



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: February 21, 2024
Comment Deadline: March 22, 2024
Corps Action ID Number: SAW-2023-02308

The Wilmington District, Corps of Engineers (Corps) received an application on January 29, 2024, from TKC Land Development II, LLC seeking Department of the Army authorization to permanently impact 873 linear feet (0.07-acre) of perennial stream associated with developing the South Point Commerce Center project in Thomasville, Davidson 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: TKC Land Development II, LLC
c/o Justin Curis
4500 Cameron Valley Parkway, Suite 400
Charlotte, North Carolina 28211

AGENT (if applicable): Atlas Environmental, Inc.
c/o Jennifer Robertson
338 Soth Sharon Amity Road, #411
Charlotte, North Carolina 28211

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 spans Davidson, Guilford, and Randolph counties and is located north of Interstate 85, east and south of National Highway/English Road, and west of Old Thomasville Road.

Project Area (acres): 178.3

Nearest Town: Thomasville

Nearest Waterway: UT Kennedy Mill Creek

River Basin: Yadkin Pee Dee

Latitude and Longitude: 35.922307N, -80.049609W

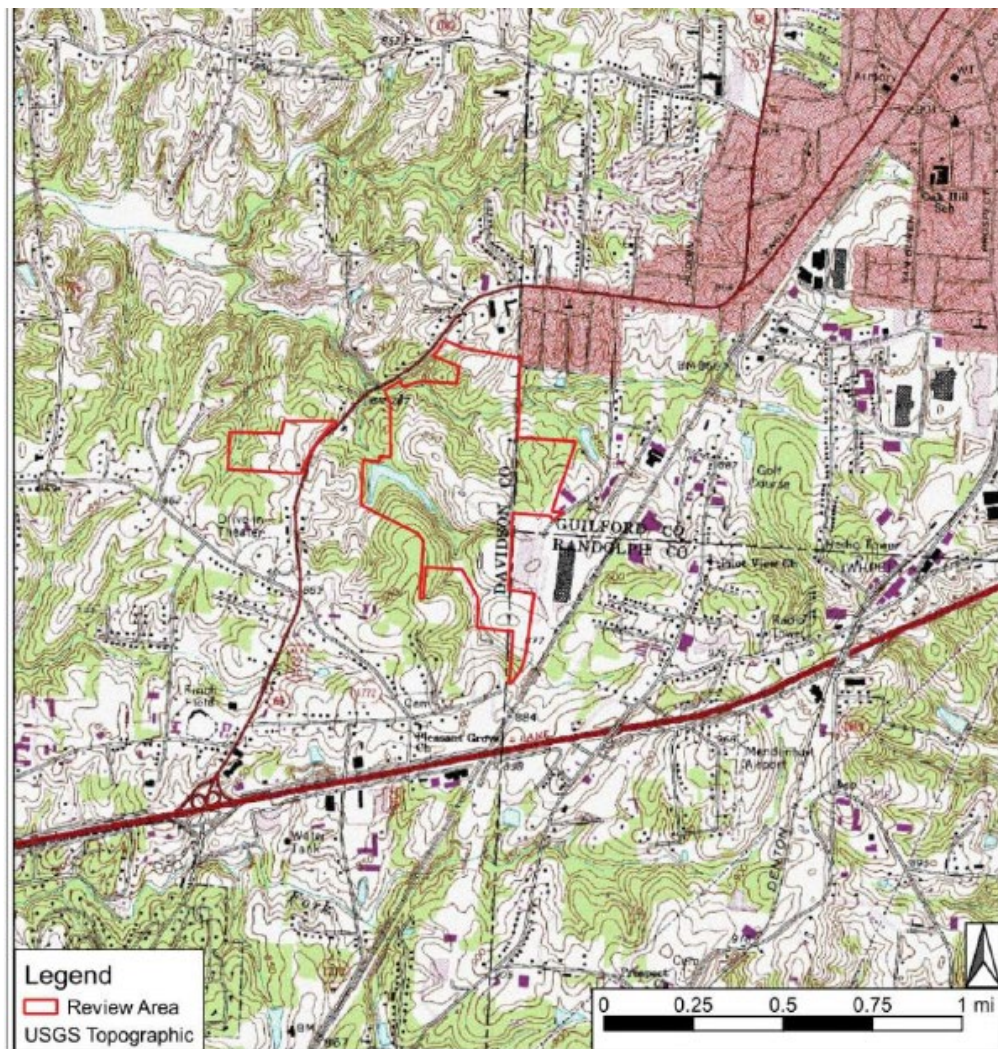


Figure 1. Site vicinity.



Figure 2. Proposed project boundaries.

Existing Site Conditions

The approximately 178-acre undeveloped proposed project area is highly disturbed with predominantly bare, open areas and limited forested cover. Aquatic resources include five perennial streams, six intermittent streams, wetlands, and an impoundment. Site waters flow west across the property and north-northwest to Kennedy Mill Creek, then south and eventually discharging into High Rock Lake, which is a Traditionally Navigable Water of the US.

Mapped soils consist of Mecklenburg clay and sandy clay loam, Pacolet fine sandy loam, Poindexter-Wynott complex, Enon sandy loam, Enon-Urban land complex, Sedgfield sandy loam, and Cecil sandy clay loam.

Dominant vegetation includes sweetgum, red maple, American beech, American sycamore, multiflora rose, green brier, and wild strawberry and blackberry.

Applicant's Stated Purpose

To construct a commercial warehouse development to serve industrial demand in the greater Triad area (Greensboro/Winston-Salem/High Point) in North Carolina.

Project Description

The proposed project would require the permanent loss of 0.07-acre (873 linear feet) of perennial and intermittent stream associated with the construction of an industrial park, including five warehouses (125,000-1.0 million square feet), roads, parking lots, utility lines, and other standard infrastructure. The applicant has asserted that one small wetland that is proposed for permanent loss is non-jurisdictional; however, the project does not currently have a valid jurisdictional determination. An evaluation and determination of the jurisdictional status of this resource will be conducted as part of the permit review process.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The buildings and associated infrastructure would be sized to the minimum spatial extents to accomplish the project purpose and need. The building sizes and placement, parking, and roadways would avoid higher quality streams and wetlands to the greatest extent possible. Buildings have been reduced in size and realigned away from aquatic features to the greatest extent possible, and retaining walls are proposed to avoid and further minimize impacts to aquatic resources. No wetland impacts are proposed.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: purchase of 873 stream credits (1:1 ratio) from NC Division of Mitigation Services In-Lieu Fee Program.

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

According to the Information for Planning and Consultation (IPAC) website, the following species are listed: Tricolored bat (*Perimyotis subflavus*), Monarch butterfly (*Danaus plexippus*), Schweinitz's sunflower (*Helianthus schweinitzii*), and Small whorled pogonia (*Isotria medeoides*).

Via email, dated January 4, 2024, US Fish and Wildlife Service stated, "Based on the information provided in your biological evaluation (BE), suitable habitat for the federally endangered Schweinitz's sunflower (*Helianthus schweinitzii*), occurs within the proposed action area. However, your Biological Evaluation indicates that no evidence for this species was detected during targeted botanical surveys conducted October 26, 2023. Therefore, we believe the probability for project-mediated loss of this species is insignificant and/or discountable and would concur with a "may affect, not likely to adversely affect" determination from the action agency. Botanical survey results for this species are valid for two years for the purposes of ESA consultation.

The information provided indicates that suitable habitat is not present within the action area for any other federally listed species.”

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 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, March 22, 2024. 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. Comments may also be submitted to CharlotteNCREG1@usace.army.mil.