



BLACK FOREST
ON LAKE JAMES

DEVELOPMENT GUIDELINES

SEPTEMBER 2005 - VERSION 3



BLACK FOREST ON LAKE JAMES

THE VISION



The gently rounded peaks of the Blue Ridge Mountains are renowned for their rare and unparalleled beauty.

A lush cover of trees echoes the rolling topography beneath it and shelters an exceptional variety of plant and animal life.

NESTLED INTO THIS RICH LANDSCAPE IS BLACK FOREST ON LAKE JAMES

A community uniquely positioned to experience the wonders of this natural setting while fully principled to protect and maintain it. Here, residents, their dwellings and activities are in tune with the organic rhythms of this matchless setting. The majestic tree canopy always dominates. Shelters and structures evolve, meshing with the terrain of the ancient mountainsides. Subtlety prevails in the scale, extent and exposure of the human touch on the land. And, the “place,” those collective inherent natural features, qualities and functions existing uniquely here, is preserved and sustained.

DEVELOPMENT GUIDELINES

INTRODUCTION

These Architectural and Lake Buffer Guidelines (the “Guidelines”) and Lake Buffer Requirements have been prepared by the Architectural Control Committee (the “ACC”) for the residential community known as Black Forest. The Guidelines and Lake Buffer Requirements are contemplated in and are promulgated pursuant to that certain Declaration of Covenants, Conditions and Restrictions for Black Forest (the “Declaration”). The Design Guidelines consist of four main parts as set forth below: Guidelines for the Site; Guidelines for Architecture; Guidelines for the Environment & Lake Buffer Requirements; and, Owner Responsibilities & Construction Rules. All defined terms used in the Guidelines, as indicated by the initial capitalization thereof, shall have the same meaning ascribed to such terms in the Declaration, unless otherwise specifically defined herein.

The Guidelines shall be employed in conjunction with the Declaration. If there is an express conflict between the terms of the Declaration and the terms of the Guidelines, the terms of the Declaration shall control and prevail; provided, however, the mere fact that the terms of the Guidelines may be more restrictive than the terms of the Declaration, or vice versa, shall not be construed as an express conflict, and in such case the most restrictive provision shall control and prevail. Of course, in the event governmental or quasi-governmental rules, regulations or requirements that are applicable to Black Forest are more restrictive or more stringent than the terms of the Declaration and/or the terms of the Guidelines, the applicable governmental or quasi-governmental rules, regulations or requirements shall control and prevail.

PURPOSE

The Guidelines have been developed to implement the vision for Black Forest; namely, to blend structures, Lake James (“the Lake”) and residents’ lifestyles into a harmonious and aesthetically pleasing residential community which places a strong emphasis on the preservation and enhancement of the natural beauty of Black Forest. The Guidelines are intended to provide direction to Lot Owners and builders in the planning, design and construction of residences and related Improvements on Lots. It is not the purpose of the Guidelines to create look-alike residences and other Improvements or to suggest that all residences employ the same colors, styles and materials. Rather, the primary emphasis of Black Forest is on quality of design and compatibility among all Improvements, without unduly restricting the ability of Lot Owners to exercise individuality in their choice or design of a residence and related improvements. The ACC will be open to and encourage creativity, innovative use of materials and design and unique (if appropriate) methods of construction as long as the final result is consistent with the spirit of the Guidelines and the guiding principals of Black Forest. The authority of the ACC to approve or disapprove plans, specifications and drawings for residences, related improvements and landscape improvements is provided by the Declaration.

The Guidelines have been established to provide Lot Owners and their architects and builders with a set of parameters for (i) the preparation of plans, specifications and drawings for the construction of residences and related Improvements on Lots (“Building Plans and Specifications”),

(ii) and the general application of the “Lake Buffer Guidelines”. Each Lot Owner and each Lot Owner’s building team should become familiar with the Guidelines and the process set forth herein for the submittal, review and approval of Building Plans and Specifications. If building in Black Forest for the first time, Lot Owners and their builders are encouraged to consult the ACC with questions regarding the application of the Guidelines to the Lot Owners’ design concepts prior to the initiation of any design work.

The ACC has been created to explain and assist in the design review process as well as to review, approve, or disapprove Plans and Specifications. It is the ACC’s objective to maintain a pleasing aesthetic relationship of building to site and building to building and not to restrict individual creativity or preferences. The ACC will use the Guidelines for the purpose of reviewing each design, but the ACC may consider creative and innovative approaches in order to address special site conditions or circumstances, provided such approaches are permitted under the Declaration and are otherwise consistent with the spirit of the Guidelines. The ACC may retain advisory design professionals to serve as members of the ACC to aid in the review of Plans and Specifications.

The Lot Owners should retain competent assistance from an Architect, Landscape Architect, Civil Engineer, Land Surveyor, Septic Installer, and a Licensed and Bonded Contractor (Consultants/ Representatives) as appropriate, otherwise know as the “Building Team”.

FUTURE AMENDMENTS

The ACC reserves the right to amend any or all provisions of the Guidelines periodically and at any time, at the sole and absolute discretion of the ACC. Also, the ACC reserves the right to rule on all issues on a case by case basis, taking into account the fact that these guidelines are to be used as benchmarks for policies and procedures, and may be interpreted from time to time by the ACC to reflect certain circumstantial issues.

All Building Plans and Specifications shall be prepared in compliance with the most current version of the Guidelines (and all amendments thereto) that has been promulgated by the ACC at the time such Building Plans and Specifications are prepared.

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DESIGN GUIDELINES FOR ARCHITECTURE

1.1 ARCHITECTURAL GUIDELINES

The following section sets forth Guidelines and standards for all work relating to building(s), including design, Recommended Building Envelopes, setbacks and buffers, massing and form, placement and site considerations, size restrictions, exterior materials and coloration and sustainability measures. To produce high quality, environmentally sound buildings that preserve and enhance the Black Forest setting, the architectural design shall utilize the following Guidelines.

1.2 ARCHITECTURAL OBJECTIVES

Outlined below are the main objectives for the design of all Buildings and Structures at Black Forest:

1.2.1 To draw upon the historical model of the rural mountain settlement or Homestead that evolved over several years into an informal collection of buildings and structures to meet programming needs as opposed to a singular, self-contained building mass.

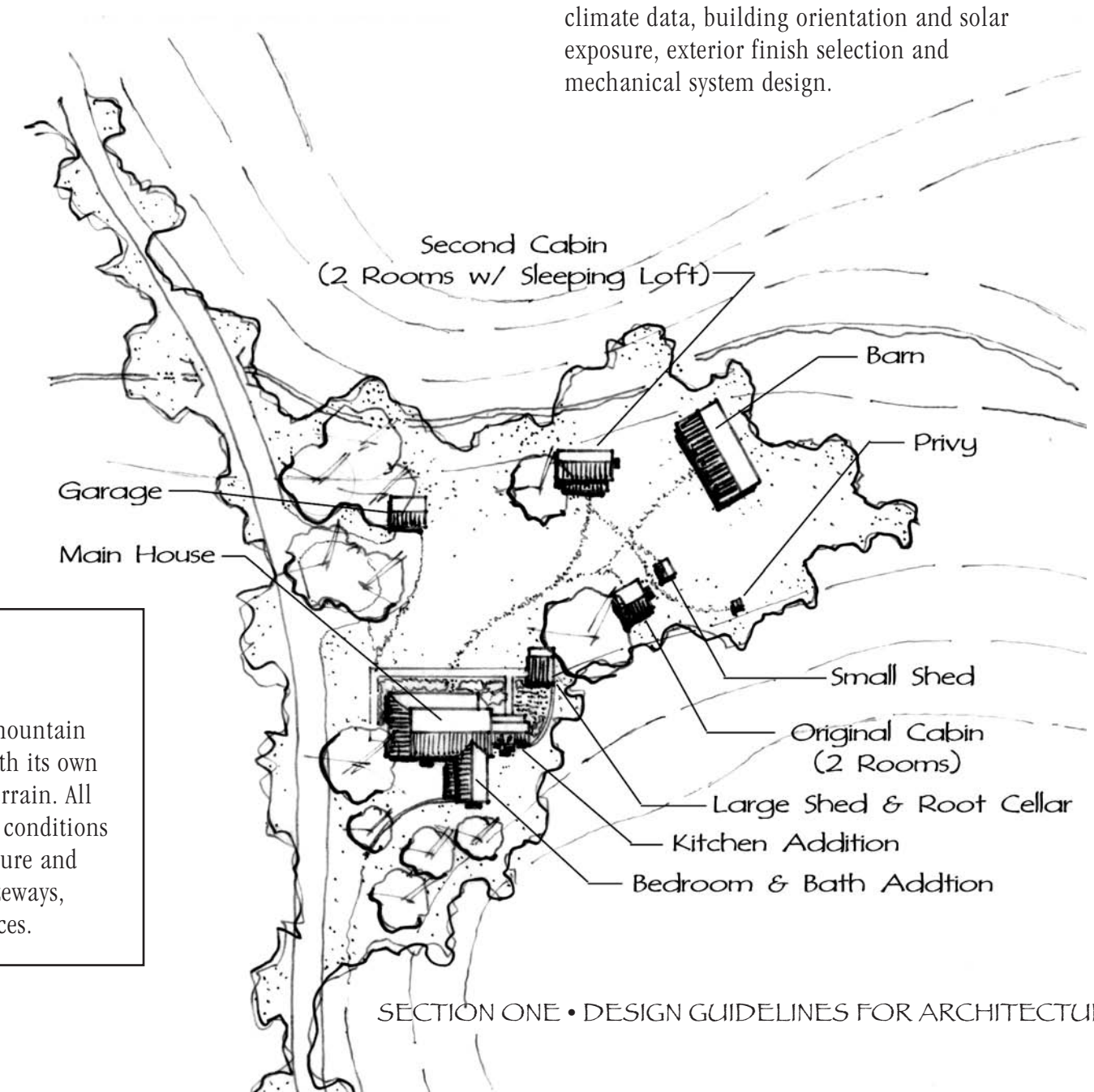
1.2.2 To draw upon the rural design aesthetic and building practices of mountain craftsmen for building detailing and stylistic direction. Design should focus on interpretations of rustic traditions for informal, understated, yet elegant structures finished with natural materials and hand crafted details.

1.2.3 To create buildings that nestle into the landscape and become part of the overall setting through the tone and texture of natural materials.

1.2.4 To encourage sustainability measures in design and execution of all buildings and sites. Design consideration should include existing tree canopy, slope, prevailing wind patterns and climate data, building orientation and solar exposure, exterior finish selection and mechanical system design.

1.3 HOMESTEAD CONCEPT

Site designs should embrace the pattern of a "Homestead" common to the mountain environment. Here, homesteads consist of a collection of structures, each with its own function, proximity and relationship to a primary structure and the given terrain. All structures tend to be smaller-scale as a result of the rugged terrain, weather conditions and the labor and materials at hand. Homesteads included a Primary Structure and related secondary or Ancillary Structures, often connected by galleries, breezeways, trellises and informal paths that result in a series of functional outdoor spaces.



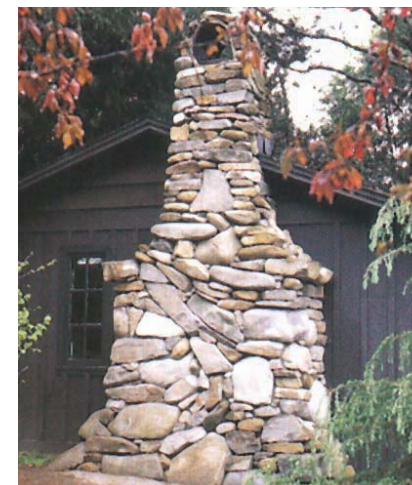
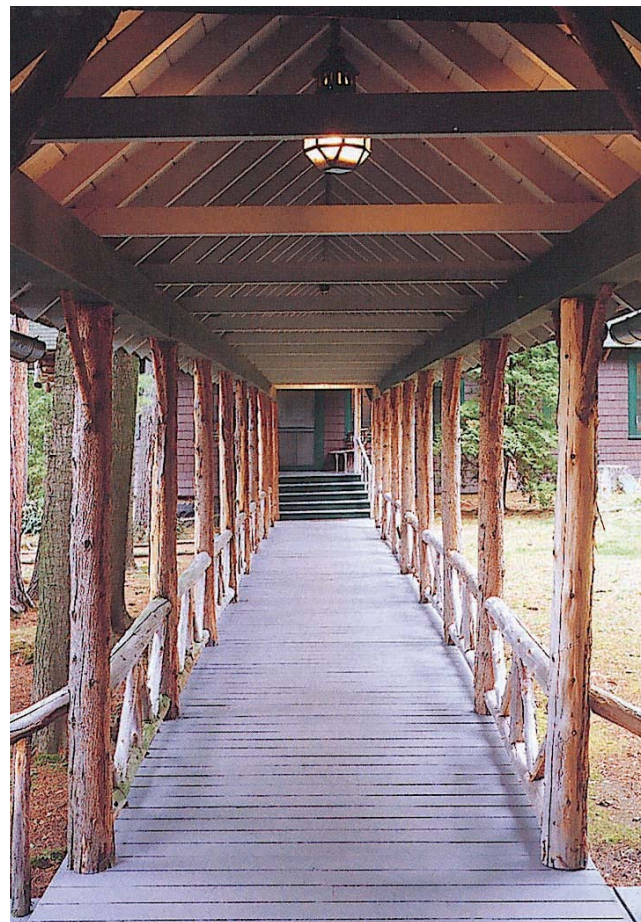
1.4 ELEMENTS OF THE ARCHITECTURE

Employ stone, cementitious board siding, wood siding, rough sawn timbers and siding, recycled logs, wood shingles, wood shakes and other indigenous materials in the manner of camps, cabins and lodges characteristic of the Appalachian Regions.

- Stone or rough-textured stucco foundations, support piers and capped chimneys
- Wide roof overhangs, often supported by knee braces or brackets
- Large covered porches or verandas

- Generally steep roofs that incorporate traditional dormer or shed roof elements with pitches of 5:12 to 12:12. Double pitch roofs may utilize a minimum 9:12 roof for the main body of the roof and a minimum 6:12 roof over the porch elements. Shed roof elements may utilize 2:12 to 4:12 pitches.
- Notched log, wood shingle, vertical board-and-batten, or wood lapped siding
- “Twig” railings and ornamentation
- Structure colors of dark browns or warm grays, highlighted with red, green or cream trim

- Roof colors of browns, warm grays and small areas of muted reds or greens to mimic seasonal leaf coloration. An approved color palette, which provides roof color ranges, is identified in Section 1.5.
- Gutters and downspouts that drain water from roofs, designed to empty into natural drainage systems such as crushed rock beds or grass-lined swales and carry water away from foundations and paved surfaces



1.5 BUILDING FORMS, MASSING AND PLACEMENT

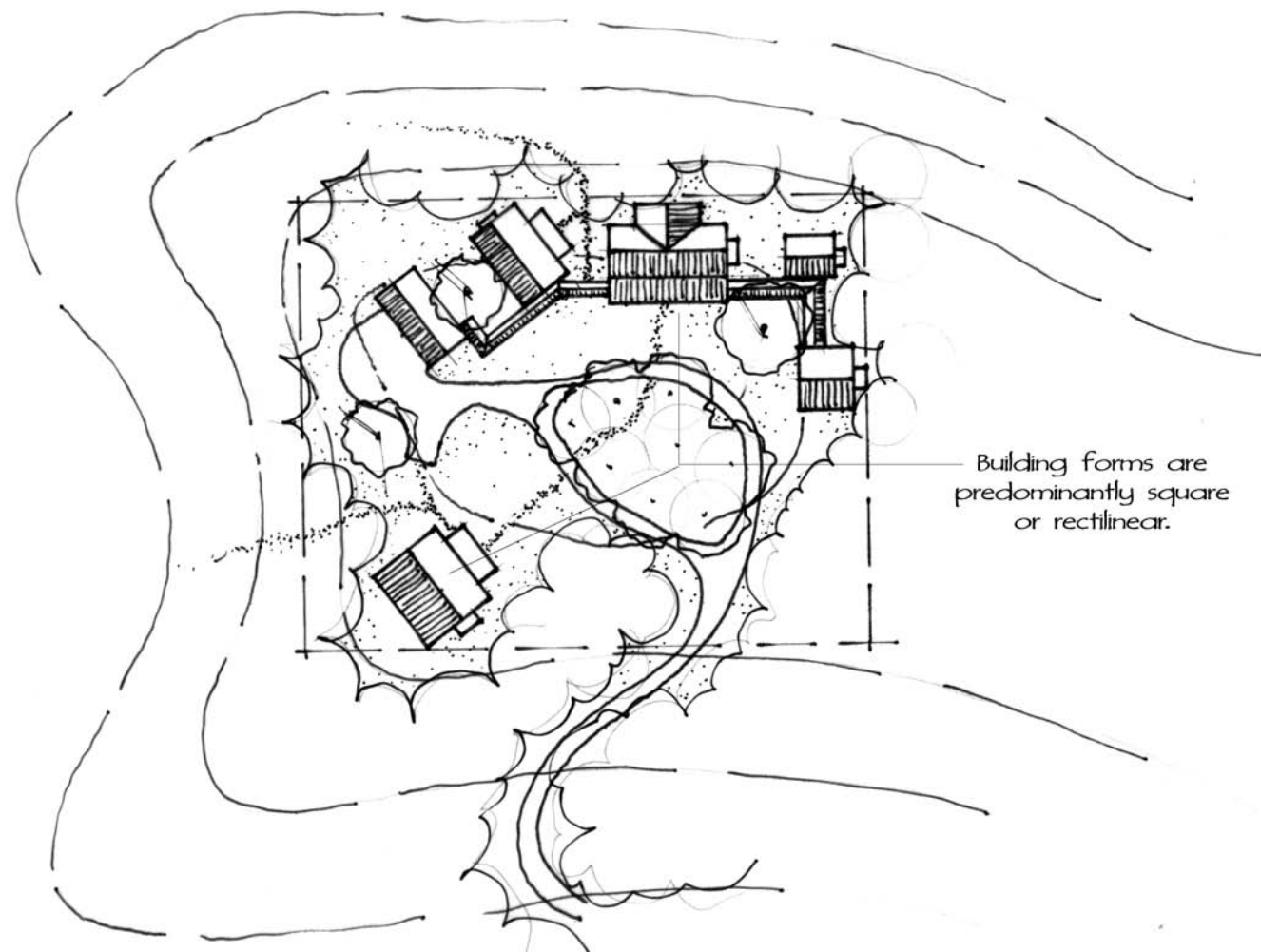
The following considerations should be utilized when designing and placing buildings within the Recommended Building Envelopes in the site:

1.5.1 Building Forms: Forms should be predominately square or rectilinear. Curved forms should be used sparingly and only to mesh a structure into the site.

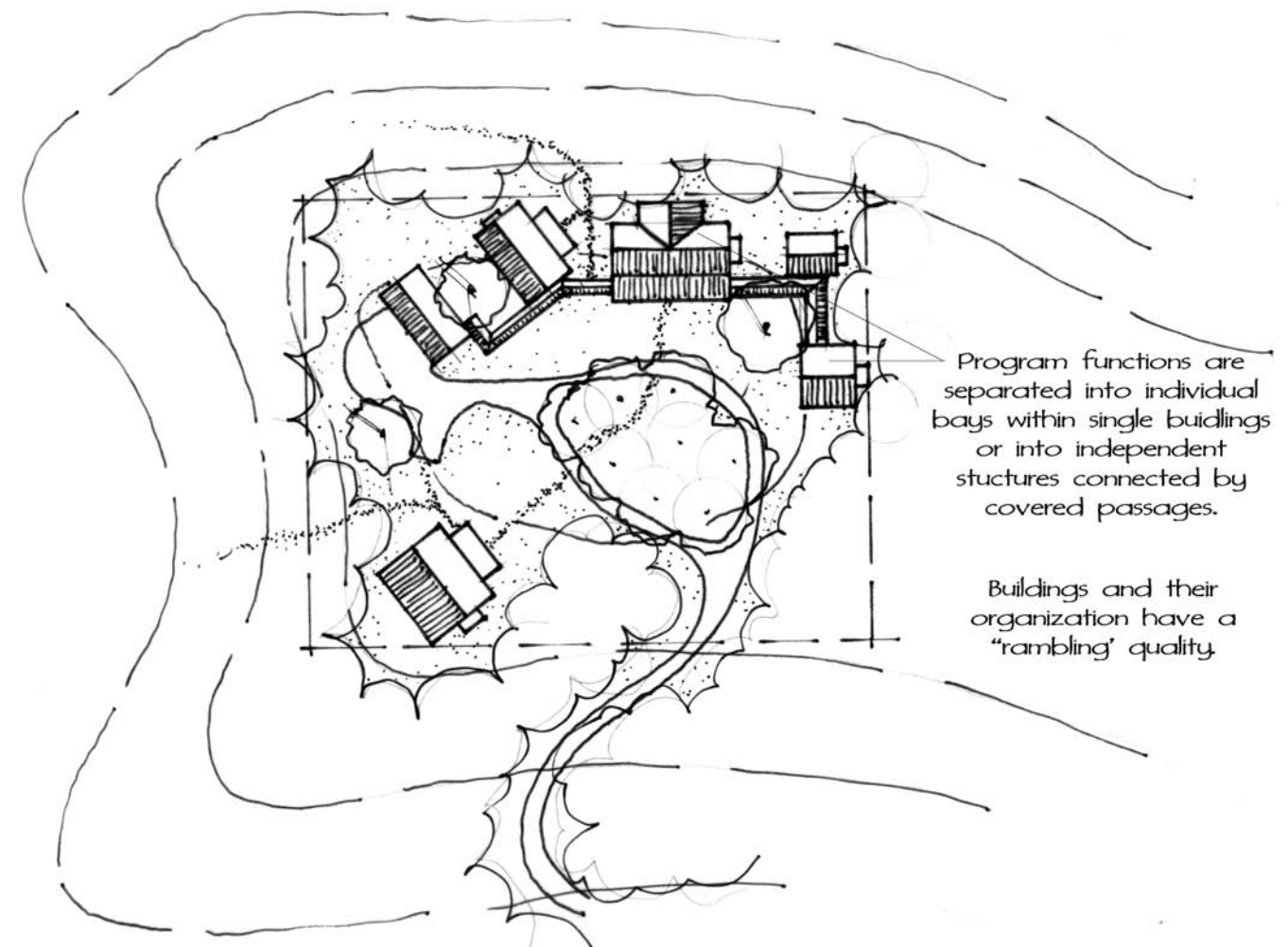
1.5.2 Building Massing: Massing, whether of individual structures or groups of structures, should convey a rambling quality that connects them to the site. Functional elements (living areas, kitchens, bedrooms, dining areas, studios, etc.) should be articulated either as individual

roofed spaces connected by galleries or breezeways or a few, low-profile structures assembled as if added to over time. Individual buildings shall not exceed the Total Potential Heated Square Footage allotted in Figure 1.14.

1.5 continues ...



BUILDING FORMS

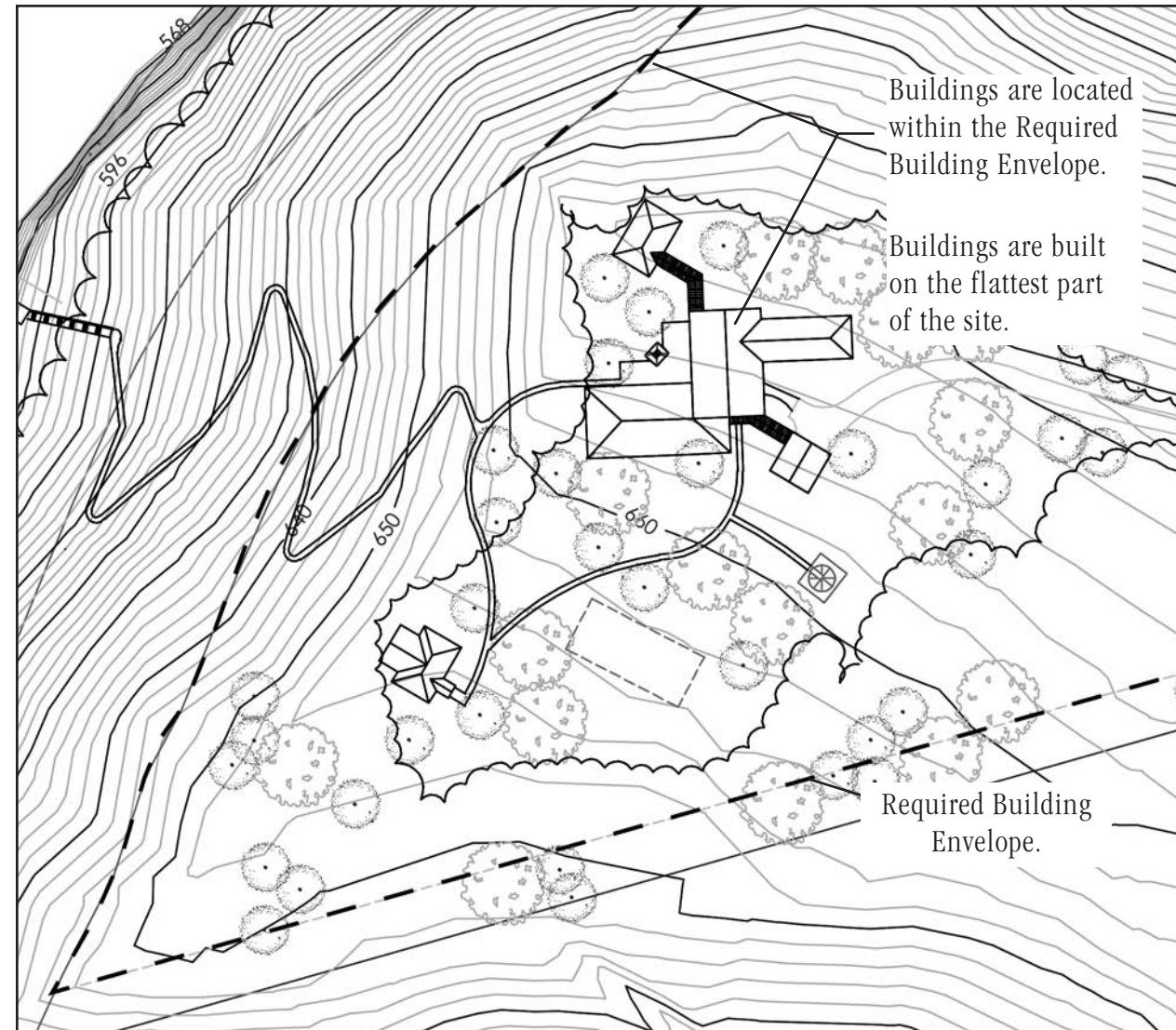


BUILDING MASSING

1.5 continued ...

1.5.3 Building Placement: All buildings shall be located within the Required Building Envelopes and should be positioned in response to the characteristics of each individual Lot. This may mean fitting buildings among existing trees, orienting buildings toward views, or situating buildings and their openings to promote the effective and energy-efficient use of shade, shadow, breezes and daylight.

BUILDING PLACEMENT



1.6 BUILDING COLORS AND FINISHES

The tones and finishes of exterior elements should reflect a logical and appropriate combination of colors, textures and forms to both express the structure of the building and complement the design aesthetic within Black Forest. Colors are to be subdued, recessive and blend with predominant colors found in the surrounding environment. Accent colors are to be used judiciously to add warmth and visual interest. Stains or opaque and semi-opaque paints are to be used to protect wood from weathering, to give it a more refined texture or to achieve a darker hue. Opaque or semi-opaque stains and/or paint finishes are to be selected so that wood has a weathered texture in tones similar to those of the surrounding environment. Stains and paints should generally be of a darker value than tree bark. An approved color palette that specifies color ranges for roof, field and accent colors is found on the following pages.

1.6.1 Building elements shall have the following general color ranges:

- (a) Roofs are to be medium to dark browns, warm grays, and dark reds.
- (b) Walls are to be subdued earth tones (a range of browns, warm grays and/or muted colors found in the surrounding environment). Generally, the darker the wall color, the better.
- (c) Trim and accent colors are to be rich, warm hues (greens, blues, browns, reds, creams and/or blacks).

1.6.2 Shiny or reflective finishes, asbestos shingle siding, imitation brick or stone roll siding, exposed concrete or concrete block and vinyl siding are not permitted. Vinyl-clad windows, vinyl trim, soffits and overhangs may be allowed with prior written approval of the ACC.

1.6.3 Stone, rough sawn timbers, recycled logs, wood shingles, wood shakes and other indigenous materials are preferred as exterior cladding. Although discouraged as primary cladding material, brick may be allowed in limited quantities with prior written approval of the ACC.

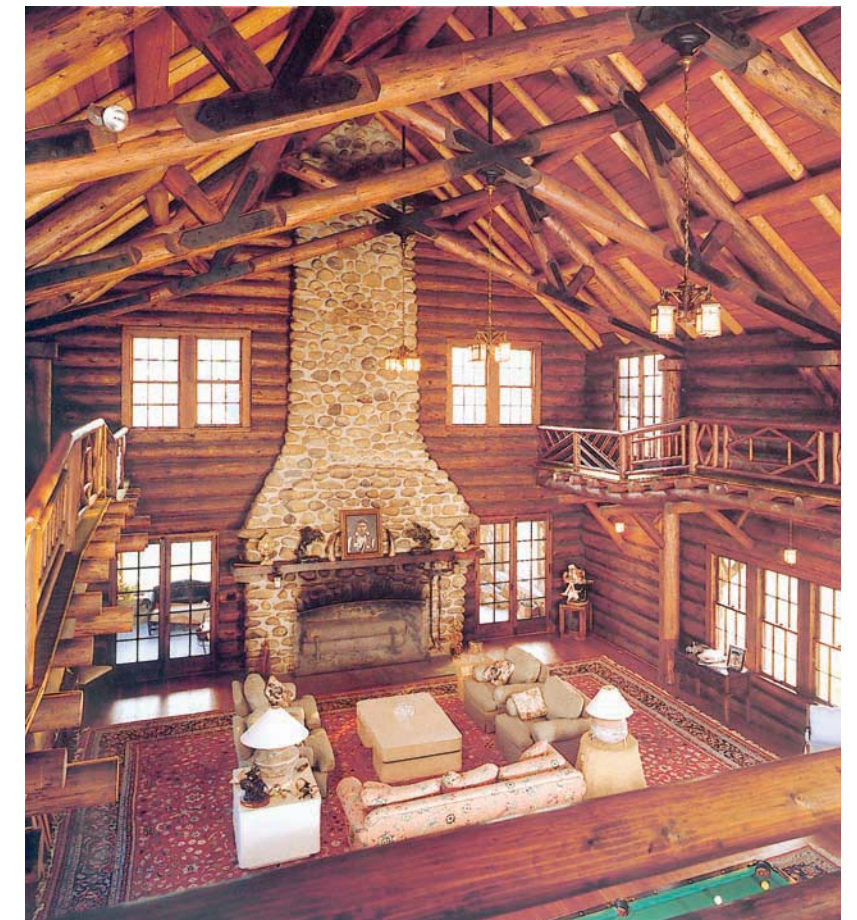
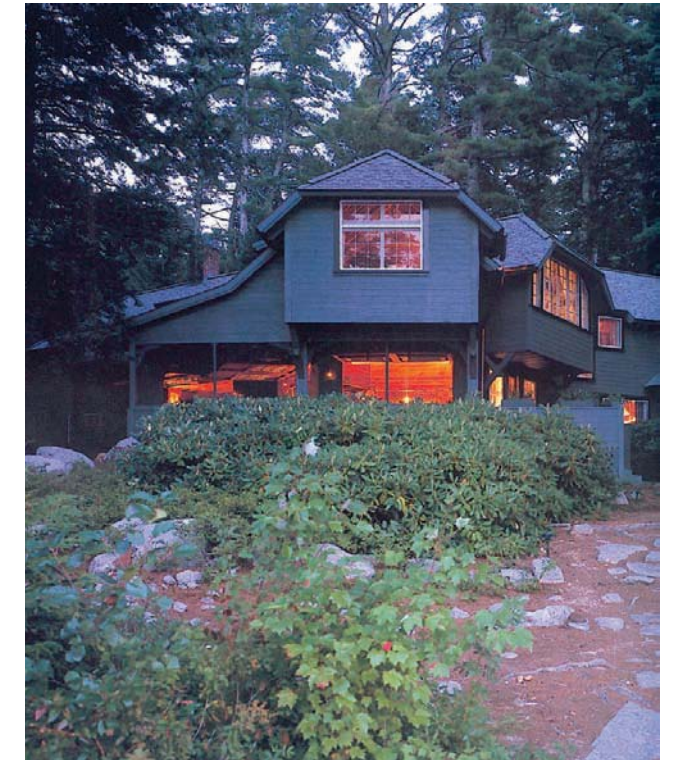
1.7 THE MAIN COTTAGE

The Main Cottage is the primary structure or gathering place within a Homestead. In mass and scale, it is usually the largest building, positioned as the “heart” of the settlement in both location and function. The Main Cottage is the culmination of the architectural tone for the site and structures and displays the highest level of ornamentation and detailing of all the buildings within a site.

Although the Main Cottage may not be the first structure built, its placement is critical in the overall planning within the Recommended

Building Envelopes to ensure that the appropriate interplay between the site and structures is established.

The architecture, location and construction of the Main Cottage shall be subject to the review and approval of the ACC (see *Schedule B attached hereto*).



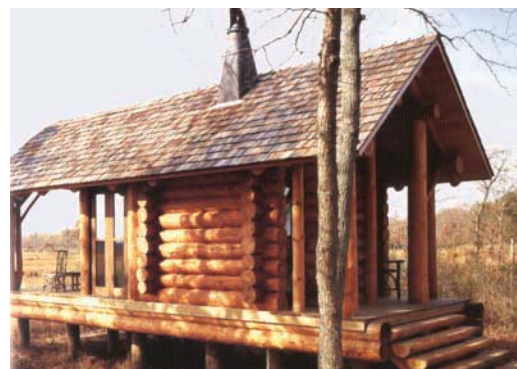
1.8 SECONDARY COTTAGES AND ANCILLARY STRUCTURES

Secondary Cottages and Ancillary Structures are crucial to the function of the Homestead by providing specialized places for functions and activities not accommodated in the Main Cottage. Secondary Cottages may include guest cottages, cabins, and studios. Ancillary Structures may include arbors, pavilions, gazebos, potting sheds, storage sheds, tree houses, gates, playhouses, etc. Secondary Cottages and Ancillary Structures are to be subordinate to the Main Cottage in mass, scale and level of detail while maintaining a similar or compatible architectural character. While utilizing similar materials and keeping within the architectural design aesthetic, these structures should offer opportunities for more rustic and whimsical designs than the Main Cottage.

1.8.1 The placement of Secondary Cottages and Ancillary Structures is important in the overall planning within the Recommended Building Envelopes to ensure that a strong interrelationship is established between the Main Cottage and related subordinate structures.

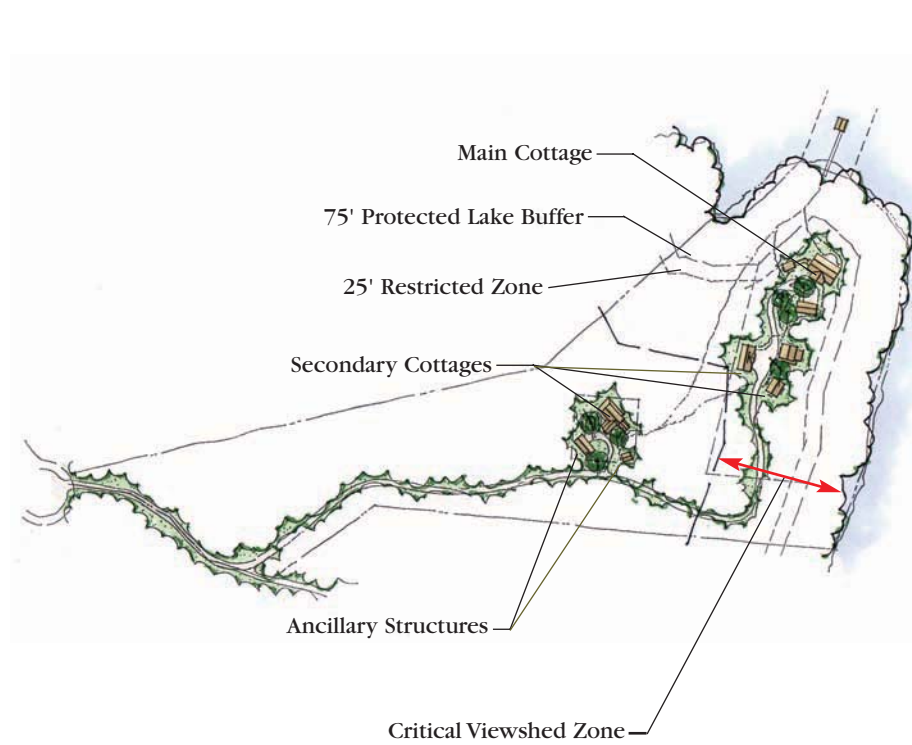
1.8.2 The construction and location of Secondary Cottages and Ancillary Structures shall be subject to the review and approval of the ACC (see Schedule B attached hereto). Their design and location in relation to the house is essential. Wherever possible, buildings should be oriented so that access is indirect and their openings do not face the street.

1.8.3 Plans and architecture of Secondary Cottages and Ancillary Structures shall be submitted to the ACC for review and approval, prior to being shown on landscape plans. Approval of the landscape plans does not constitute approval of any ancillary structures.



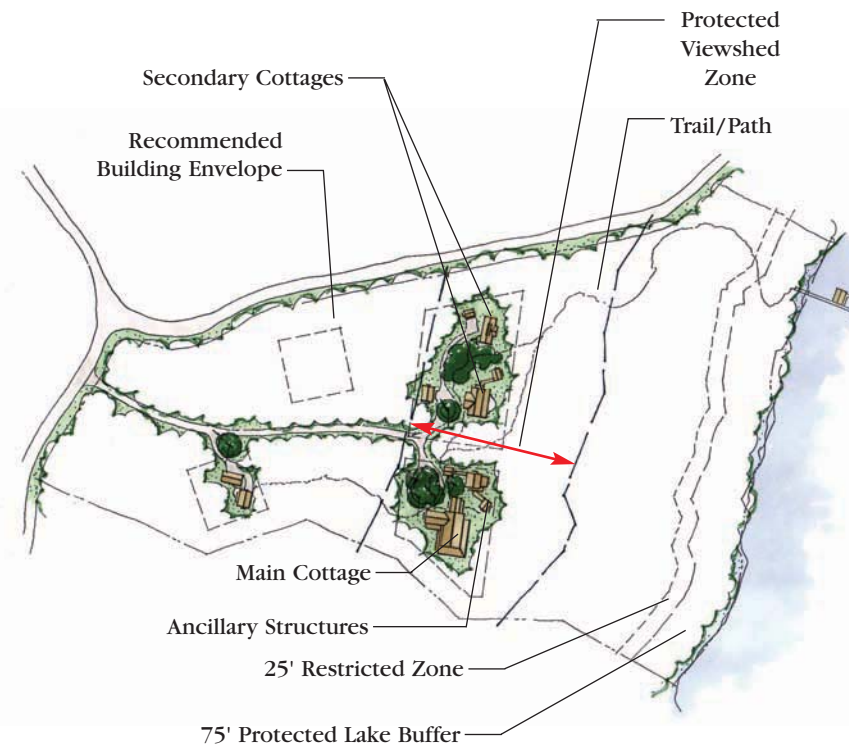
1.9 HOMESTEAD DIAGRAMS

To illustrate the Homestead Concept as it applies to designing for Black Forest, a Homestead Diagram has been prepared for a typical lot in each of the three Viewshed Zones (See Section 1.14). These diagrams show how buildings and other site improvements fit within the design parameters of a given lot.



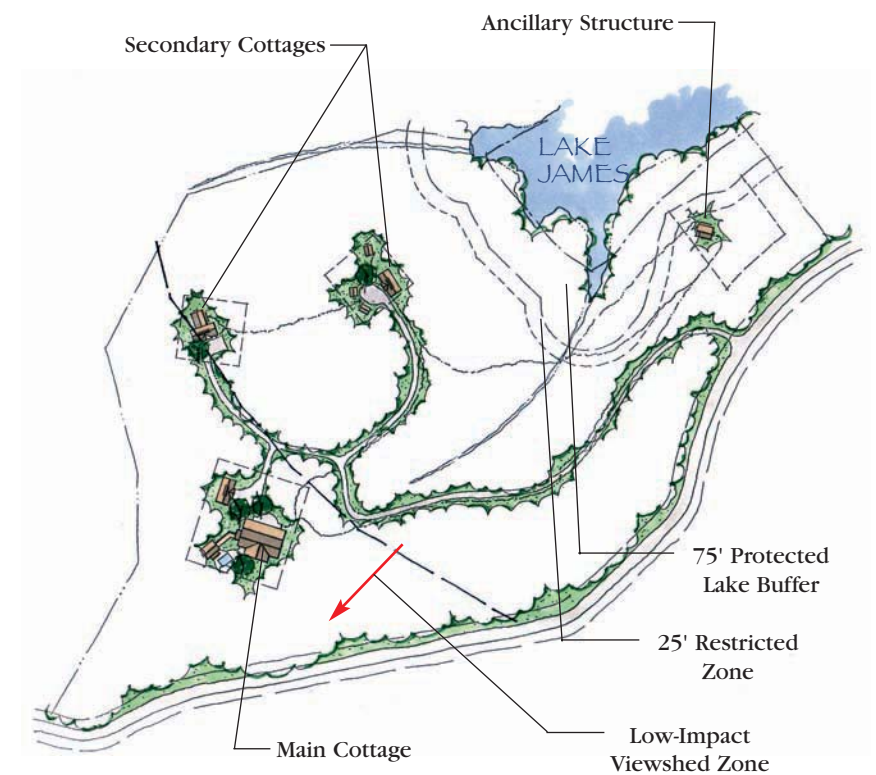
LOT 6
CRITICAL
VIEWSHED ZONE

(0' to 250' from the Lake Edge Contour)



LOT 24
PROTECTED
VIEWSHED ZONE

(250' - 500' from the Lake Edge Contour)



LOT 17
LOW IMPACT
VIEWSHED ZONE

(Greater than 500' from the Lake Edge Contour)

1.10 RECOMMENDED BUILDING ENVELOPES

Recommended Building Envelopes define the area within each Lot where all habitable structures and most impervious surfaces may occur. Multiple structures may occur within each Recommended Building Envelope and may be connected by covered passages or open paths, provided the impervious cover and disturbed area maximums are not exceeded for the Lot. (Please refer to Section 3, Part A.2)

In general, Recommended Building Envelopes were determined based on the unique characteristics of each Lot, setback criteria and on the planning and design objectives for Black Forest. Specifically, objectives were:

- (a)** To recognize, maintain and enhance the contribution each lot makes to preserving the larger montane forest throughout the community;
- (b)** To protect and enhance the distinctive natural features of each Lot, such as existing tree cover and species mix, understory vegetation, slope, views, land formations and drainage patterns.
- (c)** To minimize disruption of the site; and fitting buildings to (or into) the site.
- (d)** To preserve the dominance of the natural setting by placing buildings into the site.

1.11 ADJUSTMENTS TO RECOMMENDED BUILDING ENVELOPES

It is recognized that each Lot presents its own unique design opportunities and challenges. Depending on programming needs, design solutions involving encroachments outside of the Recommended Building Envelope may be appropriate. However, all proposals for construction that encroach outside of the

Recommended Building Envelopes shall be evaluated by the ACC for continuity with the goals and objectives of these Guidelines. All decisions regarding such proposals shall be made solely at the discretion of the ACC. No adjustments will be made to allow encroachments into protected areas, established setbacks or on slopes greater than 35%.

1.12 BUILDING SETBACKS AND BUFFERS

Minimum building setbacks have been established for Black Forest. No structures shall be built within building setbacks or buffer areas as established on the Recorded Plat. Specifically, these setbacks are:

- (a)** Protected Lake Buffer: 75', measured landward from the 1200' contour.
- (b)** Restricted Zone: 25', measured landward from the Protected Lake Buffer.
- (c)** Conservation Buffer Setback: 25', measured from the Conservation Buffer Boundary.
- (d)** Waterfront Building Setback: 100'
- (e)** Side Setback: 35', measured from the property line of the Lot.
- (f)** Rear Setback: 50', measured from the property line of the Lot, for non-waterfront Lots.
- (g)** Street Setback: 50', measured from the street Right-of-Way.

1.13 SITE CONSIDERATIONS

Site planning for individual Lots at Black Forest shall emphasize preserving the larger montane forest of the community. A Homestead Diagram, as described in this Section 1.9, has been prepared for each Lot to assist Owners in understanding each site's unique qualities and development potential.

1.14 VIEWSHED ZONES (HEIGHT AND SIZE RESTRICTIONS)

At Black Forest, the existing forest landscape dominates the site. Therefore, all improvements, whether site or structure, should blend into the setting. To accomplish this, three Viewshed Zones have been created to protect the existing character of the tree canopy where it is most visible from outside the site. Within each Viewshed Zone, the size of individual building volumes is limited to encourage groupings of smaller scale, informal buildings to meet programming needs rather than

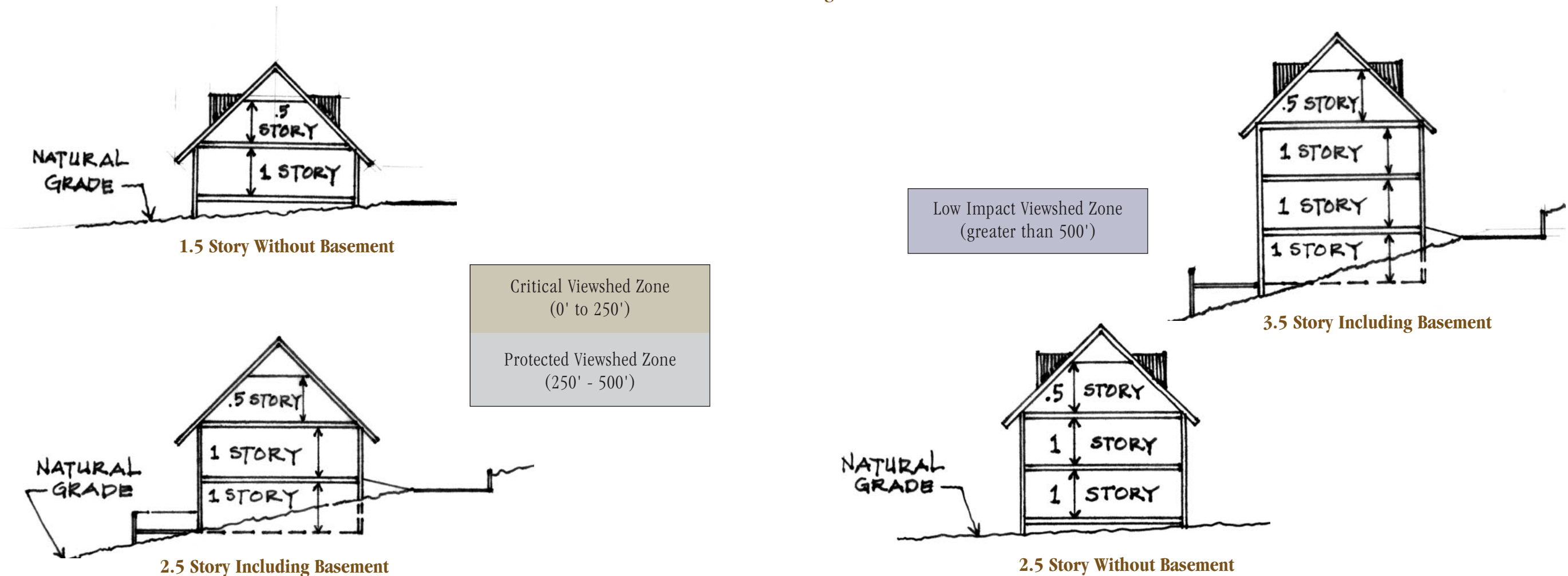
compiling them into a singular, large building mass. Although multiple structures may occur and be connected by covered passages within each Recommended Building Envelope and Viewshed Zone, no individual structure within the grouping may exceed the Maximum Potential Heated Living Area described in Figure 1.14.

1.14.1 To protect the unique landscape of Lake James, the criteria in Figure 1.14 shall apply:

1.14 continues ...

Viewshed Zones <i>(Measured from the 1200' lake edge contour)</i>	Maximum Stories	Maximum Potential Heated Living Area <i>(per structure)</i>
Critical Viewshed Zone <i>(0' to 250')</i>	1.5 w/o basement 2.5 including basement	3,500 sf
Protected Viewshed Zone <i>(250' to 500')</i>	1.5 w/o basement 2.5 including basement	4,500 sf
Low Impact Viewshed Zone <i>(greater than 500')</i>	2.5 w/o basement 3.5 including basement	6,000 sf

Figure 1.14



1.14 continued ...

1.14.2 To minimize visual impacts of all structures so that they blend with the landscape and to ensure that the view potential is preserved from each Recommended Building Envelope, no building shall exceed the specified Maximum Height. In general, all buildings should be 1 to 2.5 stories and shall be no higher than, nor fully penetrate the existing tree canopy on the Lot.

1.14.3 As used herein, "Maximum Potential Heated Living Area," is defined as the collective horizontal footprints of every room in a structure, measured in square feet. Potential Heated Living Area includes both finished and unfinished basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade). Potential Heated Living Area excludes vaulted ceiling areas, attics, unheated and/or unenclosed porches, attached or detached garages, porte-cocheres, decks and patios. The term "Story" shall mean a horizontal division of Potential Heated Living Area extending from the floor of such division to the ceiling above it. The term "Half Story" shall mean a story that contains fifty percent (50%) or less Heated Living Area than the story in the dwelling containing the most Heated Living Area.

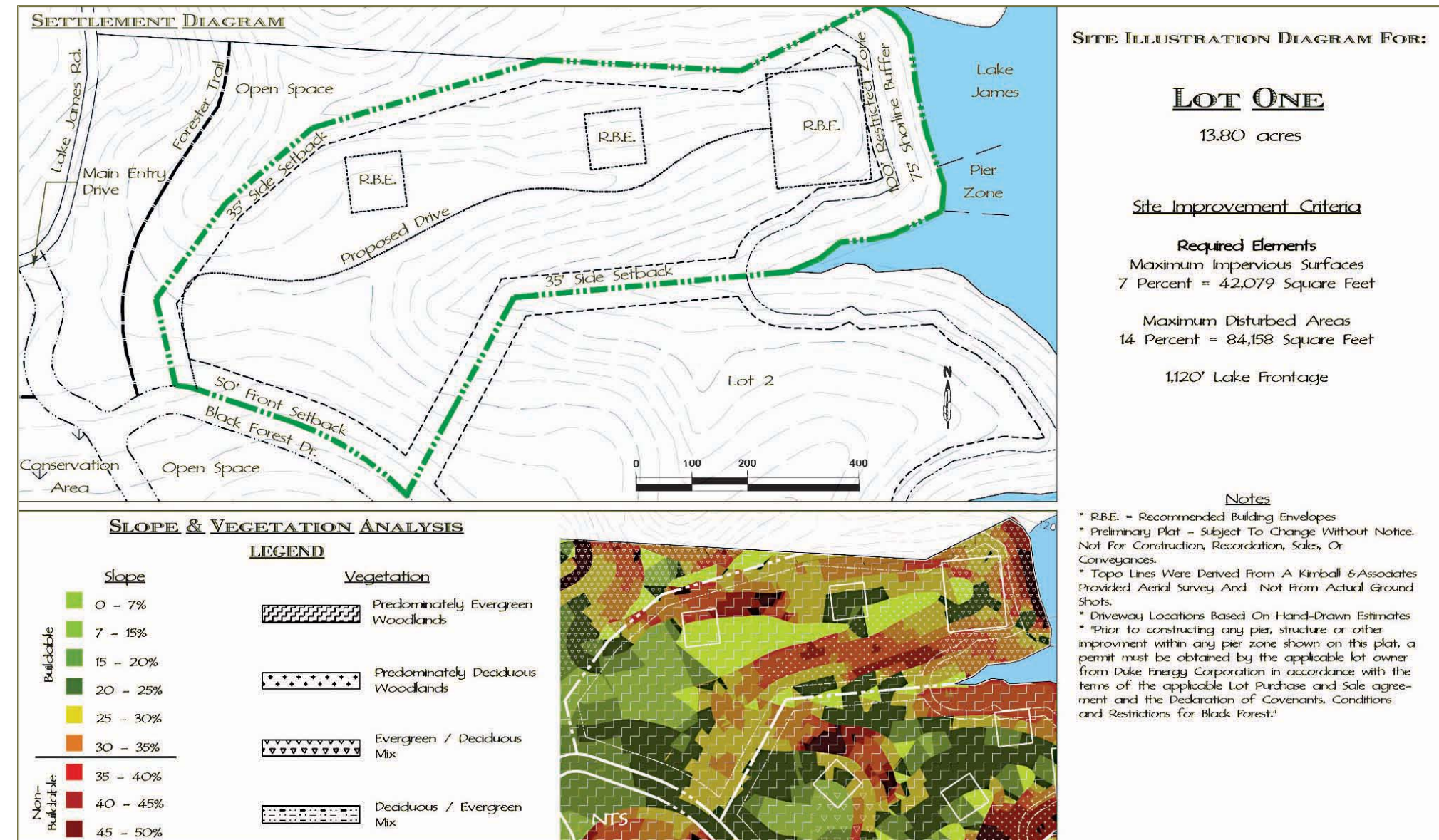
1.15 SITE ILLUSTRATION DIAGRAMS

A Site Illustration Diagram has been prepared for each lot to serve as a guide in understanding the unique qualities of each lot. This illustration describes the unique attributes of the property and indicates important design parameters for the planning of site Improvements. These include Protected Lake Area Buffers, setbacks, view

corridors, slope, existing vegetation, clearing limits, easement areas, suitability for lakeside structures and recommended driveway access. At the request of lot owners, the ACC may determine that other locations not within the Recommended Building Envelopes also meet these objectives.

EXAMPLE OF THE SITE ILLUSTRATION DIAGRAM FOR LOT ONE

The Site Illustration Diagrams are available from the ACC.



SITE ILLUSTRATION DIAGRAM FOR:

LOT ONE

13.80 acres

Site Improvement Criteria

Required Elements
Maximum Impervious Surfaces
7 Percent = 42,079 Square Feet

Maximum Disturbed Areas
14 Percent = 84,158 Square Feet

1,120' Lake Frontage

DESIGN GUIDELINES FOR THE SITE

2.1 SITE GUIDELINES

The following section sets forth Guidelines and standards for all site work relating to building(s), including grading, drainage, landscaping and revegetation, positioning of structures, outdoor areas, amenities, shoreline structures and sustainability measures. To produce high quality, environmentally sound site improvements that preserve and enhance the Black Forest setting, the site and landscape design shall utilize the following Guidelines.

2.2 SITE OBJECTIVES

Outlined below are the main objectives for the landscape and site design of all Improvements at Black Forest:

2.2.1 The montane forest shall dominate. Buildings and/or outdoor improvements shall be subordinate to the overall landscape. The forest is to be extended, preserved and enhanced to create generous vegetative borders and/or screens to obscure views of buildings and landscape structures from the Lake, as well as from facing and adjacent properties.

2.2.2 To use natural materials and handcrafted details in paving, planters, walls, fences, and/or any exterior site detailing that interpret and reinforce the architectural aesthetic of Black Forest and the Lot.

2.2.3 Develop landscape and site designs that are aesthetically pleasing and functional while meeting sustainability goals. Sustainability considerations are to be integrated into all project decisions regarding site development, including plant material selection and placement, positioning of structures, exterior lighting, drainage and paving. This includes selecting indigenous plant materials, minimizing intensively irrigated planting areas and utilizing materials from local sources.

2.3 ELEMENTS OF THE SITE

2.3.1 Planting Areas

(a) The Landscaped Area: The Landscaped Area is defined as the area within 50 feet of structures or improvements that will most likely be disturbed during construction activities and require complete revegetation. In revegetating this area, the plant palette may contain limited amounts of non-native and turf grass species as defined in the Approved Plant List (Appendix B) in more formal and geometric arrangements. Within The Landscaped Area, a gradual transition should be made from the more ornamental and “formal” planting areas near the structures to more informal, naturalistic landscape of the Natural Area.

(b) The Natural Area: The Natural Area consists of all remaining areas within the Lot, except those otherwise protected, such as the Protected Lake Buffer Areas and slopes greater than 35%. The Natural Area should remain essentially in its existing vegetated state to act as screening to obscure built Improvements from adjacent properties, streets, waterways and open space areas. However, limited clearing, thinning and under brushing of vegetation may occur elsewhere in the Natural Area with the prior approval of the ACC. Additional plantings in this area are to be indigenous species to complement any existing material as described in the Approved Plant List (Appendix B).

2.3.2 Driveways and Arrival Areas

Driveways and arrival areas shall be designed to minimize their visibility and site disturbance and blend into the landscape through careful routing and design articulation. All paving or surfacing materials that will be visible from open spaces and/or streets are to be reviewed and approved by the ACC.

- (a)** Driveways shall utilize existing cleared and/or disturbed areas such as existing logging roads to the extent possible and shall be routed parallel to existing site contours to minimize grading. Drives shall also avoid special site features within the Lot, as well as straight alignments perpendicular to the natural contours.
- (b)** Entry gates and monuments may be utilized at driveway entries provided they are screened from view of the adjoining road and are sufficiently set back from the adjoining road a minimum of 50 feet to allow vehicles to be fully off the main road while accessing the gate. Monuments may be a maximum of 6 feet in height. Lighting of entry gates and monuments is not permitted unless directed downward and kept to the minimum amount necessary for safety and security.

2.3.3 Paths and Walkways

Generally, the use of pervious surfaces such as mulch and raised boardwalks, where appropriate, shall be utilized and impervious surfaces such as concrete or asphalt areas shall be limited. If impervious surfaces are used, they are to be used in areas immediate to a structure, with a transition to pervious or “softer” surfaces into Natural Areas. No impervious surfaces may be used in the Protected Lake Buffer.

2.3.4 Site Walls, Fences and Gates

Walls and fences shall extend the architecture of a Homestead into the landscape to create “outdoor” rooms or screen service and/or storage areas. Gates shall complement the design and scale of the fencing or wall of which they are a part.

Generally, fencing should be minimized and planting solutions should be used to screen and/or define areas. Fencing is to be located within the Recommended Building Envelopes and should not be visible from adjoining properties, waterways, open space areas or roads. Fencing along property lines or within the Protected Lake Buffer is not permitted.

2.3.5 Shoreline Structures

All shoreline and water-related structures as well as the paths or other means provided to access them are to be designed and constructed so as to minimize the impact on vegetation while preserving views both outward from the property and inward to the property from the water side. A singular open shelter not to exceed 150 square feet may be permitted within the Protected Lake Buffer, subject to ACC approval and all jurisdictional regulations.

Each pier or boat slip may have a singular, simple roof structure over the boat slip or a sitting area and shall be constructed of materials of good quality and compatible in style with other Improvements on the Lot. They shall also be compatible in scale to the Lot width on the lake side, the shoreline configuration and vegetation massing.

All shoreline structures shall be located so as to eliminate the need for grading and clearing of vegetation at or near the waterfront and shall be constructed entirely from the water. No mechanized equipment shall enter, cross or otherwise encroach into the Protected Lake Buffer. The installation of riprap or other shoreline stabilization methods or materials may not be initiated without approval by Duke Power Co. and the ACC (Please see Section 4, Part D.6). Plans showing the point of access of a pier or shoreline structure and any site disturbance associated with its placement or construction must be submitted to the ACC for approval along with the Final Plans.

2.3.5 continues ...

2.3.5 continued ...

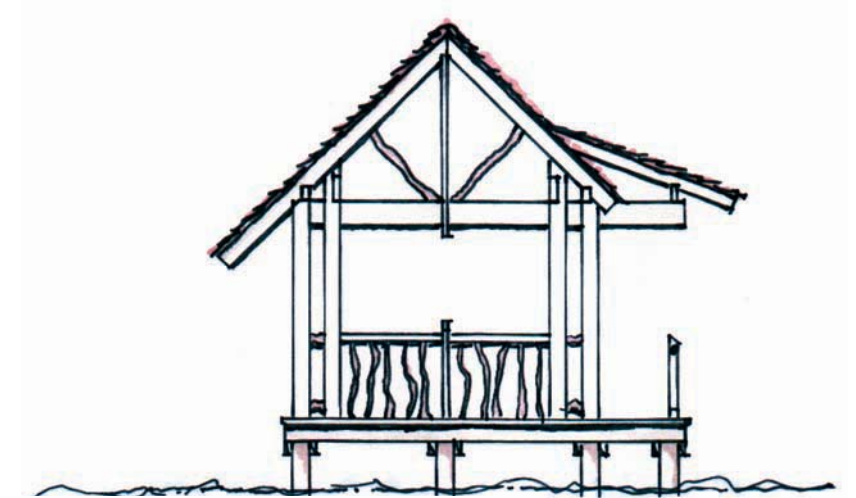
(a) Piers: These structures extend into the water either perpendicular or parallel to the shoreline of some lots in defined locations that are identified as “Pier Zones” on the Recorded Plat. In no event may a pier extend more than 1/3 of the width of the cove in which it is located. The top decking of all piers must be at least 1 foot above the water level at full pond.

(b) Boat Slips: These floating structures accessed by Piers provide dockage for watercraft on designated waterfront sites on the body of water defined as Lake James.

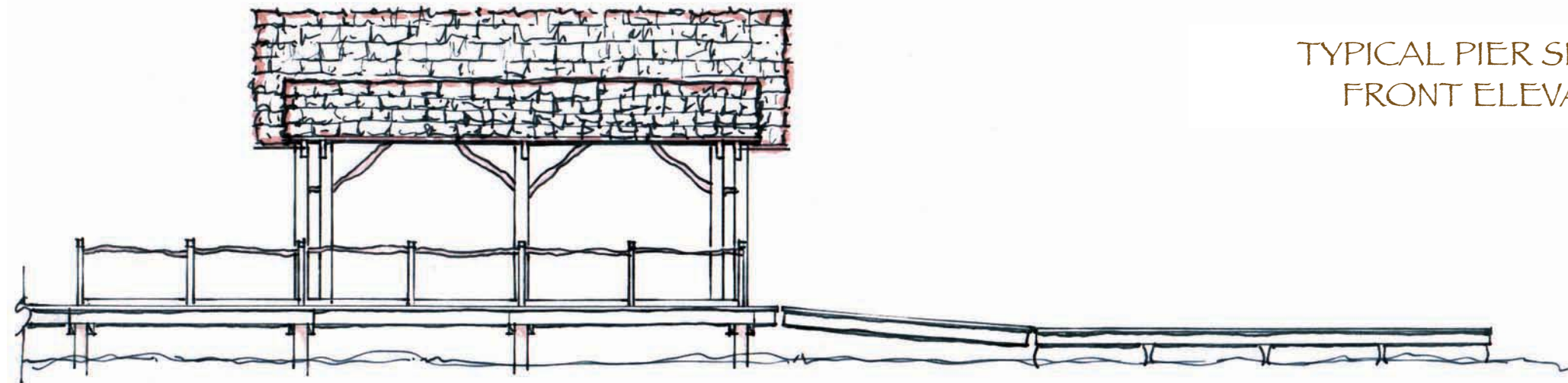
(c) Pavilions or Roofed Boat Slips:

Pavilions may be allowed on Piers to provide shade and shelter for seating provided they are located over water. Pavilions may not exceed 350 sq. ft. or one story in height and shall not be enclosed. Roofs for Boat Slips may be utilized at the waterward end of Piers to provide shelter for watercraft but shall not exceed one story in height or be enclosed. To minimize viewshed impact Piers and Boat Slips are only allowed one roof covered area in the total.

2.3.5 continues ...



TYPICAL PIER SHELTER:
FRONT ELEVATION



TYPICAL PIER SHELTER: SIDE ELEVATION

(d) Associated Paths/Walkways/Boardwalks:

Paths to all Shoreline and Water-related structures shall not be greater than 4 ft. in width and shall be composed of wood mulch or raised, slatted boardwalks. All on-grade paths and walkways shall follow the natural topographic contours.

Any handrails shall be installed so as to be visually unobtrusive in the landscape, incorporating only those components necessary for safety.

(e) Materials and Colors:

Generally, all Shoreline Structures shall use suitable disease and rot-resistant wood as the primary material. Preferably, wood shall be left to weather to its natural color. Wood polymer or plastic lumber may be used, but shall be approved in writing by the ACC. Stains and sealants may be used provided that the colors are dark browns, grays, or are clear over the natural wood. Light-colored paints or stains that make structures visually prominent against the background of the shoreline are not permitted. Where structures have roofs, the materials must be wood shakes, slate, or dark-toned bark that blends with the background.

Specifically:

1. Structural Components:

- i.** Wooden structural components such as joist and girders shall be of no less than grade 2 .40 treated pine. Wooden posts or vertical members shall be Grade 1 .40 treated pine or other wood compatible in style with other Improvements on the Lot. No vinyl or plastic is permitted for or on vertical elements unless approved by the ACC in advance.

- ii.** Steel structural components shall be adequately protected against corrosion and chemical breakdown. Hot-dipped galvanizing is the most common and effective method in freshwater.

2. Flotation: All flotation material shall be approved by Duke Power Lake Management. Encapsulated PolyStyrene is the most commonly accepted flotation material.

3. Piles:

- i.** Wood piles should be of no less than .60 treated pine.
- ii.** Steel piles should be protected against corrosion. Painting with an epoxy or hot-dip galvanizing are the most common methods.

4. Hardware and Miscellaneous:

All nails, bolts, screws, hangers, brackets and miscellaneous hardware items shall be stainless steel or hot-dipped galvanized.

5. Handrails:

Handrails shall be minimal and should be in keeping with the architectural aesthetic of the Lot and Black Forest. Handrails shall be of ACC Approved Material only. Site-found wood or marine style rope may be considered.

2.4 IMPERVIOUS LIMITS, DISTURBED LIMITS AND UNBUILDABLE SLOPES

To limit the impact of development on the indigenous montane forest and Lake James, strict impervious surface and disturbance standards are in place. *(Please see Section 3, Part A.2 for more information.)*

2.5 GRADING AND DRAINAGE

Grading and Drainage Improvements shall take into account the unique attributes of the soil and climactic effects on each Lot. Design and installation of Improvements shall minimize impacts to the site and existing landscape to preserve water quality, existing forest area and natural drainage systems. The following standards are to be integrated into all Grading and Drainage plans for Black Forest:

2.5.1 Grading: Grading and excavation shall minimize disturbance within the Recommended Building Envelopes and shall only occur within 50 feet of proposed structures with the exception of access drives, minor paths and utility Improvements.

1. Grade transitions are to be smooth and not abrupt. Grading designs shall echo and flow into natural contours with curvilinear shapes rather than straight and angular solutions.
2. Slopes may not exceed 2:1 unless it can be demonstrated that a steeper slope will not erode.
3. Cut and fill slopes are to be revegetated with native plant materials and blended into the surrounding environment. In general, cut and fill quantities from grading operations should balance on site.

4. Retaining walls may be used when it is necessary to preserve unique site attributes such as existing trees or topographic features or where they are designed as “architectural extensions” of buildings. Retaining walls are to be a maximum of 4 feet in height and utilize materials that complement the architecture. When additional retaining height is needed, terraced wall solutions may be used with a minimum of 4 horizontal feet of planting area between walls.

2.5.2 Drainage: Natural drainage patterns are to be maintained. Drainage systems shall be designed as landscape amenities to work with natural or established drainage systems using crushed rock beds and/or planted swales with native vegetative cover to naturally absorb and filter runoff and promote infiltration.

1. Impervious surfaces (such as concrete paving) are to be minimized to the extent feasible to encourage water percolation into the ground. The use of more pervious (water permeable) materials, such as crushed rock, porous asphalt and sand-laid or open-celled concrete pavers is encouraged.
2. Increased water flow from the Recommended Building Envelopes is to be managed to the greatest extent possible with systems that retain water and encourage percolation.

3. Materials and sizes for all culverts, headwalls and other visible drainage structures are to be approved by the ACC.

4. Gutters and downspouts are to direct drainage away from foundations and paved surfaces into natural drainage systems such as crushed rock beds or grass-lined swales. In no event shall gutters and/or downspouts direct drainage to adjacent properties.

2.5.3 For any lot that adjoins a Protected Lake Buffer Area (as defined in Section 3, Part A.5), downspouts and storm drainage structures must fully dissipate into sheet flow no closer to the Lake than the 75' setback line as noted on the Plat.

2.6 PLANTING DESIGN, MATERIALS AND RE-VEGETATION

The main objective in planting design is to preserve and enhance the montane forest. The designed landscape should echo the existing one: a sequence of layers creating a lush, vegetated under-story with a protected over-story to maintain the visual continuity of the forest cover. Buildings and Improvements are “set into” the landscape framework so that the montane forest remains predominant. All new plantings shall utilize the

Approved Plant List in Appendix B. The Approved Plant List is a combination of indigenous and non-invasive naturalized species adapted to the climate. These plants require less water and maintenance and are generally deer-resistant. Only those plants designated as “Native” may be planted outside of the Landscaped Area.

Plants not included on the Approved Plant List in Appendix B may be used with ACC approval, provided they are not invasive and suited to the climate, natural setting and design concept. A gradual transition should be made from the more ornamental and “formal” planting areas near a structure to the more informal, naturalistic landscape of the Natural Area.

2.7 TREE REMOVAL AND SELECTIVE THINNING

The removal of trees is to be avoided whenever possible. However, the ACC may approve tree removal and/or selective tree thinning provided the Applicant documents the reasons for the request. With ACC approval, selective thinning may occur to create appropriate and approved view corridors, improve the health of the forest or for safety reasons. Within the Conservation Areas, selective vegetation removal may occur to maintain the health of the forest provided it is done in accordance with the Natural Resource Management Plan.

2.8 VIEW CORRIDORS

Following the completion of construction of a habitable structure on a Lot, the thinning, pruning and trimming of trees for the purpose of establishing view corridors is permitted without penalty provided prior approval is received from the ACC (Please see Section 3, Part A.6). Pruning and trimming may be performed on no more than one half of the total height of a tree to insure its survival.

When contemplating view corridors, the strategic placement and routing of trails and drives may aid in opening view corridors while minimizing the extent of extra thinning, pruning or trimming. This is particularly true on Lots where the best views are from the higher portion of the Lot, well within its interior.

Within the Protected Lake Buffer all pruning and trimming shall be performed using handheld gas or electric chain saws and/or manual handsaws and may not proceed without prior approval by the ACC (Please see Section 3, Part B.2). No other mechanical equipment or vehicles may be used in performing any pruning or trimming within the Protected Lake Buffer. Thinning of trees within the Protected Lake Buffer is not allowed.

2.9 IRRIGATION

To aid in water conservation and protect the natural ecosystems and habitats of Black Forest, the extent of irrigation systems shall be minimized through careful planting design and utilization of indigenous or naturalized materials. Where feasible, irrigation systems shall employ water-conserving materials and methods such as drip lines and weather sensors. All permanent irrigation systems are to be below ground.

2.10 EXTERIOR LIGHTING

In General, Exterior Lighting shall preserve the night sky and the quality of darkness. Exterior Lighting shall utilize low intensity light sources directed downward, with the quantity of light limited to only that required for safety and security. Lighting of tennis courts is not permitted. After installation of exterior lighting, all lighting is to be tested to ensure no light spills into unintended areas.

2.11 MAIL AND NEWSPAPER BOXES

Mail and newspaper boxes will not be permitted on individual lots. A community facility for such purposes will be placed at the Caretaker's Compound.

2.12 SCREENING OF HVAC UNITS, UTILITY METERS, UTILITY TRANSFORMERS, OUTSIDE REFUSE CONTAINERS, ETC.

All heating, ventilating and air conditioning units, utility meters, electric utility transformer boxes, swimming pool pump equipment, permitted satellite or microwave dishes and similar equipment, apparatus and fixtures on each Lot, including all refuse containers stored outdoors

must be screened from view from streets, the Lake and neighboring Lots. Plants used for screening shall be from the Approved Plant List. Houses utilizing Propane gas are required to bury all propane tanks.

2.13 TRAIL EASEMENTS

Trail Easements occur on some Lots. All habitable structures on lots with a trail easement shall be set back a minimum of 50' from the easement.

2.14 LANDSCAPING WITHIN EASEMENTS

Landscape Improvements (as defined in the Design Guidelines Definitions) and the building of driveways or fencing within utility easements is permissible (unless otherwise prohibited by a recorded easement instrument). However, if in the future there is a need to disturb or remove such Landscape Improvements, driveways or fencing to access such utilities, such removal and any necessary repair and restoration shall be the responsibility of the Owner of the Lot.



GUIDELINES FOR THE ENVIRONMENT

PART A: DESIGN GUIDELINES FOR THE ENVIRONMENT

3A.1 ENVIRONMENTAL OBJECTIVES

Environmental Guidelines are intended to encourage “sustainable” building systems, site improvements, materials and construction techniques in all site development. Reducing consumption of materials and energy, reducing waste and making intelligent choices about how a building is used benefits both Black Forest as a community and the sensitive landscape of Lake James. Black Forest is committed to the

implementation of sustainable concepts such as reducing a structure’s “footprint” on the land, utilizing energy and water conservation measures, reusing and recycling building materials and preserving the montane forest and Lake frontage. Many of the Sustainable Design Principles described in these Design Guidelines are based on Black Forest’s partnership with Audubon International and their recommendations.

3A.2 IMPERVIOUS LIMITS, DISTURBED LIMITS AND UNBUILDABLE SLOPES

To limit the impact of development on the indigenous montane forest and Lake James, strict impervious surface and disturbance standards are in place.

3A.2.1 Impervious surfaces such as concrete or asphalt paving and crusher-run gravel increase surface water run-off and can lead to the degradation of water quality. To limit potential impacts, the maximum amount of impervious surface allowed for each Lot is 7% of the total Lot area.

3A.2.2 Disturbed areas reduce the quality of the indigenous landscape that provides Black Forest with its intrinsic value. To limit the extent of disturbance, the maximum disturbed area for each Lot is limited to 14% of the total Lot area.

3A.2.3 Construction on excessively steep slopes increases erosion hazards and in many cases creates unsightly cuts into the landscape. To limit such impacts, slopes equal to or greater than 35% are deemed unsuitable for construction and shall remain undisturbed.

3A.3 EROSION AND SEDIMENT CONTROLS

The design and development concepts of Black Forest community call for the utilization and enhancement of the existing natural environment. The ACC is particularly conscious of the erosion and sediment disturbances that can occur during any clearing, grading, or construction activity on a Lot. To help minimize erosion and sediment disturbances, as part of the final Building Plans and Specifications, an erosion control plan (using erosion control measures such as crushed stone entrances, silt fences, hay bales, diversion swales, stone filter dams, etc., as required) must be designed in accordance with Schedule O attached hereto and must be incorporated within the site plan. Approval of the erosion control plan must be obtained from the ACC (as part of the approval of the ACC of the final Building Plans and Specifications) prior to any clearing or earth-disturbing operations on any Lot. Particular care must be exercised on Lots fronting the Lake to prevent any negative effect or impact upon the

Lake and/or the Protected Lake Buffer. Erosion control measures implemented pursuant to an approved erosion control plan must remain in place until such time as all disturbed areas have been stabilized.

3A.3.1 All erosion control plans submitted to the ACC shall be considered individually for each Lot. Recommendations or requirements of the ACC in that regard will be based on individual Lot location, terrain, soil conditions, vegetation, drainage, proposed cuts and fills, and any other conditions that the ACC determines may impact upon the possible erosion and sediment disturbances for the Lot. At a minimum, however, each Lot Owner shall be responsible for causing the following minimum erosion control practices to be implemented and maintained throughout the course of all earth-disturbing operations until final stabilization:

3A.3.1 continued ...

3A.3.1 continues ...

(a) Roadway and Homesite

Construction Entrance:

Prior to the commencement of any earth-disturbing operation, a stone construction entrance shall be installed on the building site (the "Construction Entrance"). The Construction Entrance shall: (i) if possible, be installed in the same location as the proposed driveway so as to minimize the amount of disturbed area; (ii) extend a minimum of 50 feet from an existing roadway; and (iii) be installed, preserved and replaced, if necessary, in accordance with the standards more particularly set forth on Schedule O attached hereto. During construction, each Owner shall use diligent efforts to minimize traffic traveling off of the driveway onto such Owner's Lot.

(b) Silt Control Devices: Prior to the commencement of any earth-disturbing operation, a diversion ditch and rock check (or stone filter) dam, silt fence, tree protection fence and/or other similar measures approved by the ACC shall be constructed/installed and maintained on the building site (collectively, "Silt Control Devices"). The Silt Control Devices shall be located at the boundary of the estimated disturbed areas as set forth more particularly on Schedule G attached hereto and shall be constructed, preserved, and replaced, if necessary, in accordance with the standards set forth on Schedule G attached hereto.

3A.3.2 In order to ensure the effectiveness of a particular Lot Owner's erosion control measures, the ACC shall have the right to enter any Lot to inspect any and all erosion control measures and to require additional erosion control measures, as necessary.

3A.4 PRESERVATION OF EXISTING VEGETATION

The existing trees at Black Forest are prized natural amenities that add value to the community in a multitude of ways. Crescent Resources, LLC has exercised care to retain as much of the existing vegetation as possible in the design of the access ways and the land plan for Black Forest. To fit programming needs, tree

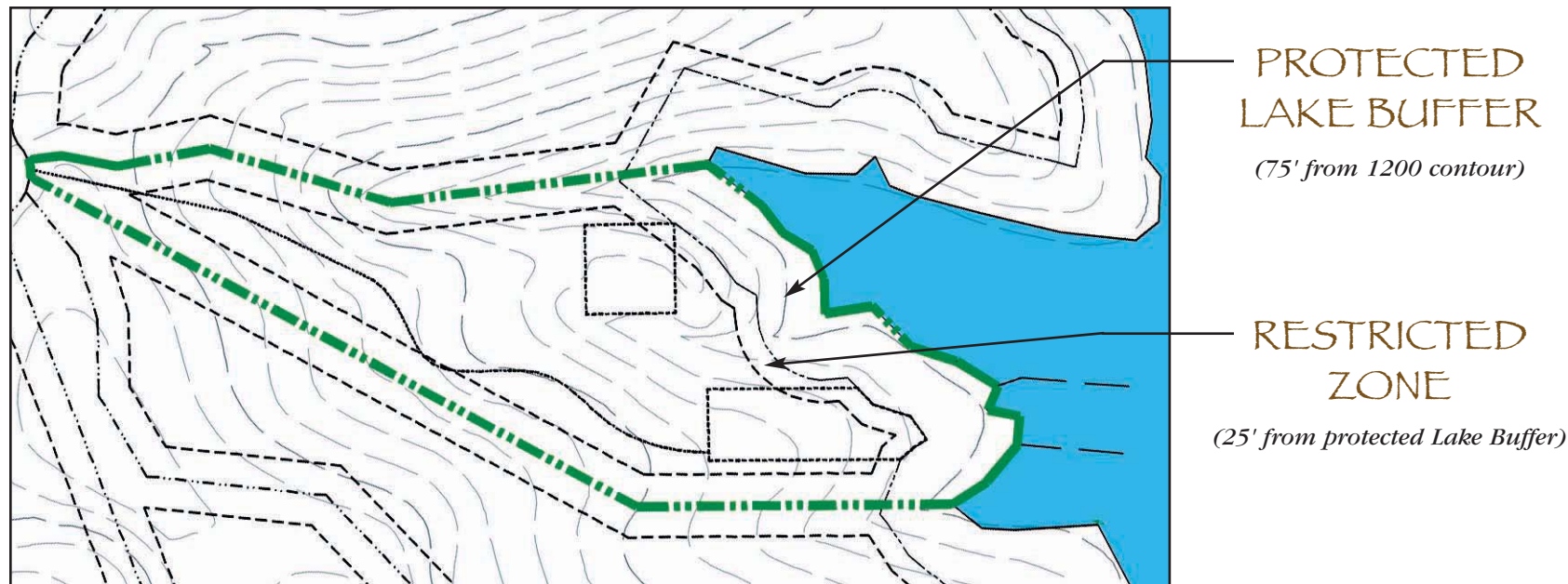
removal within the Natural Area of individual lots will be permitted without penalty provided that prior written approval is given by the ACC. However, it is expected that Lot Owners and their builders and contractors will continue to preserve and protect as much as possible of this valuable resource during the course of construction.

3A.5 APPLICABILITY

Protected Lake Buffer: The "Protected Lake Buffer" is defined as a 75' Minimum Setback from the 1200' contour on waterfront lots. All vegetation in this buffer is considered protected. (Described more specifically in Section 3, Part B: Lake Buffer Requirements).

Each Lot Owner shall be responsible for ensuring that such Lot Owner's general contractors and subcontractors adhere to the requirements of the provisions in the Guidelines (including the provisions in the Lake Buffer Guidelines) pertaining to the protection and preservation of existing trees outside of the home site, driveway corridors, and septic areas. The Individual Special Assessment will be used by the ACC if, in the sole discretion of the ACC, the provisions in the Guidelines (including the provisions in the Lake Buffer Guidelines) pertaining to the protection and preservation of existing trees are not followed and result in the destruction of or severe damage to otherwise healthy and desirable existing vegetation.

The Owner's Association may employ the services of a qualified arborist and/or landscape architect (at the Lot Owner's expense as a Special Individual Assessment levied under the Declaration) to analyze the condition of existing trees and to assist the ACC in monitoring adherence to the provisions in the Guidelines pertaining to the protection and preservation of existing trees.



3A.6 TREE PROTECTION AND PRESERVATION PROCEDURES

For existing trees intended to remain on a Lot after completion of the construction of improvements, it is essential that tree trunks, canopies and root systems all be protected from heavy equipment and other harmful construction practices. Soil located from the “drip-line” of the tree to the trunk of the tree must remain undisturbed to enhance the likelihood that the tree will survive. Studies have shown that damaged root systems, especially damage to the feeder roots in the top twenty four (24) inches of the soil where a tree “breathes” are the most common cause of the fatal decline of otherwise healthy existing trees. Signs of the resulting stress often are not evident for months or sometimes years after the damage occurs, resulting in additional, often unforeseeable costs and inconvenience to the then-current Lot Owner and to the community as a whole.

It is recommended that each Lot Owner or such Lot Owner’s Builder consult a qualified arborist or Landscape Architect to conduct on-site evaluations of existing trees prior to, during and after construction. In addition, the following plan of protective measures is recommended to be followed by the Lot Owner and the Lot Owner’s Builder to ensure the protection of existing trees that are intended to remain on the Lot following the construction of Improvements thereon.

3A.6.1 Before commencement of construction and before the required site visit by a Crescent Representative, each lot owner is required to have the limits of clearing shown by a continued stand of orange fencing supported by steel posts. This required practice is to ensure that the grading contractor and all other persons thereafter clearly see the limits of disturbance. No grading, storing of materials or any other disturbance shall be allowed beyond the orange fencing unless otherwise approved in writing by the ACC. All orange barrier fencing must remain in place and in good condition until the final landscaping is installed on the lot.

3A.6.2 All healthy, individual existing “protected trees” (as defined in Section 3, Part B hereof) and all groups of trees comprising a “tree save area” must be identified with blaze-orange flagging tape prior to any clearing, grading or other construction activity commencing on the Lot.

3A.6.3 Having identified the existing trees to be protected, stakes identifying the “drip-line” of such trees must be erected before any clearing, grading, or other construction activity is commenced on the Lot. Such staking must stand erect, completely enclosing the tree or trees, and must be maintained erect and in good condition until the installation of the Landscape Improvements is completed in accordance with the Landscape Guidelines. The Lot Owner is responsible for ensuring that such staking remains intact and in good condition throughout the construction process. (See Figure 6.3.2)

3A.6.4 Trash, construction debris, fires, chemical liquids and stored construction materials shall be kept out of the staked area around protected trees.

3A.6.5 Stored construction materials shall be located no closer than ten (10) feet to the tree drip-line.

3A.6.6 When changes in grade are required near existing trees, a retaining wall or walls should be erected outside the “drip-line” of the existing trees to preserve the existing grade around the tree. Supplemental water and/or deep-root fertilization should be supplied as recommended by the arborist to ease the stress of possible root loss due to grading operations and the construction of retaining walls. (See Figure 6.3.5).

3A.6.7 In some instances, the ACC may require additional tree protection measures to ensure the preservation of especially valuable existing trees.

Please refer to the Lake Buffer Guidelines regarding requirements and restrictions relating to tree and vegetation protection and removal within the Protected Lake Buffer.

3A.7 TREE VALUATION SCHEDULE AND REIMBURSEMENT OBLIGATIONS RELATING TO DAMAGED OR DESTROYED TREES

If the care is given as outlined above and as set forth in the Lake Buffer Guidelines to protecting and preserving existing trees, there should be little or no damage to protected trees during the course of construction on any Lot. However, accidents and possibly even negligence on the part of contractors and/or subcontractors will likely occur to some limited degree, resulting in the destruction of existing trees intended to remain on the Lot after the completion of construction of the Improvements thereon. The Tree Valuation Schedule, set forth in Figure 3A.7, below, will be used to place an appropriate monetary value on any and all such existing trees severely damaged and/or destroyed within the tree preservation areas

or when tree removal has occurred without prior ACC approval. Quantifying the value of existing trees will provide each Lot Owner with a method for calculating the proper amount of reimbursement such Lot Owner must pay to the Association upon written request as a result of the irreparable damage to, or destruction of existing trees caused by a contractor's or subcontractor's construction operations on the Lot. The Association shall use the reimbursement amount to rehabilitate, restore and/or replace, as appropriate, the damaged or destroyed trees to the

extent practicable. The Association shall retain any of the reimbursement amount not used for this purpose. For purposes of the Tree Valuation Schedule, the tree's trunk diameter is measured at 4.5 feet DBH (Diameter at Breast Height) above existing grade level. Trunk diameters that fall between any two sizes presented in the Tree Valuation Schedule shall be assigned a value calculated proportionally.

A qualified arborist and/or landscape architect, at the Lot Owner's expense, shall evaluate the quality of the damaged or destroyed tree(s), as they would have existed prior to their being damaged or destroyed. The Tree Valuation Schedule (Figure 3A.7) shall be used to determine the replacement value.

FIG. 3A.7 TREE VALUATION SCHEDULE

Trunk Diameter Inches (DBH)	Cross Section Square Inches	Deciduous Tree Value	Evergreen Tree Value
2	3	\$102.72	\$89.88
4	13	\$455.12	\$389.48
6	28	\$958.72	\$838.88
8	50	\$1712.00	\$1498.00
10	79	\$2704.96	\$2366.84
12	113	\$3869.12	\$3385.48
15	177	\$6060.48	\$5302.92
20	314	\$10,751.36	\$9407.44
30	707	\$24,207.68	\$21,181.72
48	1809	\$61,940.16	\$54,197.64

This schedule is calculated using plant appraisal techniques derived from The Guide for Plant Appraisal, 9th Edition, published by The Council of Tree and Landscape Appraisers and The International Society of Arboriculture, in conjunction with information provided by the Southern Chapter of the International Society of Arboriculture. This schedule may be superseded by the most current, updated, information available from future editions and/or official publications.

3A.8 REPLACEMENT OF DAMAGED OR DESTROYED TREES

The Owner's Association, or the ACC as its agent, in its sole discretion, may require the planting of additional trees as a result of disturbance, damage, or destruction of existing trees on individual lots. In this instance, a Replacement Tree Plan, a separate document from the Landscape Plan, may be requested by the ACC, detailing the size, type and location of replacement vegetation. All vegetation planted for the purposes of replacement must be guaranteed for one year after installation. Any vegetation that is noted as dying, dead, or otherwise in poor health at the end of its first installation year will be required to be replaced. If such trees are replaced, the newly installed trees will also be subject to an additional one-year guarantee requirement.

In general, replacement trees must be planted expediently once the violation has occurred and the replacement planting plan has been approved.

The ACC may grant, during times of extreme weather conditions, that replacement tree planting be postponed until such time as weather conditions are optimum for planting. A formal request, in writing, must be given to the ACC once the Replacement Tree Plan has been approved. The ACC will review the request in accordance with Section 3A.7. If the ACC grants a postponement, failure to install the replacement trees by the postponed, agreed-upon date will result in a minimum fine equal to the amount of the actual installed cost of the replacement trees agreed upon on the approved Replacement Tree Plan, assessed against such Lot (as a lien), and shall constitute a personal obligation of the applicable Lot Owner.

For trees to be placed within the Protected Lake Buffer, all trees installed as part of a Replacement Tree Plan will be considered "protected" regardless of caliper size.

GUIDELINES FOR THE ENVIRONMENT

PART B: LAKE BUFFER REQUIREMENTS

3B.1 INTRODUCTION

In order to ensure the natural beauty and the recreational benefits of the Lake and to help preserve the quality of water in the Lake, the ACC has prepared the following Lake Buffer Guidelines for Black Forest to establish “buffers” on all Lots in Black Forest that abut or nearly abut the Lake. The intent of the buffers is to implement land use restrictions to maintain the Protected Lake Buffer in a “near-natural” state. The buffers are depicted on the recorded plat(s) for Black Forest.

3B.1.1 The Lake Buffer Guidelines provide for a two part minimum setback, collectively called the “Lake Buffer Areas.” The first part is called the “Protected Lake Buffer” which is a 75-foot minimum distance setback from the full pond contour elevation (1200') along the entire shoreline of the Lake, within the boundaries of Black Forest as noted on the final plat. The second part is called the “Restricted Zone” that is an additional 25-foot minimum distance setback from the Protected Lake Buffer limits, providing a 100' total minimum building setback.

3B.1.2 All vegetation within the Lake Buffer Areas is protected. Specifically, Protected Trees within the Lake Buffer Areas are defined as any tree 2" in caliper and over. Protected trees within the Lake Buffer Areas may not be removed unless dead or diseased and then, only with the written approval of the ACC and in accordance with the Lake Buffer Guidelines before commencing any such activity.

3B.1.3 The Black Forest project is also under the jurisdiction of The North Carolina Catawba Buffer Rules (see Schedule Q) which is administered by the North Carolina Department of Environmental Health and Natural Resources (NCDENHR) and the McDowell County Lake James Protection Ordinance (Schedule R), administered by McDowell County. These rules may or may not coincide with the rules and conditions of the Lake Buffer Guidelines as promulgated and administered by the ACC. Compliance with the ACC Guidelines does not constitute compliance with or approval of NCDENHR, NC Catawba Buffer Rules, or any other governmental or regulatory agency’s rules, laws, ordinances or provisions. It shall be each Lot Owner’s responsibility to ensure compliance with any applicable parties or organizations and their rules, laws, ordinances or provisions.

3B.1.4 Although Black Forest is a low-density development, construction of streets and homes increases the rate of storm water “run-off” from rainfall. Crescent Communities NC, LLC, through its planning and engineering consultants, has developed and received approval for a two-stage plan of storm water management for Black Forest (i.e. during construction and after construction). During construction, storm water run-off creates the potential for erosion and sedimentation. This potential impact on the streams and the Lake exists during the development of the streets and utility systems and continues until the last developed homesite within Black Forest is stabilized. Erosion control devices have been installed as part of the Black Forest development and will remain present until contributory areas are stabilized (as contained herein). Such erosion control devices include silt ponds that have been installed by Crescent Communities, NC, LLC, at the outlets for storm water drainage.

These silt ponds and other structures will be maintained by Crescent Communities, NC, LLC until such time as they are removed. While the structures are in operation, Crescent Communities, NC, LLC may remove silt from said ponds as needed to insure their effective performance. No Owner shall disturb or interfere with the operation of the silt ponds or any other erosion control device installed by Crescent Communities NC, LLC. Any necessary erosion control devices on and for individual Lots are to be installed upstream and out of the Protected Lake Buffer.

3B.1.5 Paths to provide access to the Lake are limited and are subject to approval from NCDENR and McDowell County in response to the NC Catawba Buffer Rules. Surfacing materials are subject to ACC approval.

3B.2 LAKE BUFFER AREAS

3B.2.1 Protected Lake Buffer:

A Protected Lake Buffer, measuring seventy-five (75) feet upland from the 1200' contour occurs on all waterfront lots. No permanent structures, with the exception of shelters as identified in section 2.3.5., built-upon areas, or septic systems shall be permitted within this buffer. No clearing of existing vegetation within the buffer shall be permitted except as follows:

- (a) Trees less than 2" caliper may be removed.
- (b) Undergrowth in the form of Mountain Laurel (*Kalmia latifolia*), Rhododendron (*Rhododendron maximum* and *Rhododendron caroliniana*) and Hemlock (*Tsuga canadensis* and *Tsuga caroliniana*) is considered protected vegetation and may not be removed unless approved in writing by the ACC.
- (c) Grassed or lawn areas are not allowed in the Protected Lake Buffer Areas.
- (d) Dead or diseased trees of any size may be removed if approved in writing by the ACC.
- (e) Selective pruning of trees to provide view enhancement is permitted only if a plan is submitted to and approved by the ACC. At no time may a tree be trimmed or limbed up beyond a point of one half its height.

- (f) New trees, shrubs and ground cover may be planted in the Protected Lake Buffer Areas to enhance existing vegetation provided there is no disturbance to the root systems of existing trees. Plans delineating the location and type of all additional plant material must be submitted to the ACC and its approval in writing must be obtained prior to planting.
- (g) In the event of catastrophic loss of vegetation (i.e. insect infestation, excessive winds, fire, etc.) all new growth will be considered protected and will be allowed to regenerate naturally. Management of such natural regeneration must be approved by the ACC.
- (h) Path surfacing within the 75' Protected Lake Buffer must be of a pervious material, such as wood chips, mulch, or a raised, slatted "catwalk" or boardwalk.
- (i) Pruning and planting shall be accomplished with hand tools.

3B.2.2 Restricted Zone:

A second buffer area, measuring twenty-five (25) feet upland from the 75' Protected Lake Buffer occurs on all waterfront lots. This area is called the "Restricted Zone" and shall be maintained in its natural state.

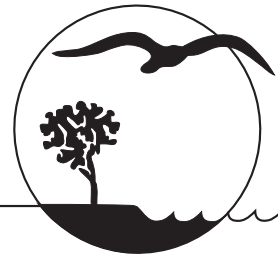
- (a) Existing trees with a caliper of 4 inches or greater may not be removed unless dead or diseased and approval, in advance, is granted in writing by the ACC.
- (b) Clearing, thinning, pruning and planting shall be accomplished with hand tools. Clearing with mechanical equipment will only be allowed for the installation of structures adjacent to the Restricted Zone.
- (d) All existing forest floor humus layers, leaf litter and soil shall remain undisturbed and intact except for the construction of footpaths and clearing permitted by this section.
- (e) Individual trees may be pruned to remove only lateral limbs from no more than the lower fifty (50) percent of the trees total height.
- (f) Removal of trees with a diameter of 4 inches or less is permitted to clear an opening to maneuver equipment for building construction, accessory structures, septic systems, view corridors, driveways and paths. However, no structures are to be constructed within the Restricted Zone.

- (g) No trees greater than 4 inches in caliper are to be removed, unless dead or diseased and approval is granted by the ACC and McDowell County. All vegetation in the Lake Buffer Areas is protected. Removal of any vegetation in the Lake Buffer Areas is prohibited unless approval has been granted by the ACC and McDowell County.
- (h) Turf grasses and lawns are permitted, but not encouraged.

3B.2.3 Conservation Areas/Buffer:

All vegetation within the Conservation Area/Buffer is subject to the same provisions of the Protected Lake Buffer (see Section 3, Part B.2.1 herein)

AUDUBON
INTERNATIONAL



GUIDELINES FOR THE ENVIRONMENT

PART C: AUDUBON INTERNATIONAL GUIDELINES

3C.1 SIGNATURE SUSTAINABLE DEVELOPMENT PROGRAM GENERAL DESCRIPTION

Black Forest on Lake James, LLC (Black Forest) has entered into a partnership agreement with Audubon International to adopt and facilitate an ongoing program of environmental stewardship that seeks to improve the quality of life for its residents and the habitat of the property.

3C.2 ROLE OF AUDUBON INTERNATIONAL

3C.2.1 Goals of the Signature Sustainable Development Program. The main focus is on the development of the community through an ecosystem approach to siting, design, construction and management. These initiatives are designed to be implemented by the developer, Audubon International, and property owners through a continually evolving set of principals and guidelines that take the total ecological balance into account. The following sections seek to lay the groundwork of understanding the process, which is to be implemented in stages over time. The Natural Resource Manager will continually update and educate property owners on different initiatives, how they are evolving and producing the desired results, as well as what they can do to further the goals of each initiative. See Section 3C.4 for a detailed list of Program Goals.

3C.2.2 Requirements to Join the Program. In order to receive certification in the Audubon Signature Sustainable Development Program, the project had to be registered as a member of the program prior to the design of the Project. The second condition of this designation was that Audubon International prepare the Environmental Master Plan for the project, which is based on ecological considerations of the property and presents a common vision for the property.

3C.2.3 Certifications. Black Forest, upon successful completion of program requirements, will receive the following designations: (a) An Audubon International Approved Land Plan; and (b) A Certified Audubon Signature Sustainable Development, Gold Level.

3C.2.4 The Environmental Master Plan. Audubon International will apply the Audubon Principles for Sustainable Resource Management, “Principles for Ecological Restoration,” and “Principles for Natural Landscaping” to the site. Audubon International is working with the project team to ensure that all aspects of the project are consistent with the common vision and with the Environmental Master Plan. The Environmental Master Plan is implemented in phases: Phase 1 is the Planning and Permitting phase; Phase 2 is the Construction phase; and Phase 3 is the Management and Education phase. The Black Forest development team is actively pursuing each phase to completion. These phases are described below along with other important aspects of the program.

(a) Phase 1 - Planning and Permitting: The goal of Phase 1 is to successfully design and permit the development based upon ecological characteristics of the property and surrounding

landscapes. Audubon International assists in the design process by providing Sustainable Resource Management Guidelines for the project. These guidelines describe the development in the context of our principles for sustainable resource management. Audubon International then produces the Ecological Design, which is the vision for the property and is based on significant site elements, water and habitat. At this phase, appropriate “green building” components of the development are identified. These elements will serve as the basis for our permitting efforts.

(b) Phase 2 - Construction Planning and Practices: The goal of Phase 2 is to successfully develop and implement environmentally sound construction planning and practices. Considerations identified in Phase 1, the Ecological Design, as well as Phase 2 are implemented at the site in order to minimize site disturbance and promote ecological sensitivity. Important components of Phase 2 include prevention practices, management practices and monitoring. At the completion of construction phases, the project receives recognition identifying the successful implementation of Audubon International guidelines.

3C.2.4 continues ...

3C.2.4 continued ...

(c) Phase 3 - Management and Education:

The goal of Phase 3 is to successfully integrate environmental management and education into the project with the result being a Sustainable Development. Audubon International prepares a Natural Resource Management Plan that integrates natural resource protection and human use of the

property. Audubon International also prepares a Community Education and Information Plan for the community that is the blueprint for creating and nurturing the environmental ethic for those who live, work and recreate in Black Forest. These plans serve as the long-term management and education tools for the project.



3C.3 NATURAL RESOURCE MANAGER

A key component of Audubon International's and Black Forest's approach to building a sustainable community is the Natural Resource Manager. As part of the development team, this professional will lead the community in the creation and implementation of environmental programs, workshops and training seminars for staff,

contractors and property owners and will promote education to enhance wildlife habitat and protect water quality. The Natural Resource Manager is also a member of the Architectural Control Committee, assisting in siting and design, as well as landscaping principles that further the "green building" recommendations in Black Forest.

3C.4 SUSTAINABLE DEVELOPMENT PROGRAM GOALS

The following are the initiatives and goals that the Black Forest development team and Audubon International are focusing on to ensure a Sustainable Development:

3C.4.1 Site Design and Planning

- (a) Incorporate Audubon International conceptual site review recommendations
- (b) Site properly based on regional and site-specific elements (contextual design)
- (c) Meet both human and wildlife habitat needs (eco-centric design)
- (d) Minimize land clearing
- (e) Maximize preserves and open space

3C.4.2 Landscaping

- (a) Meet native planting requirements
- (b) Minimize turf areas
- (c) Minimize water and chemical use
- (d) Identify habitat enhancement/restoration projects
- (e) Implement an integrated pest management program based on sound science

3C.4.3 Wildlife

- (a) Identify and protect "preserve" areas
- (b) Develop and protect corridors and connections
- (c) Identify habitat enhancement/restoration projects
- (d) Monitor changes in biodiversity

3C.4.4 Water

- (a) Implement conservation measures
- (b) Protect water quality with recommended drainage Best Management Practices (BMPs)
- (c) Facilitate proper irrigation design, installation and use
- (d) Facilitate routine water quality monitoring (ground and surface water)

3C.4.5 Green Building

- (a) Recommend existing programs that have a track record (Florida Green Building Coalition)
- (b) Develop an Audubon International upgrade package

3C.4.6 Education

- (a) Promote corporate environmental stewardship and educate staff
- (b) Develop resident and guest education programs
- (c) Develop contractor education programs (landscape, infrastructure, home builders)
- (d) Involve and educate the general public

OWNER RESPONSIBILITIES & CONSTRUCTION RULES

PART A: PROCEDURES & APPROVALS

4A.1 DESIGN REVIEW PROCESS

Prior to the commencement of any construction activity of any type (including any grading work) on any Lot, an Application for Approval (using a form to be obtained from the ACC) of such work must be submitted to the ACC by the Lot Owner or such Owner’s designated agent. The ACC must receive, review and approve the information and documentation required to be submitted under Section 4A.3 herein entitled “Design Review Procedure” prior to the commencement of any such work. Also, all design and construction escrow fees required under these Architectural and Design Guidelines must be paid to the ACC prior to the commencement of any such work.

4A.2 PRE-APPLICATION PROCEDURE

McDowell County and its Planning Department have jurisdiction over the community at Black Forest. Each Lot Owner or a representative of each Lot Owner should contact representatives of McDowell County and its planning department at the beginning of the planning and design process relative to such Owner’s Lot to ensure compliance with the rules, regulations and standards of McDowell County. Compliance with all governmental and quasi-governmental rules, regulations and standards is the obligation of each Lot Owner and the Lot Owner’s builder. It should not be assumed, however, that compliance with the rules, regulations and standards of McDowell County and other governmental and quasi-governmental authorities will satisfy all requirements of the ACC.

4A.2.1 North Carolina Catawba Buffer Rules: These Guidelines are not intended to conflict with the NC Catawba Buffer Rules (see Schedule Q) as administered by the State of North Carolina and the North Carolina Department of environmental Health and Natural Resources (NCDEHNR) and Lake James Protection Ordinance (Schedule R). In the case where there is a direct conflict between any governmental or regulatory agency laws, ordinances, rules, or provisions including the NC Catawba Buffer Rules, the more stringent stipulations shall apply.

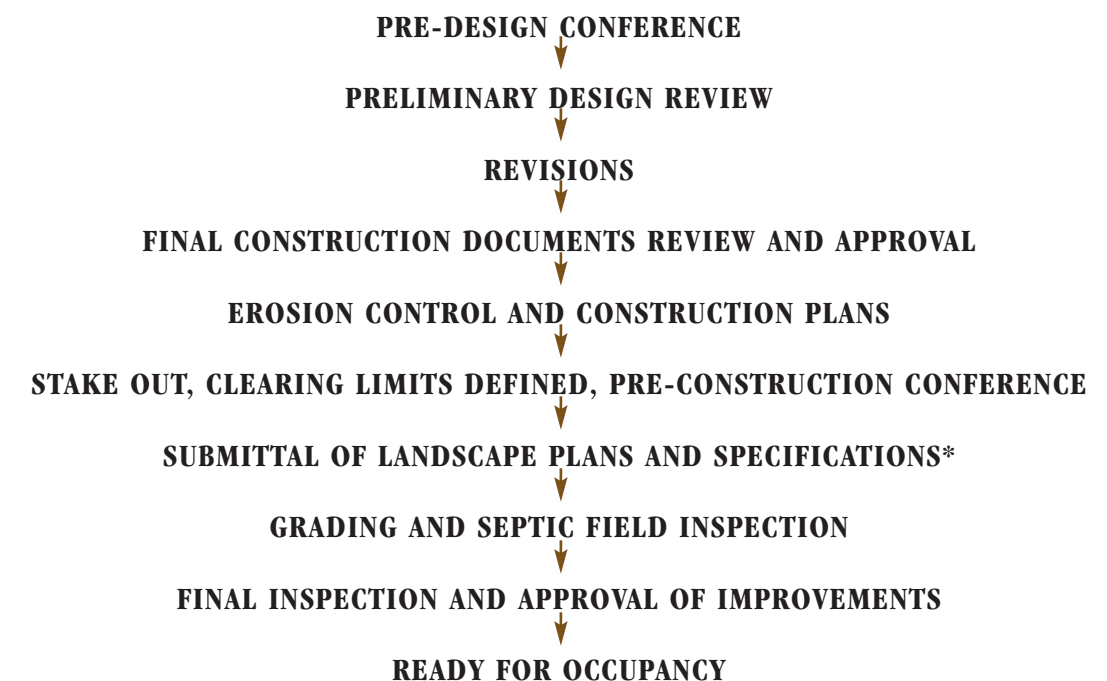
4A.3 DESIGN REVIEW PROCEDURE

The successful completion of the design review procedure under the Design Guidelines will be facilitated by reviewing and complying with the requirements outlined in the Design Guidelines and by reviewing and following the step-by-step

design review format described below. The review format has been structured to achieve a smooth and timely review from preliminary plan submittal to final site inspection and approval.

4A.3 continues ...

4A.3.1 THE FOLLOWING FLOW CHART REPRESENTS THE NECESSARY PROCEDURES IN THE PROCESS OF BUILDING A RESIDENCE IN BLACK FOREST:



4A.3 continued ...

4A.3.2 The ACC has established a schedule for submittal of Building Plans and Specifications, review of Building Plans and Specifications, and meeting with the Lot Owner or the representative of the Lot Owner to discuss any questions or concerns of the ACC relative to the Building Plans and Specifications. The established schedule permits a timely review of submitted Building Plans and Specifications and allows Lot Owners and their representatives to accurately plan their schedules. Building Plans and Specifications must be submitted by the Lot Owner or the Lot Owner's representative to the ACC Coordinator at the Coordinator's office by 5:00 p.m. six (6) days prior to the scheduled ACC review meeting. Each submittal of Building Plans and Specifications must be accompanied by the following:

- Completed Application for Approval (attached hereto as Schedule A and Schedule B)
- Three (3) Sets of Building Plans and Specifications.
- Three (3) Site Plans on a 40:1 Scale.
- Three (3) Erosion Control Plans.*
- Check, for ACC Review Fees, for \$750.00 made out to the Black Forest ACC.
- Check, for Construction Escrow, for \$5,000.00 made out to Black Forest Owner's Association, and a completed Schedule C attached hereto.* (Explained further in section 4E.2)

- Check, for Septic Fees, made out to Black Forest Home Owner's Association* (Contact the ACC Coordinator for current amounts)

- Copy of Septic Permit for McDowell County

**These items are due only if submitting for Final Review of Building Plans and Specifications.*

4A.3.3 The ACC has a review meeting every two weeks to review the Building Plans and Specifications that have been submitted since the most recent ACC review meeting. Each Lot Owner that has submitted Building Plans and Specifications for review is encouraged, although not required, to attend the ACC review meeting at which such Lot Owner's Building Plans and Specifications will be reviewed to respond to any questions that the ACC may have relating to such Lot Owner's Building Plans and Specifications.

4A.3.4 As set forth above, each Lot Owner will be charged a Processing Fee for the review of such Lot Owner's Building Plans and Specifications. The Processing Fee, which is Seven Hundred, Fifty Dollars (\$750.00), shall be paid by check and shall be made payable to the ACC. The ACC shall have the right to increase the amount of the Processing Fee from time to time as stated in the Declaration and these Guidelines. The Processing Fee is intended to partially cover the expense incurred by the ACC in reviewing Building Plans and Specifications, including the cost of compensating any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained by the ACC.

4A.3.5 Septic fees are due at the time of final plan review. These fees include the Construction Inspection Fee and the Initial Contract Year. For each year thereafter, a Renewal Fee will be billed to each Lot Owner by the Owners Association. These fees are subject to change at any time. Current amounts for Septic Fees can be obtained by contacting the ACC coordinator. In the case where multiple structures are present on a Lot, there will be additional septic fees for each structure utilizing a septic system to cover additional septic inspections.

4A.3.6 All required items listed above, along with any other materials, necessary for the ACC to review Building Plans and Specifications, shall be sent to:

Black Forest on Lake James
Architectural Control Committee
Cathleen Adkins
124 West Union Street
Morganton, NC 28655
828-433-8185
828-433-8559 – Fax

PART B: SITE PLAN & BUILDING PLAN REVIEW

4B.1 APPLICABILITY

The ACC shall review all plans and specifications for all structures and site improvements, including Main Cottages, Secondary Cottages, Cabins, Ancillary Structures (See Schedule I), Shoreline Structures, entry monumentation, driveways, site and landscape walls and landscaping.

4B.2 REVIEW OF PRELIMINARY BUILDING PLANS AND SPECIFICATIONS

The ACC encourages Lot Owners and builders who are building in the Black Forest community for the first time to participate in the preliminary Building Plans and Specifications review process. Although not required, the preliminary Building Plans and Specifications review process may help avoid unnecessary expense and delay by expediting later phases of the Building Plans and Specifications review process. The ACC will review with the Lot Owner or the Lot Owner's representative such Lot Owner's proposed design approach to confirm general compliance with the Architectural and Design Guidelines and the appropriateness of the design concept. To fully utilize the preliminary Building Plans and Specifications review process, a completed site plan and the architectural drawings for the Improvements (as outlined in the enclosed Application for Preliminary Design Approval form, a copy of which is attached hereto as Schedule A) shall be included as part of the preliminary Building Plans and Specifications submittal. The preliminary Building Plans and Specifications submittal shall also include a completed Application for Approval and the Processing Fee (\$250.00) that shall apply to the final ACC Review Fees (\$750.00) if the Application for Final Design Approval is received within one year following the date of the Preliminary Application. Additional

components of the submittal are described more particularly in Section 4A.3.2.

4B.2.1 The ACC shall review the preliminary Building Plans and Specifications and return them to the Owner marked "Approved", "Contingent Approved", or "Disapproved," as the case may be. As to any preliminary Building Plans and Specifications that are marked "Approved" or "Contingent Approved" by the ACC, final Building Plans and Specifications produced thereafter must be in substantial conformity therewith; provided, however, the ACC's approval of preliminary Building Plans and Specifications shall in no way bind or obligate the ACC to approve the subsequent final Building Plans and Specifications.

4B.2.2 The ACC may refuse to approve preliminary Building Plans and Specifications or any component(s) thereof, including, without limitation, the location, style, exterior colors or finishes or other specifications of the proposed Improvements for any reason or reasons, including purely aesthetic reasons, in the sole discretion of the ACC. Please note that Approval of Preliminary Building Plans and Specifications does not constitute Final Approval. This only approves the Owner to commence to Final Submittal of Plans.

4B.3 REVIEW OF FINAL BUILDING PLANS AND SPECIFICATIONS

The submittal of final Building Plans and Specifications shall incorporate all of the requirements stated in the Application for Final Design Approval form, a copy of which is attached hereto as Schedule B, and other portions of the Architectural and Design Guidelines as well as comments from previous meetings and design reviews.

Three (3) complete sets of the final Building Plans and Specifications; four (4) sets if the residence is to be built "on speculation" must be submitted to the ACC. Also, the Processing Fee (\$750.00) must be submitted as part of the final Building Plans and Specifications submittal if the Processing Fee has not been paid to the ACC previously. Additional components of the submittal are described more specifically in Section 4A.3.2.

4B.3 continues ...

In addition, the following items must be submitted to the ACC as a condition to the final Building Plans and Specifications review process:

1. The construction escrow deposit (the “Construction Escrow Deposit”, Schedule C), as set and determined by the ACC as of the date the final Building Plans and Specifications are submitted. The Construction Escrow Deposit is currently Five Thousand Dollars (\$5,000.00) per Lot. The Construction Escrow Deposit shall be paid by check made payable to Black Forest Owners Association (the “Owners Association”) The Construction Escrow Deposit will be held by the Owners Association and used for the purposes set forth in the Construction Rules.

2. Owner’s prorata share of the cost of the Common Driveway, if any, serving such Owner’s Lot, which amount is to be set and determined by the ACC as of the date the final Building Plans and Specifications are submitted. This requirement applies only to Lots sharing a Common Driveway in cases where another Lot Owner has assumed responsibility for construction of the Common Driveway. In the event the Lot will share a Common Driveway and no other Lot Owner has assumed responsibility for the construction of the Common Driveway as of such time, the Owner first seeking approval of final Building Plans and Specifications shall include the cost and design of the Common Driveway in such Owner’s final Building Plans and Specifications and shall construct the Common Driveway in accordance with the approved final Building Plans and Specifications; and in such case, upon completion

of the Common Driveway, the Owner that constructed such Common Driveway shall be entitled to reimbursement from Crescent Communities NC, LLC or its successor or assign as developer of Black Forest, for the prorata share of the total cost attributable to other Lots served by the Common Driveway. Crescent Communities NC, LLC shall receive reimbursement for such prorated share from the Owners of the other Lots served by the Common Driveway at the time they acquire title to the applicable Lots. The Common Driveway installation and maintenance costs will be shared equally among the Lots served thereby.

If found not to be in compliance with the Guidelines or if found to be otherwise unacceptable to the ACC, one (1) set of the final Building Plans and Specifications shall be returned to the Lot Owner marked “Resubmit” or “Disapproved”, accompanied by a written statement of items found not to be in compliance with the Guidelines or to be otherwise unacceptable to the ACC. If the first resubmittal of final Building Plans and Specifications occurs more than a year from the original submittal of the final Building Plans and Specifications, such resubmittal shall be accompanied by another Processing Fee (\$750.00); also, each resubmittal of final Building Plans and Specifications in excess of two (2) submittals (including both the original submittal and any resubmittals) shall be accompanied by a supplemental processing fee of \$250.00.

At such time as the final Building Plans and Specifications are approved (or conditionally approved) by the ACC, one (1) complete set of the approved final Building Plans and Specifications shall be retained by the ACC and the other complete sets of the approved final Building Plans and Specifications shall be marked “Approved as Submitted” or “Approved as Noted” and returned to the Lot Owner, along with a written statement with design comments. Once the ACC has approved final Building Plans and Specifications for Improvements to be constructed on a particular Lot, the construction of such Improvements must be promptly commenced and diligently pursued to completion; and if such construction is not commenced within one (1) year following the date of approval of the final Building Plans and Specifications by the ACC, the approval of such final Building Plans and Specifications by the ACC shall be deemed rescinded. In the event of any such rescision of the ACC’s approval of final Building Plans and Specifications pursuant to the immediately preceding sentence, construction of Improvements on such Lot may be commenced thereafter only after resubmission of final Building Plans and Specifications to the ACC for approval and approval of such final Building Plans and Specifications by the ACC.

Any modification or change to the “Approved” set of final Building Plans and Specifications must be submitted in triplicate to the ACC for its review and approval (using the same procedure as set forth herein relative to the submission and approval of the original final Building Plans and Specifications). The ACC may require the Lot Owner to pay an additional review fee in connection with any submittal of modifications or changes to previously approved final Building Plans and Specifications.

The construction escrow deposit (the “Construction Escrow Deposit”), is determined and set by the ACC as of the date the final Building Plans and Specifications are submitted. The Construction Escrow Deposit is currently Five Thousand Dollars (\$5,000.00) per Lot; The Construction Escrow shall be paid by check made payable to Black Forest Owners Association, Inc. (the “Owners Association”). The Construction Escrow Deposit will be held by the Owners Association and used for the purposes set forth in the Construction Rules.

4B.4 LOT STAKING, SITE INSPECTION AND APPROVAL TO COMMENCE WORK

Once final Building Plans and Specifications approval has been granted by the ACC, the Lot Owner or the Lot Owner's representative shall stake the Lot for review and approval by the ACC prior to commencing any construction work thereon (including grading work). The lot owner or the Lot Owner's representative must clearly stake the proposed structure(s) and property lines and, if applicable, the Lake Buffer Area (as defined herein). Staking shall be with a continuous ribbon or string encircling the area(s) to remain undisturbed. "Protected trees" located outside the Building Envelope and the Lake Buffer Area may

not be cut down, damaged or otherwise removed without specific written approval of the ACC. Therefore, any additional trees to remain undisturbed located outside the encircled area shall be ribboned individually or in groups. After such staking of the Lot has been completed in accordance with this Section 4B.3, the Landscape and Lake Buffer Guidelines, the Lot Owner or the Lot Owner's representative shall request the ACC to make a site inspection prior to the commencement of clearing and construction work on the Lot. A Site Inspection Agreement will be completed at this point (See Schedule E and Schedule F).

The primary purpose of the site inspection by the ACC is to ensure compliance with the approved Building Plans and Specifications and to prevent any unnecessary damage to specimen trees and other unique site features. (Please refer to the Design Guidelines for the Site, Design Guidelines for the Environment, and the Lake Buffer Requirements regarding requirements and restrictions relating to tree and vegetation protection and removal.) In addition to the foregoing matters, the site inspection shall include a review of the following matters and issues:

- Building setbacks (as per stakes);
- Lake Buffer Area Location (as per stakes);
- Side yards (as per stakes);
- Clearing limits;
- Placement of excavation materials;
- Protection of septic field;
- Location of construction entrances;
- Location of temporary toilet;
- Location of trash containers; and
- Erosion control measures (silt fences, hay bales, diversion swales, stone filter dams, etc., as required). (See Schedule G.)

The Lot Owner or Builder will be required to submit a final foundation survey prior to the rough framing stage on each home site under construction. (Please refer to the Foundation Survey Example attached as Schedule H.) Landscape plans and specifications will not be reviewed until the final foundation survey has been submitted and approved. Lot owners and/or builders whose landscape plans and specifications are withheld for failing to submit a foundation survey, will be subject to all penalties, fines or assessments associated with failure to submit landscape plans.

The ACC shall consider each Lot independently but shall give consideration to the impact of each individual Lot (and the Improvements proposed to be constructed thereon) on adjacent Lots. Care must be taken to locate each structure, when and where possible, so as not to infringe upon adjacent Lots and structures constructed or to be constructed thereon, view corridors and natural amenities of the area. Consideration in this regard must be given to the following:

- 1) Topography of the Lot and other Lots in the vicinity.
- 2) Distant and intimate views from the Lot.
- 3) Distant and intimate views of the Lot from other Lots and from the Lake.
- 4) Existing vegetation type and quality.
- 5) Existing water and drainage patterns.
- 6) Driveway access.
- 7) Height of proposed structures on the Lot and existing and proposed structures on adjacent Lots and other Lots in the vicinity.

Inspection by the ACC shall be made within seven (7) business days of the date the request is received by the ACC. Written authorization by the ACC to proceed with the Lot clearing and construction work will be issued to the Lot Owner or to such Lot Owner's builder by the ACC promptly after the inspection is completed or, if problems are detected during the site inspection, written notification of such problems shall be given to the Lot Owner or such Lot Owner's builder by the ACC promptly after the inspection is completed. **NO CLEARING OR CONSTRUCTION ACTIVITIES MAY BE COMMENCED PRIOR TO ISSUANCE OF THE SITE INSPECTION APPROVAL BY THE ACC.** The ACC shall have the right to stop any unauthorized clearing and/or construction activities that are commenced on a Lot in violation of the terms and requirements of the Guidelines. The ACC may delegate its site inspection functions under this section to Black Forest's development construction manager for Black Forest.

4B.5 FAILURE OF THE ACC TO ACT

If the ACC fails to approve or disapprove any final Building Plans and Specifications and other submittals which conform (and which relate to Improvements which will conform) with the requirements of the Guidelines and of the Declaration or to reject them as being inadequate or unacceptable within thirty (30) business days after receipt thereof, and provided such submittal was a full and complete submittal, in accordance with the Guidelines and the Declaration, of all items that were to have been submitted to the ACC, and provided the ACC shall again fail to approve or disapprove of such final Building Plans and Specifications and other submittals within ten (10) business days after additional written request to act on such items is delivered to the ACC following the passage of such first above-described thirty (30) business day period, it shall be conclusively presumed that the ACC has approved such conforming Building Plans and Specifications and other submittals, EXCEPT that the ACC has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in the Declaration or any Additional Declaration for the

Phase in which the Lot is located, and EXCEPT FURTHER, that the ACC shall not be deemed to have waived any of the requirements set forth in Article XI, Section 8, Section 9 or Section 10 of the Declaration or any corresponding provisions in the Guidelines. If final Building Plans and Specifications or other submittals are not sufficiently complete or are otherwise inadequate, the ACC may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance. The ACC is authorized to request the submission of samples of proposed construction materials.

4B.6 CHANGES TO APPROVED PLANS

All changes, once Final Building Plans and Specifications have been reviewed and approved, must be submitted to the ACC for approval (as outlined in the Minor Change Application, attached hereto as Schedule D).

4B.7 FINAL INSPECTION AND CONSTRUCTION ESCROW REFUND

Once all improvements have been completed, including landscape improvements, a final inspection must be conducted to ensure compliance with the ACC's approval of Final Building Plans and Specifications. A request must be made to the ACC in writing to conduct a final on-site inspection (see the attached Schedule J). The Construction Escrow Deposit, will be refunded after this inspection has been conducted and the lot is deemed to be "in compliance" with the approved plans and specifications, and provided the escrow deposit has not been utilized during the building process as outlined in Section 4E.2.

PART C: LANDSCAPE PLAN REVIEW

4C.1 LANDSCAPE REVIEW PROCESS

Prior to the commencement of any Landscape activity of any type (excluding any grading or similar site work encompassed by the Building Plans and Specifications) on any Lot, an Application for Landscape Plans and Specifications Approval (the form of which is attached hereto as Schedule K) must be submitted by the Lot Owner or such Owner's designated agent to the ACC. The ACC must receive, review and approve the information and documentation required to be submitted under the section herein entitled "Final Landscape Plans and Specifications Review Procedure" prior to the commencement of any such Landscape work.

The successful completion of the landscape review process under the Landscape Guidelines will be facilitated by reviewing and complying with the requirements outlined in the Landscape Guidelines and by reviewing and following the landscape review procedure described herein.

The Landscape Plans and Specifications Review Application, the Landscape Plans and Specifications and all other materials necessary for the ACC to review the Landscape Plans and Specifications shall be sent to:

Black Forest on Lake James
Architectural Control Committee
Cathleen Adkins
124 West Union Street
Morganton, NC 28655
828-433-8185
828-433-8559 – Fax

4C.2 REVIEW OF PRELIMINARY LANDSCAPE PLANS AND SPECIFICATIONS

The ACC encourages Lot Owners and builders who are building in the Black Forest community to participate in the preliminary Landscape Plans and Specifications review process. Although not required, the preliminary Landscape Plans and Specifications review process may help avoid unnecessary expense and delay by expediting later phases of the Landscape Plans and Specifications review process. Each Lot Owner may, at such Lot Owner's discretion, submit preliminary Landscape Plans and Specifications to the ACC at the time final Building Plans and Specifications for the Lot are submitted to the ACC (as contemplated in the Architectural and Design Guidelines). Four copies of the plan are to be submitted, along with a completed Schedule K form.

The ACC shall review the preliminary Landscape Plans and Specifications and return them to the Owner marked "Approved", "Contingent Approved" or "Disapproved," as the case may be. As to any preliminary Landscape Plans and Specifications that are marked "Approved" by the ACC, final Landscape Plans and Specifications produced

thereafter must be in substantial conformity therewith; provided, however, the ACC's approval of preliminary Landscape Plans and Specifications shall in no way bind or obligate the ACC to approve the subsequent final Landscape Plans and Specifications.

The ACC may refuse to approve preliminary Landscape Plans and Specifications, or any component(s) thereof, for any reason or reasons, including purely aesthetic reasons, in the sole discretion of the ACC.

4C.3 FINAL LANDSCAPE PLANS AND SPECIFICATIONS REVIEW PROCEDURE

The submittal of final Landscape Plans and Specifications must incorporate all of the elements described herein as being required as part of the final Landscape Plans and Specifications submittal. It is critical that final Landscape Plans and Specifications (and the other required documentation, as described above) be submitted to the ACC for review in a timely manner. In that regard, four (4) complete sets of the final Landscape Plans and Specifications for each Lot must be submitted to the ACC when the exterior finish work on the house (i.e. masonry work, siding or stucco application, etc.) is completed.



Lot Owners who have not submitted final Landscape Plans and Specifications after the exterior finish work on the house has been completed will receive a written request for the final Landscape Plans and Specifications from the ACC. Beginning on the thirtieth (30th) day following the date such written request is sent by the ACC to such Lot Owner, funds will be withheld from the Construction Escrow Deposit (as defined in the Architectural and Design Guidelines) at the rate of \$50.00 per day; and such funds that are withheld shall be deemed earned by the ACC and shall be non-refundable to the Lot Owner. Such charges will accrue daily until the date that the final Landscape Plans and Specifications submittal (including all elements and documentation required herein) is received by the ACC. Furthermore, if final Landscape Plans and Specifications are not submitted to the ACC by the date the Lot Owner occupies the residence on the Lot, whether or not Landscape Improvements have been installed and whether or not any written notice has been given to the Lot Owner by the ACC as described above, fines shall accrue against such Lot (as a lien), and shall constitute a personal obligation of the applicable Lot Owner, at a rate of \$100.00 per day from the occupancy date until the date on which the final Landscape Plans and Specifications submittal (including all elements and documentation required herein) is received by the ACC. Such fines will be deducted first from the Construction Escrow Deposit and, if and when the

Construction Escrow Deposit is depleted as a result of such daily deductions, such fines will continue to accrue at the daily rate until final Landscape Plans and Specifications are received by the ACC. No exceptions will be made to the circumstances described above which allow the ACC to withhold and retain part or all of the Construction Escrow Deposit.

Landscape Plans and Specifications submitted to the ACC will be reviewed by a certified Landscape Architect who is licensed in the state of North Carolina and who is either a member of the ACC or is hired by the ACC to conduct such review on behalf of the ACC.

If found not to be in compliance with the Landscape Guidelines or if found to be otherwise unacceptable to the ACC, one (1) set of the final Landscape Plans and Specifications shall be returned to the Lot Owner marked “Disapproved” or “Resubmit,” accompanied by a written statement of items found not to be in compliance with the Landscape Guidelines or to be otherwise unacceptable to the ACC. If the final Landscape Plans and Specifications for a Lot are submitted and rejected two (2) or more times, the ACC may require an additional review or processing fee to be submitted by the Lot Owner to cover the additional time and expense incurred by the ACC in reviewing the resubmitted final Landscape Plans and Specifications.

At such time as the final Landscape Plans and Specifications are approved (or conditionally approved) by the ACC, one (1) complete set of the approved final Landscape Plans and Specifications shall be retained by the ACC and the other

complete set of the approved final Landscape Plans and Specifications shall be marked “Approved as Submitted” or “Contingent Approved” and returned to the Lot Owner, along with a written statement with any comments of the ACC. Once the ACC has approved final Landscape Plans and Specifications for Landscape Improvements to be installed on a particular Lot, the installation of such Landscape Improvements must be promptly commenced and diligently pursued to completion.

Any modification or change to the “Approved” set of final Landscape Plans and Specifications must be submitted in triplicate to the ACC for its review and approval (using the same procedure as set forth herein relative to the submission and approval of the original final Landscape Plans and Specifications). The ACC may require the Lot Owner to pay an additional review fee in connection with any submittal of modifications or changes to previously approved final Landscape Plans and Specifications.

4C.4 REQUIRED ELEMENTS OF FINAL LANDSCAPE PLANS AND SPECIFICATIONS

All final Landscape Plans and Specifications shall include the following (see Schedules K & L):

4C.4.1 A 24" x 36" blueprint or a 30" x 42" blueprint with accurate boundaries of the Lot (i.e. as taken from the most recent boundary survey of the Lot) drawn at a scale of 1" = 10' or larger (e.g. 1/8" = 1').

4C.4.2 A certified survey must be submitted showing the percentage of impervious area. A maximum of 7% impervious area and 14% disturbed area is allowed in Black Forest.

4C.4.3 Accurate adjoining street right-of-way lines, accurate back edge of pavement lines and the appropriate names of adjoining street(s).

4C.4.4 Accurate locations and widths of any and all utility easements, each labeled as to the specific type of utility occupying the easement (i.e. water, electric power, etc.). Accurate location of primary and 100% repair septic envelopes.

4C.4.5 accurate location of the Building Envelope for the Lot.

4C.4.6 Accurate North direction shall be shown and labeled.

4C.4.7 A title block located in either the lower right-hand corner of the sheet, across the entire bottom edge of the sheet, or down the entire right-hand edge of the sheet shall contain the following information:

- 1) Lot number within the Black Forest community.
- 2) Scale of the drawing.
- 3) Date of the drawing, including any revision dates.
- 4) The name, address and telephone number of the preparer of the Landscape Plans and Specifications.
- 5) Lot Owner's name.

4C.4.8 "Limits of Clearing and Grading Line" shall be shown exactly as it appears in the field.

4C.4.9 Precise location and extent of all View Corridors.

4C.4.10 Precise location of the dwelling, garage and all other structures as depicted on the approved final Building Plans and Specifications for the Lot.

4C.4.11 Precise location of all exterior doors and windows on the first floor/ground level of the dwelling.

4C.4.12 Precise location of driveways, walkways, decks and steps, screened porches, gazebos, swimming (or other) pools, fountains, spas/hot tubs, fences and gates, garden walls, sculptures, sundials, bird houses, basketball goals, play equipment/swing sets, retaining and freestanding walls, etc. All retaining walls and decorative stone walls built by the landscape contractor must be shown on the plan and details of the walls must be included with the plans.

4C.4.13 Location of all proposed new Landscape Improvements, clearly labeled and indicating the species and quantities. Show all lawn areas as "lawn seed" or "lawn sod."

4C.4.14 Plant list/planting schedule listing all proposed plant material, quantities, their common name and their botanical/scientific name, their size at the time of planting and any special or notable distinguishing characteristics. (See the sample Landscape Plans and Specifications attached hereto as Schedule L.)

4C.4.15 Location of gas and electric meters, location of heating, ventilating and air conditioning units and pool equipment/pump or other utility-related equipment and apparatus. Location of septic tanks, pumps and related equipment.

4C.4.16 All plants shown on the final Landscape Plans and Specifications are assumed to be scheduled for installation in the initial planting of the Lot. Any plants to be installed at a later phase (i.e. following the initial planting of the Lot) must be clearly labeled to that effect on the final Landscape Plans and Specifications and in the plant list that constitutes a part of the final Landscape Plans and Specifications.

4C.4.17 The type(s) of mulch material(s) to be used and their location(s) must be clearly indicated.

4C.4.18 Drainage Plan shall include, but not be limited to downspout locations, drain pipe locations and direction of overland water flow (see Sample Drainage Plan, Schedule M). The plan shall also include both Surface Drainage Information and Downspout piping information in order for the plan to be inspected. All downspouts are required to be piped.

An initial fine of \$500.00 will be implemented to all Lot Owners who fail to submit a landscape plan and receive the reviewed plan with comments before they begin landscape installation.

A fine of \$100.00 per day will be implemented to all Lot Owners whose homes are occupied before the final landscape inspection has been completed. Inspectors are available once every two weeks on regularly scheduled visits. Notification that all landscaping is complete and that an inspection is needed is accomplished by sending a completed Schedule E form submitted directly to:

Black Forest on Lake James
Architectural Control Committee
Cathleen Adkins
124 West Union Street
Morganton, NC 28655
828-433-8185
828-433-8559 – Fax

4C.5 UPGRADES TO LANDSCAPING

All additional landscaping proposed for installation following final approval and/or installation of original landscaping must be reviewed and approved by the ACC prior to

installation. Depending on the scope of the work, review fees may be required. All upgrade submittals are to be accompanied by a completed Schedule K, marked for “upgrade review”.

4C.6 FAILURE OF THE ACC TO ACT

If the ACC fails to approve or disapprove any final Landscape Plans and Specifications and other submittals which conform (and which relate to Landscape Improvements which will conform) with the requirements of the Landscape Guidelines and of the Declaration or to reject them as being inadequate or unacceptable within thirty (30) business days after receipt thereof, and provided such submittal was a full and complete submittal, in accordance with the Landscape Guidelines and the Declaration, of all items that were to have been submitted to the ACC, and provided the ACC shall again fail to approve or disapprove of such final Landscape Plans and Specifications and other submittals within ten (10) days after additional written request to act on such items is delivered to the ACC following the passage of such first above-described thirty (30) business day period, it shall be conclusively presumed that the ACC has approved such conforming Landscape Plans and

Specifications and other submittals, EXCEPT that the ACC has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in the Declaration or any Additional Declaration for the Phase in which the Lot is located, and EXCEPT FURTHER, that the ACC shall not be deemed to have waived any of the requirements set forth in Article IX, Section 8, Section 9 or Section 10 of the Declaration or any corresponding provisions in the Guidelines. If final Landscape Plans and Specifications or other submittals are not sufficiently

complete or are otherwise inadequate, the ACC may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance.

4C.7 LOT OWNER RESPONSIBILITY

Although a landscape contractor, Landscape Architect, or landscape designer may prepare the final Landscape Plans and Specifications for a particular Lot on behalf of the Lot Owner, it is the ultimate responsibility of the Lot Owner to review the final Landscape Plans and Specifications for completeness (consistent with the Landscape Guidelines); and it also is the ultimate responsibility of the Lot Owner to ensure the timely

submission of the Landscape Plans and Specifications and related documentation to the ACC for review as contemplated herein. Additionally, each Lot Owner is responsible for making those individuals acting on behalf of such Lot Owner aware of the requirements contained herein relating to the preparation and submittal of the final Landscape Plans and Specifications.

4C.8 FIELD VERIFICATION

Following the approval of final Landscape Plans and Specifications for a Lot and the subsequent installation of Landscape Improvements in accordance with such approved final Landscape Plans and Specifications, the Lot Owner shall so notify the ACC in writing (See Schedule N) and the ACC shall inspect the Landscape Improvements installation for compliance with the approved final Landscape Plans and Specifications. Plant locations, plant species and plant sizes shall be consistent with those shown on the proved final Landscape Plans and Specifications. Plant sizes shall conform to the latest edition of the American Standards For Nursery Stock, published by the American Association of Nurserymen, Inc. If the

Landscape Improvements, as installed, do not conform to the approved Landscape Plans and Specifications, at the sole discretion of the ACC and without limiting any other rights or remedies of the ACC or any other party under the Guidelines or under the Declaration, any assessment in the amount of the plant material deficiency will be applied until the Landscape Improvements installation is brought into conformance with the approved final Landscape Plans and Specifications.

All re-submittals for disapproved installation inspections are to be submitted to the ACC by a completed Schedule L.

PART D: LOT OWNER RESPONSIBILITIES

4D.1 GENERAL

Black Forest protects its intrinsic value as a unique, wooded, lake-front landscape through the establishment of the Protected Lake Buffer Areas. The Protected Lake Buffer Areas are to be preserved by the Lot Owners in accordance with the Lake Buffer Guidelines. Although these Guidelines do not prohibit Protected Lake Buffer Areas from entrance or modification by the Lot Owner, activities are limited and subject to review and approval by one or more associations or regulatory agencies.

4D.2 ADDITIONAL PERMISSIBLE AND NON-PERMISSIBLE ACTIVITIES

4D.2.1 Recreation: The natural habitat preserved in the Lake Buffer Areas is an amenity for the Lot Owners and can be used for walks, nature study and limited children’s play. These areas should be given adequate care to avoid erosion related to children’s play areas.

4D.2.2 Disposal: Disposal into the storm drainage system or on the ground near the Lake Buffer Areas of spent oil, chemicals (household cleaners, paint thinner, etc.), or other solids or liquids with the potential for damage is prohibited.

Approval for construction of Boat Piers must be sought from Duke Power Co. and any part of the pier or access thereto which is located over the Protected Lake Buffer Areas must be reviewed and approved by the ACC. In addition to the specific regulations, the Lot Owner is encouraged to avoid excessive use of fertilizers, pesticides or herbicides, as well as land disturbing activities immediately adjacent to the Lake Buffer Areas.

4D.3 SHORELINE MANAGEMENT

4D.3.1 Environmental Areas: Certain areas of shoreline have been designated by Duke Power Co., in its Shoreline Management Plan, as “Environmental Areas.” These areas, shown on the recorded plats and Settlement Diagrams, contain bottom conditions and submerged or emergent vegetation that provide desirable fish habitat. Placement of docks or piers or other disturbance of these areas is not permitted. Removal of submerged vegetation below the 1200’ contour is not permitted.

4D.3.1 Other Areas of Productive Habitat: Additional areas along the shoreline, called “Shallow Water Habitat Areas,” have been identified as providing desirable habitat but have not been officially designated as Environmental Areas. Piers and docks may be permitted on waterfront lots with shallow water habitat areas along their shoreline, subject to approval by Duke Power Co. and with the following additional restrictions:

- A. Removal of submerged vegetation below the 1200’ contour is not permitted.
- B. Dredging in shallow water habitat areas is not permitted.

4D.4 SHORELINE STRUCTURES

ACC Approval and the Construction Escrow Deposit are required prior to the installation of an individual pier and/or boat slip in Black Forest Community. (See *Dock and Pier Request for Review attached hereto as Schedule O.*)

Subject to approval by Duke Power Co. and compliance with the terms of the Declaration, the Owner of certain Waterfront Lots within Black Forest will be permitted to construct one pier within the pier zone adjacent to said waterfront Lot provided that, in the sole and absolute discretion of the ACC, Duke Power Co. and or any applicable governmental authority, the Waterfront Lot is not located in an area where the narrowness or environmental condition of a cove precludes the construction of a pier with a boat slip. The pier zone will be shown on an individual pier location prepared for each Waterfront Lot by the ACC.

Before planning a pier location, a Lot Owner should obtain a copy of the applicable map identifying the pier zone from the ACC. No Owner shall have the right to construct more than one pier in front of a single Waterfront Lot.

The design, color, location, dimensions and materials of piers, boat slips, pavilions, stabilization methods and any other structure or improvement constructed adjacent to or appurtenant to a Waterfront Lot or otherwise within the boundary of Lake James must conform to design guidelines and be approved in advance in writing by the ACC. It is the Owner’s sole responsibility to obtain any permits or approvals required from Duke Power Co.

All watercraft must be within the recorded pier zone when docked or moored.

4D.5 MAINTENANCE

4D.5.1 Decking and Handrails: Annual pressure washing followed by the application of a water based wood preservative is the most effective procedure in maintaining a wooden deck. Preservative lessens splintering and decay due to exposure to sun and moisture. Washing replenishes the overall appearance of the wood as well as allows the preservative to be applied to a clean surface. Wood polymer or plastic lumber shall be maintained according to manufacturer's recommendations and directions.

4D.5.2 Piers and Boat Slips: Floating structures are susceptible to wind and boat wake damage. Constant movement causes pile guides and other hinged components to wear and mooring cleats, screws and nails to loosen. Squeaking or grinding should be investigated to insure structural damage has not occurred and to avoid warping or heavy splintering. Dock bumpers should be inspected for tears and loose spots due to normal boat docking and mooring.

4D.6 SHORELINE STABILIZATION

Shoreline Stabilization may occur only within designated Pier Zones, as identified on the Non-Recorded Plats, or in areas along the shoreline that are eroded due to heavy wind and wave action, as shown in Appendix A, "Shoreline Stabilization Map." This may be done to prevent further degradation to the shoreline. Additional shoreline stabilization on individual lots may be approved where determined necessary by the ACC. All trees fallen or nearly fallen into the water (Structure Trees) provide valuable habitat for aquatic organisms. In all cases these Structure Trees are

considered protected and must remain in place. Where necessary, Structure Trees may be moved to allow for dock, pier and shoreline stabilization but must be replaced as near to their original position as possible. In no case shall these Structure Trees be permanently removed from the Lake.

ACC Approval and the Construction Escrow Deposit are required prior to the installation of shoreline stabilization within Black Forest Community (See Shoreline Stabilization Request for Review attached hereto as Schedule P).

ALL Shoreline Stabilization must be completely performed by barge from the Lake.

4D.6.1 For waterfront Lots, shoreline stabilization is restricted to a limited number of uniform improvements of low visual impact. The following stabilization methods are allowed:

A. Biological Methods: Low-growing herbaceous plant species (1'-3' high at maturity) that can accept dry conditions and/or shallow water depths. These plants may be placed in combination with netting, grids or any of a variety of other geobinders to provide additional stabilization of the shore. Approved plants for meeting these requirements are:

- Spikerush (*Eleocharis quadrangulata*)
- Arrow Arum (*Peltandra virginica*)
- Softstem Bulrush (*Scirpus validus*)
- Lizard Tail (*Saukurus sagittaria*)

B. Rip Rap or similar quarry stone:

These materials shall be placed in two (2), or a maximum of three (3) layers, generally no more than a total of 14" deep. These materials shall not be placed upland of the 1202' contour.

4D.6.2 Installation of the stabilization methods listed above must occur only from the water side when water levels are low to minimize disturbance of shoreline and buffer areas above the 1202' contour.

4D.6.3 Wooden Bulkhead, Keystone, Allen Block, or similar non-natural methods are not permitted

PART E: MISCELLANEOUS MATTERS

4E.1 DILIGENT CONSTRUCTION

All Homesite Improvements to be constructed on a Lot must be completed within one (1) year following commencement of construction (i.e. commencement of grading) of the first of such Improvements, unless a longer time is approved in writing by the ACC.

All Waterfront Improvements (including Piers and Shoreline Stabilization) shall be completed in a time frame approved by the ACC at final approval of improvements. If Construction activity ceases for a period of thirty (30) days, the area is to be stabilized to the ACC's satisfaction.

4E.2 PURPOSE AND USE OF CONSTRUCTION ESCROW DEPOSIT

The Construction Escrow Deposit that is required to be paid to the ACC by each Lot Owner pursuant to Section 4, Parts A.3.2, B.2 and E.2 herein shall be deposited by the ACC in an escrow account. Any and all interest earned on the Construction Escrow Deposit shall be credited to and retained by the ACC for its sole use and benefit. The Construction Escrow Deposit paid by an Owner may thereafter be used by the ACC for any of the following purposes:

- To pay for the cost to repair any damage to the Roadways or Common Areas in Black Forest caused by the Owner or the Owner's builder or subcontractors and not repaired by the responsible Owner or such Owner's builder or subcontractors.
- To reimburse Crescent Communities NC, LLC for the cost of cleaning up any significant amount of dirt, cement, or debris left by the Owner or by the Owner's builder or subcontractors on any street, if and to the extent such materials and debris are not immediately removed by the Owner or the Owner's builder or subcontractors.
- To complete any Landscape Improvements shown on the approved final Landscape Plans and Specifications for such Owner's Lot, if and to the extent such Landscape Improvements have not been completed within three (3) months after completion of the residence on such Lot.

- To pay for the cost of completing any Improvements so that they are in accordance with the approved final Building Plans and Specifications, if and to the extent the Owner fails to complete such Improvements consistent with the terms of the Guidelines and the Declaration.
- To pay for the cost of restoring or replacing any trees, other vegetation, grades or other natural features improperly removed, altered or destroyed by the Owner in violation of the Guidelines.
- To reimburse Crescent Communities NC, LLC for the Owner's share of street cleaning costs during construction, if the Owner does not pay such amounts to Crescent Communities NC, LLC in a timely manner as specified in the Construction Rules.

In the event the ACC expends sums on the Owner's behalf as provided above in excess of the Owner's Construction Escrow Deposit, the Owner shall pay the excess to the ACC within twenty (20) days of notice thereof.

- To pay for the cost of enforcing any of the Owner's other obligations under the Guidelines or the Declaration.

- To pay any other costs, fines or expenses, which, by the express terms of the Guidelines, may be deducted from the Construction Escrow Deposit.

Except for the reimbursements described in Section 4, Part E.2 above and except for the application of the Construction Escrow Deposit in accordance with the express terms of other provisions in the Guidelines, the ACC shall give an Owner prior notice that the ACC intends to use such Owner's Construction Escrow Deposit for a particular purpose. Such Owner thereafter shall have twenty-four (24) hours from the date of the notice to complete the performance that is required and for which the ACC intended to use such Owner's Construction Escrow Deposit or, if the performance cannot be completed during that time, to begin the performance and to thereafter diligently pursue such performance to completion. Upon the completion of all Improvements and all Landscape Improvements and the performance of all other obligations by an Owner pursuant to the terms of the Guidelines and the Declaration, the ACC shall return to such Owner the unused portion (if any) of such Owner's Construction Escrow Deposit.

All notices given to a Lot Owner or a Lot Owner's Builder will be given in accordance with Section 4, Part E.3 and the attached Schedule C, to be submitted prior to the construction of Improvements on any Lot.

4E.3 NOTICES

Each notice, document or submittal (collectively, “notice”) required or permitted to be given under the Guidelines must be given in compliance with the requirements of this section.

- Each notice shall be in writing.
- Any notice to be given to the ACC shall be deemed to have been duly served and to be effective only when a receipt acknowledging such delivery (such as a registered mail, overnight express service or hand delivery receipt) is signed by a member or authorized representative of the ACC. The address of the ACC for delivery of notices hereunder shall be as follows:

Black Forest on Lake James
Architectural Control Committee
Cathleen Adkins
124 West Union Street
Morganton, NC 28655
828-433-8185
828-433-8559 – Fax

A copy of each notice shall be mailed to Crescent Communities NC, LLC (via certified or registered mail, return receipt requested) at the following address:

Black Forest on Lake James
Notices
Cathleen Adkins
124 West Union Street
Morganton, NC 28655
828-433-8185
828-433-8559 – Fax

- Any notice to be given to an Owner shall be deemed to be duly served when picked up by the Owner (or the Owner’s builder, as the case may be) at the ACC’s office or when delivered to the Owner’s address (or the Owner’s builder’s address, as the case may be) by regular U.S. Mail Service (such delivery being presumed to have occurred on the second (2nd) day following the deposit of such notice by the ACC in the U.S. Mail) or when sent by facsimile to the Owner’s facsimile number (or the Owner’s builder’s facsimile number, as the case may be) such delivery being presumed to have been duly served on the day same is sent by the ACC). The address of an Owner (and facsimile number, if applicable) shall be as set forth in the Owner’s submittal of preliminary Building Plans and Specifications, or, if different, then as set forth in the Owner’s submittal of final Building Plans and Specifications.

- Either the ACC or an Owner may change its address (or facsimile number, as the case may be) for notices hereunder by written notice to the other party designating the new address, such written notice of the changed address (or facsimile number, as the case may be) to be given to the other party in accordance with this Section 4, Part E.3.

4E.4 SEPTIC SYSTEM INSTALLATION AND MAINTENANCE: GENERAL

The method of residential waste disposal at Black Forest is individual on-site septic systems. Each Lot will have an individual septic disposal system designed specifically for that Lot. The type of system and designated placement within the Lot have been predetermined by a North Carolina registered soil scientist (the “soil scientist”) along with the McDowell County Department of Environmental Health. Each Lot has a planned initial primary system and a designated area for a repair system of equal size to the initial primary system.

Some sites will utilize a gravity method of sewage disposal to their drainfield areas, while others may utilize an effluent pump system to “lift” the wastewater to the specific drainfield area for

disposal. The Owner(s) of each lot shall be responsible for becoming familiar with their system and its location. The Lot Owner shall always use “best efforts” to protect and extend the life of their system by employing good household habits as suggested within the contents of the separately issued document titled “Black Forest Septic System Information for Builders and Lot Owners.”

The builder shall contract with a reputable septic system contractor that is authorized by McDowell County Health Department to do business in McDowell County. A current “Featured Installer” list is available from Tri-County Wastewater Management of certified installers trained in the rigid specifications required at Black Forest. Specifications for the installation of septic systems are detailed under the separate cover “Black Forest Septic System Installation Specifications” as issued to the builders by Black Forest. These specifications exceed the minimum requirements set forth by the state rules and regulations. Periodic inspections are required by both McDowell County Health Department and Tri-County Wastewater Management. Details on these inspections can be found in the aforementioned separate cover.

4E.5 INSTALLATION AND MAINTENANCE PROGRAM

An installation and maintenance program has been implemented by Crescent Communities NC, LLC to ensure a proper septic system environment. Nathan Hall RS/REHS of Nebo, NC, is the management company overseeing the septic program for Black Forest and will also perform maintenance of the septic systems under a maintenance plan administered by Black Forest Owners Association. Additional information concerning any issue of construction affecting the septic system can be received by contacting:

Nathan Hall RS/REHS
130 Old NC 105
Nebo, NC 28761
(828) 430-5430

Specifications for the installation of septic systems are detailed under the separate cover “Black Forest Septic System Installation and Landscape Specifications”. Details of the maintenance program can be found under separate cover entitled “Black Forest Septic System Information for Builders and Lot Owners”.

4E.6 REQUIRED PRACTICES

The septic drain fields (the “Septic Areas”) of each Lot in Black Forest have been reviewed and the location predetermined by a soil scientist and McDowell County Health Department in a Preliminary Septic Permit for each lot. These drain fields are sensitive to pedestrian and vehicular traffic, and must be protected from such activity to ensure the proper performance of the system. Misuse of this area may compact the soil of the drain field, thereby inhibiting the viability and permanently damaging the on-site septic system.

Black Forest Owner’s Association and the ACC require the following in regard to the Septic Area:

1. Prior to Commencement of Construction, All Septic Areas are to be wrapped with blaze-orange barrier fencing.

2. Clearing of the Septic Area should be carried out by, or under the direction of a septic installer. Septic areas may not be cleared when the ground is saturated and/or during times of precipitation.
3. Storage of any kind of materials within the Septic Areas is absolutely prohibited.
4. Under no circumstances whatsoever may vehicular or pedestrian traffic traverse, infiltrate, or otherwise utilize the Septic Area.

The Owner’s Association may, in their sole discretion, levy fines or other penalties as may be deemed necessary, for failure to abide by the provisions contained within this Section 4, Part E.6.

4E.6 MISCELLANEOUS REQUEST SCHEDULES

Occasionally property owners have construction, landscaping and other property requests that are not addressed in these Development Guidelines. Schedule Q – Miscellaneous Request Schedule, is used to define these requests for consideration.

PART F: CONSTRUCTION RULES

4F.1. Applicability.

These construction rules (collectively the “Construction Rules”) shall apply to all Lot Owners and their builders, and any reference herein to an Owner shall also apply to the Owner’s builder and subcontractors. All Owners shall abide by the Construction Rules and such other rules as the Board and/or the ACC may establish from time to time.

4F.2. Construction Hours and Noise.

All construction activities must be conducted and all deliveries must be made from 7:00 a.m. until 8:00 p.m. Monday through Saturday; provided, however, no construction activities shall be conducted and no deliveries shall be made on July 4, Labor Day, Thanksgiving Day, Christmas Day or New Years Day. Additionally, construction activities are permitted on Sundays, but such activities shall be performed in a manner as to be considered “low impact” by the ACC in its sole discretion; excessive noise and the use of heavy equipment shall be prohibited on Sundays. No loud radios or distracting noise (other than normal construction noise) will be allowed within the community during construction. This is distracting to Lot Owners. Normal radio levels are acceptable within the interior of fully enclosed homes. Radio and stereo speakers shall not be mounted on vehicles or outside of homes under construction.

4F.3. Rubbish and Debris.

In order to maintain a neat and orderly appearance at all times throughout Black Forest, the following rubbish and debris rules must be strictly followed:

(a) Interior Construction Debris. All parties are strongly encouraged to frequently clean up and remove rubbish and construction debris located within the walls of a residence that is under construction.

(b) Exterior Construction Debris. With regard to all construction debris located on a Lot outside the walls of a residence that is under construction, the following rules shall apply:

(1) At the end of each day on which work occurs on the Lot, all lightweight, blowable construction debris, such as roofing paper, insulation bags, foam sheathing, polyethylene, etc., must be placed in a silt fence pen or other approved containment device on the Lot; and

(2) At the end of the day on each Friday, all non-blowable construction debris, such as wood scraps, shingles, brick bands, drywall, bricks and masonry blocks, must be gathered into neat piles.

(3) During the last three (3) days of every month, all debris must be taken off the Lot and out of Black Forest, leaving the pens and the Lot free of all debris.

(c) No Burning or Burial. Burning or burial of construction debris or vegetation is prohibited.

4F.4. Excess Natural Materials.

Excess plant matter, rock, topsoil and similar materials must be offered first to Crescent Communities NC, LLC prior to their removal from Black Forest, and no such materials may be removed from Black Forest without the prior approval of Crescent Communities NC, LLC.

4F.5. Street Cleaning.

Crescent Communities NC, LLC shall have the right, without notice, to clean up any significant amount of dirt, gravel, cement, etc., left on any street if the same is not immediately removed by the responsible Owner, to charge the cost of such clean up to the responsible Owner and to receive reimbursement for the expense of such clean up from the responsible Owner. Approximately once each week near the end of the week, Crescent Communities NC, LLC will engage a street cleaning service to clean the streets in Black Forest of normal construction dirt, mud, and gravel. Crescent Communities NC, LLC shall pay for twenty-five percent (25%) of the cost of such service. The Owners who are constructing homes in Black Forest at the time such services are rendered shall pay for the remaining seventy-five percent (75%) of the cost, in accordance with the following formula:

A particular Owner’s pro-rata share of street cleaning costs shall be determined by multiplying the total cost of the service times (a) .75 and (b) a fraction, the denominator of which is the total number of houses in Black Forest that have been under construction for six (6) months or less, and the numerator of which is the number of houses in Black Forest that such Owner has had under construction for six (6) months or less. The intent of this formula is to ensure that each house under construction bears its fair share of the street cleaning costs for the first six (6) months it is under construction, but not thereafter. Invoices from Crescent Communities NC, LLC for reimbursement of the street cleaning costs must be paid within thirty (30) days.

4F.6. Silt Fences.

Silt fences and/or other devices for sedimentation control shall be installed where necessary or as directed by the ACC, and as shown on the approved erosion control plan. Silt fences on rear of lots contiguous to the waterfront must be of the reinforced wire mesh type with steel poles for support. All silt fences must have steel pole support.

4F.7. Material Storage.

No construction materials, equipment or debris of any kind may be stored on any street, trail, any adjacent Lots or other than in the locations approved by the ACC.

4F.8. Trailers.

No construction office trailers may be placed, erected or allowed to remain on any Lot or in any other area in Black Forest, except as approved in writing by the ACC.

4F.9. Construction Access.

During the time a residence or other Improvements are being built, all construction access shall be confined to the approved driveway for the Lot, unless the ACC approves an alternate access way.

4F.10. Gravel Drives.

Prior to the commencement of construction on a Lot, the Owner of such Lot or such Owner's Contractor shall provide at the approved driveway location a gravel drive from the paved street

toward the house under construction, for a distance approved by the ACC. The ACC approved pipe crossing must also be installed at this point of construction. (See Section 2.3.1)

4F.11. Parking.

All vehicles must be parked so as not to impede traffic or damage vegetation. No vehicles (trucks, vans, cars, trailers, construction equipment, etc.) may be left parked on any streets within Black Forest overnight. Construction vehicles may be left on the gravel drive of a Lot overnight only if additional use of the vehicle will be made within the following three (3) days. Subcontractors are to be instructed to park within the Lot only.

4F.12. Miscellaneous Practices.

The following practices are prohibited at Black Forest:

- (a) Changing oil of any vehicle or equipment;
- (b) The washing or cleaning of any concrete trucks or equipment other than within the cleaning areas approved by the ACC for a Lot, or at other locations, if any, designated for that purpose by the ACC;
- (c) Careless disposition of cigarettes and other flammable material;

(d) Carrying and/or discharging any type of firearms, except by law enforcement officials and security personnel authorized in writing by Crescent Communities NC, LLC;

(e) Operators of vehicles are required to use due care to ensure that they do not spill any damaging materials while within Black Forest. If spillage does occur, it is the responsibility of the operator of the vehicle to properly clean up the spill. Any such clean up operations completed by Black Forest's personnel will be charged to the responsible party. Any spills must be reported to the ACC and Crescent Communities NC, LLC in writing as soon as possible.

4F.13. Pets.

Builder and contractor personnel may not bring pets into Black Forest.

4F.14. Common Areas.

Except with the prior written permission of the ACC, builder and contractor personnel are not allowed in the Common Areas, and no construction access will be allowed across the Common Areas.

4F.15. Accidents.

Crescent Communities NC, LLC and the ACC shall be notified immediately of any accidents, injuries or other emergency occurrences.

4F.16. Portable Chemical Toilets.

An enclosed and regularly serviced portable chemical toilet must be provided for at least every two homes under construction and must be located in as inconspicuous a location as possible.

4F.17. Signs.

Building permits and the ACC approved builder sign are the only two signs or documentation that may be posted at a residence or on a Lot during construction. Business signs or other forms of advertisement are not permitted. Building permits are to be attached to a post in a manner protected from the elements; and, in no event may building permits or any other signage or documentation be attached to existing trees.

4F.18. Property Damage.

Any damage to streets, drainage inlets, water meters or boxes, street lights, street markers, walls, fences, landscaping, etc. may be repaired by Crescent Communities NC, LLC and the cost of such repairs will be billed to the responsible Owner. If not paid promptly, the repair cost will be assessed as a special individual assessment. If any telephone, cable TV, electrical, water or other utility lines are cut, it is the responsible party's obligation to report such an accident within thirty (30) minutes to the appropriate utility company.

4F.19. Septic Areas.

All septic areas shall be wrapped with Blaze-Orange Barrier Fencing to prevent access to the area, and to protect it from compaction by construction traffic. This fence is required to be maintained at all times, including after installation of the septic system, until the lot has been landscaped and all other related construction completed.

4F.20. General Builder Responsibilities.

Builders are encouraged to maintain strict control over subcontractors to minimize soil and mud build-up in streets. Builders are advised to educate employees and subcontractors as to the location of the Lake Buffer Areas, the restrictions applicable to the Lake Buffer Areas and the ramifications for violation of the Lake Buffer Guidelines (i.e., fines). Planning construction with erosion control measures and Lake Buffer Guidelines specifically in mind will be crucial to the success of each builder in Black Forest. Where the Builder desires to modify the vegetation in the Lake Buffer Area or construct pathways or shoreline stabilization in the Lake Buffer Area, a Lake Buffer Plan must be first submitted to the ACC for approval prior to construction. In addition to protecting the Lake Buffer Areas and controlling erosion, builders are encouraged to develop construction phasing and strategies that preserve natural wooded areas wherever possible and which minimize Lot grading and disturbance. Alignment of utilities and access should be planned to minimize the cutting of protected trees.

4F.21. Speed Limit.

The established speed limit within Black Forest community is twenty-five miles per hour (25 mph) for all vehicles at all times.

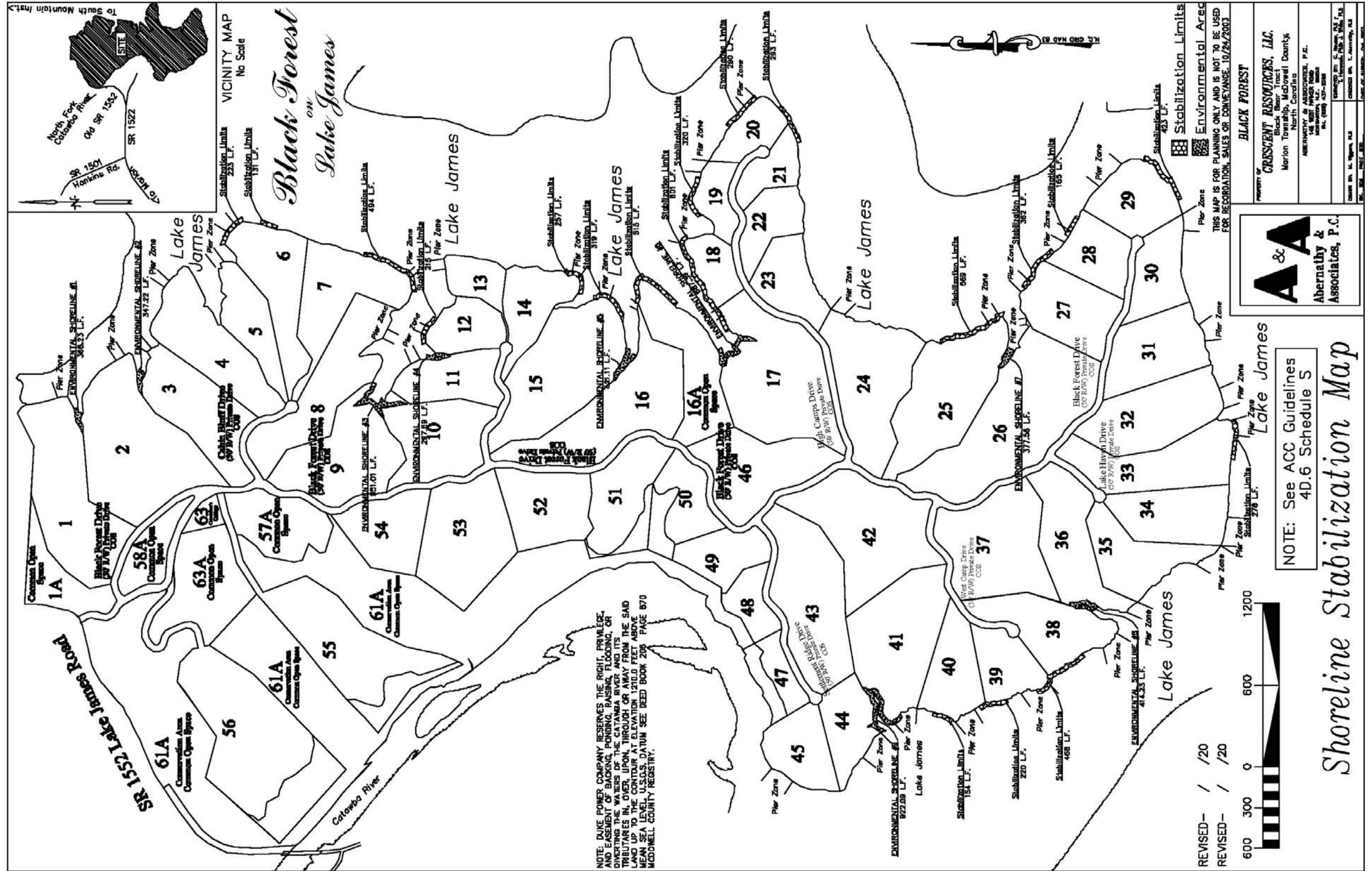
4F.22. Failure to abide.

Failure of a builder or contractor to abide by any of the Construction Rules may result in the loss of such builder's or contractor's privilege to enter Black Forest on a temporary or permanent basis, or a fine, the amount being Crescent Communities NC, LLC's discretion, may be levied for infractions and failure to abide.

Builders are encouraged to be guardians against:

- Excessive trash build-up and/or disposal on the project either on Lots or in Common Areas;
- Changing of oil, maintenance of equipment, or disposal of chemicals or paints resulting in spills on the Lots or into the storm drainage system for Black Forest;
- Use of excessive amounts of fertilizer or herbicides on seeded areas;
- Destruction or modification of any part of the permanent storm drainage system for Black Forest;
- Un-permitted shoreline modification;
- Unauthorized disturbance of any Lake Buffer Areas;
- Improper use of, or disregard for, septic drainfield areas.

SHORELINE STABILIZATION MAP



NOTE: See ACC Guidelines 4D.6 Schedule S

Shoreline Stabilization Map

PROPERTY OF
CROSCENT RESOURCES, LLC.
 Black Forest tract
 Marion Town, McDowell County,
 North Carolina
 ABERNATHY & ASSOCIATES, P.C.
 100 WEST AVENUE ROAD
 WASHINGTON, N.C. 27581
 TEL: (919) 437-0200
 LICENSED IN N.C. UNDER NO. 22,174
 LICENSED IN VA UNDER NO. 114
 LICENSED IN S.C. UNDER NO. 100
 LICENSED IN GA UNDER NO. 100

APPENDIX B

RECOMMENDED/APPROVED PLANT LIST

SMALL/ORNAMENTAL TREES

Using native or regionally adapted plant material is beneficial in many ways. These plants thrive with little specialized care, require significantly less irrigation and visually fit into the setting.

The plants listed here are usually readily available from commercial and retail growers.

Organized by type and size, the list is a combination of native and non-native, but regionally adapted and appropriate species.

However, this is by no means an exhaustive list, especially of native species. Many smaller-scale, local growers specialize in native material that may not usually be offered by large commercial nurseries.

Common Name	Latin Name	Type	Exposure	Special Characteristics
Serviceberry	Amelanchier arborea	D	FS/PS	Pink Spring Bloom Red or Yellow Fall Color
American Hornbeam	Carpinus Carolina	D	PS/Sh	
Chinquapin	Castanea pumila	D	FS/Sh	
Eastern Redbud	Cercis Canadensis	D	FS/Sh	Pink Spring Bloom Yellow Fall Color
Fringetree	Chionanthus virginics	D	FSh/PS	Fragrant White Spring Bloom Yellow Fall Color
Flowering Dogwood	Flowering Dogwood	D	PS/Sh	White Spring Bloom Red Fall Color
Washington Hawthorn	Crataegus phaenopyrum	D	FS/PS	White Spring Bloom Orange or Scarlet Fall Color
Persimmon	Diospyros virginiana	D	FS/PS	
Carolina Silverbell	Halesia carolina	D	FS/Sh	White Spring Bloom Yellow Fall Color
*Common Witch-hazel	Hammamelis virginiana	D	FS/Sh	Yellow Fall Bloom Yellow Fall Color
American Holly	Ilex opaca	E	FS/Sh	
Bigleaf Magnolia	Magnolia macrophylla	D	FS/PSH	White Bloom in June
Umbrella Tree	Magnolia tripetala	D	FS/PS	White Bloom in May
Hop-Hornbeam	Ostrya virginiana	D	PS/Sh	
Sourwood	Oxydendrum arboreum	D	FS/Sh	Red Fall Color
Pistachio	Pistacia chinensis	D	FS	Red Fall Color
American Plum	Prunus americana	D	FS/PS	Pink Sprig Bloom
Common Sassafras	Sassafras albidum	D	FS/PS	Red Fall Color
Mountain Ash	Sorbus aucuparia	D	FS	White Spring Bloom Dull Red Fall Color
Southern Blackhaw Virburnum	Viburnum rufidulum	D	FS/Sh	White Summer Bloom Burgundy Fall Color

* Denotes a plant that may be browsed by deer. • Native Plant Material is indicated by **Bold Print**.

LARGE TREES

Common Name	Latin Name	Type	Exposure	Special Characteristics
Red Maple	Acer rubrum	D	FS/Sh	Red Fall Color
Sugar Maple	Acer saccharum	D	FS/Sh	Yellow to Orange Fall Color
Yellow Buckeye	Aesculus flava	D	FS/PS	
Yellow Birch	Betula alleghanienses	D	FS/PS	
Sweet Birch	Betula lenta	D	FS/PS	
River Birch	Betula nigra	D	FS/PS	Yellow Fall Color
European Hornbeam	Carpinus betulus	D	FS/PSh	Yellow Fall Color
Bitternut Hickory	Carya cordiformis	D	FS/Sh	
Pignut Hickory	Carya glabra	D	FS/Sh	
Yellowwood	Cladrastis lutea	D	FS/PS	Fragrant White Summer Bloom, Yellow Fall Color
Deodar Cedar	Cedrus deodara	E	FS/PSh	
Cedar of Lebanon	Cedrus libani	E	FS	
Sugar Hackberry	Celtis laevigata	D	FS/PSh	Dull Yellow Fall Color
Common Hackberry	Celtis occidentalis	D	FS	
Beech	Fagus grandifolia	D	FS/Sh	
Thornless Honeylocust	Gleditsia triacanthos inermis	D	FS	Yellow Fall Color
Eastern Red Cedar	Juniperus virginiana	E	FS/PSh	
Sweet Gum	Liquidambar styraciflua	D	FS/PSh	Yellow Fall Color
Tulip Tree	Liriodendron tulipifera	D	FS/PS	Yellow Spring Bloom Yellow Fall Color
Cucumber Tree	Magnolia acuminata	D	PS/Sh	Red Fall Fruit

* Denotes a plant that may be browsed by deer. • Native Plant Material is indicated by **Bold Print**.

LARGE TREES - CONTINUED

Common Name	Latin Name	Type	Exposure	Special Characteristics
Black Tupelo	Nyssa sylvatica	D	FS/Sh	
Sycamore	Plaanus occidentalis	D	FS/PS	
Red Spruce	Picea rubens	D	FS/Sh	
Sawtooth Oak	Quercus acutissima	D	FS/PSh	
White Oak	Quercus alba	D	FS/PS	
Scarlet Oak	Quercus coccinea	D	FS	Red Fall Color
Chestnut Oak	Quercus montana	D	FS/PS	
Red Oak	Quercus rubra	D	FS/PS	
Post Oak	Quercus stellata	D	FS/PS	
White Pine	Pinus strobus	E	FS	
Scotch Pine	Pinus sylvestris	E	FS	
Japanese Black Pine	Pinus thunbergiana	E	FS	
American Linden	Tilia americana	D	FS/Sh	Fragrant Yellow Bloom in May, Yellow Fall Color
Littleleaf Linden	Tilia cordata	D	FS/PSh	Fragrant Yellow Bloom in May
Canadian Hemlock	Tsuga canadensis	E	FS/Sh	
Carolina Hemlock	Tsuga caroliniana	E	FS/Sh	

* Denotes a plant that may be browsed by deer. • Native Plant Material is indicated by **Bold Print**.

LOW-GROWING SHRUBS (MATURE HEIGHT UNDER 4')

Common Name	Latin Name	Type	Exposure	Special Characteristics
Beautyberry	Callicarpa dichotoma	D	FS/Sh	Purple Fall Berries
New Jersey Tea	Ceanothus americanus	D	FS/PS	
Japanese Flowering Quince	Chaenomeles japonica	D	FS/Sh	White, Pink, Red or Orange Spring Bloom
Winter Jasmine	Jasminum nudiflorum	D	FS/PSH	Fragrant Yellow Winter Bloom
Snowhill Hydrangea	Hydrangea aborescens	D	FS/PS	White Summer Bloom
St. John's Wort	Hypericum prolificum	D	FS	Yellow Summer Bloom
Drooping Leucothoe	Leucothoe fontanesiana	E	FS/PS	
Carolina Rose	Rosa carolina	D	FS/PS	
*Lowbush Blueberry	Baccinium pallidum	D	FS/PS	
Maple-leaf Viburnum	Ciborium acerifolium	D	FS	White Summer Bloom

MEDIUM-GROWING SHRUBS (MATURE HEIGHT 4' - 10')

Common Name	Latin Name	Type	Exposure	Special Characteristics
Abelia	Abelia x grandiflora	E	FS/Sh	Pink or White Summer Bloom
Red Chokeberry	Aronia arbutifolia	D	FS/PS	
Black Chokeberry	Aronia melanocarpa	D	FS/PS	
Mollis Azalea	Azalea molle hybrida	D	PS/Sh	White, Yellow, Pink & Red Spring Bloom
Butterfly-Bush	Buddleja davidii	D	FS	White, Pink, Red or Purple Summer Bloom
American Beautyberry	Callicarpa americana	D	PS/PSH	Purple Summer Bloom & Fall Berries
Sweetshrub	Calycanthus floridus	D	PS/Sh	Fragrant Red Spring Bloom Yellow Fall Color
Flowering Quince	Chaenomeles speciosa	D	FS/PSH	White, Pink & Red Spring Bloom
*Hearts-a-Bustin' or Strawberry Bush	Euonymus americanus	D	PS/Sh	Red Fall Seed Pods, Color

* Denotes a plant that may be browsed by deer. • Native Plant Material is indicated by **Bold Print**.

MEDIUM-GROWING SHRUBS (MATURE HEIGHT 4' - 10', CONTINUED)

Common Name	Latin Name	Type	Exposure	Special Characteristics
Large Fothergilla	Fothergilla major	D	FS/PS	Yellow Fall Color
Dense Hypericum	Hypericum densiflorum	D	FS/PS	Yellow Summer Bloom
Common Winterberry	Ilex verticillata	D	FS/Sh	Red Winter Berries
Virginia Sweetspire	Itea virginica	D	FS/Sh	
Mountain Laurel	Mountain Laurel	E	PS/Sh	White, Pink & Red Spring Bloom
Kerria	Kerria japonica	D	FS/PSh	Yellow Spring Bloom Yellow Fall Color
Florida Leucothoe	Leucothoe populifolia	E	PSh/FSh	Pretty with Rhododendron & Mountain Laurel
Spicebush	Lindera benzoin	D	PS/Sh	
Winter Honeysuckle	Lonicera fragrantissima	D	FS/PS	Fragrant White Winter Bloom
Mountain Andromeda	Pieris floribunda	E	PSh/FSh	White Spring Bloom
Sweet Azalea	Rhododendron aborescens	D	PS/Sh	White, Pink & Lavender Spring Bloom
Flame Azalea	Rholodendron calendulaceum	D	PS/Sh	Orange Spring Bloom
Carolina Rhododendron	Rholodendron carolinianum	E	PSh/Sh	White & Pink Spring Bloom
Mountain Rosebay	Rhododendron catawbiense	E	FSh/Sh	White, Pink & Lavender Spring Bloom
Hybrid Rhododendron	Rhododendron hybrida	E	PS/PSh	White, Pink, Red, Lavender & Purple Spring Bloom
Pinxterbloom Azalea	Rhododendron periclymenoides	D	PSh	Fragrant Pink & White Bloom
Plumleaf Azalea	Rhododendron prunifolium	D	PS/PS	Red Summer Bloom

* Denotes a plant that may be browsed by deer. • Native Plant Material is indicated by **Bold Print**.

LARGE-GROWING SHRUBS (MATURE HEIGHT OVER 10')

Common Name	Latin Name	Type	Exposure	Special Characteristics
Possumhaw	Ilex decidua	D	FS/PSh	Yellow Fall Color & Red Winter Berries
Mountain Winterberry	Ilex montana	D	FS/PS	Red Winter Berries
Mock Orange	Philadelphus inodorus	D	FS/PS	
Rosebay Rhododendron	Rhododendron maximum	E	PS/Sh	White, Pink & Lavender Spring Bloom
Smooth Sumac	Rhus glabra	D	FS/PS	Red Fall Color
Arrowwood	Virburnum dentatum	D	FS/PS	
Chaste-Tree	Vitex agnus-castus	D	FS/PSh	White, Pink or Violet Summer Bloom

VINES

Common Name	Latin Name	Type	Exposure	Special Characteristics
Dutchman's Pipe	Aristolochia macrophylla	D	FS/Sh	
Crossvine	Bignonia capreolata	E	FS/PS	Purple-red Fall/Winter Color
Trumpet Creeper	Campsis radicans	D	FS/PS	Orange-red Summer Bloom
Virgin's Bower	Clematis radicans	D	FS/Sh	White Summer Bloom Purple Fall Color
Climbing Hydrangea	Hydrangea anomala petiolaris	D	FS/PS	White May Bloom Yellow Fall Color
Virginia Creeper	Parthenocissus quinquefolia	D	FS/Sh	Red Fall Color
Passion Flower, Maypop	Passiflora incarnata	D	FS/PS	Purple Summer Flower, Edible Fruit
Fiveleaf Akebia	Akebia quinata	E	FS/PS	Purple Winter Color
Carolina Jessamine	Gelsemium sempervirens	E	FS/Sh	Yellow Spring Bloom
Smilax	Smilax lanceolata	E	FS/Sh	Red Fall/Winter Berries

* Denotes a plant that may be browsed by deer. • Native Plant Material is indicated by **Bold Print**.

DESIGN GUIDELINE DEFINITIONS

1. Ancillary Structures: Ancillary Structures provide specialized places for functions and activities not accommodated in the Main Cottage or Secondary Cottages. These may include arbors, pavilions, gazebos, potting sheds, storage sheds, tree houses, gates, playhouses, etc. They are to be subordinate to the Main Cottage and Secondary Cottages in mass, scale and level of detail while maintaining a similar or compatible architectural character. While utilizing similar materials, these structures should offer opportunities for more rustic and whimsical designs.

2. Building Plans: The technical drawings or blueprints for the construction of a specific structure or appurtenances and related improvements. These include plans for structures, structural landscape improvements and paving.

3. Disturbed Area: An area that has been altered from its natural state due to activities such as clearing, grading, construction or repeated/heavy foot traffic.

4. Exterior Lighting: Exterior Lighting is the minimal illumination of elements in the landscape such as paths, drives and entry areas to provide for security, safety and emergency access. Design concepts should include energy efficient sources and systems utilizing Low Glare fixtures, downward directed light sources and minimized light levels, light spill and light pollution.

5. Homestead: A Homestead is the historic model for architectural massing, building arrangement and site development for Lots within Black Forest. Traditionally, Homesteads consisted of a collection

of structures, each with its own function, proximity and relationship to a primary structure and the given terrain, lending a “rambling” quality to the overall organization.

6. Impervious Surface: Any surface in the landscape through which water does not easily pass or is not easily absorbed. Impervious surface specifically includes all roofed structures; paving materials such as brick, concrete, asphalt, gravel or stone; swimming pool walls; and patios and terraces. Impervious surface does not include landscaping, furniture, or play equipment; slatted, raised decking, catwalks, boardwalks or grating, or the surface water area of swimming pools.

7. Landscape Improvements: Living trees, shrubs and groundcovers, as well as other exterior elements such as site walls, pathways, patios, terraces, arbors, trellises, fountains, ponds and fencing that are installed or built for the purpose of enhancing the aesthetic value or wildlife habitat of the land.

8. Main Cottage: The Main Cottage is the primary structure or gathering place within a Homestead. In mass and scale, it is usually the largest building, positioned as the “heart” of the settlement in both location and function.

9. Percent of Impervious Cover: The sum of the square footage, in plan view, of impervious surfaces, including all structures, roads, parking areas, hard-surface patios and walks or other constructed features, divided by the total square footage of the Lot.

10. Pier Zones: On some lots, locations identified on the Recorded Plat within which a pier may be built.

11. Recommended Building Envelopes: Recommended Building Envelopes, shown on non-recordable plats and Site Illustration Diagrams, define the general areas within each Lot where all structures and most site disturbance and impervious surfaces may occur.

12. Secondary Cottage: Secondary Cottages provide specialized places for functions and activities not accommodated in the Main Cottage. These may include guest cottages, cabins, and studios. They are to be subordinate to the Main Cottage in mass, scale and level of detail while maintaining a similar or compatible architectural character. While utilizing similar materials, these structures should offer opportunities for more rustic and whimsical designs.

13. Specifications: A detailed description of the scope of work of a construction project and the quality and quantity of materials to be used. The specifications should also clearly indicate how the work will be carried out and what the final appearance will be. The specifications should form part of the contract.

14. Sustainability: As defined by the World Commission on Environment and Development in 1987: “Sustainable building attempts to consider the environmental, economic, and social impacts of a construction project as an integrated whole rather than looking at these areas individually. Building sustainably means using building methods and materials that promote

environmental quality, economic vitality, and social benefit through the design, construction, operation, maintenance, and deconstruction of the built environment. Some features of sustainable buildings typically noticeable to end users include the integration of natural daylight for lighting purposes, high indoor environmental air quality, and reduced utility bills. Sustainable features that may not be noticeable include use of finishes and materials low in volatile organic compounds that improve indoor air quality; increased productivity of building occupants due to healthier workplaces; reduced impact of building construction on the environment through careful construction planning; use of locally produced materials to support the local economy; and enhanced social interaction through community involvement in building planning and operation.”

15. Trail Easements: On some lots, easements identified on the Recorded Plat and Site Illustration Diagrams within which trails may be created.

16. Viewshed: “The total landscape seen, or potentially seen from all or a logical part of a travel route, use area, or water body.” From the US Forestry Service “Draft Environmental Impact Statements” for National Forests.

17. Viewshed Zones: Three Viewshed Zones have been created to protect the existing visual character of the tree canopy as seen from the lake. Measured from the 1200' lake edge contour, the zones are the Critical Viewshed Zone from 0' to 250', the Protected Viewshed Zone from 250' to 500' and the Low Impact Viewshed Zone at greater than 500'.



LAKE JAMES

BLACK FOREST
ON LAKE JAMES



Crescent Communities on Lake James

Visit us at 124 West Union Street, Morganton, NC 28655

Or call us for more information about our communities.

LAKEJAMES.COM • 800-943-2018



Some of the subdivisions at Lake James are registered with the office of the Interstate Land Sales Registration of the US Department of Housing and Urban Development. Obtain the property report required by federal law and read it before signing.