US Army Corps of Engineers®

PUBLIC NOTICE

Applicant:
Wesley Fricks
Simpson Commercial Real Estate

Published: May 23, 2025
Expires: June 23, 2025

Wilmington District
Permit Application No. SAW-2024-01001

TO WHOM IT MAY CONCERN: The Wilmington District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: Wesley Fricks
Simpson Commercial Real Estate
1401 Sunset Drive, Suite B
Greensboro, North Carolina 27408

AGENT: Rick Trone
WithersRavenel
115 MacKenan Drive
Cary**,** North Carolina 27511

WATERWAY AND LOCATION: The project would affect waters of the United States associated with West Buies Creek. The project/review area is located in the southeast corner of Tippet Road and Matthews Mill Pond Road, at Latitude 35.492180 and Longitude -78.755832; in Angier, Harnett County, North Carolina.

EXISTING CONDITIONS:
The review area consists of 4 parcels (PINs: 0673-35-3156.000, 0673-34-3650.000, 0673-23-1894.000, and 0673-24-8088.000). The majority of the review area consists of agricultural fields, forested riparian wetlands, and streams. Additionally, the site has a few existing residential homes, a 100-ft overhead powerline easement, and a pond. Based on a review of historic aerial photography, the majority of the onsite agricultural fields have been in active agricultural production since prior to 1955. The overhead powerline easement was constructed between 1973 and 1983. The applicant characterized onsite vegetative communities into four groups consisting of mowed/maintained, early successional, hardwood forest, and agricultural.

The mowed/maintained community is associated with the existing residences in the central portion of the review area, adjacent to Matthews Mill Pond Rd. The vegetative composition consisted primarily of Bermudagrass (*Cynodon* spp.) and fescue (*Festuca* spp.) with a mixture of other common grasses and weeds. This community is mowed frequently enough to maintain lawn conditions and prevent the growth of woody

vegetation. The average height of the mowed/maintained community does not exceed 6".

The early successional community is located within a utility easement that runs north/south along the edge of riparian wetland and pasture. This community contains emergent herbs and shrubs with a maximum height of 48". This vegetative composition consisted of a mixture of dog fennel (*Eupatorium capillifolium*), blackberry (*Rubus occidentalis*), goldenrod (*Solidago* spp.), soft rush (*Juncus effusus*), broomsedge (*Andropogon virginicus*), and Japanese stiltgrass (*Microstegium vimineum*).

The hardwood forest community is located along the riparian corridors of streams. This community is characterized by containing diverse hardwood species with a dense canopy. The vegetative composition consisted of a mixture of tulip poplars (*Liriodendron tulipifera*), white oak (*Quercus alba*), red maple (*Acer rubrum*), sweetgum (*Liquidambar styraciflua*). The understory was sparsely vegetated with American holly (*Ilex opaca*), red maple, and sweetgum saplings. The groundcover consisted mainly of giant cane (*Arundinaria gigantea*), Japanese stiltgrass, soft rush, Christmas fern (*Polystichum acrostichoides)* and netted chain fern (*Woodwardia areolata*).

The agricultural community made up the majority of the review area. Based on a review of historic aerial photography, the majority of the onsite agricultural fields have been in active agricultural production since prior to 1955. At the time of the site visit, the agricultural fields were seeded with winter wheat but had remnants of soybeans throughout the fields.

Based on the USDA/NRCS soils map the project area consist of Fuquay and Dothan loamy sands in areas of high ground and Bibb soils within the wetland and stream systems.

PROJECT PURPOSE:

Basic: To provide residential housing.

Overall: Per the applicant- To construct a residential development to meet the existing high demand for housing in a fast-growing area south of Raleigh and Wake County. The applicant's target area for viable townhome projects is the area surrounding Raleigh, specifically within a 25-mile radius of the center of Raleigh. The applicant opened a division office in the market in 2015, with the mandate from the company to pursue profitable residential subdivision opportunities to meet the housing needs of the growing area.

The applicant chose a radius of 25 miles south of the Raleigh area 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, Apex and surrounding municipalities in the Triangle Area, thriving social/entertainment scene, schools, access to various transportation networks, major

highway and utility infrastructure projects, and other factors that make the Triangle area a desirable place to live. The applicant's market research determined that there is a deficit of residential housing (single and multi-family) within the Triangle Area. Additionally, the median single family home price in the Triangle is $420,000, and $459,000 in Wake County (per www.Redfin.com as of April 2025) resulting in high barrier for entry into home ownership, especially for first time home buyers. The high home prices, limited inventory, deficit in rental housing options, and major public infrastructure projects make southern Wake County/northern Harnett County an ideal location for the proposed community.

Additionally, major highway projects allowing quicker travel throughout the Triangle area and expansion/improvements to public water/sewer infrastructure make northern Harnett County an ideal location for residential development.

PROPOSED WORK: The applicant requests authorization to discharge fill material into an open water pond, wetlands, and stream to support construction of approximately 250 townhomes and the associated interior roads, infrastructure, and utilities.

The proposed permanent wetland impacts total 0.516 acre for lot development, a single road crossing, and sewer infrastructure. The proposed road crossing would result in 0.437 acre of permanent wetland impacts and 94 linear feet (0.015 acre) of permanent stream impacts to connect to the adjacent Station Pointe subdivision being constructed by others.

Approximately 0.249 acre of wetland is proposed to be permanently converted from forested to a maintained utility easement to accommodate a sanitary sewer connection from the adjacent Station Pointe subdivision. Additionally, the applicant proposes to drain and fill the 4.05 acre pond for lot and road construction.

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

Prior to site plan design, the applicant requested that a detailed wetland delineation be conducted so that impacts to wetlands and "waters" could be minimized. Proposed wetland and stream impacts have been minimized to only those necessary for infrastructure (sanitary sewers), one road crossing, and impacts for grading, the overwhelming majority of those being impacts to what was once an agricultural pond (Pond 1). There are no proposed impacts for construction of parking, additional roads, or additional infrastructure. Proposed permanent impacts to jurisdictional waters total 4.535 acres (streams: 0.016 ac/98 lf; wetlands: 0.474 ac; pond: 4.045 ac). A total of 0.249 ac of temporary wetland impacts (permanent wetland conversion) are proposed for installation of sewer. Wetland and open water resources located on the site total approximately 13.52 acres meaning 9 acres of these resources have been avoided through site design. Additionally, 3,518 lf of streams are located on the site and with a

total proposed permanent stream impact of 115 lf, 3,403 lf of streams have been avoided through careful site design.

The site was designed around the extensive wetlands on the eastern side to the greatest extent possible. In order to create connectivity to the approved Station Pointe subdivision to the east (by others), it is necessary to construct a road through Wetland C. The wetland cannot be avoided entirely because the wetland spans the entire length of the site. The project has been designed with a vegetated constructed swale that will help drain water towards Stream 3 north of the impact area. The vegetated swale will be cut in so that the low point made by the grading tie out in the wetland will drain to the area where the culverts are placed. The construction of the vegetated swale was determined to be a better alternative to other options (e.g. equalizer pipes) to ensure the wetland continues to drain similarly to the pre-construction condition.

The Oakridge Haily Street crossing is necessary to meet interconnectivity requirements and will provide secondary access to Matthews Mill Pond Road and ultimately NC 210 for residents of Station Pointe subdivision and will provide internal access (vehicular, pedestrian and bicycle) for Station Pointe residents. Secondary access to Matthews Mill Pond Road will relieve some traffic congestion on Tippet Road and serve as a second access road into Station Pointe. The alignment of Oakridge Haily Street was restricted by the location of planned roads in the Station Pointe subdivision to the east, as the Station Pointe design was approved in 2023, well in advance of the design of the proposed Matthews Mill Pond project. The drainage modeling determined that a 60-inch and a 54-inch culvert were necessary to handle the volume and velocity of water flowing through this area during significant rain events due to the large drainage area. The eastern 60-inch culvert will be aligned within Stream 3 (Perennial) and will be installed a minimum of 12-inches below the stream bed to allow for aquatic life passage during periods of low flow. The western 54” culvert will be installed to only carry flows during periods of high flow/flooding to avoid backing up water and creating a head that could undermine the road and cause failure.

The onsite farm pond could not be avoided due to its large size and location. With the site being constrained by extensive wetlands and an existing 100-ft overhead power easement, avoiding the pond would not make for a viable project.
The road crossing and sewer stream crossings will be completed “in the dry” and during periods of no forecasted rain. Upon completion of construction of the road and sewer crossings, the temporary coffer dams within streams will be removed and the temporary stream impact areas restored to natural grade. The stream banks will be lined with biodegradable matting and temporarily seeded, if possible, depending on the water levels. No matting will be placed on the stream bed. Additionally, temporary wetland impact areas will be restored to natural grade and seeded with a wetland seed mix. Impacts are necessary to install sewer infrastructure. Temporary wetland impacts (permanent conversion) are necessary through Wetland C and D. Impacts have been minimized by the permanent sewer easements being only 20’ wide in post-construction conditions. Areas of sewer grading are necessary for sewer line installation along the

edge of Wetland D. Impacts for lot grading have been minimized to just 0.017 acres. Lot grading impacts have been kept to a minimum, however with the extensive wetlands on the site, they could not be avoided completely. Most of the grading impacts are to Pond 1, a former agricultural pond.
Access to open space will be provided by a pedestrian bridge over Stream 5. A bridge crossing is proposed here to avoid stream impacts (Impact Sheet F).

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

Wetland Mitigation
The applicant proposes to mitigate 0.516 acres of permanent wetland impacts at a 2:1 mitigation ratio. The project proposes 0.246 acres of permanent wetland conversion impacts for the installation of sanitary sewer infrastructure. Because the permanent conversion impacts are greater than one-tenth of an acre, the applicant proposes compensatory wetland at a 1:1 ratio. The proposed compensatory mitigation is provided in the following table:

Wetland Mitigation Table			
Impact Type	Impacts	Ratio	Mitigation Proposed
Wetland Impact	0.516 ac	2:1	1.032 ac
Wetlands Permanent Conversion	0.246 ac	1:1	0.246 ac
		Totals	**1.278**

WithersRavenel coordinated with mitigation banks servicing this HUC to inquire on the availability of mitigation credits (Wildlands, Davey). Insufficient credit is available from the mitigation banks. Davey has no wetland credits in this HUC and Wildlands only has 0.04 acres of credit. Insufficient mitigation credits were available in this HUC from private mitigation banks, therefore a copy of a letter of acceptance from NCDMS has been provided as an attachment. Prior to issuance of the permits, WithersRavenel will reach out to the private mitigation banks to determine if sufficient mitigation is available at that time, and if so, obtain SOAs so that the MRTFs for the project will accurately reflect the source of mitigation.

Stream Mitigation
Permanent (Functional Loss) stream impacts are below the 0.02 ac threshold (0.015 ac); therefore, the applicant does not propose stream mitigation.

CULTURAL RESOURCES:

The Corps evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA) utilizing its existing program-specific regulations and procedures along with 36 CFR Part 800. The Corps' program-specific procedures include 33 CFR 325, Appendix C, and revised interim guidance issued in 2005 and 2007, respectively. 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: The Corps has performed an initial review of the application, and the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC), to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur within the boundary of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed in Table 1. No other ESA-listed species or critical habitat will be affected by the proposed action.

Table 1: ESA-listed species and/or critical habitat potentially present in the action area.

Species Common Name and/or Critical Habitat Name	**Scientific Name**	**Federal Status**
Cape Fear Shiner	*Notropis mekistocholas*	Endangered
Atlantic Pigtoe	*Fusconaia masoni*	Threatened

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402.

This notice serves as request to the U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

ESSENTIAL FISH HABITAT: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information

provided by the applicant, and consulted available species information. No EFH exists within the project area, therefore no consultation needed.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: An Individual Water Quality Certification may be required from the NC Division of Water Quality.

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

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact 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 benefits, 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and

wildlife values, flood hazards, floodplain values, 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to 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 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.

The Wilmington District will receive written comments on the proposed work, as outlined above, until June 23, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at https://rrs.usace.army.mil/rrs or to Katharine Elks at Katharine.B.Elks@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Wilmington District, Attention: Katharine Elks, 69 Darlington Avenue Wilmington, North Carolina 28403. Please refer to the permit application number in your comments.

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.