



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: April 29, 2020
Comment Deadline: May 28, 2020
Corps Action ID Number: SAW-2020-00746

The Wilmington District, Corps of Engineers (Corps) received a joint application from Chatham Park Investors, LLC and the North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to discharge dredged or fill material into a total of 5,007 linear feet (LF) of stream channel and 2.047 acre of riparian non-riverine wetlands (2,697 LF permanent stream channel loss from culvert installation, 974 LF of stream channel impacts from rip rap installation, 1,336 LF of temporary stream channel impacts from construction access, 1.817 acre of permanent wetland loss from fill, and 0.023 acre of temporary wetland impacts from construction access), associated with developing the Chatham Park North Village subdivision and Chatham Parkway North (NCDOT TIP number R-5930) in Chatham County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

Applicant:

Mr. Timothy Smith
Chatham Park Investors, LLC
100 Weston Estates Way
Cary, North Carolina 27513

Mr. Art King
North Carolina Department of Transportation
121 DOT Drive
Carthage, North Carolina 28327

AGENT:

Mr. Bob Zarzecki
Soil and Environmental Consultants, PA
8412 Falls of Neuse Road, suite 104
Raleigh, North Carolina 27615

Mr. Jason Hartshorn
Kimley-Horn
421 Fayetteville Street, suite 600
Raleigh, North Carolina 27601

The North Village project area consists of predominately vacant, forested land north of US 64 Bypass to the Haw River. Select timber harvest operations have occurred over the years as recently as 2017. These vacant lands are bisected by a series of unimproved, dirt forest roads and logging roads extending along most ridge lines with a continuous connection from Suttles Road on the south, through the North Village project area, to Bynum Beach Road on the north. Forested upland areas on the site are characterized as mixed pine-hardwood communities, with canopy species such as loblolly pine (*Pinus taeda*), red maple (*Acer rubrum*), white oak (*Quercus alba*), and tulip poplar (*Liriodendron tulipifera*). Understory species consist of autumn olive (*Elaeagnus umbellata*), an invasive shrub species. Similar vacant forested areas exist between US 64 Bypass and US 64 Business; however, a substantial portion of this area is currently under development. These elements have previously been permitted or constructed.

The project area is located within the Piedmont ecoregion, specifically within the Carolina Slate Belt, and has moderate slopes elevations ranging from 276 feet above mean sea level (MSL) to 598 feet MSL within project area boundaries. Soils mapped on site are presented in the table below:

Soil Series Name	Map Symbol	Drainage Class	Percentage of Site	Hydric Status
Badin-Nanford complex, 15-30%	BaE	Well drained	5.7	No
Chewacla and Wehadkee soils, 0-2% Frequently flooded	ChA	Somewhat poorly drained	3.1	Yes
Cid-Lignum complex, 2-6%	CmB	Moderately well drained	1.7	Yes
Georgeville silt loam, 2-6%	GaB	Well drained	14.0	No
Georgeville silt loam, 6-10%	GaC	Well drained	15.2	No
Georgeville silty clay loam, 2-6% Moderately eroded	GeB2	Well drained	4.0	No
Georgeville silty clay loam, 6-10% Moderately eroded	GeC2	Well drained	0.5	No
Georgeville-Badin complex, 10-15%	GkD	Well drained	12.8	No
Georgeville-Badin complex, 15-30%	GkE	Well drained	22.4	No
Goldston-Badin complex, 15-35%	GoE	Well drained	1.2	No
Herndon silt loam, 2-6%	HrB	Well drained	1.2	No
Nanford-Badin complex, 2-6%	NaB	Well drained	5.9	No
Nanford-Badin complex, 6-10%	NaC	Well drained	7.1	No
Nanford-Badin complex, 10-15%	NaD	Well drained	2.5	No
Pittsboro-Iredell complex, 2-8%, stony	PsB	Somewhat poorly drained	2.1	No
Riverview silt loam, 0-3%, frequently flooded	RvA	Well drained	0.7	Yes

Among the 16 soil types that occur within the project area, three are listed as a hydric map unit. These hydric map units occur along the Haw River flanking the east side of the project and two larger stream valleys bisecting the project area from east to west.

The entirety of the Chatham Park North Village site was delineated by Soil & Environmental Consultants, P.A., to identify the presence and location of jurisdictional waters of the US. The wetland delineation was performed in accordance with the U.S. Army Corps of Engineers 1987 Delineation Manual and subsequently issued Regional Supplement to the 1987 Delineation Manual: Eastern Mountains and Piedmont Region (Version 2.0). The delineation was field verified on multiple occasions by Corps Raleigh Regulatory Field Office staff, and included 21,280 LF (approximately 4 miles) of intermittent streams, 53,806 LF (approximately 10.2 miles) of perennial streams, and 8.109 acres of wetlands and subsequent approved jurisdictional determinations were issued on September 4, 2008 and May 11, 2010, and have since expired. Updates to these determinations have been submitted to the Corps and a preliminary jurisdictional determination is pending. The 334-acre addition for Chatham Parkway North (R-5930) was delineated by Kimley-Horn in October and November of 2018 and again in August and September of 2019 and includes 21 streams, and 9 wetlands. A Preliminary Jurisdictional Determination (PJD) request for these features has been submitted to the USACE and issuance of a jurisdictional determination is pending for this portion of the project.

Streams in the project area consist of intermittent and perennial channels, which flow via Robeson Creek and Haven Creek to the Haw River. Hydrologic Unit Code [HUC] 03030002. These streams all carry the North Carolina Division of Water Resources (NCDWR) best usage classification of “WS-IV NSW”; this classification refers to waters used as sources of water supply for drinking, culinary, or food processing purposes where a WS-I, II or III classification is not feasible. These waters are also protected for Class C uses. WS-IV waters are generally in moderately to highly developed watersheds or Protected Areas. The supplemental classification “NSW” refers to waters needing additional nutrient management due to being subject to excessive growth of microscopic or macroscopic vegetation. There are no designated Outstanding Resource Waters (ORW), High Quality Waters (HQW), Water Supply I (WS-I), or Water Supply (WS-II) waters within 1.0 mile of the project area.

The wetlands within the project area are primarily of the Headwater Forest wetland type, with Bottomland Hardwood Forest wetland types occurring along the two larger stream valleys bisecting the project area east to west, according to the North Carolina Wetland Assessment Method (NCWAM). These features contain a mix of plant assemblages, with forested wetland areas generally dominated by an overstory of Florida maple (*Acer floridanum*), swamp chestnut oak (*Quercus michauxii*), willow oak (*Quercus phellos*), American elm (*Ulmus americana*), and green ash (*Fraxinus pennsylvanica*), sourwood (*Oxydendrum arboreum*), and sweetgum (*Liquidambar styraciflua*). Saplings and shrubs of the same species, as well as Japanese stiltgrass (*Microstegium vimineum*), silverberry (*Elaeagnus commutata*), Pennsylvania sedge (*Carex pennsylvanica*), false nettle (*Boerhaavia cylindrica*), and Chinese privet (*Ligustrum sinense*) occur in the understory.

Soils within these features are primarily loamy with a low chroma (2.5Y 6/2) matrix and bright (2.5Y 6/6) redoximorphic concentrations. Typical of wetlands in topographic drainages, these wetlands display hydrology indicators such as water-stained leaves, seasonal saturation, and oxidized rhizospheres on living roots.

Applicant's Stated Purpose

Chatham Park – North Village

The purpose of the North Village is to complete construction of a mixed-use development that is consistent with the Town of Pittsboro's *Land Use Plan & Future Land Use Map* (amended November 8, 2017), the *Chatham Park Planned District Development (PDD) Master Plan* (approved August 10, 2015) including development regulations in eleven (11) Additional Elements to the Master Plan that have been approved by the Town, the *North Village Small Area Plan (SAP)* (submitted April 12, 2017), and the Town of Pittsboro's *Comprehensive Transportation Plan (CTP)* (dated July 8, 2011).

The fundamental need for the North Village is the result of population growth within the Greater Triangle area and specifically Chatham County. As provided in the Statistics and Demographics page on the official Chatham County website, "*The latest estimated population from the US Census Bureau is 71,472 for 2017. The official 2010 Census placed our 2010 population at 63,505, an increase of 28.74% since 2000. The state average growth for that decade was 18.5%.*" Per the official N.C. Budget and Management office website (Municipal Population Estimates, Municipal Change, April 2010 to July 2017), Pittsboro is identified as the 31st fastest growing municipality at a rate of 22.9%, growing at a faster rate than Cary, Raleigh, Durham, or Chapel Hill. Projected population change for Chatham County from 2020-2030 is a net migration of 20,312 people into the County. The North Village will help meet the housing and employment needs associated with this growth.

- **BASIC PROJECT PURPOSE** – The basic project purpose is to construct a mixed-use development.
- **OVERALL PROJECT PURPOSE** – The purpose of the North Village is to complete construction of a mixed-use development that is consistent with the Town of Pittsboro's *Land Use Plan & Future Land Use Map* (amended November 8, 2017), the *North Village SAP* (submitted April 12, 2017), the *PDD Master Plan* (approved August 10, 2015) including development regulations in eleven (11) "Additional Elements" to the Master Plan that have been approved by the Town, and the Town of Pittsboro's CTP (dated July 8, 2011).

NCDOT STIP R-5930 "Chatham Park Way North"

NCDOT's purpose for the construction of State Transportation Improvement Program (STIP) Chatham Park Way North is to support economic development of Chatham County associated with Chatham Park and other nearby developments, including improving access and mobility for emergency vehicles and school buses to and from

the developments. An additional benefit is improved mobility around Pittsboro by providing an additional connection between US 64 Bypass US 15-501.

Project Description

Chatham Park North Village:

Chatham Park North Village would be developed as a single small area plan (SAP) that includes eleven of the development areas identified in the Chatham Park PDD Master Plan that was approved by the town of Pittsboro on August 10, 2015. Chatham Park North Village is anticipated to be developed in phases over a period of approximately 20 years (2040). The development has been designed with a conceptual land use framework that consists of several different districts connected by a hierarchy of vehicular circulation routes and a network of pedestrian paths and trails for multimodal transportation options. Approximately 7,154 residential dwelling units (apartments and condominiums, live-work units, townhomes and single-family lot homes) and 11,043,000 gross square feet of non-residential development (commercial, retail, office, institutional, and medical) is planned for the North Village. A Village Center District is surrounded by a Medical District, Corporate District, Business District, and Residential Neighborhoods.

Based on the proposed development layout, 2,543 linear feet of intermittent and perennial stream channel (1,896 linear feet from fill and 647 linear feet from rip rap outlet protection) and 1.817 acre of riparian non-riverine wetlands would be permanently impacted by the proposed project. Temporary impacts to 1,336 linear feet of intermittent and perennial stream channel and 0.023 acre of riparian non-riverine wetlands are also proposed. Impacts would result from the required grading and proposed road crossings.

Storm runoff from the proposed development would be managed and treated on-site, and ultimately directed into off-site waters. The project would meet all relative requirements of Best Management Practices and Engineered Stormwater Control Structures as outlined through State and Local Stormwater Rules. Stormwater management on-site would be managed and treated before discharging into down gradient waters in order to protect waters from degradation; as such, the applicant states that the project should have minimal effect on downstream waters, shellfish or other aquatic species. Rip-rap dissipater pads would be installed flush with the existing grade of the stream bed to allow for aquatic life passage.

Chatham Parkway North (R-5930)

Construction of Chatham Parkway North (R-5930) on new location, to be completed by NCDOT, would preliminarily result in permanent impacts to approximately 801 linear feet of intermittent and perennial stream channel. This portion of the proposed project would be to construct a roadway on new location from north of US 64 Bypass to US 15-501 near Russell Chapel Church Road (SR 1520). This road would connect to the existing Chatham Park Way northern terminus just north of Suttles Road (SR 1809). Between the southern terminus and the proposed Grant Drive, the proposed typical

section is a four-lane median divided road with curb and gutter, five-foot bike lanes, and five-foot sidewalk on both sides. Between Grant Drive and the northern terminus, the typical section is a two-lane median divided road with five-foot paved shoulders and five-foot sidewalk on both sides. The median is retained in the two-lane section to limit access to cross-streets and driveways to right-in/right-out movement. Full movement is proposed to be allowed at planned intersections only. Additionally, the median improves mobility and safety along the corridor by providing drivers a consistent travel path, reducing the “accordion” effect of having the road widen and narrow alternatingly throughout the Chatham Park Way North corridor. The invert of the culverts would be buried 1 foot and sills would be included. The culvert design includes rip rap both upstream and downstream of the new culverts in order to stabilize the existing bed and banks of the stream.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

Chatham Park North Village:

All avoided intermittent streams would have at least a 50’ protected stream buffer and all avoided perennial streams would have at least a 100’ protected stream buffer. The protected stream buffers on the Haw River range from a minimum of 300’ to 1000’ feet.

In an effort to minimize the footprint of the impact at the stream crossings, the engineer changed the grade of the side slopes from the preferred 3:1 grade to a 2.5:1 grade. The engineer considered a 2:1 grade on the slopes, but the geotechnical report recommends no steeper than 2.5:1 given site characteristics such as soil erodibility.

Headwalls would be incorporated into the design of the stream crossings to further minimize the footprint of the proposed impact.

A median is shown in the design for the Wendover Parkway crossing (Sheet 1.2; Impacts 6-10). Typically, medians would be avoided at the stream crossings to minimize the footprint of the impact. However, in this case, the medians are proposed to incorporate green street design and provide stormwater treatment. Wendover Parkway was designed from the beginning as a green street with inverted roadway sections that direct runoff from the travel lanes to the median where bioretention stormwater control measures (SCMs) are proposed. These bioretention SCMs would provide water quality treatment of the stormwater runoff as well as landscaped, green areas that would promote water quality education. There would be two stream crossings along Wendover Parkway and rather than having full width medians at both crossing, the roadway section at this location would be tapered down so the eastern crossing impacts (Sheet 1.5; Impacts 21-25B) were minimized. Initial design had a full width median at both crossings, but the applicant was able to reduce the eastern median by approximately 20 LF.

In addition, steepened fill slopes, a reduced median width, and added headwalls/retaining walls were added to the design for crossings at impact sites 21-25B (sheet 1.5), which further reduced the impacts at these locations by approximately 140 LF.

Chatham Parkway North (R-5930):

A reduced berm at stream crossings in the 2-lane section (25' reduction of the typical section through addition of curb and gutter and narrower grass strip between travel lanes and sidewalks).

NCDOT has proposed 2:1 slopes at stream crossings to reduce fill impacts associated with roadway construction.

The NCDOT portion of the project is based on preliminary plans. As such, NCDOT has agreed to refine and improve avoidance and minimization measures along the preferred alternative in accordance with NCDOT standards as design continues to develop and as required by the USACE and NCDWR.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

Chatham Park North Village:

The Applicant proposes to provide mitigation for all permanent stream and wetland impacts in the North Village at a 2:1 ratio. Mitigation is proposed to be paid in three (3) phases all in advance of the proposed impacts. Phase 1 is proposed for impacts anticipated to occur over the next 5 years. Phase 2 will be for impacts anticipated from 5 to 10 years. Phase 3 will be for the remaining impacts anticipated from 10+ years. Compensatory wetland and stream mitigation credits would be purchased from available Mitigation Banks (EBX-RES Cape Fear 02 Umbrella Mitigation Bank, Dairyland Site and the Chatham Umbrella Mitigation Bank, Stinking Creek Site) and then from the N.C. Division of Mitigation Services (DMS) In-Lieu Fee program. Both the Cape Fear 02 Umbrella Mitigation Bank and NCDMS have provided acceptance letters stating that they are willing to provide stream and/or wetland compensatory mitigation requirements.

Chatham Parkway North (R-5930):

Compensatory mitigation for unavoidable stream and buffer impacts associated with the proposed project-related Chatham Parkway North (R-5930) alignment can be satisfied through payment into the NCDMS. NCDOT has received a NCDMS mitigation acceptance letter associated with the proposed Chatham Parkway North (R-5930) alignment.

Additional details regarding the applicant's compensatory mitigation plan can be found on the District Website at <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project would not effect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

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:

- The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

The applicant indicated that a systemic archeological survey of the entire 2,224 acre site will be conducted and forwarded to the Chatham County Historical Association and the State Historic Preservation Office as appropriate for comment, consultation, interpretation and preservation of cultural resources on site.

Note also that NCDOT Cultural Resources staff stated that the Chatham Parkway North (R-5930) portion of the project would have no effect on property or sites listed on the National Register of Historic Places, with concurrence from the SHPO in a letter dated December 28, 2019.

NCDOT Cultural Resources staff Brian Overton determined that an archaeological survey is required for the Chatham Park Way North corridor in a letter dated September 10, 2019. An archaeological survey will be conducted during final design of Chatham Parkway North (R-5930).

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

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 Natural Heritage Database. Based on available information:

- The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat.

This determination only applies to the Northern Long-eared Bat (*Myotis septentrionalis*). The Corps reviewed this project in accordance with (IAW) the NLEB Standard Local Operating Procedures for Endangered Species (SLOPES) between the USACE, Wilmington District, and the Asheville and Raleigh USFWS Offices, and determined that the action area for this project is located outside of the highlighted areas/red 12-digit HUCs and activities in the action area do not require prohibited incidental take; as such, this project meets the criteria for the 4(d) rule and any associated take is exempted/excepted.

Other Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

North Carolina Division of Water Resources (NCDWR): The Corps will generally not make a final permit decision until the NCDWR issues, denies, or waives the state Certification as required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by May 19, 2020 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617

Or,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

North Carolina Division of Coastal Management (NCDCM):

- Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

Evaluation

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

Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal.

To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, May 28, 2020. Comments should be submitted to James C. Lastinger, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 554-4884 extension 32, or James.C.Lastinger@usace.army.mil.