



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: October 1, 2024
Comment Deadline: October 31, 2024
Corps Action ID Number: SAW-2024-01783

The Wilmington District, Corps of Engineers (Corps) received an application on September 16, 2024, from Brian Hecke, Koury Corporation, seeking Department of the Army authorization to discharge fill material into potential waters of the United States, including wetlands, associated with the proposed construction of the Mebane Mixed-use Development (Project) to include multi-family housing and commercial/retail/restaurant businesses, in Mebane, Alamance 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: Brian Hecke
Koury Corporation
2275 Vanstory Street, Suite 200
Greensboro, North Carolina 27403

AGENT (if applicable): Pam Tutten
ECS Southeast, LLC
1281 Kennestone Circle, Suite 200
Marietta, Georgia 30066

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)

Location

Location Description: The Project site is located north of the Interstate-40 West Exit 152 interchange along the northeast side of Trollingwood Hawfields Road, east of Gibson

Road, and south of South Third Street, approximately two miles southwest of downtown Mebane, in Alamance County, North Carolina.

Project Area (acres): ~64

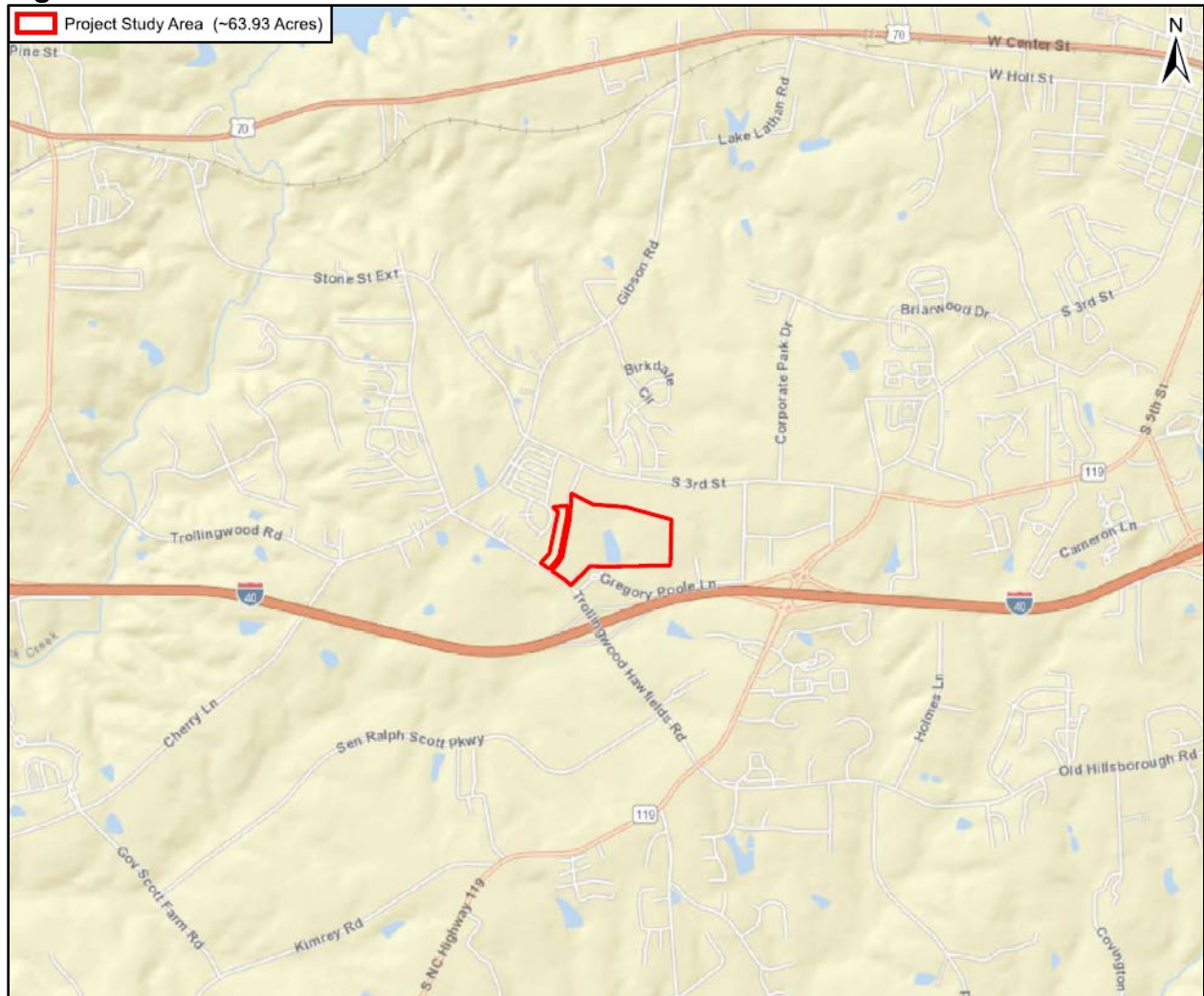
Nearest Town: Mebane

Nearest Waterway: Unnamed Tributary (UT) to Back Creek

River Basin: Haw

Latitude and Longitude: 36.071738 N, -79.310433 W

Figure 1



Existing Site Conditions

The Project site, situated within the Piedmont Physiographic Province, consists of agricultural fields, wooded areas, a wetland area and pond, and single-family residences. Land use in the surrounding vicinity consists of agricultural fields, wooded areas, single-family, and commercial properties.

Based on information obtained from the United States Department of Agriculture, Natural Resources Conservation Service, Soil Survey for Alamance County, the soils within the Project site are comprised of three soil mapping units summarized in Table 1 below.

Table 1

Map Unit Symbol	Map Unit Name
CnB2	Cullen clay loam, 2-6% slopes, moderately eroded
CnC2	Cullen clay loam, 6-10% slopes, moderately eroded
CnD2	Cullen clay loam, 10-15% slopes, moderately eroded

The site was evaluated by the applicant’s agent, ECS, for the presence and extent of potential waters of the United States on July 16, 2024. One wetland, 1.03 acres, and one open water pond, 0.03 acre, were delineated within the Project site. These two features are primarily within the footprint of the larger former agricultural pond drained sometime during early Spring 2024 prior to the site reconnaissance. Historical aerials appear to show that the pond was excavated and dammed sometime in the early 1970s. The wetland area exhibited indicators of hydrology, hydrophytic vegetation, and hydric soils. Primary wetland hydrology indicators, including surface water and saturation, were observed within the wetland area. The dominant hydrophytic vegetation included an herb stratum of yellow nutsedge (*Cyperus esculentus*), round-fruited hedge-hyssop (*Gratiola virginiana*), Pennsylvania smartweed (*Polygonum pennsylvanicum*), and common rush (*Juncus effusus*); woody and shrub-scrub vegetation was not observed within the wetland area. Soils within the wetland area were observed to be of loamy-clay texture and exhibited hydrogen sulfide and loamy gleyed matrix hydric soil indicators.

Applicant’s Stated Purpose

The Project purpose as stated by the applicant is to construct access and infrastructure to develop the site with 698 multi-family units; 277,323 square feet of retail space; 8,000 square feet of restaurant outparcels; and 10 acres for a medical-use tenant to accommodate the steady rise in population and development in the area.

Project Description

The applicant’s stated Project description: The site has close proximity to Interstate-40 and would bring a substantial amount economic opportunity for the Town of Mebane and vicinity, providing major amenities, infrastructure, and tax revenue to an undeveloped section of western Mebane. The site would offer key components including central location, ease of access to interstates, major and minor arterial and collector roads, sufficient property size for the required building configurations, and appropriate and safe traffic flow for the future residents. The development would meet the local requirements for parking spaces and stormwater management measures.

In order to construct access and infrastructure for the development of the Project, it would be necessary to permanently discharge fill material into 1.03 acres of wetland and 0.03 acre of open water.

The applicant submitted an Approved Jurisdictional Determination (AJD) request to the Corps with the permit application on September 16, 2024. The proposed impacts to wetlands and open waters are to areas that the applicant believes to be non-jurisdictional. The request is being reviewed and evaluated by the Corps concurrently with the permit application, and no determination has been made at this time.

Avoidance and Minimization

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

There were several other layouts prepared in the process of developing the site plan, however, each iteration included impacts to the wetland area on site due to its location at the center of the site. The location of the feature presented a challenge in site layout with addressing the anchor tenant's requirement for passersby road visibility and local requirements for parking and safe traffic flow through the proposed development.

Avoidance and minimization for impacts to waters was done to the greatest extent practicable with respect to the location of the existing wetland area and providing site access and flow through the proposed development. Additionally, an extensive alternatives analysis was performed in order evaluate this project considering both on-site and off-site alternatives to the proposed development. Due to the constraints mentioned previously, permanent fill of approximately 1.03 acres for wetland impacts and 0.03 acre of open water impacts are proposed.

Compensatory Mitigation

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

Mitigation for wetland impacts is included as a part of the permit submittal. The required wetland mitigation (assessed at a 2:1 ratio) is 2.06 credits. The applicant proposes to purchase in-kind wetland credits from a private mitigation bank with available credits in this HUC. A statement of availability from Wildland Holdings VI, LLC, for the 2.06 wetland credits mitigation is included with the application.

No compensatory mitigation was offered for the proposed impacts to open waters.

Essential Fish Habitat (EFH)

would not effect

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

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 (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places) are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO and/or THPO.

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.

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 180 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

Or,

(Physical address): 512 North Salisbury Street, Raleigh, NC 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 31, 2024. Comments should be submitted to Julia Tillery, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, or via email at Julia.A.Tillery@usace.army.mil. The Corps Project Manager can be contacted at (919) 440-1951. Comments may also be submitted to RaleighNCREG@usace.army.mil.