



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: August 22, 2008  
Comment Deadline: September 22, 2008  
Corps Action ID #: SAW-2008-2246

The Wilmington District, Corps of Engineers (Corps) has received an application from Ammons Mountain Properties, Inc., seeking Department of the Army authorization to impact approximately 415 linear feet of unnamed tributaries to Crooked Creek in conjunction with the construction of a pond amenity for the proposed Traditions residential development. This project is located off of Crooked Creek and Paint Fork Roads northeast of Mars Hill in Madison 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:** Ammons Mountain Properties, Inc.  
Mr. Judd Ammons  
140 Ammons Drive  
Raleigh, North Carolina 27615

**Agent:** ClearWater Environmental Consultants  
Mr. R. Clement Riddle  
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 (33 U.S.C. 1344).

## **Location**

The site is located off of Crooked Creek Road, SR 1526, northeast of Mars Hill in Madison County, North Carolina (35.8500°N, 82.4741°W). The site contains Crooked Creek, several unnamed tributaries to Crooked Creek and Paint Fork Creek, as well as headwater and adjacent small wetland seeps and a manmade pond. All stream channels on the site ultimately drain into the French Broad River which is a navigable-in-fact waterway (HUC 06010105).

## Existing Site Conditions

Traditions is forested, with the exception of portions of the northern and southern portions of the property, which contains old home sites, outbuildings, a pond, and maintained lawn. There is a small road network on either side of the ridge; however, there is not a road over the ridge. 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 Traditions 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*).

Streams on site include Crooked Creek and unnamed tributaries; and unnamed tributaries to Paint Fork. There are approximately 2 miles of stream channel within the property boundary. All streams are classified by the NC Division of Water Quality (DWQ) as Watershed Water Supply II (WS-II) and High Quality Waters (HQW). In general, unnamed tributaries to Crooked Creek flow south to north and unnamed tributaries to Paint Fork flow north to south. In general, Crooked Creek and Paint Fork flow east to west and eventually into the French Broad River via Middle Fork, Little Ivy Creek, and Ivy Creek. The majority of streams within the Crooked Creek drainage area are bordered by mature riparian forests. Riparian areas along the main stem of Crooked Creek and the tributary adjacent to the existing drive have been impacted; Crooked Creek has minimal riparian area through the property. The majority of streams within the Paint Fork drainage area are bordered by mature riparian forests. Riparian areas along the stream adjacent to the existing drive (Bradley Branch Road) have been impacted by the road and residential development; riparian areas along this section of stream are absent.

There are several wetlands located on site. The majority of these wetlands have been identified as wetland seeps and are at the head of jurisdictional channels or adjacent to their associated channels.

One impoundment exists on site. This pond impounds an unnamed tributary to Crooked Creek and is approximately 0.07 acres. The pond is located north of the existing houses, south of the existing tobacco barn, and west of the existing driveway. Significant amounts of sediment have accumulated in the pond and the dam appears to be damaged.

## **Applicant's Stated Purpose**

The basic project purpose of the proposed development is to provide residential housing with amenities. More specifically, the overall project purpose of the proposed development is to develop a viable, upscale, residential community with a small pond amenity in Madison County, North Carolina.

## **Project Description**

The proposed project calls for the development of 155 single-family lots and all associated infrastructure. Also, included in development plans is a small amenity pond with a surface area of approximately 0.73 acres.

The applicant proposes to permanently impact 415 linear feet of stream channel in conjunction with construction of the pond. The project will include four permanent stream impacts associated with pond construction. Sixty linear feet of impacts are necessary for construction of the dam; 355 linear feet of stream channel will be flooded. The dam also serves as a roadway crossing for vehicular access within the subdivision. A cold-water release will be incorporated into the design to minimize downstream aquatic impacts. Permanent fill and flooding impacts associated with pond construction are identified in the table below.

Traditions Pond Impacts

Stream	
Impact	Linear Feet
A	177
B	68
C	110
D	60
Total	415

The other new stream roadway crossings will utilize bridges with no jurisdictional impacts.

The applicant proposes mitigating for the stream channel impacts at a compensatory mitigation ratio of 2:1 for dam impacts and 1:1 for flooding impacts. Ammons Mountain Properties, Inc. proposes to partially mitigate for unavoidable impacts at a mitigation ratio of 5:1 through preservation of portions of remaining streams on the site. Approximately 1,775 linear feet of streams will be preserved, along with a 30-foot wide buffer on each side of the stream. Upland buffers will total approximately 2.44 acres. Restrictive covenant language will be consistent with model language provided by the US Army Corps of Engineers, Wilmington District. The remaining balance of 60 linear feet will be compensated for at a 2:1 ratio through payment into the EEP in-lieu fee program. By letter dated July 17, 2008, EEP has indicated they are willing to accept payment for impacts associated with development at Traditions.

## **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 September 22, 2008.

In addition, this project may be located in a watershed subject to Tennessee Valley Authority (TVA) permit requirements pursuant to Section 26a of the TVA Act. This Public Notice and all application materials are being forwarded to the Holston-Cherokee-Douglas Watershed Team, Attention: Susan B. Fuhr, Manager, 3726 E. Morris Boulevard, Morristown, TN 37813-1270. Questions or comments regarding Section 26a permit requirements should be directed to the above address.

## **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 would 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 would 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**

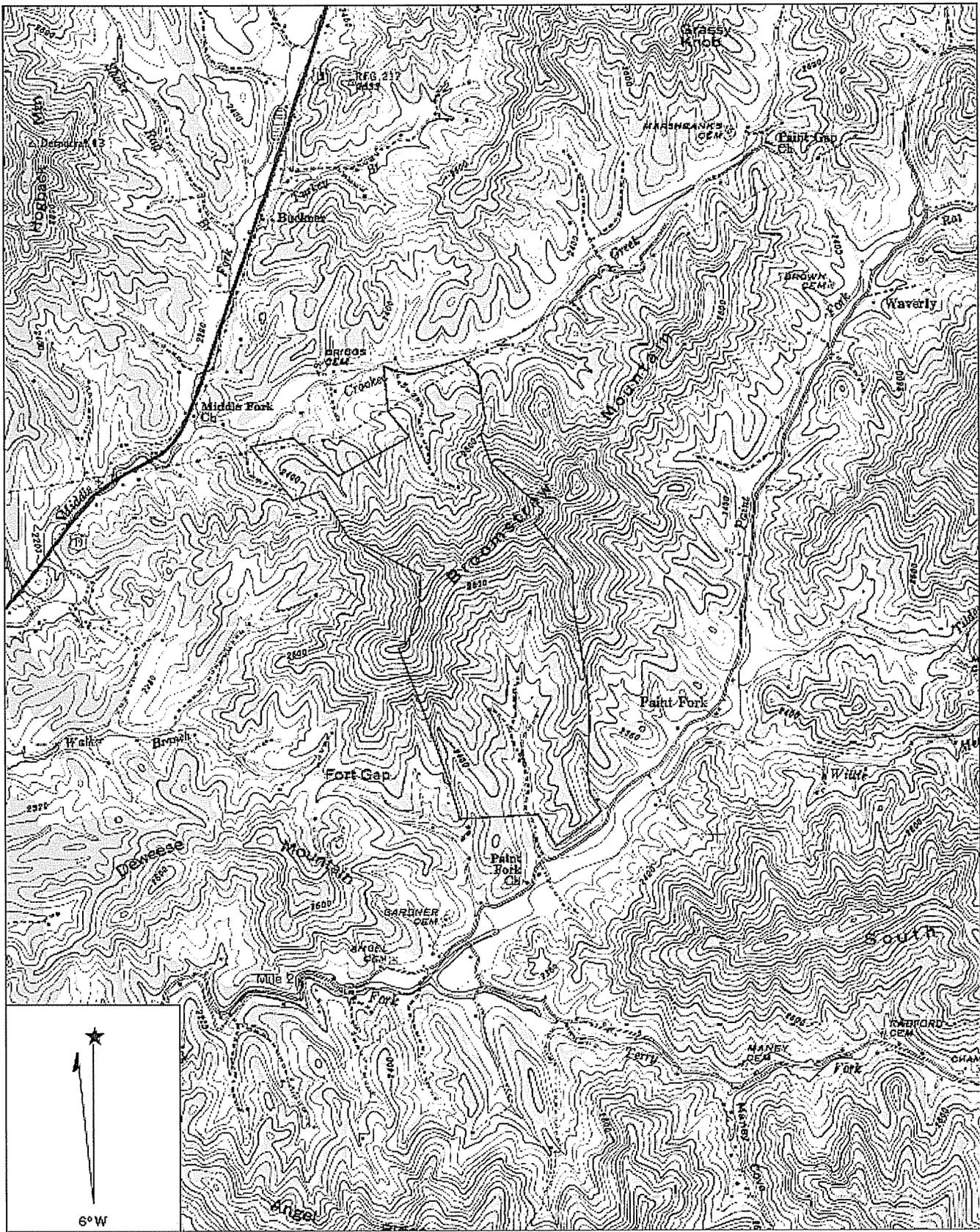
The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably 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, September 22, 2008. Comments should be submitted to USACE, Attn: David Baker, 151 Patton Avenue Room 208, Asheville, North Carolina 28801.

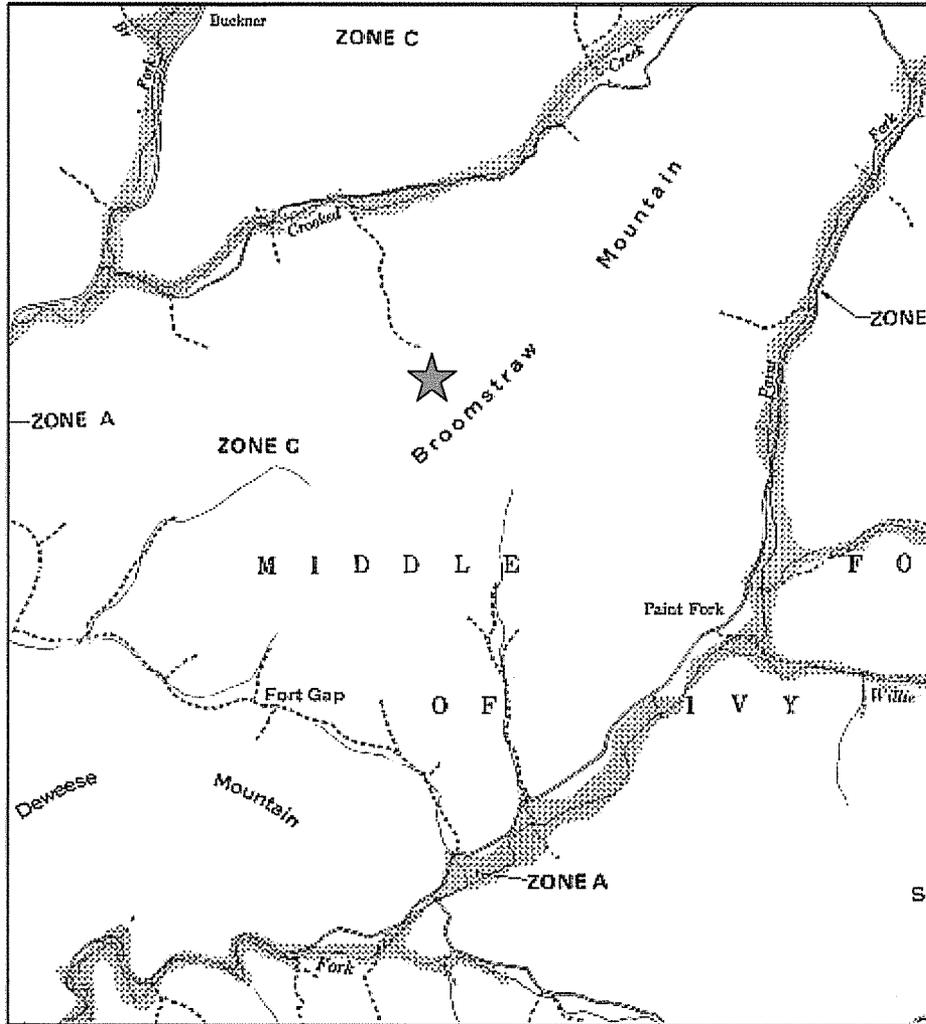


Traditions  
Madison County  
North Carolina

### CLEARWATER

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

USGS Topo Map  
Barnardsville Quad  
Figure 2



NATIONAL FLOOD INSURANCE PROGRAM

**FIRM**  
FLOOD INSURANCE RATE MAP

MADISON COUNTY,  
NORTH CAROLINA  
(UNINCORPORATED AREAS)

PANEL 175 OF 200

COMMUNITY-PANEL NUMBER  
370152 0175 B

EFFECTIVE DATE:  
SEPTEMBER 2, 1982



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced Flood map. It was extracted using F-MIT On Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program Flood maps check the FEMA Flood Map Store at [www.maz.fema.gov](http://www.maz.fema.gov)

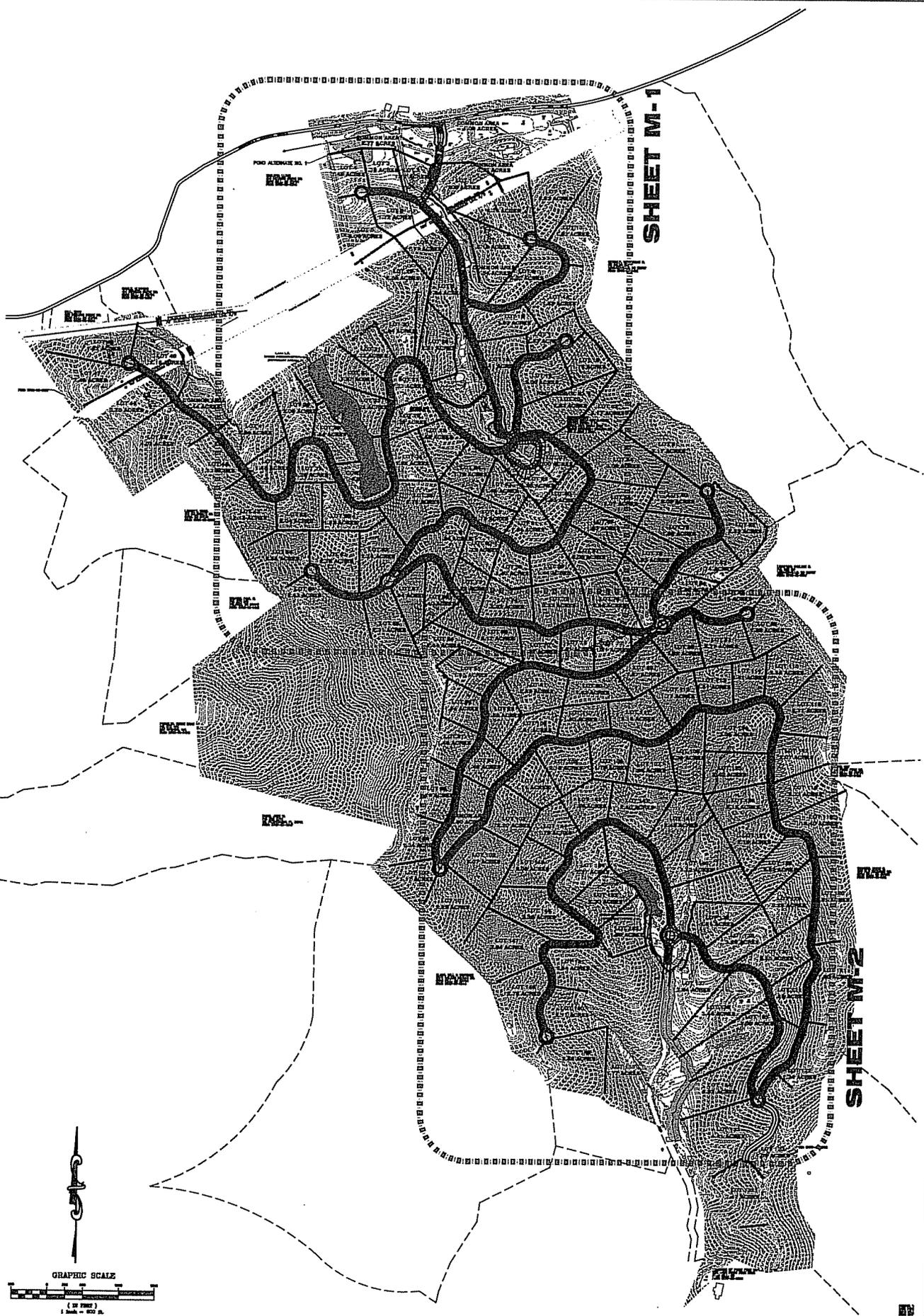
★ - Approximate Site Location



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Madison County  
North Carolina

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FEMA Flood Insurance Rate Map  
Figure 5



MASTER PLAN

**TRADITIONS  
IMPACTS PLAN**  
MADISON COUNTY, NORTH CAROLINA

TOTAL CREEK IMPACTS= 415 L.F.  
TOTAL CREEK PRESERVATION = 1,775 L.F.



