



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: January 6, 2025
Comment Deadline: February 5, 2025
Corps Action ID Number: SAW-2021-01333

The Wilmington District, Corps of Engineers (Corps) received an application on December 23, 2024, from Mateo Burbano, Mungo Homes of North Carolina (Applicant), 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 Banks 20 Residential Subdivision (Project) to include access/infrastructure and single/multi-family housing, in 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: Mateo Burbano
Mungo Homes of North Carolina
2521 Schieffelin Road, Suite 116
Apex, North Carolina 27502

AGENT (if applicable): Rick Trone
WithersRavenel
115 Mackenan Drive
Cary, North Carolina 27511

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 approximately three miles east of the I-440 Cliff Benson Beltline and three miles southwest of Knightdale, situated adjacent south of Poole Road and adjacent east to the Neuse River, at 3100 Hodge Road, in Wake County, North Carolina.

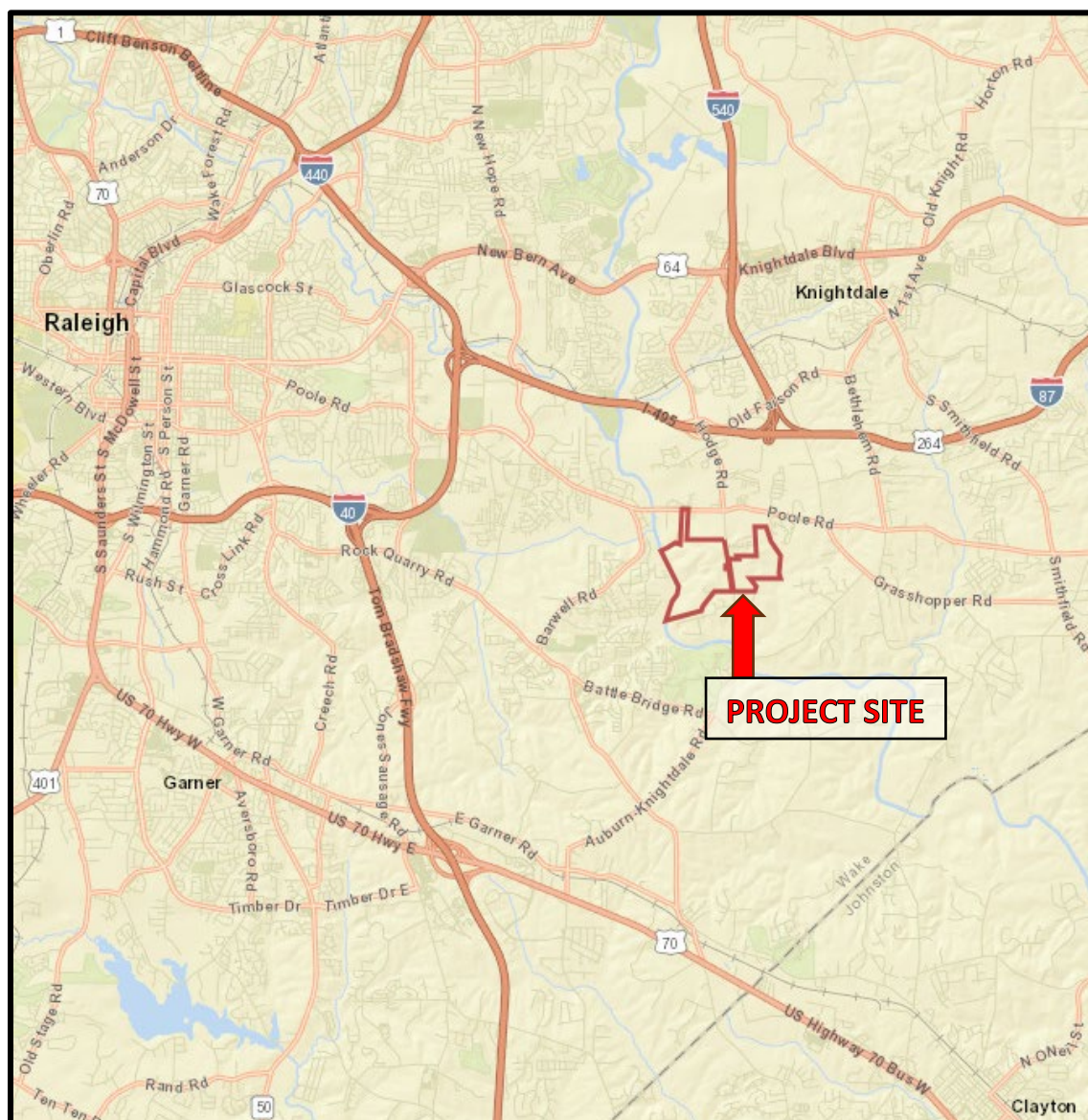
Project Area (acres): ~434

Nearest Town: Raleigh

Nearest Waterway: Neuse River

River Basin: Neuse

Latitude and Longitude: 35.741012 N, -78.515977 W



Existing Site Conditions

The Project site, situated within the Piedmont Physiographic Province, consists of undeveloped land comprised of agricultural fields and wooded areas. The agricultural fields were in active crop production until 2020 but are now fallow. There are two homes in the review area that are currently occupied and maintained as well as a few vacant homes that are no longer being maintained. The vegetative communities consist of mixed hardwood/pine forest, loblolly pine plantation, and early successional vegetation. These areas have been historically logged for timber production and allowed to regrow. The vegetative composition consists of a dense canopy. The early successional areas are located within the fallow farm fields, utility easements, and old lawns. Due to the density of the overstory, there was not a substantial herbaceous layer present. Historical aerial photography shows that these areas were agricultural fields and were planted with loblolly pine around 2012-2013. General land use around the vicinity of the area is residential with some light commercial nearby.

Based on information obtained from the United States Department of Agriculture, Natural Resources Conservation Service, Soil Survey for Wake County, the soils within the Project site are comprised of 19 soil mapping units summarized in Table 1 below.

Table 1

<i>Map Symbol</i>	<i>Map Unit Name</i>	<i>Hydric Soil Rating</i>
ApB2	Appling Sandy Loam, 2-6 percent slopes, eroded	No
ApC	Appling Sandy Loam, 6-10 percent slopes, eroded	No
ApC2	Appling Sandy Loam, 6-10 percent slopes, eroded	No
ApD	Appling Sandy Loam, 10-15 percent slopes	No
Cn	Colfax Sandy loam	No
DuB	Durham Sandy Loam, 2-6 percent slopes	No
LoC	Louisburg loamy sand, 6-10 percent slopes	No
LoD	Louisburg loamy sand, 10-15 percent slopes	No
Ly	Lynchburg Sandy Loam	No
Ra	Rains Fine Sandy Loam	Yes
WaA	Wagram Loamy Sand, 0-2 percent slopes	No
WaB	Wagram Loamy Sand, 2-6 percent slopes	No
WaC	Wagram Loamy Sand, 6-10 percent slopes	No
WgA	Wagram-Troup Sands, 0-4 percent slopes	No
WkE	Wake Soils, 10-25 percent slopes	No
WmD2	Wedowee Sandy Loam, 10-15 percent slopes, eroded	No
WmE	Wedowee Sandy Loam, 15-25 percent slopes	No
Wo	Wehodkee and Bibb Soils	No
Wy	Worsham Sandy Loam	No

The applicant's agent, WithersRavenel, delineated potential waters of the U.S. (WOUS) on the Project site in 2020-2021. Within the review area, twenty streams including the Neuse River, thirty-seven wetlands, and five ponds (open water) were evaluated as potentially jurisdictional WOUS. Several beaver impoundments were observed on some

of the perennial streams. The Corps issued a combination Preliminary and Approved Jurisdictional Determination (SAW-2021-01333) for the site on March 16, 2023.

Applicant's Stated Purpose

The Project purpose as stated by the applicant is to construct access and infrastructure to develop a mixed-use site consisting of detached homes and townhomes to meet the existing high demand for housing in the City of Raleigh and Wake County.

Project Description

The applicant's stated Project description: The applicant chose the City of Raleigh as the desired location for the proposed project based on numerous factors including availability of large tracts of undeveloped land, proximity/access to high-paying jobs within Raleigh, Cary and surrounding municipalities in the Triangle Area, schools, access to various transportation networks, major highway and utility infrastructure projects. The applicant's market research determined that there is a deficit of residential housing (single and multi-family) within the Triangle Area, particularly in Raleigh. Additionally, major highway projects allowing quicker travel throughout the Triangle area and expansion/improvements to public water/sewer infrastructure make east Raleigh an ideal location for a large-scale residential development.

The proposed project consists of a total of 1,643 dwelling units to be constructed in five phases to include: 962 single-family detached home lots, 681 townhome lots, 150 acres of open space with trails, amenity areas, parking, and a future fire station.

The site is accessed from Hodge Road through the middle in a north-south direction, Poole Road to the north, and the Neuse River parallels the western boundary of the site. Ultimately the I-540 toll road will extend through the eastern part of the site, but no access to the site will be available.

In order to construct access and infrastructure for the development of the Project, the applicant proposes to permanently discharge fill material into 0.4559 acre of aquatic resources (to include 1,758 linear feet of stream channel loss) and temporarily impact 0.5736 acre of waters; specifically, see Table 2 below.

Table 2

<i>Aquatic Resources</i>	<i>Permanent Impacts /Functional loss</i>	<i>Permanent Impacts No-functional loss</i>	<i>Temporary Impacts</i>
Wetlands	0.265 acre	N/A	0.074 acre
Streams	0.1709 acre (1,758 linear feet)	0.003 acre (44 linear feet)	0.0116 acre (83 linear feet)
Open Waters	0.017 acre	N/A	0.488 acre

Avoidance and Minimization

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

Proposed wetland, stream, and buffer impacts have been minimized to only those necessary for infrastructure (roads, stormwater control, greenways, sanitary sewers, and pond maintenance) with no proposed impacts for construction of buildings, lots, or parking. Total permanent impacts, including buffers, is 3.49 acres. Aquatic resources, including buffers, located on the site total approximately 33 acres. As such, 29.51 acres of aquatic resources and buffers have been avoided through site design. Existing onsite ponds have been avoided with the exception of the installation of necessary pond outfall structures to be retained as amenity features. An extensive alternatives analysis was performed in order to evaluate this project considering both on-site and off-site alternatives to the proposed development. Various options and designs for road crossings were explored and determined to not be feasible or not result in a reduction of impacts to streams. Bridging these stream crossings would eliminate stream impacts, however the price of bridges is cost prohibitive. Temporary wetland impact areas would be restored to natural grade and seeded with a wetland seed mix. Similarly, temporarily impacted riparian buffers would be restored to natural grade and seeded with a riparian seed mix and/or allowed to revegetate naturally.

Compensatory Mitigation

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

Mitigation for wetland and stream permanent-loss impacts is proposed as a part of the permit submittal. At a 2:1 mitigation to impact ratio, the required wetland and stream mitigation is 0.53 riparian non-riverine wetland credits and 3,516 warm water stream credits respectively. The applicant proposes to purchase in-kind wetland and stream credits from a private mitigation bank with available credits within the Neuse River Basin, Hydrologic Unit Code [HUC] 03020201. A statement of availability from RES Restoration Systems Wildlands Clearwater Mitigation for the cumulative mitigation is included with the application.

Essential Fish Habitat (EFH)

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:

- ☒ Cultural resources that have been determined “not eligible” for inclusion in the National Register of Historic Places are present within the Corps’ permit area; 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.

In a letter dated September 16, 2024, logged as ER 21-0628, the SHPO concurred with the applicant’s recommendation in their Phase IIb Archaeological Testing Report that the remains of the Restdale Plantation distillery (31WA2421) is not eligible for the National Register of Historic Places and no additional work is required.

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 determinations for federally listed endangered or threatened species or their formally designated critical habitat:

Table 3

<i>Species</i>	<i>Federal Status</i>	<i>Potential Habitat Present?</i>	<i>Effect Determination</i>
Red-cockaded woodpecker (<i>Picoides borealis</i>)	Endangered	No	No Effect
Neuse River waterdog (<i>Necturus lewisi</i>)	Threatened	Yes	MA-NLAA ¹
Carolina madtom (<i>Noturus furiosus</i>)	Endangered	Yes	MA-NLAA ¹
Atlantic pigtoe (<i>Fusconaia masoni</i>)	Threatened	Yes	MA-NLAA ¹
Dwarf wedgemussel (<i>Alasmodonta heterodon</i>)	Endangered	Yes	MA-NLAA ¹
Michaux’s sumac (<i>Rhus michauxii</i>)	Endangered	Yes	No Effect

¹ May Affect Not Likely to Adversely Affect

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.

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 (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, February 8, 2025. 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, or electronically via the Regulatory Request System at rrs.usace.army.mil. The Corps Project Manager can be contacted at (919) 440-1951. Comments may also be submitted to RaleighNCREG@usace.army.mil.