



NORTH CAROLINA  
Environmental Quality

August 5, 2020

ROY COOPER  
Governor  
MICHAEL S. REGAN  
Secretary  
S. DANIEL SMITH  
Director

TO: DEQ-DWR-Wetlands-Public Listserv

FROM: Paul Wojoski, 401 & Buffer Permitting Branch

RE: Notice of Complete Application and Finding of Fact for Authorization Certificate with Major Exception pursuant to Neuse River Riparian Area Protection Rules - 15A NCAC 02B .0714 and 15A NCAC 02B .0611

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PUBLIC NOTICE is hereby given that on June 22, 2020, a request was received by the Division of Water Resources to grant a Major Exception from the Neuse Riparian Area Protection Rules (15A NCAC 02B .0714 and 15A NCAC 02B .0611) to Atlas Stark Holdings LLC (911 N. West Street, Raleigh, NC) for the construction of a Medical Office Building at 2911 and 2919 Galahad Drive, Raleigh, NC. The proposed project would permanently impact 17,174 square feet of Zone 1 of the buffer and 9,389 square feet of Zone 2 of the buffer. To mitigate the buffer impact in accordance with 15A NCAC 02B .0611 (b)(1)(I), the applicant proposes to purchase riparian buffer credits from a private mitigation bank. Based on the information submitted, Division of Water Resources provides the below preliminary findings pursuant to 15A NCAC 02B .0611 (c)(3)(C) DWR proposes to take final action on the application September 5, 2020.

**Preliminary findings pursuant to 15A NCAC 02B .0611 (b)(2) and (c)(1)**

The applicant has demonstrated to the Division's satisfaction that the project meets all the criteria specified in 15A NCAC 02B .0611 (b)(2).

The Division finds the following pursuant to 15A NCAC 02B .0611 (c)(1).

- (A) There are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements.

*The Division believes that the property is undevelopable for commercial purposes without impacting the riparian buffer. The stream bisects the middle of the property creating buffered and steep topographic slopes on both sides which would necessitate grading and fill for development.*

- (B) If the applicant complies with the provisions of this Rule, he or she can secure no reasonable return from, nor make reasonable use of, his or her property. Merely proving that the Authorization Certificate with Exception would allow a greater profit from the property shall not be considered adequate justification for an Authorization Certificate with Exception.



North Carolina Department of Environmental Quality | Division of Water Resources  
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*Alternative designs that considered underground parking and pedestrian bridges over the stream were cost prohibitive to developing the property. The stream is isolated between two culverts and it is believed that most of the stream flow can be attributed to runoff from Wake Med Campus. The Division believes that the property owners can secure no reasonable return from, or make reasonable use of, the property without impacting the buffer.*

Moreover, the Authority shall consider whether the Authorization Certificate with Exception is the minimum possible deviation from the terms of this Rule that shall make reasonable use of the property possible;

*The Division believes proposal is a minimal deviation from the rule.*

- (C) The hardship is due to the physical nature of the applicant's property, such as its size, shape or topography;

*The hardship is due to physical nature of property, specifically the sloping topography, nearby properties are developed and not subject to the same restrictions.*

- (D) The applicant did not cause the hardship;

*The applicant did not.*

- (E) The requested Authorization Certificate with Exception is in harmony with the general spirit purpose and intent of the State's riparian buffer protection requirements, will protect water quality, will secure public safety and welfare, and will preserve substantial justice.

*Mitigation for buffer impacts will be satisfied through the purchase of credit from private mitigation bank. Stormwater management will be addressed in compliance with the City of Raleigh's delegated program. Stream impacts are subject to Section 401 Water Quality Certification which will ensure standard compliance. Due to these factors the Division believes that the proposal is in harmony with the general spirit and intent of the State's riparian buffer protection requirements, will protect water quality, will secure public safety and welfare, and will preserve substantial justice.*

The application is online at:

<https://edocs.deq.nc.gov/WaterResources/Browse.aspx?dbid=0&startid=1179357>

Contact Beverly Strickland (919-707-8789) for assistance with the website. The application is also on file at the DWR Central Office and may be inspected with an appointment between 8 a.m. & 5 p.m. at 512 N. Salisbury St., Raleigh, NC, 27604. For questions or to schedule an appointment, contact Paul Wojoski at [Paul.Wojoski@ncdenr.gov](mailto:Paul.Wojoski@ncdenr.gov).

This notice is available electronically at: <https://deq.nc.gov/about/divisions/water-resources/water-quality-permitting/401-buffer-permitting-branch/public-notices>