



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
Brian Hecke
Koury Corporation

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**Wilmington District
Permit Application No. SAW-2024-01049**

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: Brian Hecke
Koury Corporation
2275 Vanstory Street
Greensboro, North Carolina 27403

AGENT: Pam Tutton
ECS Southeast, LLC
1281 Kennestone Circle
Suite 200
Marietta, Georgia 30066

WATERWAY AND LOCATION: The project would affect waters of the United States associated with unnamed tributaries to Philadelphia Lake (Buffalo Lake and White Oak Lake). The Site is located on the south side of West Cone Boulevard, directly west of its intersection with Cleburne Street; at Latitude 36.104852 and Longitude -79.80333; in Greensboro, Guilford County, North Carolina (Figure 1).

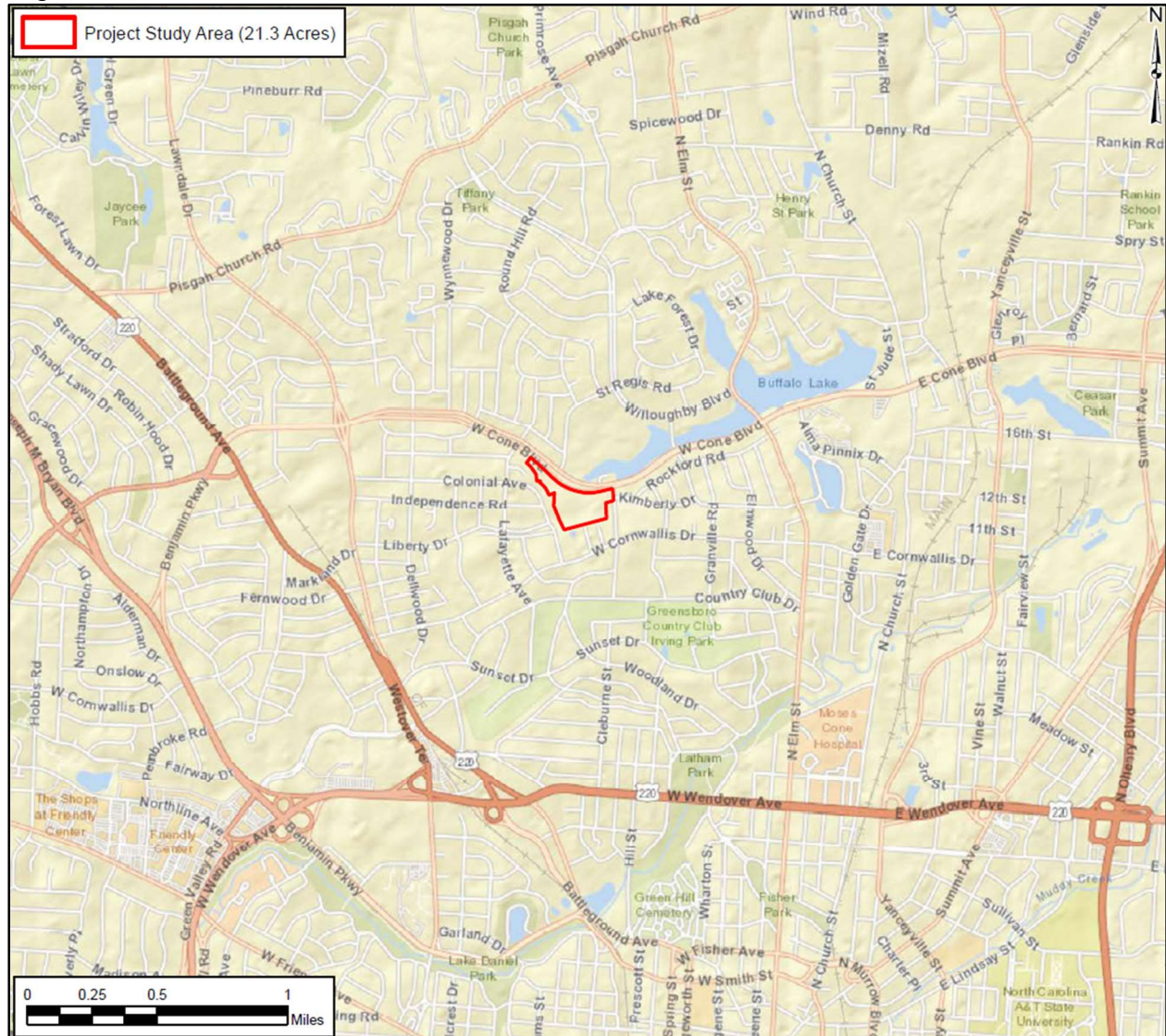
EXISTING CONDITIONS: The Site is located within the North Buffalo Creek sub-watershed in the Cape Fear River Basin (Hydrologic Unit Code [HUC] 03030002). The Site drains to Philadelphia Lake (Buffalo Lake and White Oak Lake) (Stream Index: 16-11-14-1-2), which is designated as a Class WS-V;NSW water (Waters protected as water supplies which are generally upstream and draining to Class WS-IV waters and nutrient sensitive waters) by the North Carolina Department of Environmental Quality (NCDEQ).

The Site consists of mixed hardwood forested areas, and is bound to the north by West Cone Boulevard and residential developments to the south.

The mixed hardwood forest community is comprised of a canopy of red maple (*Acer rubrum*), sweetgum (*Liquidambar styraciflua*) and American beech (*Fagus grandifolia*). This community has relatively open sub-canopy and shrub layers consisting of the same

species. There is a sparse understory of herbaceous plants (i.e., plants with little to no persistent above-ground woody stem) and woody vines comprised of kudzu (*Pueraria montana*) and trumpet vine (*Campsis radicans*).

Figure 1.



Based on information obtained from the United State Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Soil Survey for Guilford County, the Soils within the Site include four (4) soil series summarized in Table 1 below.

Table 1: NRCS Mapped Soil Series on Site.

Map Unit Symbol	Map Unit Name
CfB	Cecil-Urban land complex, 2 to 10 percent slopes
ChA	Chewacla loam, 0 to 2 percent slopes, frequently flooded
EuB	Enon-Urban land complex, 2 to 10 percent slopes
VuB	Vance-Urban land complex, 2 to 10 percent slopes

A Preliminary Jurisdictional Determination request was submitted to the Corps on May 16, 2024. The applicant's agent, ECS Carolinas, delineated four (4) potential non-wetland waters (streams) and three (3) potential wetland waters (wetlands) on the Site. A Jurisdictional Determination has not yet been issued.

Wetland hydrology indicators such as water-stained leaves, geomorphic position, drainage patterns and sparsely vegetated concave surfaces were observed within wetlands. Soils at the wetland data form location consisted of matrices of chroma 1 and 2 loamy/clayey soils with prominent redox concentrations, indicating depleted matrix and redox depression hydric soil indicators.

The wetland communities on Site are of the headwater forest type based on the North Carolina Wetland Assessment Method (NCWAM), and are dominated by plant species such as red maple, jewelweed (*Impatiens capensis*), false nettle (*Boehmeria cylindrica*), alligatorweed (*Alternanthera philoxeroides*), kudzu, and trumpet vine within the canopy and understory layers.

PROJECT PURPOSE:

Basic: To construct residential housing.

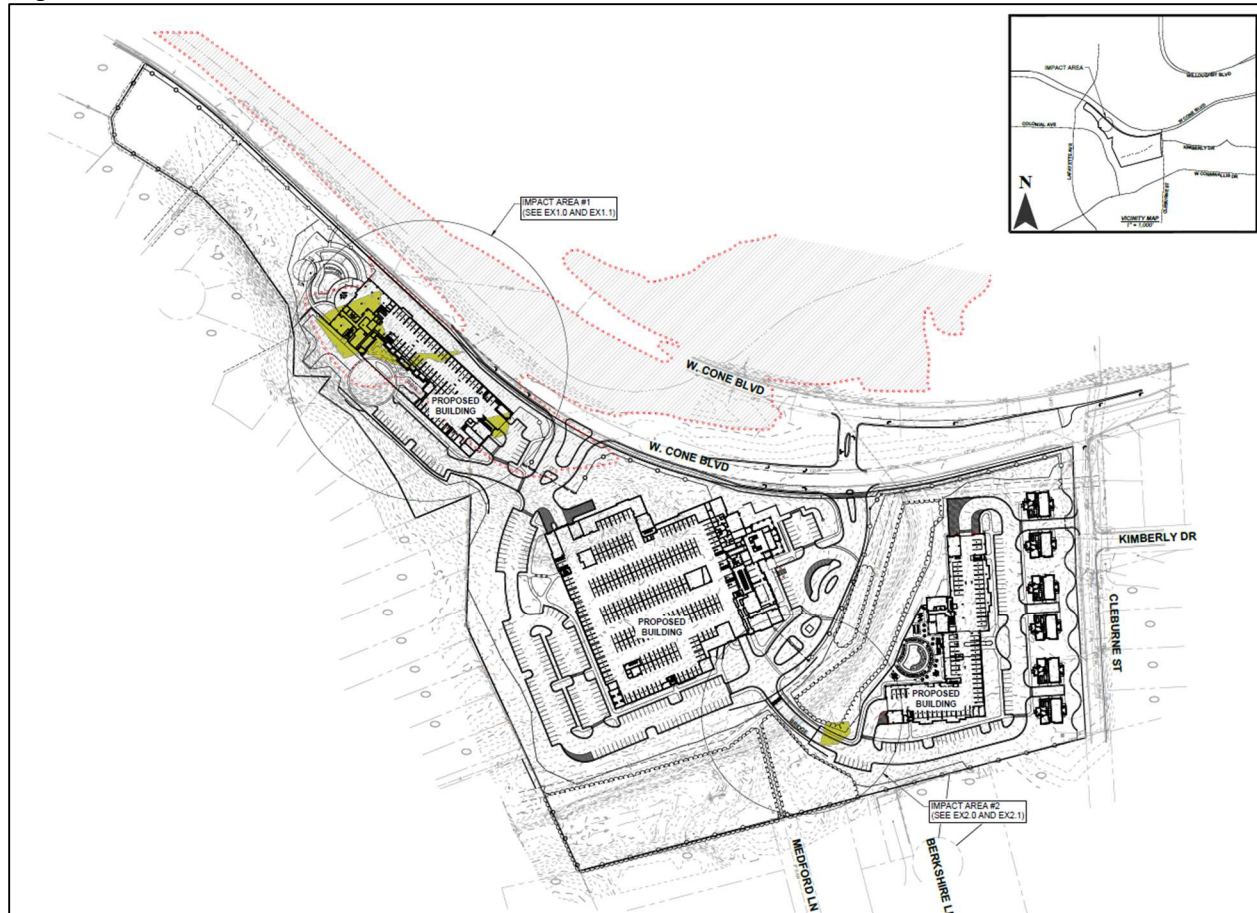
Overall: According to the applicant, the purpose of the project is to develop the site with a multi-family apartment complex with associated infrastructure and amenities.

PROPOSED WORK: The applicant requests authorization to permanently fill 0.408 acre of wetlands to facilitate the development of a multifamily development and associated infrastructure. The general footprint of the development is approximately 21.3 acres, and includes three (3) multi-family residential buildings with underground parking, additional parking lots, amenity spaces, six additional detached buildings, and associated infrastructure including ingress/egress (Figure 1). A portion of the project as proposed would result permanent above-grade fills within the mapped FEMA 100-year floodplain and, as such, would not qualify for Nationwide Permit 29 per Regional Condition C.b. or any other General Permit.

The applicant also stated that the development would meet the local requirements for parking spaces and stormwater management measures. Local and County agencies are requiring two access drives on West Cone Boulevard and Cleburne Street, and local

ordinance requires installation of sidewalks along West Cone Boulevard and Cleburne Street to connect to existing and future sidewalks. Further, the applicant stated that the location of the east-most access drive on West Cone Boulevard was designed to meet distance requirements from the West Cone Boulevard and Cleburne Street intersection. Two access drives were required to the site along West Cone Boulevard and one access drive along Cleburne Street. The entrances from West Cone Boulevard and Cleburne Street are designed to allow access for larger waste disposal trucks and other service vehicles.

Figure 2.



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

A structure is proposed to span the unnamed tributary that flows to Philadelphia Lake minimizing impacts to the stream. To avoid the steep slopes along the southwestern property boundary, the proposed multi-family building was shifted as close to West Cone Boulevard as possible, resulting in wetland impacts in this area of the site. Avoiding impacts to the steep slopes make impacting the wetlands unavoidable. The size and shape of the multi-family building is set to match the size, shape, and style of

the other multi-family buildings within the development. Reducing the size, shape, or configuration of the building to minimize wetlands impacts was unavoidable. Impacts to the wetland were minimized to the maximum extent practicable. Eliminating the building at this location was also not an option as infrastructure improvements require the amount of multi-family units proposed within the development and also to meet the community need for multi-family residences and follow the City of Greensboro, GSO Comprehensive Plan

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

Compensatory mitigation is proposed through the purchase of offsite mitigation credits from a mitigation bank authorized to service the Site. All impacts would be mitigated at a 2:1 ratio. The applicant proposes to mitigate the proposed unavoidable impacts by purchasing 0.816 riparian non-riverine wetland credits from the Cape Fear 02 Umbrella Mitigation Bank: Flat Rock Mitigation Site & Twin Burros Mitigation Site, sponsored by Wildlands Holdings VI, LLC.

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, including a letter to the applicant's agent from the North Carolina Department of Natural and Cultural Resources, State Historic Preservation Office dated July 10, 2023 (ER 23-1459), 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: 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 in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project will not affect any listed species or critical habitat.

Table 2: 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
Schweinitz's sunflower	<i>Helianthus schweinitzii</i>	Endangered
Small Whorled Pogonia	<i>Isotria medeoloides</i>	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.

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 of 1899 (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: Water Quality Certification may be required from the North Carolina Division of Water Resources.

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

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 not 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 April 18, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Matthew Martin at matthew.k.martin@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Wilmington District, Attention: Matthew Martin, 3331 Heritage Trade Drive Suite 105 Wake Forest, North Carolina 27587. 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.