



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: September 14, 2022
Comment Deadline: October 14, 2022
Corps Action ID Number: SAW-2022-00367

The Wilmington District, Corps of Engineers (Corps) received an application from BCUS Acquisitions, LLC, seeking Department of the Army authorization to permanently impact 608 linear feet (lf) of stream channel (180 lf would be associated with riprap dissipator pads) and 1.624 acres of wetland, temporarily impact 307 lf of stream channel and 0.473 acre of wetland, and permanently convert 1.5 acres of wetland, in conjunction with the construction of the Ammons Property (Site) residential development, located at 1832 Peach Grove Lane, in Zebulon, Wake 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: E. William Meyer
BCUS Acquisitions, LLC
4020 West Chase Boulevard, Suite 150
Raleigh, North Carolina 27607

AGENT (if applicable): Chris Huysman
Wetlands & Waters, Inc.
328 East Broad Street, Suite D
Statesville, North Carolina 28677

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

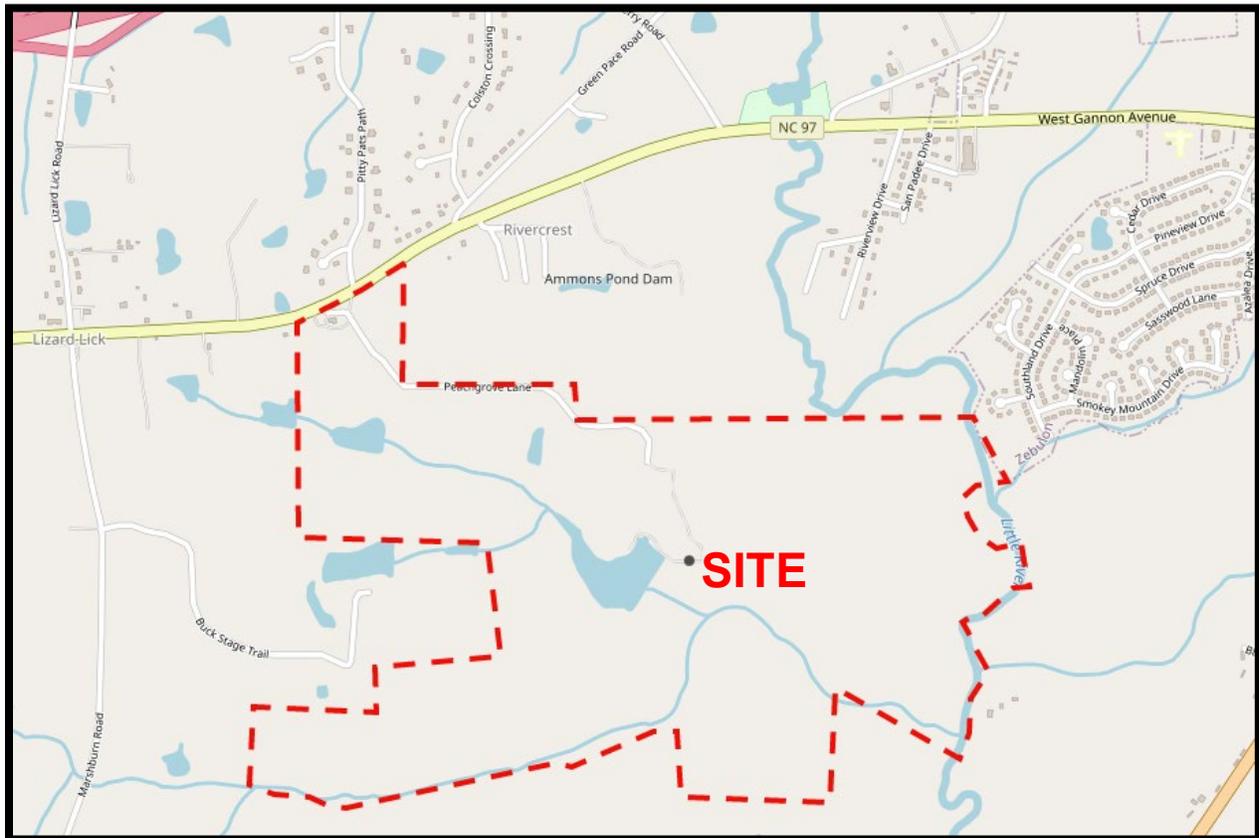


Figure 1. Location of Ammons Project

Location Description: The 468-acre Site is located at 1832 Peach Grove Lane, in Zebulon, Wake County, North Carolina (Parcel Tax ID: 1785816604, 1784896058, 1785824160, 1795003875, and 1795008848).

Project Area (acres): 468

Nearest Town: Zebulon

Nearest Waterway: Little River

River Basin: Neuse River Basin (8-digit HUC: 03020201)

Latitude and Longitude: 35.810865 N, -78.355514 W

Existing Site Conditions

The Site consists of agricultural fields and undeveloped woodland (Figure 2) and is located at 1832 Peach Grove Lane, in Zebulon, Wake County, North Carolina, in the United States (U.S.) Geologic Survey (USGS) 7.5-minute topographic quadrangle of Zebulon, NC (Figure 3), and within the Neuse River Basin, USGS hydrologic unit 03020201, which is subject to the Neuse River buffer regulations. A Best Usage Classification (BUC) is assigned to waters of North Carolina based on the existing or contemplated best usage of various bodies of water. A jurisdictional determination was

submitted on February 15, 2022, by Wetlands and Waters, Inc., and field verified by the Corps on March 31, 2022 (Corps Action ID: SAW-2022-00367). The Site contains approximately 63.44 acres of wetland, 12,290 lf feet of stream channel (including the Little River), and 12.3 acres of open water. The streams on-site have a BUC of C; NSW. The supplemental classification C designates aquatic life, secondary recreation, and fresh water. The supplemental classification NSW designates Nutrient Sensitive Waters which require limitations on nutrient inputs. The wetlands on-site are generally classified as headwater forest according to the North Carolina Wetland Assessment Method (NCWAM).

The Site topography is generally rolling hills, with several natural valleys and lowlands in the southern and eastern portion of the Site. The Site is underlain by several unique soil map units, including Altavista, Chewacla and Wehadkee, Helena, Rawlings-Rion complex, Vance, Wake-Rolesville complex, Wedowee, and Wedowee-Saw complex soils. The Little River forms portions of the eastern Site boundary and serves as the primary receiving water of the proposed project.



Figure 2. Existing Site Conditions

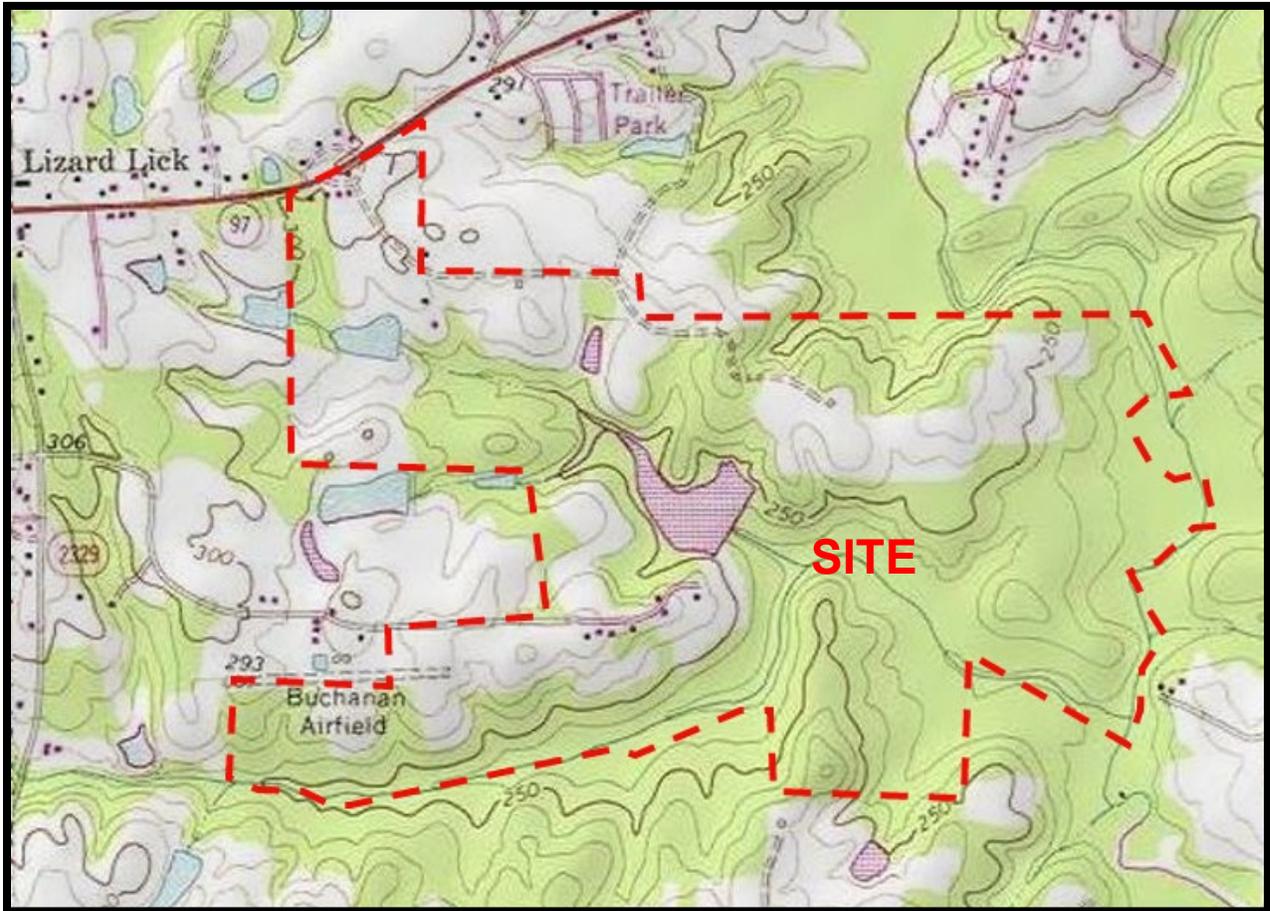


Figure 3. USGS Topographic Map

Applicant’s Stated Purpose

The basic purpose of the project is to develop residential housing for the Town of Wendell submarket. The overall purpose of the project is to develop single-family residential housing to meet current and future demand in the Town of Wendell submarket.

Project Description

The overall project would involve constructing single-family residential lots, along with associated infrastructure and attendant features (Figure 4). Implementation of the proposed project would permanently impact 608 lf of stream channel (180 lf would be associated with riprap dissipator pads) and 1.624 acres of wetland, temporarily impact 307 lf of stream channel and 0.473 acre of wetland, and permanently convert 1.5 acres of wetland.

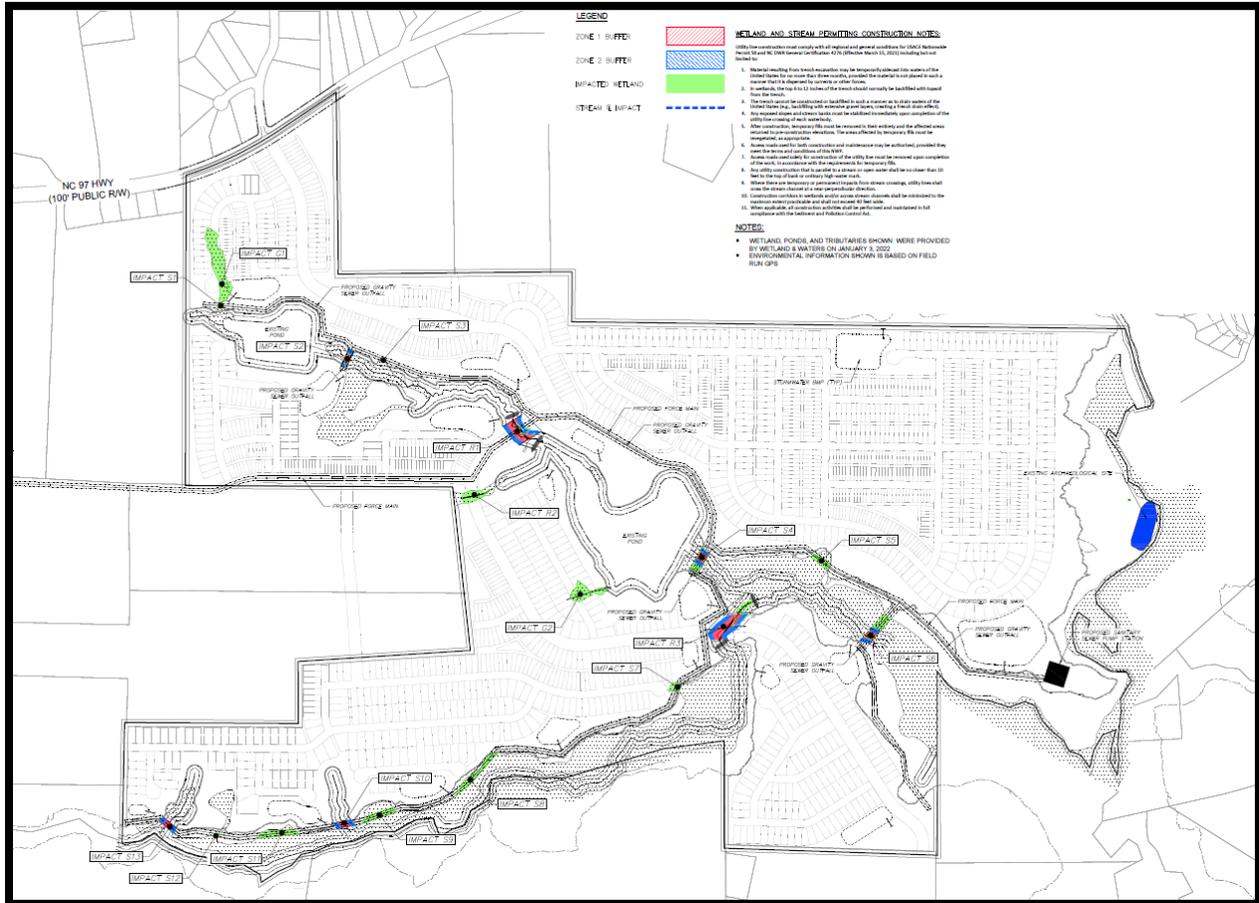


Figure 4. Ammons Property Design Drawing

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: As detailed in the plans and alternatives analysis, the selected alternative has avoided and minimized impacts to waters of the U.S. to the maximum extent practical by proposing perpendicular road and sewer crossings, and wingwalls mitered for 3:1 side slopes. Further, road and sewer crossings would be co-located where practical to minimize impacts to aquatic resources.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant has chosen to purchase 856 stream mitigation units and 4.75 wetland mitigation units from Wildlands Holdings III, LLC's Falling Creek UMBI, Falling Creek and McClenny Acres II Mitigation Sites.

Essential Fish Habitat

The Corps' 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:

- 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).

Through letter dated June 6, 2022, the NC SHPO indicated they needed final project design drawings to make their final determination (ER 22-0209).

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 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.

According to the Information for Planning and Consultation (IPAC) website, the following species are listed: Northern long-eared bat (*Myotis septentrionalis*), Red-cockaded Woodpecker (*Picoides borealis*), Neuse River waterdog (*Necturus lewisi*), Carolina madtom (*Noturus furiosus*), Atlantic pigtoe (*Fusconaia masoni*), Dwarf Wedgemussel (*Alasmidonta heterodon*), Yellow lance (*Elliptio lanceolata*), and Michaux's Sumac (*Rhus michauxii*).

The proposed project would be located approximately 0.25 miles upstream from the Little River where there is known critical and suitable habitat for the above referenced aquatic species. The applicant is currently working with the Corps and the USFWS on the appropriate path forward.

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 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 October 14, 2022, to:

NCDWR Central Office
Attention: Mr. Paul Wojowski, 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 (NCDWM):

- 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, October 14, 2022. Comments should be submitted to Ms. Samantha Dailey, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, by email at Samantha.J.Dailey@usace.army.mil, or by phone at (919) 554-4884, ext. 22.