



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: November 15, 2007
Comment Deadline: December 14, 2007
Corps Action ID #: 2007-3367

The Wilmington District, Corps of Engineers (Corps) has received an application from Mountain Development Company, LLC represented by Mr. Keith Vinson, seeking Department of the Army authorization to impact waters of the United States in order to facilitate the development of a residential development golf community on a 1,400-acre property located south of the town of Etowah, in Henderson County, North Carolina. Under this proposal, the applicant would impact 2.17 acres of jurisdictional wetlands, 7,888 linear feet of streams, and 0.57 acres of open waters in the 1,400-acre project area.

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: Mountain Development Company, LLC
Attention: Mr. Keith Vinson
130 South Main Street
Hendersonville, North Carolina 28792

Agent: ClearWater Environmental Consultants, Inc
Attention: 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 subject property is located on Pleasant Grove Road, south of the town of Etowah, in Henderson County, North Carolina. The site is bordered to the north by the French Broad River, to the south by Jeter Mountain and Jeter Mountain Road, to the east by Judd Wilson Mountain, Dolly Road, and the headwaters of Folly Creek, and to the west by Shuford Mountain.

Existing Site Conditions

The project site consists of wooded land and old agricultural fields. Elevations range from approximately 2,080 feet above mean sea level on the northern portion of the property within the French Broad River floodplain to 3,220 feet above mean sea level on the southern portion of the property south of Folly Road and at a summit of Jeter Mountain. The natural communities identified onsite are montane alluvial forest and acidic cove forest as described by the *Classification of Natural Communities of North Carolina (third approximation)*. In addition to the aforementioned communities, the site also contains red oak-hickory forest, old agricultural fields, wetlands, streams, and open water. The wetlands onsite total 5.28 acres and are composed of emergent marshes and stream head water seeps. The fresh water perennial streams onsite total 19.25 miles and include Little Willow Creek (Water Classification C), Folly Creek (Water Classification C), their unnamed tributaries and unnamed tributaries to the French Broad River (06010105).

The French Broad River flows into Douglas Lakes and becomes the Tennessee River after its union with the Holston River in Tennessee.

Within the property boundary, there are five impoundments which total 2.73 acres. The largest of the five ponds impounds an unnamed tributary to Little Willow Creek and is known as Gore Lake (approximately 2.23 acres) which is located near the western property boundary. Three smaller ponds are adjacent to Folly Creek and collectively impound 0.41 acres of an unnamed tributary to Folly Creek. The fifth pond is located on the east side of the property and impounds 0.09 acres of an unnamed tributary to the French Broad River.

Applicant's Stated Purpose

To develop a residential, golf course community.

Project Description

The applicant proposes to impact 2.17 acres of jurisdictional wetlands 7,888 linear feet of streams, and 0.57 acres of open waters in the 1,400-acre project area in order to facilitate the construction of a residential golf community. This residential development would include the development of single family estate homes, cottages, and multi-family units, a 9-hole practice facility, a driving range, putting and chipping greens, an 18-hole golf course, a river club, town village, and swim and tennis facilities.

Overall, the proposed impacts are as follows:

Road impacts	Wetland	Stream
	0.52 acres	4,809 linear feet

Utility impacts	Stream
	150 linear feet

Golf Course impacts	Wetland	Stream	Open Water
	1.65 acres	3,079	0.57 acres

As mitigation, the applicant proposes to use natural channel design methods to restore and enhance two tributaries off site. The first tributary is an unnamed tributary to the French Broad River and is located in the Hollabrook Farms subdivision. As proposed by the applicant, approximately 3,275 linear feet would be restored and or enhanced. Approximately 2,358 linear feet of channel are to be enhanced and 980 linear feet are to be restored for a total of 2,550 linear feet mitigation credit. The second tributary is an unnamed tributary to Wash Creek and is located in the future Laurel Park Nature Park. The applicant proposes to restore approximately 1,120 linear feet of stream channel which will result in 1,370 linear feet of newly restored stream channel for a total 1,370 linear feet of mitigation credit.

Stream Mitigation Table

Streams	Linear Feet of Mitigation	Type	Mitigation Ratio	Total Credit
Hollabrook	2,358	Enhancement	1.5:1	1,572
Hollabrook	980	Restoration	1:1	980
Laurel Park	1,370	Restoration	1:1	980
EEP	3,966	Restoration	1:1	3,966
Total	8,674			7,888

The applicant proposes to mitigate for wetland losses by constructing littoral shelves on three storm water ponds on the northern portion of the project site for a total of 0.50 acres of wetlands. Additionally, to mitigate for 1.75 acres of wetlands, the applicant proposes payment into the Ecosystem Enhancement Program (EEP) in-lieu fee program.

Wetland Mitigation Table

Wetlands	Mitigation (acres)	Type
EEP	1.75	In-lieu fee
Storm water Littoral Shelf	0.50	On-site construction

A Nationwide Permit (NWP) (file number 2007-3543-345) was issued on November 2, 2007 which authorized 3,800 linear feet of stream impact for bank stabilization on Little Willow Creek, a tributary to the French Broad River, in Henderson County, North Carolina.

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

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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), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Ms Cyndi Karoly by December 14, 2007.

Essential Fish Habitat

3 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, December 14, 2007. Comments should be submitted to Ms. Liz Hair, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina, 28801-5006.

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