



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: July 22, 2019
Comment Deadline: August 20, 2019
Corps Action ID Number: SAW-2015-02579

The Wilmington District, US Army Corps of Engineers (Corps) received information from the North Carolina Department of Transportation (NCDOT) regarding a potential future requirement for Department of the Army (DA) authorization to discharge dredged or fill material into waters of the United States, associated with the proposed widening of NC 49 (University City Boulevard) from John Kirk Drive to I-485. The project will also realign SR 2827 (Back Creek Church Road (BCCR)) to intersect with NC 49 at SR 2833 (Mallard Creek Church Road). The current at-grade intersection of BCCR and North Carolina Railroad (NCRR)/Norfolk Southern Railroad (NS) just south of NC 49 will be closed in conjunction with these improvements. The project is included in the draft 2020-2029 NCDOT State Transportation Improvement Program (STIP) as project number U-5768. Two (2) build alternatives and the No Build alternative are being considered at this time. The project is located in Mecklenburg County, North Carolina.

Proposed impacts to waters of the U.S. for the two (2) build alternatives range from: Alternative 1 (Yellow): 0.8 acres of wetlands and 2,740 linear feet of stream channel; and Alternative 2 (Purple): 1.9 acres of wetlands and 2,340 linear feet of stream channel. Descriptions of these alternatives are found within the Project Description section. These impact estimates were calculated based on functional roadway design slope stake limits plus 40 feet. Figures 2 and 3 show anticipated impacts to streams and wetlands.

Specific alignment alternatives and location information are described below on the attached plans, Figures 1-3. This Public Notice and all attached plans are also available on the Wilmington District Web Site at:

<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

Applicant: North Carolina Department of Transportation (NCDOT)
Project Management Unit
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Authority

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

- Section 404 of the Clean Water Act (33 U.S.C. 1344)
- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

To more fully integrate Section 404 permit requirements with the National Environmental Policy Act of 1969, and to determine the project is not contrary to the public interest and complies with the 404(b)(1) Guidelines, the Corps is soliciting public comment on the merits of this proposal and on the alternatives being considered.

At the close of this comment period, the District Commander will evaluate and consider the comments received, as well as the expected adverse and beneficial effects of the proposed road construction, to select the least environmentally damaging practicable alternative (LEDPA). The District Commander is not authorizing construction of the proposed project at this time. A final DA permit may be issued only after our review process is complete, impacts to the aquatic environment have been minimized to the maximum extent practicable, and a compensatory mitigation plan for unavoidable impacts has been approved.

Location

Location Description: The proposed project is located in northeastern Mecklenburg County, west of the intersection of I-485 and NC 49, University City Boulevard, within the city limits of Charlotte. The study area boundary for this project encompasses the proposed transportation improvements (Figure 1).

Nearest Town: Charlotte

River Basin: Yadkin-Pee Dee

Nearest Waterway: Back Creek

Latitude and Longitude: 35.3089 N, -80.7187 W

Existing Site Conditions

Mecklenburg County is located within the Piedmont region of central North Carolina. NC 49 in this area is characterized by educational, commercial, and high-density residential land uses. Along BCCR, there are high density development, some forested areas, and low-density residential uses throughout the corridor. Development is increasing throughout the BCCR corridor.

Existing NC 49 varies from two to four lanes with a raised median along some portions of the project corridor. There is currently no control-of-access along the facilities in the study area, which limits the level of mobility and travel speeds through the corridor due to numerous driveways for residences and businesses on both sides of the road.

Applicant's Stated Purpose

The purpose of the proposed project is to reduce traffic congestion, improve traffic flow, and enhance traffic operations on NC 49. Other purposes are to improve safety and enhance train and vehicle operations. Secondary purposes include:

- Achieve an overall Level of Service (LOS) D for intersections along the project corridor in the design year (2040).
- Maintain network connectivity from within the existing road network.
- Safely accommodate multi-modal uses of the corridor.

Project Description

NCDOT, in coordination with the Charlotte Department of Transportation (CDOT), proposes widening NC 49 (University City Boulevard) from John Kirk Drive to I-485. The project will also realign BCCR to intersect with NC 49 at SR 2833 (Mallard Creek Church Road). The current at-grade intersection of BCCR and NCR/ NS just south of NC 49 will be closed in conjunction with these improvements. These improvements are included in the 2018-2027 North Carolina State Transportation Improvement Program as Project No. U-5768.

Detailed Study Alternatives (DSA)

On July 19, 2018, the Merger Team reached concurrence to carry the following alternatives forward for detailed study:

- Alternative 1 (Yellow Alternative): Best-fit widening on NC 49 and relocation of BCCR from south of Back Creek to the intersection of NC 49 and Mallard Creek Church Road using the railroad bridge constructed as part of STIP Project P-5208. The project also includes traffic flow and connectivity improvements to Old Concord Road (SR 2939) and Thomas Combs Drive (two quadrant roadways are proposed) and closure of the existing at-grade railroad crossing on existing BCCR.
- Alternative 2 (Purple Alternative): Best-fit widening on NC 49 and relocation of BCCR from just north of Back Creek to the intersection of NC 49 and Mallard Creek Church Road using the railroad bridge constructed as part of STIP Project P-5208. The project also includes traffic flow and connectivity improvements to Old Concord Road (SR 2939) and Thomas Combs Drive (two quadrant roadways are proposed) and closure of the existing at-grade railroad crossing on existing BCCR.

- In addition to the Build Alternatives (i.e., Detailed Study Alternatives, or DSAs), a No-Build Alternative is also being considered as a baseline against which the benefits, costs, and impacts of the Build Alternatives can be compared. NCDOT has preliminarily determined that the No-Build Alternative would not meet the project's purpose and need.

Avoidance and Minimization

Through development of the functional designs of the Detailed Study Alternatives (DSA's), NCDOT has attempted to avoid or minimize impacts to streams and wetlands to the greatest practicable extent. This included developing alignments and intersection configurations for the DSAs that avoided these resources as much as possible, while also minimizing impacts to other resources. NCDOT will continue to seek ways to avoid and minimize impacts in further design efforts for the selected alternative. Jurisdictional determinations will be made once a LEDPA has been agreed on.

Compensatory Mitigation

The purpose of compensatory mitigation is to offset unavoidable functional losses to the aquatic environment resulting from project impacts to waters of the United States. NCDOT will investigate potential on-site compensatory mitigation opportunities for the selected alternative. If on-site mitigation is not feasible, or a sufficient amount of mitigation is not available on-site, mitigation will be provided by the NC Department of Environmental Quality - Division of Mitigation Services (NCDEQ-DMS).

Public Meetings

A public meeting was held by NC DOT on April 23, 2019 at the University of North Carolina, Charlotte Campus. Another public meeting will be held in the fall of 2019. Date and location to be determined.

Essential Fish Habitat

According to the October 20, 2016 Natural Resources Technical Report (NRTR) Update, there is no Essential Fish Habitat within the study area.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C, the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).

Endangered Species

Pursuant to the Endangered Species Act of 1973, the Corps reviewed the project area, examined all information provided by the applicant, and consulted the latest North Carolina Heritage Database. As of June 27, 2018, the U.S. Fish and Wildlife Service (USFWS) lists six federally protected species for Mecklenburg County, including the Michaux's sumac (*Rhus michauxii*), Northern long-eared bat (*Myotis septentrionalis*), Rusty-patched bumble bee (*Bombus affinis*), Schweinitz's sunflower (*Helianthus schweinitzii*), Smooth coneflower (*Echinacea laevigata*), and Carolina heelsplitter (*Lasmigona decorata*). Based on available information:

The Corps determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat for Michaux's sumac, Schweinitz's sunflower, Smooth coneflower, or Carolina heelsplitter.

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The USACE is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor, Indian Tribes, and other interested parties to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE to select the LEDPA for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Corps of Engineers, Wilmington District, will receive written comments pertinent to the proposed work, as outlined above, until 5 pm, August 20, 2019. Comments should be submitted to Nicholle Braspennickx, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (704) 510-0162, or by email to Nicholle.M.Braspennickx@usace.army.mil.