 27-acre lake submitted by WNR on March 7, 2007.

Water Feature	Impact
Stream	7,055 linear feet
Wetland	0 acres
Open Water	0 acres

Because of permit denial and the continued desire to develop the property, alternative site plans were developed. On June 26, 2007, an alternative site plan was developed which included 154 lots, 11 stream crossings, and 325 linear feet of impacts for a pond. Stream impacts associated with this plan totaled approximately 855 linear feet. There was an on-site pre-application meeting to discuss this plan on August 16, 2007. On September 20, 2007, a second alternative site plan was developed which included 154 lots, 10 stream crossings, and 200 linear feet of stream impacts for a pond. During the winter of 2007, a third alternative site plan was developed which included 83 lots, 11 stream crossings, and no pond. Stream impacts associated with this plan total approximately 785 linear feet.

In redesigning the site plan, the project team was able to significantly reduce stream impacts and density on site. Stream impacts for this project, as proposed, will total 785 linear feet. As compared to the previous application submitted March 7, 2007, 150 lots have been eliminated and 6,270 linear feet of stream impact has been avoided. The table below summarizes jurisdictional impacts for the project, as proposed, as well as, the difference in impacts between the proposed project and the initial project previously submitted by WNR.

Water Feature	Impact	Difference
Stream	785 linear feet	6,270 linear feet
Wetland	0 acres	0 acres
Open Water	0 acres	0 acres

Compensatory Mitigation: Forge Cove, LLC proposes to partially mitigate for unavoidable impacts at a ratio of 10:1 through preservation of remaining streams and wetlands on the site. Approximately 9,410 linear feet of stream will be preserved, along with a 30-foot wide buffer on each side of the stream. Upland buffers will total approximately 14.25 acres. All preserved streams and buffer areas have been identified on the enclosed buffer map (Figure Set 4, Sheet 2) and will be protected via restrictive covenants. Restrictive covenant language will be consistent with model language provided by the US Army Corps of Engineers, Wilmington District. Any changes to the model restrictive covenant language will be approved by the Corps. The sole wetland on the property will also be preserved.

Forge Cove, LLC proposes to mitigate for the balance of unavoidable impacts (630 linear feet) at a ratio of 1:1 through payment into the EEP in-lieu fee program. By letter dated May 2, 2008, EEP has indicated they are willing to accept payment for impacts up to 650 linear feet associated with development at Forge Cove.

The tables below summarize the basic mitigation requirements along with the proposed stream mitigation.

Basic Mitigation Requirement

Impact Site	Type of Impact	Linear Feet of Impact	Compensatory Mitigation Ratio (x:1)	Basic Mitigation Requirement
1	Culvert	100	2	200
2	Culvert	90	2	180
3	Culvert	95	2	190
4	Culvert	75	2	150
5	Culvert	25	2	50
6	Culvert	95	2	190
7	Culvert	85	2	170
8	Culvert	95	2	190
9	Culvert	25	2	50
10	Culvert	25	2	50
11	Culvert	75	2	150
Total Impacts		785		
Total Mitigation Required				1,570

Proposed Mitigation

Stream	Linear Feet of Mitigation	Type	Mitigation Activity Ratio (x:1)	Total Credit
UTs Osborne Branch and Long Branch	9,410	Preservation	10	941
EEP	630	Restoration	1	630
Total	10,040			1,571

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 in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ

for 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 July 7, 2008.

Cultural Resources

By letter dated June 7, 2006, the North Carolina Department of Cultural Resources State Historic Preservation Office (SHPO) commented on the March 7, 2006 permit application. In this letter, the SHPO states that “there are no known recorded archaeological sites within the project boundary”. 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

By letter dated April 26, 2006, the US Fish and Wildlife Service (FWS) commented on the March 7, 2006 permit application. In this letter, the FWS states that they “agree that no listed species or their habitats occur on site and that the proposed project will not affect endangered or threatened species or their habitats”. The project boundary for the site has not changed; the project density has decreased, and the impacts are substantially less.

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

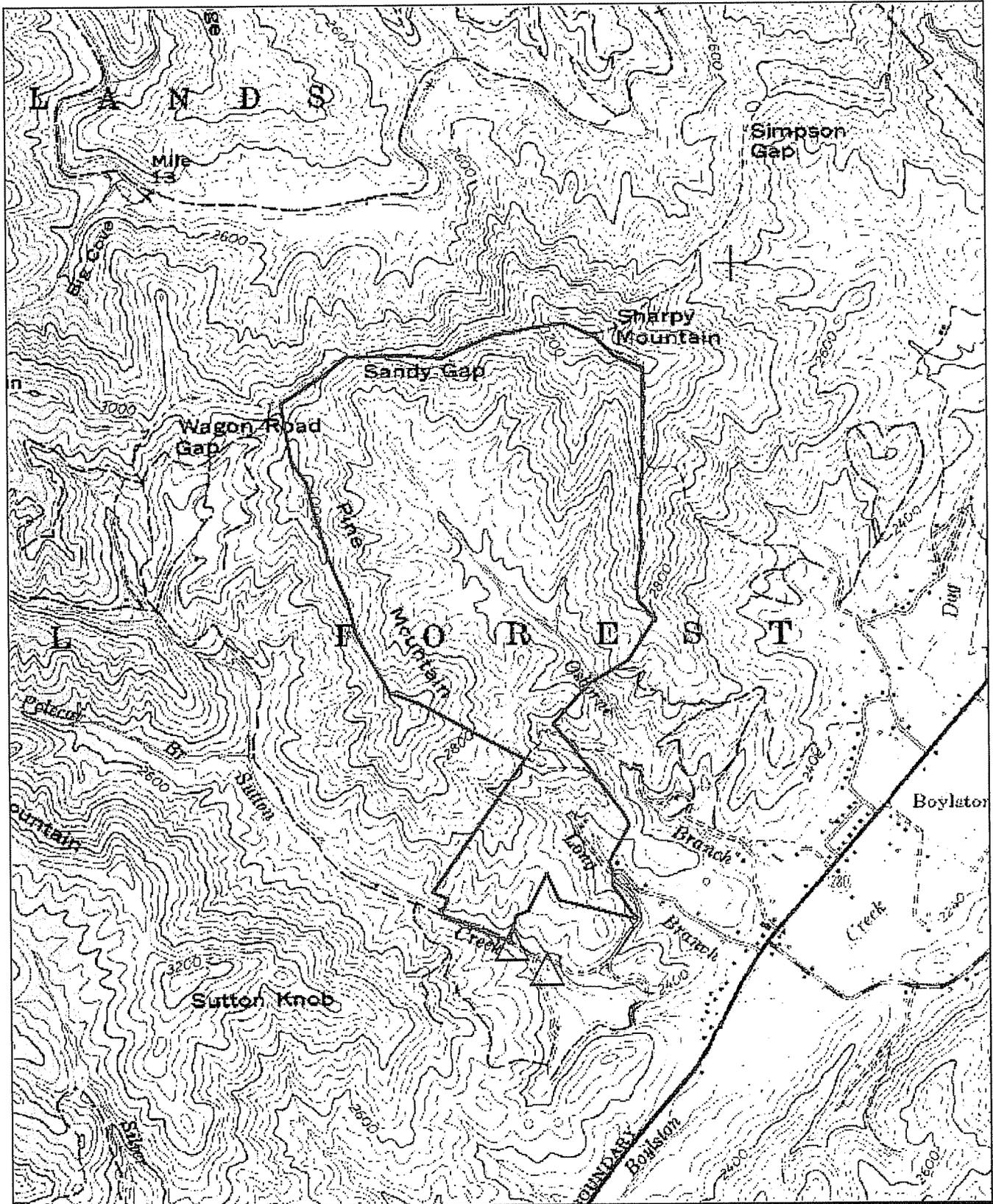
property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 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, July 7, 2008. Comments should be submitted to Mr. Tom Walker, US Army Corps of Engineers, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, NC 28801-5006, telephone 828-271-7980.

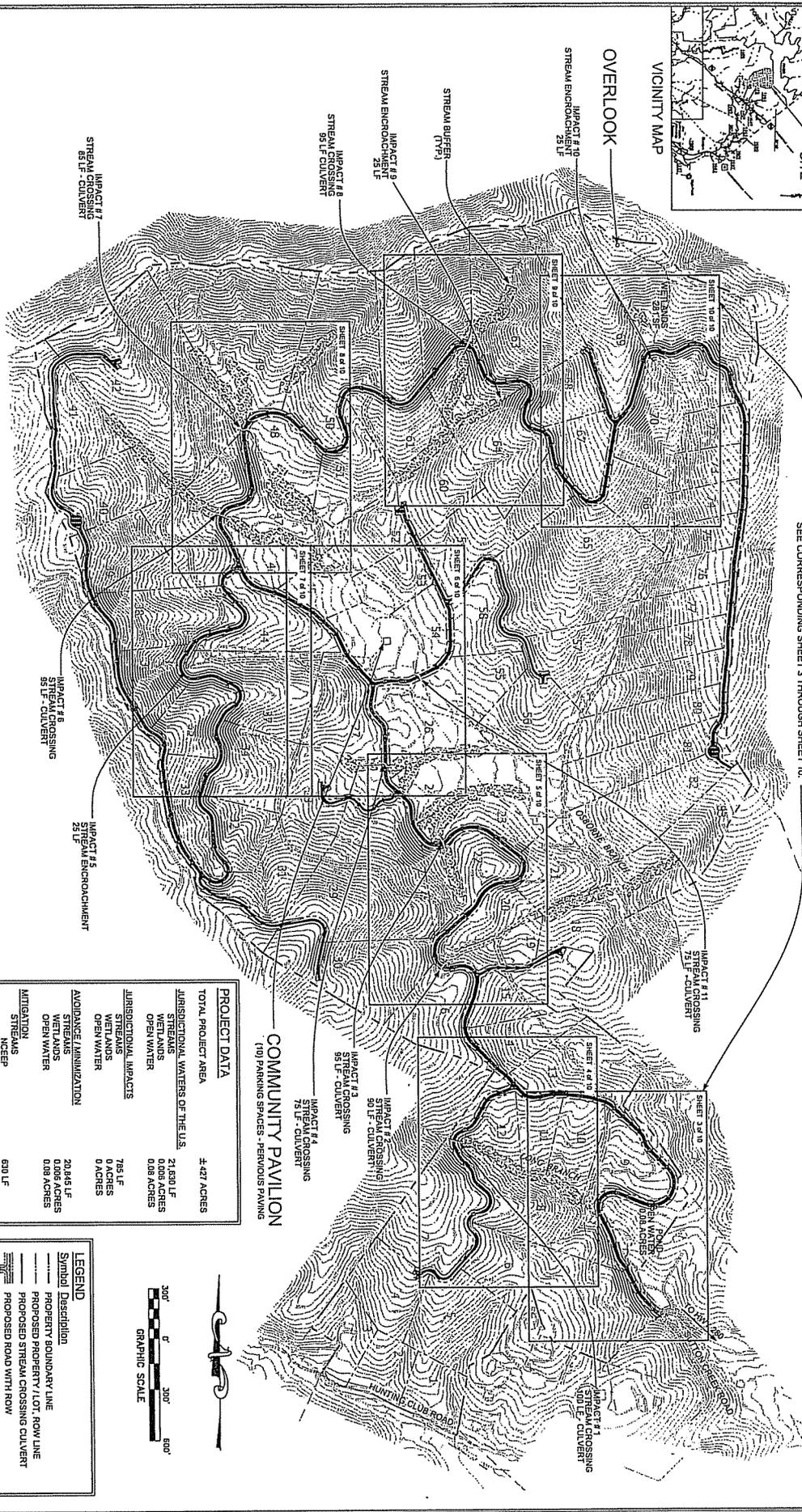
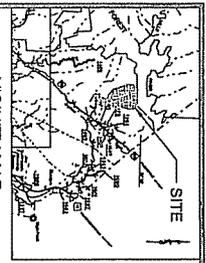


Forge Cove
 Transylvania County
 North Carolina

CLEARWATER

Environmental Consultants, Inc.
 718 Oakland Street
 Hendersonville, NC 28791
 828-698-9800

USGS Topographic Map
 Pisgah Forest Quad
 Figure 2



FOR ENLARGEMENT OF IMPACT AREAS # 1 THROUGH # 11
SEE CORRESPONDING SHEET 3 THROUGH SHEET 10.

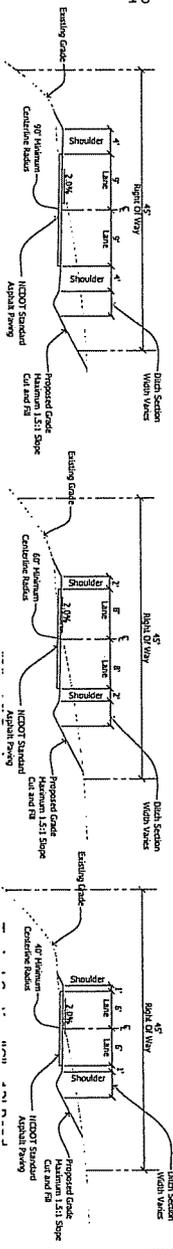
- NOTES**
1. CONCEPTUAL LAYOUT AND EXISTING GROUND TOPOGRAPHY BASED ON AERIAL SURVEY AND LIDAR SURVEY SUPPLIED BY LANDFORM STUDIO.
 2. PROPERTY BOUNDARY DERIVED FROM A FIELD SURVEY BY ED HOLMES AND ASSOCIATES, SUPPLIED BY LANDFORM STUDIO.
 3. ALL PIPES 48" AND UNDER WILL BE BURIED 20% OF THE DIAMETER OF THE PIPE. ALL PIPES OVER 48" WILL BE BURIED 1'.

PROJECT DATA

TOTAL PROJECT AREA	± 427 ACRES
JURISDICTIONAL WATERS OF THE U.S.	21,120 LF
STREAMS	0.008 ACRES
WETLANDS	0.08 ACRES
OPEN WATER	0.08 ACRES
JURISDICTIONAL IMPACTS	
STREAMS	776 LF
WETLANDS	0 ACRES
OPEN WATER	0 ACRES
AVOIDANCE/AMINIMIZATION	
STREAMS	20,145 LF
WETLANDS	0.008 ACRES
OPEN WATER	0.08 ACRES
MITIGATION	
NCEEP	820 LF
PRESERVATION	9,410 LF
WETLANDS	0.08 ACRES
PRESERVATION	14,25 ACRES

LEGEND

Symbol	Description
---	PROPERTY BOUNDARY LINE
---	PROPOSED PROPERTY LOT ROW LINE
---	PROPOSED STREAM CROSSING CULVERT
---	PROPOSED ROAD WITH ROW
---	EXISTING CONTOUR
---	PROPOSED GRAADING ON EXISTING CONTOUR
---	STREAM WITH BUFFER LINE
---	PROPOSED HIKING TRAIL



INTEGRATION OF SITE & ARCHITECTURE
WNC

**FORGE COVE SUBDIVISION
STREAM AND WETLAND IMPACT
KEY MAP**



WNC
PROFESSIONAL ENGINEERS & SURVEYORS
WNC P.O. BOX 2115
1095 HENDERSONVILLE RD, SUITE C
ASHEVILLE, NC 28803
828-277-5074

DATE: APRIL 23, 2008
PROJECT: FORGE COVE SUBDIVISION
DWG. NO.: 040301 E1
SCALE: AS SHOWN
SHEET NO.: 1 OF 10