



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: May 26, 2022  
Comment Deadline: June 25, 2022  
Corps Action ID Number: SAW-2020-00587

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to discharge dredged or fill material into waters of the United States, associated with the proposed extension of Airport Boulevard (SR 3126) on new location between Garden Square Lane and Chapel Hill Road (NC 54) to include an approximate 0.4 section of existing Airport Boulevard located northeast of Chapel Hill Road, in Wake County, North Carolina. The project is proposed in 2 phases. Phase I is located between Garden Square Lane and SR 1637 (Church Street) and Phase II is located between SR 1637 (Church Street) and northeast of Chapel Hill Road (NC 54). Phase I of the project is fully funded for planning, environmental studies and construction and Phase II is unfunded for right of way acquisition and construction.

The NC Capital Area Metropolitan Planning Organization (CAMPO) 2050 Metropolitan Transportation Plan (MTP) identifies Phase I as a 2030 Horizon Year project, identifying the future facility as a minor thoroughfare. Phase I is included in the NCDOT 2020-2029 State Transportation Improvement Program (STIP) as HL-0033. Phase II is identified by CAMPO in their Comprehensive Transportation Plan (CTP). Projects identified in the CTP are unfunded portion of the 2050 Metropolitan Transportation Plan (MTP). Implementation of Phase II is not anticipated until after 2050.

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:

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

**Applicant:** NC Department of Transportation  
Division 5  
Mr. Chris Murray  
2612 North Duke Street  
Durham, North Carolina 27704

## 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)

## Location

Location Description: The proposed project site is located as follows:

Phase I: From the existing Airport Boulevard terminus immediately east of Garden Square Lane to Church Street (SR 1637).

Phase II: From Church Street (SR 1637) to the existing Airport Boulevard terminus at Chapel Hill Road (NC 54) and extending northeast of Chapel Hill Road along existing Airport Boulevard for approximately 0.4 mile.

Project Area (acres): 85 (approximate)	Nearest Town: Morrisville
Nearest Waterway: Crabtree/Kit Creek	River Basin: Neuse
Latitude and Longitude: 35.83603, -78.83690	

## Existing Site Conditions

The eastern portion of the proposed road extension/improvement site is partially urbanized with modern gas stations, parking, graded lots, residential housing, educational facilities and commercial parcels and includes normal utilities. The remaining western portion of the site is undeveloped, partially forested, with some land used for agricultural purposes such as open pasture for cattle.

## Aquatic Resources

The project area is located in the Neuse River basin. Several stream segments are located in the project area; none of them are High Quality Waters (HQW), Outstanding Resource Waters (ORW), or water supply watershed WS-I or WS-II waters. The stream segments in Phase II are tributaries to a portion of Crabtree Creek that is on the North Carolina 2018 Final 303(d) list of impaired waters. Streamside riparian zones within the project area are protected under the provisions of the Neuse Buffer Rules administered by NC Division of Water Resources (NCDWR). All but one of the stream segments in the project area is subject to buffer rule protection. Four stream segments and four wetlands were identified in the Phase I project area. These waters were verified by the Corps of Engineers with a preliminary jurisdictional determination on September 15, 2021. Aquatic resources for Phase II of the project were reviewed and preliminary/approved jurisdictional determinations for this portion of the project were completed on April 27, 2021, and February 18, 2022. Six stream segments, seven wetlands and two open water ponds were identified.

## **Applicant's Stated Purpose**

The purpose of the proposed action is to improve overall, multi-modal traffic mobility on the Town of Morrisville's roadway network and to enhance roadway connectivity between Davis Drive and Chapel Hill Road. The proposed action begins and ends at established roadways and would improve the local roadway network independently of any future projects, providing an alternative route between Davis Drive and Chapel Hill Road. The proposed action would also complete a missing link in the Airport Boulevard corridor, which would improve connectivity to employment centers in Research Triangle Park (RTP) as well as to I-40 and Raleigh-Durham International Airport (RDU). Secondary benefits of the project would include addressing the Town's capacity concerns about existing intersections on Davis Drive and fulfilling the Town's multimodal policy recommendations.

## **Project Description**

Airport Boulevard is a major thoroughfare with two existing segments in the Morrisville area—one from Davis Drive (SR 1613) to Garden Square Lane and another from Chapel Hill Road (NC 54) to Aviation Parkway (SR 1002) in the vicinity of the Raleigh Durham International Airport. The existing segment from Chapel Hill Road to Aviation Parkway includes an interchange with I-40. The CAMPO 2045 Metropolitan Transportation Plan identifies the extension of Airport Boulevard from Garden Square Lane to Chapel Hill Road (NC 54) as a 2035 horizon year project, identifying the future facility as a minor thoroughfare. The project would be developed using a Complete Streets concept, including a sidewalk, a multi-use path, and a dedicated pedestrian crosswalk where the Indian Creek Greenway crosses the new segment of Airport Boulevard.

The existing segment of Airport Boulevard between Davis Drive and Garden Square Lane is a four-lane curb and gutter facility with a raised grass median and five-foot sidewalks on each side, and a posted speed of 45 mph. The current Phase 1, (Figure 2) proposes to extend Airport Boulevard from Garden Square Lane to Church Street with a similar typical section. In lieu of the sidewalks on each side, the Phase 1 would utilize a ten-foot-wide multi-use use path on the south side, a five-foot sidewalk on the opposite side, along with a five-foot utility strip on each side. There would also be a dedicated pedestrian crosswalk where the Indian Creek Greenway crosses the new segment of Airport Boulevard. The new location portion of the Indian Creek Greenway would be constructed prior to closing the existing trail, with access to the trail maintained during construction. The improvements along Town Hall Drive and Church Street, consist of the additions of turn lanes to accommodate Airport Boulevard. These improvements also include replacement of existing sidewalks disturbed due to the widening. No additional widening along Town Hall Drive and Church Street other than the addition of turn lanes would be included in this project. Phase 2 would extend Airport Boulevard from the end of Phase 1 at Church Street to Chapel Hill Road (NC 54) and is currently unfunded.

The proposed project (Phase I and Phase II) as described, would result in 1,354 linear feet of permanent stream impacts, 67 linear feet of temporary stream impact, 0.29 acre of permanent wetland impacts and 0.48 acre of permanent open water impacts.

### **Other Alternatives:**

Due to the constraints created by existing development on either side of the proposed path for Phase 1, one alignment was studied for Phase 1 of the project, while two alternatives were examined for Phase 2. The first alternative would align directly with the existing location of Airport Boulevard and include a bridge spanning the existing rail line and Chapel Hill Road, requiring construction of a loop from Airport Boulevard to Chapel Hill Road. The second alternative would also require a bridge across the rail line and Chapel Hill Road but would be shifted slightly to the east of the existing location of Airport Boulevard. During final design of Phase 2, the railroad grade separation shall be designed to accommodate a four-track layout with a twenty-four foot- three inch (24'-3") vertical clearance.

Phase II-Alternative 1 (NCDOT preferred alternative): 640 linear feet of permanent stream impact, 0.035 ac of permanent wetland impact, two (2) residential relocations and zero (0) business relocations.

Phase II-Alternative 2: 1,345 linear feet of permanent stream impact, 0.320 ac of permanent wetland impact, two (2) residential relocations and two (2) business relocations. The actual anticipated impacts based on most recent design are slightly higher than these noted impacts.

### **Avoidance and Minimization**

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

#### Avoidance and Minimization Through Project Design:

Impacts to streams, wetlands and riparian buffers within the project corridor were avoided and minimized through alignment selection and project design to the maximum extent possible. Slope stakes were revised to 2:1 in wetland/stream areas to minimize impact. The 2:1 slope is the minimum slope necessary to provide a stable cover of vegetation. Mechanized clearing in wetland impacts were minimized as much as possible to only provide the minimum area necessary to install rip rap streambank protection and erosion control devices. Rip rap armoring along streams at the inlet and outlet were designed to provide the minimum impacts necessary for long-term stabilization. Countersunk rip rap pad with rip rap on the streambank were designed to prevent downstream scour at pipe/culvert outlets.

#### Avoidance and Minimization Through Construction Techniques:

Impacts to streams, wetlands and protected riparian buffers within the corridor would be avoided and minimized throughout the construction process by the judicious use of

equipment, materials and minimized access corridors. The contractor, NCDOT inspectors and NCDOT Division 5 Environmental Officer would evaluate project construction activity and work with staff to further minimize and avoid impacts to streams, wetlands and regulated riparian buffers. Where feasible, staging and construction access routes would be located in upland areas throughout the corridor. Silt fencing would be installed around the permitted limits of disturbance to help ensure that all construction equipment would remain within the permitted project area during construction. Temporary sediment control devices and measures would be installed to reduce sediment and erosion to receiving waters and minimize runoff from the construction sites.

### **Compensatory Mitigation**

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

Stream and wetland mitigation would be provided for Phase I impacts only. This includes a proposed 2:1 ratio for stream loss due to placement in a structure (309 total linear feet) and proposed 1:1 ratio for stream loss due to countersunk rip rap in the stream flow line (and on banks) at the outlet of structures (67 total linear feet). The mitigation proposal also includes a proposed 2:1 ratio for 0.25 acre of wetland loss. No compensatory mitigation is proposed for open water impacts. Additionally, no compensatory mitigation is currently proposed for Phase II impacts. NCDOT would be required to provide compensatory mitigation for Phase II impacts when a permit modification request is received to include final design for Phase II.

### **Essential Fish Habitat**

The Corps' determination is that the proposed project would not affect EFH, or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

### **Cultural Resources**

The FHWA is the lead federal agency for compliance with Section 106 of the National Historic Preservation Act (NHPA) for this project.

To facilitate compliance with Section 106, a Programmatic Agreement (PA) was executed between the FHWA, Corps, NC State Historic Preservation Office (NC SHPO), NCDOT, and the Advisory Council on Historic Preservation (ACHP) in 2020 to redefine NCDOT's internal review of transportation projects in North Carolina. Specifically, the PA stipulates the authority of NCDOT's Archaeology and Historic Architecture and Landscapes groups in identifying and evaluating historic properties and assessing effects on historic properties in conjunction with transportation projects. If it is determined that the PA is not appropriate to use for this project, consultation will be performed in the traditional manner.

As detailed below, Section 106 activities for this project (e.g., surveys, assessments, etc.) have been initiated for this project.

### Architectural Resources

NCDOT's architectural historian reviewed the proposed project in May 2021 and determined that there is one survey site within the area of potential effect (APE), WA-R047 (House). Visual survey indicated that the house was heavily altered and unremarkable; it is not eligible for National Register listing. All other properties within the APE over fifty years of age are unremarkable and do not warrant further evaluation. There are no National Register listed or eligible properties and no survey is required.

### Archaeological Resources

NCDOT's archaeologist reviewed the proposed project in January 2020, August 2020 and June 2021 and determined that much of the APE has been modified by modern development, especially the construction of installation of residential developments. The probability for intact soils is low, as would be undisturbed, significant archaeological sites. There are no known, recorded archaeological sites presents. There are no National Register of Historic Places (NRHP) archaeological sites present. It is unlikely that significant, intact archaeological remains would be present and impacted by the project. The NCDOT archaeologist indicated no archaeology survey is required.

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:

Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).

The 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 identified permit area.

### **Endangered Species**

The FHWA is the lead federal agency for this project and is the federal agency responsible for making determinations and requesting concurrence with these determinations (if other than a "no effect") from the U.S. Fish and Wildlife Service (USFWS), in accordance with Section 7(a)(2) of the Endangered Species Act (ESA). The following table contains the federally listed threatened and endangered species for Wake County. It also includes the FHWA's determinations of effect to these species that would result from implementation of the applicant's preferred alternative. For a species

where the biological conclusion/determination is anything other than “No effect”, the FHWA will consult with the USFWS.

The project area was evaluated for potential habitat for federally Threatened (T) or Endangered (E) species known to have ranges extending into Wake County (20 May 2022 USFWS list / USFWS IPaC planning tool). As of May 20, 2022, the USFWS lists 6 federally protected species, under the ESA for Wake County (see Table 1). The applicant conducted habitat assessments and/or surveys for these species in 2020 and/or 2021.

Table 1: ESA federally listed species in Wake County

Scientific Name	Common Name	Federal Status	Habitat Present	Survey Results	Biological Conclusion
Picoides borealis	Red-cockaded Woodpecker	Endangered	Yes	Negative	No Effect
Necturus lewisi	Neuse River Waterdog	Threatened	Minimal	Negative	No Effect
Noturus furiosus	Carolina Madtom	Endangered	Minimal	Negative	No Effect
Fusconaia masoni	Atlantic Pigtoe	Threatened	Minimal	Negative	No Effect
Alasmidonta heterodon	Dwarf Wedgemussel	Endangered	Minimal	Negative	No Effect
Rhus michauxii	Michaux’s Sumac	Endangered	Yes	Negative	No Effect
Myotis septentrionalis	Northern long-eared bat	Threatened	NA	*Subject to Programmatic Biological Opinion (6 November 2020)	May Affect, Not Likely to Adversely Affect

No critical habitat was identified within the project area.

The applicant has provided the above information to the United States Fish and Wildlife Service (USFWS).

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 requesting concurrence with the above information from FHWA and/or USFWS and/or additional review of the project and completion of any necessary

biological assessment and/or consultation with the U.S. Fish and Wildlife Service, if necessary.

### **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 applicant did not provide or satisfy all the elements required for a complete 401 certification request. Therefore, the 401 Certification process has not started. 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 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. Unless NCDWR is granted a time review extension, a waiver will be deemed to occur if the NCDWR fails to act on this request for certification within 120 days of the date of this public notice. 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 June 25, 2022, to:

NCDWR Central Office  
Attention: Ms. Amy Chapman, Transportation 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):**

- The application did not include a certification that the proposed work complies with and would be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2 (b)(2) the Corps cannot issue a Department of Army (DA) permit for the proposed work until the applicant submits such a certification to the Corps and the



NCDCM, and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt, concurrence or objection from the 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, June 21, 2022. Comments should be submitted to Andrew Williams, Regulatory Division, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 554-4884 extension 26 or via email at [andrew.e.williams2@usace.army.mil](mailto:andrew.e.williams2@usace.army.mil). Comments may also be submitted to [NCDOT\\_REG@usace.army.mil](mailto:NCDOT_REG@usace.army.mil)

