



# PUBLIC NOTICE

**US Army Corps  
Of Engineers**  
Wilmington District

Issue Date: November 09, 2023 Comment  
Deadline: December 11, 2023 Corps  
Action ID Number: SAW-2021-00138

The Wilmington District, Corps of Engineers (Corps) received an application on October 23, 2023, from CK Kings Grant Land, LLC, seeking Department of the Army authorization to permanently impact 1,065 linear feet (0.144-acre) of perennial and intermittent stream, permanently convert 0.089-acre of forested wetland, and temporarily impact 785 linear feet (0.124-acre) of stream associated with the Kings Grant Development project in Charlotte, Mecklenburg 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:** CK Kings Grant Land, LLC  
c/o Jon Wilson  
301 South College Street, Suite 2800  
Charlotte, North Carolina 28202

**AGENT (if applicable):** Perry Isner  
Wetlands and 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

Location Description: The project area is located south of Mallard Creek Road, north of Interstate 85, east of Interstate 485 Outer, and extends just east of the Mecklenburg-Cabarrus County line.

Project Area (acres): 311

Nearest Town: Charlotte

Nearest Waterway: UT Rocky River

River Basin: Yadkin Pee Dee

Latitude and Longitude: 35.36294N, -80.7288W

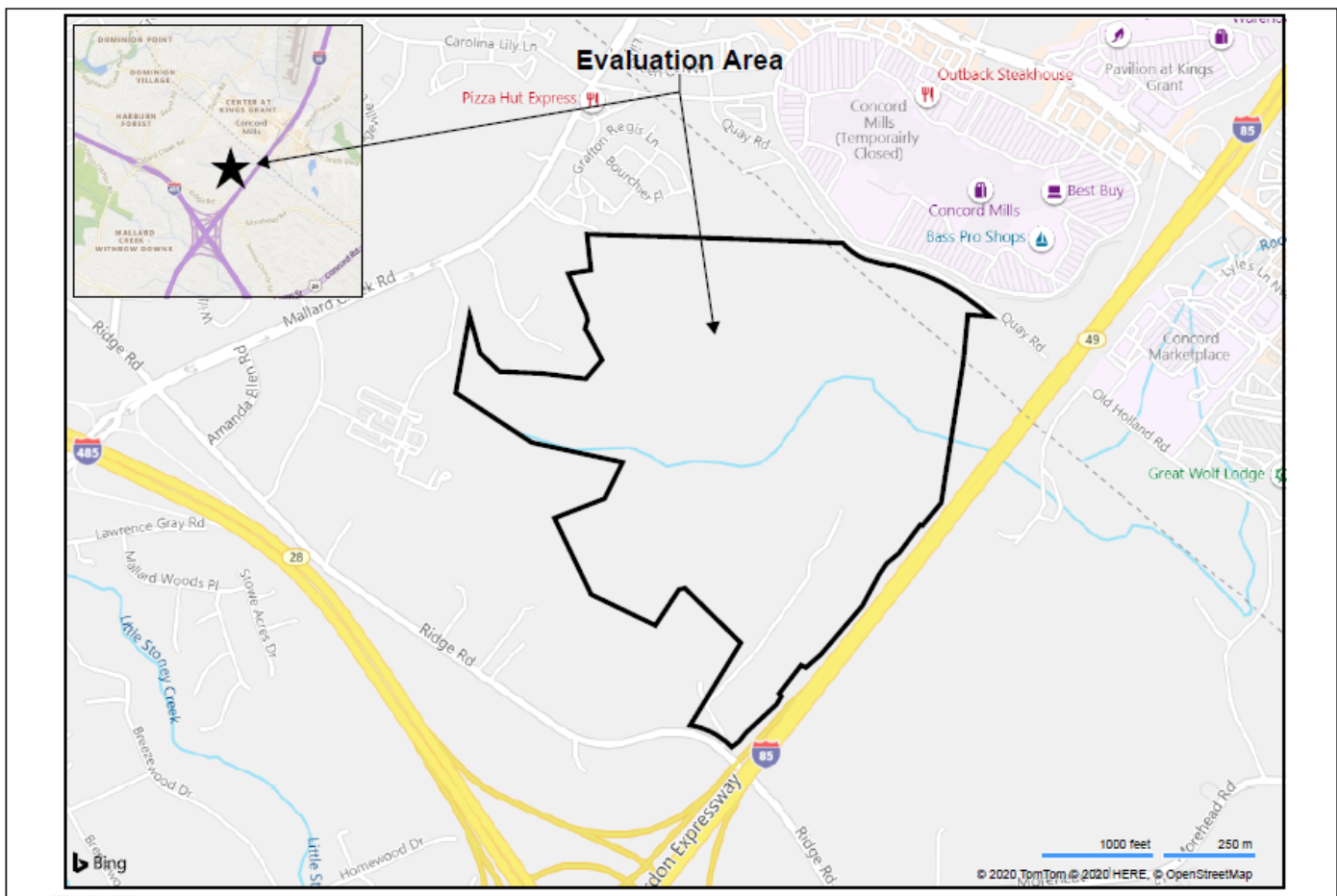


Figure 1. Location Map



Figure 2. Existing Conditions

### Existing Site Conditions

The approximately 310-acre undeveloped project area is primarily comprised of loblolly pine-dominated forested uplands. Open field areas occur in the southwest corner of the project area, along internal roadways, and within a maintained dual-utility right-of-way that bisects the middle of the property in a north-south orientation. These areas are dominated by early successional herbaceous species typical of disturbed open canopy habitat such as tall goldenrod, broomsedge bluestem, and common lespedeza. These areas also provide habitat for the federally listed Schweinitzer's sunflower (*Helianthus schweinitzii*), which is known to occur onsite. Other federally listed species that may occur onsite include Michaux's sumac (*Rhus michauxii*) and smooth coneflower (*Echinacea laevigata*). Mapped upland soils consist of Mecklenburg fine sandy loam, Wilkes loam, Iredell fine sandy loam, Enon sandy loam, Cullen clay loam, and Cecil sandy clay loam.

Aquatic resource areas are dominated by sweetgum (*Liquidambar styraciflua*), red maple (*Acer rubrum*), and white oak (*Quercus alba*) with mapped Monacan loam soils. One primary stream that originates offsite to the northwest flows east bisecting the

middle of the site and discharges offsite under I-85 near the southeast property corner. The lower downstream segment has perennial flow, abutting wetlands, and lies within the 100-year floodplain. Contributing to perennial flow are four intermittent tributaries and abutting wetlands that feed into the main stem. The system is received by the Rocky River, which is located less than one mile east of the site.

The project area is located in a highly urbanized landscape with surrounding major developments including the Concord Mills Mall, Concord Regional Airport, and multiple large-scale residential developments.

### **Applicant's Stated Purpose**

To construct a mixed-use development to serve residential and industrial needs in the greater Charlotte area.

### **Project Description**

The proposed project would require the permanent loss of 1,065 linear feet (0.144-acre) of perennial and intermittent stream, the permanent conversion of 0.089-acre of forested wetland to maintained herbaceous wetland, and 785 linear feet (0.124-acre) of temporary stream loss. Aquatic resource impacts are associated with the construction of a manufacturing/distribution and multi-family residential development, including warehouses, roads, parking lots, and sewer utility lines.

Formerly isolated wetlands totaling approximately 0.25-acre and a 0.96-acre pond as well as an undisclosed amount ephemeral streams are proposed for permanent loss; however, the project does not currently have a valid jurisdictional determination. An evaluation and determination of the jurisdictional status of these resources will be conducted as part of the permit review process (Attachment 1).

### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The project would avoid medium quality wetlands abutting onsite tributaries; one road crossing was eliminated to reduce impacts to an intermittent stream; one utility crossing was realigned to reduce impacts; required impacts would be for permanent road and/or temporary utility crossings and one 1 million square-foot warehouse and associated parking. All other buildings, including the multi-family residential development, and amenities will be constructed within uplands.

### **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: purchase of 1,626 stream credits from the RES Yadkin 05 Umbrella Mitigation Bank-Cardinal Site and 0.269 riparian wetland

credits from NC Division of Mitigation Services In-Lieu Fee Program within the project service area.

### **Essential Fish Habitat (EFH)**

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 resources listed in or eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work; however, the permit area has not been formally surveyed for the presence of cultural resources. Additional work may be necessary to identify and assess any cultural resources that may be present. This notice serves as a request to SHPO, THPO, and/or other interested parties to provide any information they may have regarding historic properties.

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:

- ☒ For the proposed project, the Corps has made the following determination for federally listed endangered or threatened species or their formally designated critical habitat: May Affect, Not Likely To Adversely Affect
  - ☒ The Corps will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete. The Information and Planning Consultation tool provided the following listed species: Tri-colored bat (*Perimyotis subflavus*), Monarch butterfly (*Danaus plexippus*), Michaux's sumac (*Rhus michauxii*), Smooth coneflower (*Echinacea laevigata*), and Schweinitzer's sunflower (*Helianthus schweinitzii*).

## 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 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 should do so in writing, within 30 days of the issue date of the notice by emailing comments to [publiccomments@deq.nc.gov](mailto:publiccomments@deq.nc.gov) with the subject line of "401 Water Quality Certification" or by mail to:

NCDWR Central Office  
Attention: Stephanie Goss, 401 and Buffer Permitting Branch  
(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.

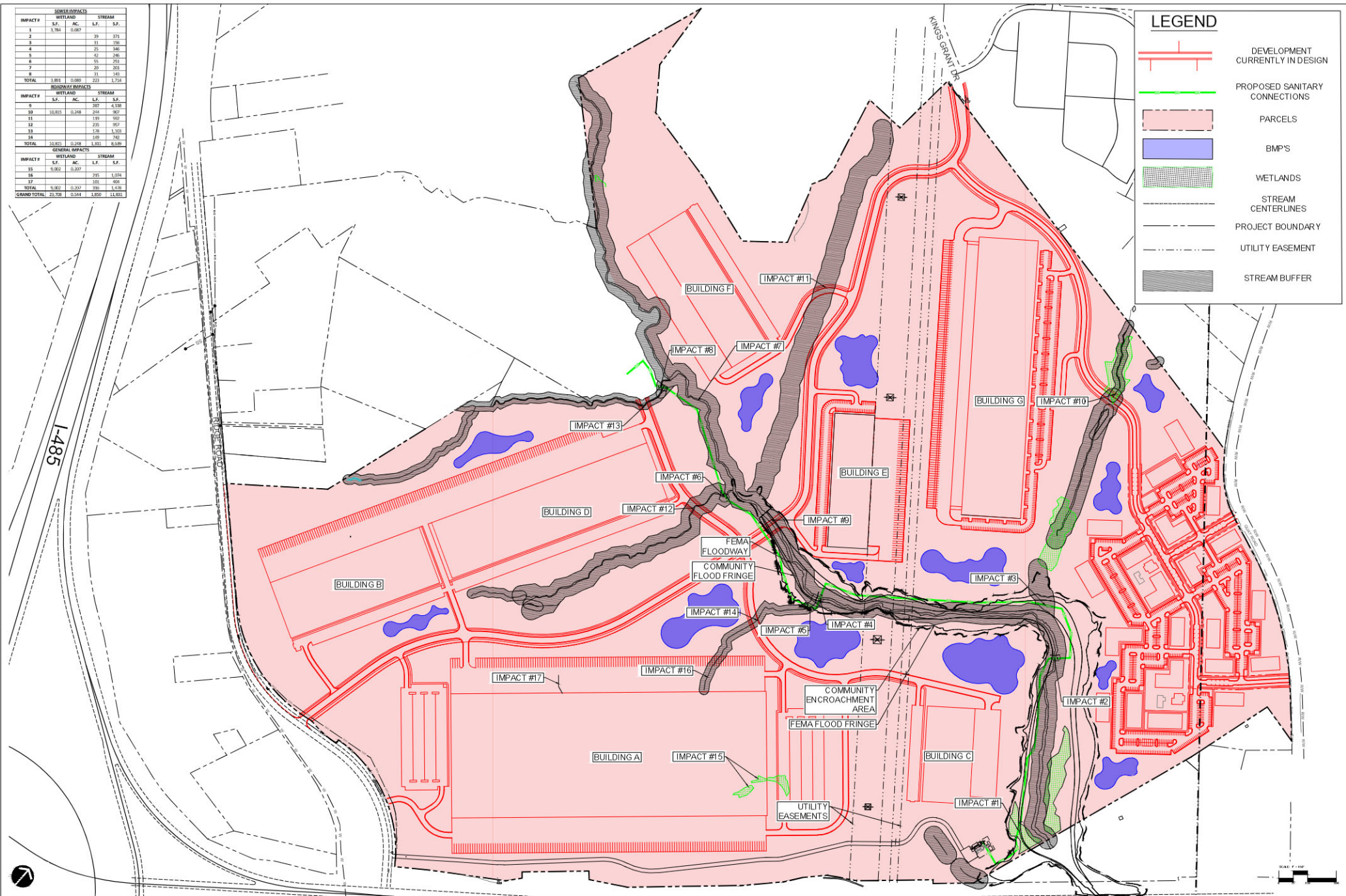
### **Commenting Information**

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, December 11, 2023. Comments should be submitted to Emily Greer, Charlotte Regulatory Field Office, 8430 University Executive Park Drive, Suite 615, Charlotte, North Carolina 28262, or via email at [emily.c.greer@usace.army.mil](mailto:emily.c.greer@usace.army.mil). Comments may also be submitted to [CharlotteNCREG1@usace.army.mil](mailto:CharlotteNCREG1@usace.army.mil).

## ATTACHMENT 1



# KINGS GRANT • CHARLOTTE, NC • OVERALL WETLAND AND STREAM IMPACTS PLAN

PN1020184 | 9.19.2023 | CHILDRESS KLEIN

