



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: May 4, 2022
Comment Deadline: June 3, 2022
Corps Action ID Number: SAW-2021-02629

The Wilmington District, Corps of Engineers (Corps) received an application from NorthPoint Development, LLC seeking Department of the Army authorization to impact, 1,610 linear feet (lf) of jurisdictional streams, 0.19-acre of a jurisdictional wetland, and 1.58 acre of a jurisdictional pond which contribute hydrology to Fourth Creek associated with the construction of five distribution warehouse facilities near the intersection of I-77 and I-40, near Statesville, Iredell 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: <https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

Applicant: NorthPoint Development, LLC
Michael Johnston
4805 Montgomery Road, Suite 310
Cincinnati, Ohio 45212
mjohnston@northpointkc.com

AGENT (if applicable): Kimley-Horn and Associates, Inc
Chris Tinklenberg
200 South Tryon Street, Suite 200
Charlotte, North Carolina 28202
Chris.tinklenberg@kimely-horn.com

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 project site is located off Crawford Road, Northeast of the intersection of I-77 N and I-40 E near the municipality of Statesville, in Iredell County, North Carolina.

Project Area (acres): 428.2

Nearest Town: Statesville

Nearest Waterway: Fourth Creek

River Basin: Yadkin-PeeDee

Latitude and Longitude: 35.819623N, -80.850758W

Existing Site Conditions

Facility Site

The 427-acre site is located in the Yadkin-PeeDee River Basin (030401020402) and consists of undeveloped forested land, agricultural fields and a single-family residence. The project site is bound by agricultural and undeveloped forestland to the north, Crawford Road to the East, undeveloped forestland and commercial development to the south, and cleared and undeveloped forestland to the west.

The vegetation community consists predominately of winged elm (*Ulmus alata*), willow oak (*Quercus phellos*), sweetgum (*Liquidambar styraciflua*), red maple (*Acer rubrum*), tulip poplar (*Liriodendron tulipifera*) and pawpaw (*Asimina triloba*) which covers the majority of the site.

The USDA Web Soil Survey of Iredell County identifies the following soil mapping units within the project area:

Table 1. Project Area Soils

| Soil Type | Soil Description | Rating | Acres in AOI | Percent of AOI |
|-----------|--|--------|--------------|----------------|
| CmC2 | Clifford sandy clay loam, 6 to 10 percent slopes, moderately eroded | 0 | 2.8 | 0.7% |
| CsA | Codorus Loam, 0 to 2 percent slopes, frequently flooded | 5 | 19.5 | 4.6% |
| DAM | Dam | 0 | 1.9 | 0.4% |
| FaE | Fairview sandy loam, 15 to 25 percent slopes | 0 | 7.3 | 1.7 % |
| FrB2 | Fairview sandy clay loam, 2 to 6 percent slopes, moderately eroded | 0 | 4.9 | 1.1% |
| FrC2 | Fairview sandy clay loam, 6 to 10 percent slopes, moderately eroded | 0 | 12.5 | 2.9% |
| FrD2 | Fairview sandy clay loam, 10 to 15 percent slopes, moderately eroded | 0 | 15.7 | 3.7% |
| FwE2 | Fairview sandy clay loam, 15 to 25 percent slopes, moderately eroded | 0 | 16.4 | 3.8% |

| | | | | |
|---|--|---|--------------|-------------|
| PxD4 | Poplar Forest- Udorthents complex, 2 to 15 percent slopes, gullied | 0 | 7.7 | 1.8% |
| ToB2 | Tomlin sandy clay loam, 2 to 6 percent slopes, moderately eroded | 0 | 110.7 | 25.9% |
| ToC2 | Tomlin sandy clay loam, 6 to 10 percent slopes | 0 | 131.0 | 30.6 % |
| ToD2 | Tomlin sandy clay loam, 10 to 15 percent slopes, moderately eroded | 0 | 64.7 | 15.1 % |
| ToE2 | Tomlin sandy clay loam, 15 to 25 percent slopes, moderately eroded | 0 | 11.9 | 2.8% |
| UdE | Udorthents, loamy, 0 to 25 percent slopes | 0 | 0.1 | 0.0 % |
| UmF | Udorthents-Urban land complex, 0 to 45 percent slopes | 0 | 1.0 | 0.2% |
| Ur | Urban Land | 0 | 0.1 | 0.0 % |
| W | Water | 0 | 19.9 | 4.6 % |
| Total for Area of Interest (AOI) | | | 428.3 | 100% |

404/401 Permit History

An aquatic resources delineation was completed within the project site and was verified by the U.S. Army Corps of Engineers (USACE) on January 19, 2022. The project area contains 13,783 LF of streams, 7.4-acres of wetlands, and 19.3-acres of open waters.

No permits are currently existing within the project boundary.

Applicant's Stated Purpose

Basic: The basic purpose is to provide warehousing and supply-chain distribution space to service the Charlotte MSA.

Overall: The overall purpose is to construct a large-scale, master-planned industrial logistics complex to provide warehousing and supply-chain distribution space to meet current and future demands of consumers within the southeastern United States.

Project Description

According to the applicant, their preferred project alternative involves impacts to aquatic resources totaling 1,610 LF of streams, 0.19-acre of wetlands and 1.58 -acres of open waters. The proposed fill and project include the construction of access roads, parking, utilities, and stormwater management facilities. The proposed project seeks to construct five (5) distribution warehouse buildings, totaling + 3,856,680 SF. Trailer and employee parking are required. While the stormwater plan has not been finalized, it is anticipated that nine ponds will be required to satisfy the stormwater management needs of the stie and are strategically positioned without additional stream, wetlands and open water impacts. Permit drawings are attached to this Public Notice.

Due to the size of the warehouse buildings and the north/south orientation of the project site, the location and layout of the facilities were limited to the eastern portion of the property where a larger, contiguous development cluster could be created. The applicant chose the eastern portion of the property to maximize the use of uplands and minimize impacts to streams, wetlands and open waters to the greatest extent practicable.

The project proposes to be constructed in two phases. Phase I is in the northwestern portion of the site and includes the construction of Building 4. Phase II encompasses the remaining portions of the project site and includes Buildings 1, 2, 3, and 5. No impacts are associated with the construction of phase I. Construction access will be provided via Jane Sowers Road. The anticipated build-out of all phases of construction is approximately five years. Considering the project area of Phase I is geographically separated from Phase II, the location and layout of Building 4 is not dependent upon Phase II. (Phase II is not dependent on Phase I), and there are no impacts to aquatic resources associated with Phase I. The applicant seeks to move forward on construction of Phase I, while permit authorization is sought for Phase II.

Avoidance and Minimization

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

As part of the overall project, the applicant completed a thorough alternatives analysis. A review of the 404(b)(1) guidelines indicates that “(a) Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.” The guidelines define practicable alternatives as “(q) The term practicable means available and capable of being constructed after taking into consideration cost, existing technology, and logistics in light of overall project purposes.”

The guidelines outline further consideration of practicable alternatives:

- “(1) For the purpose of this requirement, practicable alternatives include, but are not limited to:
- (i) Activities which do not involve a discharge of dredged or fill material into the waters of the United States or ocean waters.
 - (ii) Discharges of dredged or fill material at other locations in waters of the United States or ocean waters.
- (2) An alternative is practicable if it is available and capable of being constructed after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded, or managed to fulfill the basic purpose of the proposed activity may be considered.”

Considering the guidelines above and having identified Iredell County as the most advantageous location for the proposed industrial park, the applicant evaluated a No Action Alternative and six alternative sites including the applicant’s preferred site. In addition, three on-site

configurations were evaluated including the applicant's preferred on-site configuration. As part of this alternative evaluation, the following "Practicability/Reasonability Screening Selection Criteria" were applied to each alternative to confirm whether the particular alternative and/or on-site configuration was practicable:

- Capable of being constructed considering cost (e.g., Is the cost reasonable considering scope and type of project considering total cost, funding source, profit margin, etc.)
- Capable of being constructed considering logistics (e.g., Must consider existing infrastructure, traffic patterns, etc.)
- Property can be reasonably obtained (e.g., Must consider availability, liens, etc.)
- Proximity to workforce
- Meets basic project purpose
- Meets overall project purpose

No Action Alternative

A No Action Alternative must be considered, and complete avoidance of aquatic resources was the first alternative considered for this project. Due to the location of aquatic resources and proposed land use (industrial warehousing), it was determined that complete avoidance of stream and wetland impacts was not feasible. Unlike many development activities (i.e., residential, recreational, or light commercial), little flexibility is afforded in warehouse design. Industry standards dictate building widths and lengths; and access, parking, and docking requirements associated with semi-trailer truck traffic greatly limit design flexibility. For these reasons, major modifications to the facility footprint beyond a reduction in square footage to the minimum square feet are not feasible. While this option would result in no impacts to jurisdictional features, it would not fulfill the need for warehousing distribution space in the Charlotte MSA. Because the No Action Alternative and complete avoidance of impacts prohibits the construction of the proposed logistics park, this alternative was determined to be unreasonable and not practicable.

Off-Site Alternatives

In addition to the six general Practicability/ Reasonability Screening Selection Criteria evaluated, specific criteria including geographic location, size, zoning, utilities, access, and availability were considered. The following provides a summary of each criterion.

- **Size:** The potential site must be 350 acres or more to accommodate the required minimum size of the development.
- **Geographic Location:** The proposed project will provide warehousing and logistics services to the Charlotte MSA. Sites considered for this project were limited to the I-77 corridor with connectivity to I-40. Additionally, potential sites within the Lake Norman Water Supply Watershed (WSW) area were excluded to avoid high-density development within the environmentally sensitive watershed.

- **Land Use/Zoning:** Land use restrictions associated with current zoning are a major consideration in all industrial projects. Truck traffic, equipment operation, adjoining land use, buffers, etc. make the location of the project and the current zoning a critical component. For this site screening criterion, tracts that are currently zoned for the intended use or that could be reasonably re-zoned to accommodate the proposed project were considered.
- **Utilities:** Utility services or access to utility services (e.g., water, sewer, electrical, gas, phone, cable) are required. For this reason, the location of existing utilities and the cost associated with servicing the project site if those utilities were not already available was considered in the site screening criteria.
- **Availability:** Sites listed for sale and/or known to be available for purchase were considered.
- **Access:** Access to a warehousing and distribution facility requires the continual operation of large semi-trailer trucks. For this project, three access criteria were established. First, the site must provide suitable access to a major interstate. Suitable access to a major interstate would be defined as direct access to the site from a paved road suitable to support truck traffic associated with the proposed facility. Second, the site must be located adjacent to or within three miles of an interstate interchange. For this project, alternative sites were limited to major interchanges along I-77 and I-40.

On-Site Configurations

In addition to considering off-site alternatives, the applicant considered on-site alternatives.

Alternatives Not Practicable or Reasonable

Following reviews of off-site alternatives and on-site configurations, the applicant completed a comparison of alternatives to the practicability/reasonability screening criteria. Table 1 on the following page summarizes a comparison of each alternative discussed above to the screening criteria for practicability and reasonableness.

| Practicability/ Reasonability Screening Selection Criteria | Alt 1 | Alt 2 | Alt 3 | Alt 4 | Alt 5 | Alt 6 | On-site Configuration Alt 1 | On-Site Configuration Alt 2 | On-Site Configuration Alt 3 (Applicant's preferred) | No Action |
|---|------------------|------------------|------------------|------------------|------------------|------------------|--|--|--|----------------------|
| General Screening Criteria | No | No | Yes | Yes | No | Yes | Yes | Yes | Yes | No |
| Size | Yes | No | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No |
| Geographic Location | Yes | Yes | Yes | No |
| Land use/Zoning | No | No | Yes | Yes | Yes | Yes | Yes | Yes | Yes | No |

| | | | | | | | | | | |
|----------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|----|
| Utilities | Yes | No |
| Availability | No | No | Yes | No |
| Access | Yes | No |
| Practicable Site (Y or N) | No | No | Yes | Yes | No | Yes | Yes | Yes | Yes | No |

Table 1: Summary Table for Practicability and Reasonableness Screening Selection Criteria 6.1

Compensatory Mitigation

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

Compensatory mitigation will be met by the purchase of credits through NC Division of Mitigation Services (NCDMS) in-lieu fee program. 1,610 LF of streams will be mitigated through the purchase of stream mitigation credits. 0.19-acres of wetland impacts will be mitigated through the purchase of wetland mitigation credits.

Table 3 provides a summary of the stream and wetland impacts, NCSAM/NCWAM rating, and the proposed mitigation ratio.

Table 3:

| | Impact (LF/Acre) | NCSAM/NCWAM rating | Ratio | Credit Amount |
|---------------------------------|-------------------------|---------------------------|------------------------------|----------------------|
| Stream 1 (Perennial) | 85 | Medium | 2:1 | 170 |
| Stream 2 (Perennial) | 85 | Low | 1.75:1 | 149 |
| Stream 4 (Perennial) | 1,055 | Medium | 2:1 | 2,110 |
| Stream 5 (Intermittent) | 81 | Medium | 1.75:1 | 142 |
| Stream 6 (Perennial) | 247 | Medium | 2:1 | 494 |
| Stream 11 (Intermittent) | 57 | Low | 1.5:1 | 86 |
| Wetland 5 | 0.19 | Low | 2:1 | 0.38 |
| | | | Total Stream Credits | 3,151 |
| | | | Total Wetland Credits | 0.38 |

In total 3,151 stream mitigation credits and 0.38 wetland mitigation credits will be purchased from NCDMS to offset impacts associated with this project. Quality assessment results and NCDMS mitigation acceptance are included in Appendix A.

Upon completion and implementation of practical avoidance and minimization efforts, a total of 1.58 acres of permanent impacts to open water is associated with fill and grading are unavoidable. The Corps does not required mitigation for open water impacts to man-made impoundments. Therefore, the applicant does not offer compensatory mitigation for the open water impacts.

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:

- Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic property.
- 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).
- 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).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).

- 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 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 determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat.
- By copy of this public notice, the Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- The Corps will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- The Corps has initiated consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat. Consultation has been completed for this type of activity and the effects of the proposed activity has been evaluated and/or authorized by the National Marine Fisheries Service (NMFS) in the South Atlantic Regional Biological Opinion or its associated documents, including 7(a)(2) & 7(d) analyses and Critical Habitat assessments. A copy of this public notice will be sent to the NMFS.
- 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.

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. 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 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 July 2, 2022, to:

NCDWR Central Office
Attention: Mr. Paul Wojoski, 401 and Buffer Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, North Carolina 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 3, 2022. Comments should be submitted to Ms. Krystynka Stygar, Asheville Regulatory Field office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801, or by telephone at (252) 545-0507.