

**STIP PROJECT U-5519**

**NORTH COMMUNITY HOUSE ROAD EXTENSION AND BRIDGE  
ACROSS I-485 (GOVERNOR JAMES G. MARTIN FREEWAY)  
CHARLOTTE, MECKLENBURG COUNTY  
WBS No. 55050.1.1**

CATEGORICAL EXCLUSION

UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

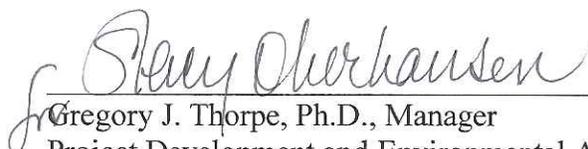
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NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

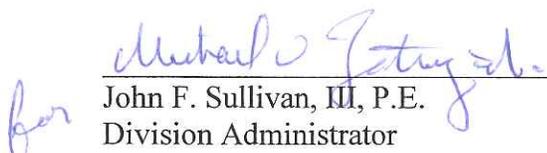
DIVISION OF HIGHWAYS

APPROVED:

12-12-2012  
Date

  
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Gregory J. Thorpe, Ph.D., Manager  
Project Development and Environmental Analysis Unit  
North Carolina Department of Transportation

12-12-12  
Date

  
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John F. Sullivan, III, P.E.  
Division Administrator  
Federal Highway Administration

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December 2012

Prepared by Kimley-Horn and Associates, Inc.  
For the North Carolina Department of Transportation  
Project Development and Environmental Analysis Unit

12/12/12  
Date

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12/12/12  
Date

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## **PROJECT COMMITMENTS**

### **STIP PROJECT U-5519**

#### **NORTH COMMUNITY HOUSE ROAD EXTENSION AND BRIDGE ACROSS I-485 (GOVERNOR JAMES G. MARTIN FREEWAY) CHARLOTTE, MECKLENBURG COUNTY WBS No. 55050.1.1**

##### **NCDOT Division 10, NCDOT Hydraulics Unit**

Mecklenburg County is a participant in the National Flood Insurance Program, administered by the Federal Emergency Management Agency (FEMA). Based on the most current information available from the NC Floodplain Mapping Program (FMP), the unnamed tributary to McAlpine Creek is in a designated flood hazard zone which is within a detailed flood study reach, having a regulated 100-year floodway. The Hydraulics Unit will coordinate with Charlotte-Mecklenburg Storm Water Services and FMP, the delegated state agency for administering FEMA's National Flood Insurance Program, to determine the status of the project with regard to applicability of NCDOT's Memorandum of Agreement with FMP, or approval of a Conditional Letter of Map Revision (CLOMR) and subsequent final Letter of Map Revision (LOMR).

This project involves construction activities on or adjacent to a FEMA-regulated stream. Therefore, the Division shall submit sealed as-built construction plans to the Hydraulics Unit upon completion of project construction, certifying that the drainage structures and roadway embankment that are located within the 100-year floodplain were built as shown in the construction plans, both horizontally and vertically.

**STIP PROJECT U-5519**  
**NORTH COMMUNITY HOUSE ROAD EXTENSION AND BRIDGE**  
**ACROSS I-485 (GOVERNOR JAMES G. MARTIN FREEWAY)**  
**CHARLOTTE, MECKLENBURG COUNTY**  
**WBS No. 55050.1.1**

**INTRODUCTION**

The North Community House Road Extension and Bridge project is funded by a private developer. The project is included in the North Carolina Department of Transportation (NCDOT) *Draft 2013-2023 State Transportation Improvement Program* (STIP) as Project U-5519. Construction of the bridge over Interstate 485 (I-485) will occur concurrently with STIP Project R-4902. STIP Project R-4902 proposes the widening of I-485, Charlotte Outer Loop, from I-77 to Rea Road in Charlotte. The R-4902 Federal Categorical Exclusion (CE) was approved on July 18, 2012.

No substantial environmental impacts are anticipated as a result of the proposed North Community House Road Extension and Bridge project. This action is classified as a Federal Categorical Exclusion, as defined by the Federal Highway Administration (FHWA) environmental guidelines (23 CFR 771.117). The Mecklenburg Union Metropolitan Planning Organization (MUMPO) made a conformity determination on the 2035 *Long Range Transportation Plan (LRTP) Amendment / FY 2012-2018 TIP Amendment*, and NCDOT made a conformity determination on projects from the FY 2012-2018 STIP on September 19, 2012 (see attached correspondence dated October 18 and 25, 2012).

**I. PURPOSE AND NEED STATEMENT**

North Community House Road terminates on the north and south sides of I-485. North of I-485, it is a four-lane divided roadway that ends at an L-intersection with Endhaven Lane where free-flowing traffic is allowed to turn onto each roadway. South of I-485, North Community House Road is a two-lane divided roadway on a four-lane right of way width. North Community House Road terminates at a dead end (u-turn) just south of I-485. The project location is shown in **Figure 1**. Photos of the project area are shown in **Figure 2**.

The North Community House Road Extension and Bridge project proposes to:

- Restripe North Community House Road on the north side of I-485 to accommodate two through lanes in each direction, tying to the intersection with US 521 (Johnston Road).
- Construct a four-lane, median-divided facility on new location from the existing North Community House Road terminus (on the north side of I-485) to the proposed bridge approach.
- Connect the termini of North Community House Road with a bridge over I-485, spanning the entire floodway and floodplain.

- Widen North Community House Road on the south side of I-485 to accommodate two through lanes in each direction, tying to the intersection of Ballantyne Commons Parkway.
- Realign Endhaven Lane slightly to tie into North Community House Road with a T-intersection.
- Add turn lanes to the intersection of North Community House Road and Ballantyne Commons Parkway.

The proposed project will improve system linkage by providing a north/south connection over I-485 that will function as an alternate route to US 521 (Johnston Road) for local businesses, developments, and neighborhoods. The proposed project will provide bicycle and pedestrian facilities.

The North Community House Road Extension and Bridge project (grade separation across I-485) is included in and complies with the Mecklenburg-Union Metropolitan Planning Organization (MUMPO) *2035 Long Range Transportation Plan*, the MUMPO *Comprehensive Transportation Plan (Draft)*, and the MUMPO *2004 Thoroughfare Plan*.

## II. EXISTING CONDITIONS

The proposed project is located within the municipal limits of the City of Charlotte in Mecklenburg County. Surrounding land uses include office, residential, and commercial. Two schools (Endhaven Elementary School and the British American School) are located near the project area, as shown on **Figure 1**.

North Community House Road is severed by I-485 with a northern leg that extends from US 521 (Johnston Road) to Endhaven Lane, which is approximately 900 feet north of I-485. The southern leg of North Community House Road in the project area begins to the south at Ballantyne Commons Parkway and terminates approximately 300 feet south of I-485. The project limits of North Community House Road extend from US 521 (Johnston Road) to Ballantyne Commons Parkway (shown in **Figures 5A-B**). Existing (2011) Average Daily Traffic (ADT) along North Community House Road is 9,500 vehicles per day (vpd). The posted speed limit is 35 miles per hour. The existing right of way along North Community House Road on both (north and south) sides of I-485 is 100 feet wide.

The northern portion of North Community House Road is a four-lane, median-divided roadway with partial control of access and turn lanes at Toringdon Way. The portion of roadway between Toringdon Way and Endhaven Lane includes two northbound lanes and one southbound lane, with pavement for a future second southbound through lane and left-turn lane at Endhaven Lane. These future lanes are striped out. The intersection of North Community House Road and US 521 (Johnston Road) is signalized and surrounded by retail, with a median and pedestrian crosswalks on all approaches and dual left-turn lanes on three approaches.

The southern leg of the project is a two-lane, median-divided roadway with partial control of access and auxiliary left-turn lanes. This section of North Community House Road terminates

with a u-turn movement approximately 300 feet south of I-485. The intersection of North Community House Road and Ballantyne Commons Parkway is signalized with a pedestrian crosswalk and separate left- and right-turn lanes on all approaches.

Ballantyne Commons Parkway is a four-lane, median-divided roadway with a posted speed limit of 40 mph. The estimated (2010) ADT along Ballantyne Commons Parkway is 21,000 vpd east of North Community House Road and 23,000 vpd west of North Community House Road. Endhaven Lane is a two-lane roadway with a posted speed limit of 25 mph and an estimated (2008) ADT of 5,400 vpd.

Five-foot wide sidewalks are located on both sides of North Community House Road and Ballantyne Commons Parkway. A five-foot sidewalk is located on the north side of Endhaven Lane.

The *North Community House Road Bridge Construction Traffic Impact Analysis* (September 2011) and the *Ballantyne Corporate Park Traffic Impact Analysis* (August 2011) were prepared and are appended by reference. The following roadway improvements are proposed as a result of the traffic capacity analysis. Existing (2010) traffic volumes are included in **Figure 3**.

*At the intersection of Ballantyne Commons Parkway and North Community House Road:*

- Construct an additional eastbound left-turn lane on Ballantyne Commons Parkway with 300 feet of storage.
- Construct an additional southbound left-turn lane on North Community House Road with 275 feet of storage.
- Restripe the northbound approach on North Community House Road to accommodate dual left-turn lanes and a shared through/right lane.

*At the intersection of US 521 (Johnston Road) and North Community House Road:*

- Construct a northbound right-turn lane on US 521 (Johnston Road) with 300 feet of storage.

*At the intersection of North Community House Road and Endhaven Lane:*

- Realign Endhaven Lane to form a 90-degree T-intersection with North Community House Road.
- Construct a westbound right-turn lane with 300 feet of storage.
- Install a traffic signal upon meeting appropriate signal warrants (committed by Toringdon, adjacent development).

### **III. ALTERNATIVES**

#### **A. Description of the Build Alternative**

The proposed Build Alternative would connect the termini of North Community House Road, including a bridge over I-485, and widen existing North Community House Road south of I-485. The proposed Build alternative would slightly realign Endhaven Lane to form a 90-degree intersection with North Community House Road. The proposed Build alternative would add turn lanes at the intersections of North Community House Road with US 521 (Johnston Road) and Ballantyne Commons Parkway (as described in Section II above) and restripe existing pavement.

Four 11-foot travel lanes, five-foot sidewalks on both sides, a variable width median on the roadway (a four-foot median is proposed for the bridge), and curb and gutter are proposed. Five-foot bicycles lanes adjacent to the outside travel lanes on both sides are proposed. The proposed typical section and roadway design are included in **Figures 4 and 5a-b**. North Community House Road would have a posted speed of 35 mph. A 64-foot (in length) retaining wall is proposed for the south side of the bridge, to span the Unnamed Tributary (UT) to McAlpine Creek and the floodplain.

#### **B. No Build Alternative (Eliminated from Further Study)**

The “Do-Nothing” or No Build Alternative would not extend North Community House Road to connect across I-485. This is not desirable due to the need for connectivity. The No Build Alternative was eliminated since it does not meet the purpose of and need for the project.

### **IV. ESTIMATED COSTS**

The estimated construction cost for the Build Alternative, based on 2011 prices, is approximately \$9,720,000. This estimate includes the anticipated cost of moving utilities.

Right of way along North Community House Road on the north side of I-485 is in the process of being donated to the City of Charlotte by a private entity. Right of way along North Community House Road on the south side of I-485 is adequate to accommodate the proposed improvements. No additional right of way acquisitions are needed.

### **V. NATURAL RESOURCES**

#### **A. Methodology**

All work was conducted in accordance with the NCDOT Natural Environment Section standard operating procedures. Field investigations were conducted in the project area on August 2 and 8, 2011, and October 20, 2011. A Jurisdictional Determination was approved by the North Carolina Department of Environment and Natural Resources (NCDENR) Division of Water Quality (DWQ) on September 7, 2011 and approved by the US Army Corps of Engineers (USACE) on April 9, 2012.

## B. Physiography and Soils

The study area is located in the piedmont physiographic region of North Carolina. Topography in the project vicinity is comprised of gently rolling hills with narrow, level floodplains along streams. Elevations in the study area range from approximately 550 to 590 feet above mean sea level. Land use in the project vicinity consists primarily of residential development, commercial businesses, a golf course, and undeveloped forestland.

The Mecklenburg County Soil Survey identifies three soil types within the study area (Table 1).

**Table 1. Soils in the Study Area**

Soil Series	Mapping Unit	Drainage Class	Hydric Status
Iredell fine sandy loam	Ir	Moderately Well Drained	Nonhydric
Monocan loam	MO	Somewhat Poorly Drained	Hydric
Wilkes loam, 4-8% slopes	WkB	Well Drained	Nonhydric
Wilkes loam, 8-15% slopes	WkD	Well Drained	Nonhydric
Wilkes loam, 15-25% slopes	WkE	Well Drained	Nonhydric

## C. Water Resources

Water resources in the study area are part of the Catawba River basin (USGS Hydrologic Unit 03050103). One stream, an Unnamed Tributary (UT) to McAlpine Creek, was identified in the study area and is shown on **Figure 1** as Stream SA. The proposed bridge carrying North Community House Road over I-485 will span the UT to McAlpine Creek and therefore will not impact the stream. The UT to McAlpine Creek has a Best Usage Classification of "C" and NCDWQ Stream Index Number of 11-137-9. Its bank height and width are 7 and 8 feet, respectively, and has a water depth of 4 to 6 inches. The channel substrate is sand, clay, and cobble. Velocity of the stream is moderate, with slightly turbid clarity.

There are no designated anadromous fish waters or Primary Nursery Areas (PNA) present in the study area. There are no designated High Quality Waters (HQW), Outstanding Resource Waters (ORW), trout waters, or water supply watersheds (WS-I or WS-II) within one mile downstream of the study area. The UT to McAlpine Creek within the study area is not identified on the North Carolina 2010 Final 303(d) list of impaired waters. There are no 303(d) listed streams located within 1.0 mile downstream of the study area. No benthic sampling or fish monitoring data is available within one mile of the UT to McAlpine Creek.

## D. Terrestrial Communities

Terrestrial communities in the study area may be impacted by project construction as a result of grading and paving portions of the study area. Community data are presented in the context of total coverage of and impacts to each type within the study area (Table 2).

**Table 2. Coverage of Terrestrial Communities in the Study Area**

<b>Community</b>	<b>Coverage (acres)</b>	<b>Impacts (acres)</b>
Maintained/Disturbed Community	6.2	2.1
Mesic Mixed Hardwood Forest	1.2	0.3
Pine/Mixed Hardwood Forest	2.4	1.8
<b>Total</b>	<b>9.8</b>	<b>4.2</b>

## **E. Jurisdictional Topics**

### **1. Waters of The United States**

Section 404 of the Clean Water Act requires regulation of discharges into Waters of the United States. The USACE has the responsibility for implementation, permitting, and enforcement of the provisions of the Act. The USACE regulatory program is defined in 33 CFR 320-330.

One jurisdictional stream, an UT to McAlpine Creek, was identified in the study area. It is a perennial stream with a total length of 210 feet within the study area. The proposed bridge length has been expanded to span the stream and its floodplain. There are no anticipated impacts to the stream or its floodplain.

No jurisdictional wetlands were identified within the study area.

### **2. Permits**

#### *Clean Water Act Permits*

It is not anticipated that any permits will be needed to comply with the Clean Water Act since there will be no impacts to the UT to McAlpine Creek or its floodplain.

#### *Construction Moratoria*

No construction moratoria apply to any waters in the study area.

#### *North Carolina River Basin Rules*

The stream within the study area is not subject to the Catawba River Basin Buffer Rules administered by NCDWQ. The Catawba River Basin Buffer Rules apply to the Catawba River mainstem below Lake James and along mainstem lakes from and including Lake James to the North Carolina and South Carolina border in the Catawba River Basin. McAlpine Creek and its tributaries are within the Catawba River Basin but not the mainstem.

*Rivers and Harbors Act, Section 10 – Navigable Waters*

No waters in the study area are designated as Navigable Water under Section 10 of the Rivers and Harbors Act.

**3. Mitigation**

In accordance with 15A NCAC 2H.0506 (h) and 40 CFR 1508.20, mitigation is required for impacts to jurisdictional streams when impacts are equal to or greater than 150 linear feet per stream. No impacts to the UT to McAlpine Creek are anticipated. Therefore, mitigation will not be necessary.

**F. Rare and Protected Species**

Federal law under the provisions of Section 7 of the Endangered Species Act (ESA) of 1973, as amended, requires that any action likely to adversely affect a federally protected species be subject to review by the United States Fish and Wildlife Service (USFWS). Other species may warrant protection under separate state laws.

Plants and animals with federal classifications of Endangered (E), Threatened (T), Proposed Endangered (PE), and Proposed Threatened (PT) are protected under Section 7 and Section 9 of the ESA.

As of September 22, 2010 (verified October 7, 2011), the USFWS lists four federally protected species for Mecklenburg County (**Table 3**). A brief description of each species' habitat requirements follows, along with the Biological Conclusion rendered based on survey results in the study area.

**Table 3. Federally Protected Species Listed for Mecklenburg County**

Scientific Name	Common Name	Federal Status	Habitat Present	Biological Conclusion
<i>Lasmigona decorata</i>	Carolina heelsplitter	E	No	No Effect
<i>Rhus michauxii</i>	Michaux's sumac	E	Yes	No Effect
<i>Helianthus schweinitzii</i>	Schweinitz's sunflower	E	Yes	No Effect
<i>Echinacea laevigata</i>	Smooth coneflower	E	Yes/Marginal	No Effect

E = Endangered

**Carolina heelsplitter**

The Carolina heelsplitter was historically known from several locations within the Catawba and Pee Dee River systems in North Carolina. The species is now known only from a handful of streams in the Pee Dee and Catawba River systems. The species exists in very low abundances, usually within six feet of shorelines, throughout its known range. The general habitat requirements for the Carolina heelsplitter are shaded areas in large rivers to small streams, often burrowed into clay banks between the root systems of trees, or in runs along steep banks with moderate current. The more recent habitat where the Carolina heelsplitter has been found is in

sections of stream containing bedrock with perpendicular crevices filled with sand and gravel, and with wide riparian buffers.

**Biological Conclusion: No Effect**

A review of the NCNHP records on August 5, 2011 indicated no known occurrences within one mile of the study area. According to the protected species survey conducted in August 2008, NCDOT biologists concluded that the UT to McAlpine Creek is too small, turbid, silty, and/or polluted to provide suitable mussel habitat, and therefore Carolina heelsplitter is not present within the study area. **The project will have no effect on the Carolina heelsplitter.**

**Michaux's sumac**

Michaux's sumac, endemic to the inner Coastal Plain and lower Piedmont, grows in sandy or rocky, open, upland woods on acidic or circumneutral, well-drained sands or sandy loam soils with low cation exchange capacities. The species is found on sandy or submesic loamy swales and depressions in the fall line Sandhills region as well as in openings along the rim of Carolina bays; maintained railroad, roadside, power line, and utility rights of way; areas where forest canopies have been opened up by blowdowns and/or storm damage; small wildlife food plots; abandoned building sites; under sparse to moderately dense pine or pine/hardwood canopies; and in and along edges of other artificially maintained clearings undergoing natural succession. In the central Piedmont, it occurs on clayey soils derived from mafic rocks. The plant is shade intolerant, and therefore, grows best where disturbance (e.g., mowing, clearing, grazing, periodic fire) maintains its open habitat.

**Biological Conclusion: No Effect**

Suitable habitat for Michaux's sumac is present in the study area along roadside shoulders and utility easements. Surveys were conducted on August 8, 2011. No individuals of Michaux's sumac were observed. A review of NCNHP records on August 5, 2011 indicated no known occurrences within one mile of the study area. **The project will have no effect on Michaux's sumac.**

**Schweinitz's sunflower**

Schweinitz's sunflower is endemic to the Piedmont of North and South Carolina. The few sites where this rhizomatous perennial herb occurs in relatively natural vegetation are found in Xeric Hardpan Forests. The species is found along roadside rights of way, maintained power lines and other utility rights of way, edges of thickets and old pastures, clearings and edges of upland oak-pine-hickory woods and Piedmont longleaf pine forests, and other sunny or semi-sunny habitats where disturbances (e.g., mowing, clearing, grazing, blowdowns, storms, frequent fire) help create open or partially open areas for sunlight. It is intolerant of full shade and excessive competition from other vegetation. Schweinitz's sunflower occurs in a variety of soil series, including Badin, Cecil, Cid, Enon, Gaston, Georgeville, Iredell, Mecklenburg, Misenheimer, Secrest, Tatum, Uwharrie, and Zion, among others. It is generally found growing on shallow sandy soils with high gravel content; shallow, poor, clayey hardpans; or shallow rocky soils, especially those derived from mafic rocks.

**Biological Conclusion: No Effect**

Suitable habitat for Schweinitz's sunflower is present in the study area along roadside shoulders and utility easements. Surveys were conducted on August 8 and October 20, 2011. No individuals of Schweinitz's sunflower were observed within the project study area. A review of NCNHP records on August 5, 2011 indicated no known occurrences within one mile of the study area. **The project will have no effect on Schweinitz's sunflower.**

**Smooth coneflower**

Smooth coneflower, a perennial herb, is typically found in meadows, open woodlands, the ecotonal regions between meadows and woodlands, cedar barrens, dry limestone bluffs, clear cuts, and roadside and utility rights of way. In North Carolina, the species normally grows in magnesium-and calcium-rich soils associated with gabbro and diabase parent materials, and typically occurs in Iredell, Misenheimer, and Picture soil series. It grows best where there is abundant sunlight, little competition in the herbaceous layer, and periodic disturbances (e.g., regular fire regime, well-timed mowing, careful clearing) that prevent encroachment of shade-producing woody shrubs and trees. In areas where woody vegetation is held in check, it is characterized by a number of species with prairie affinities.

**Biological Conclusion: No Effect**

Although roadside shoulders and utility easements occur in the study area, these areas have a dense herbaceous layer, including invasive species such as Chinese lespedeza, Japanese honeysuckle, and multiflora rose, that would minimize available sunlight and provide significant competition for the smooth coneflower. Therefore, the study area does not contain suitable habitat for this species. Surveys were conducted on August 8, 2011. No individuals of smooth coneflower were observed within the project study area. A review of NCNHP records on August 5, 2011 indicated no known occurrences within one mile of the study area. **The project will have no effect on the smooth coneflower.**

**Bald and Golden Eagle Protection Act**

The bald eagle was removed from the USFWS's list of Threatened and Endangered Species (effective August 8, 2007), but it is protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. Habitat for the bald eagle primarily consists of mature forest in proximity to large bodies of open water for foraging. Large, dominant trees are utilized for nesting sites, typically within one mile of open water.

A desktop-GIS assessment of the project study area, as well as the area within a 1.13-mile radius (one mile plus 660 feet) of the project limits, was performed on August 5, 2011 using 2009 color aerial photographs. No water bodies large enough or sufficiently open to be considered potential feeding sources were identified. Since no foraging habitat occurs within the review area, a survey of the project study area and the area within 660 feet of the project limits was not conducted. A review of NCNHP records on August 5, 2011 indicated no known occurrences of this species within one mile of the project study area. Due to the lack of habitat, lack of known occurrences, and minimal impact anticipated for this project, it has been determined that this project will not affect this species.

## **VI. HUMAN ENVIRONMENT**

### **A. Cultural Resources**

#### **1. Compliance Guidelines**

This project is subject to compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, implemented by the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106, codified at 36 CFR Part 800. Section 106 requires federal agencies to take into account the effect of their undertakings (federally-funded, licensed, or permitted) on properties included in or eligible for inclusion in the National Register of Historic Places and to afford the Advisory Council a reasonable opportunity to comment on such undertakings.

#### **2. Historic Architecture and Archaeological Resources**

There are no known historic or archaeological resources that would be impacted by the proposed project. Correspondence from the State Historic Preservation Office (dated August 20, 2012) is included in the Appendix.

### **B. Community Facilities**

Land uses along North Community House Road include commercial, residential, and retail. Two schools (Endhaven Elementary School and the British American School, shown on **Figure 1**) are located near the project area.

Census data (2000) indicate that no notable concentrations of populations meeting Environmental Justice criteria exist within the study area. Community impacts appear to be minimal. Impacts to minority and low income populations do not appear to be disproportionately high or adverse.

Five-foot wide sidewalks are located on both sides of North Community House Road and Ballantyne Commons Parkway. A five-foot sidewalk is located on the north side of Endhaven Lane. Additional sidewalks are proposed along the North Community House Road bridge over I-485 to connect to existing infrastructure. Five-foot bicycle lanes are proposed outside the travel lanes on both sides of North Community House Road. (No bicycle accommodations along North Community House Road exist currently.)

No permanent impacts to community resources are anticipated as part of this project. Construction near the intersection of North Community House Road and Endhaven Lane is proposed during the summer, when the schools along Endhaven Lane are not in session. If construction should happen outside of that time, construction will be phased to allow vehicles and school buses (if necessary) to access North Community House Road and Endhaven Lane.

### **C. Indirect and Cumulative Effects**

The limited scope of this project and existing built environment will inhibit change in land use impacts associated with this project. In addition, public policy is in place to regulate potential growth. Therefore, indirect effects from this project alone will be minor, and the threat to downstream water quality will be very limited.

Because no indirect impacts are anticipated, the cumulative effects of this project, when considered in the context of other past, present, and future actions, and the resulting impact on notable human and natural features should be minimal. Therefore, contributions of the project to cumulative impacts resulting from current and planned development patterns are expected to be minimal.

### **D. Air Quality**

The project is located in Mecklenburg County, which is within the Metrolina nonattainment area for ozone (O<sub>3</sub>) and the Charlotte nonattainment area for carbon monoxide (CO) as defined by the EPA. The 1990 Clean Air Act Amendments (CAAA) designated these areas as moderate nonattainment for CO. However, due to improved monitoring data, this area was redesignated as maintenance for CO on September 18, 1995. This area was designated moderate nonattainment for O<sub>3</sub> under the eight-hour ozone standard effective June 15, 2004. Section 176(c) of the CAAA requires that transportation plans, programs, and projects conform to the intent of the state air quality implementation plan (SIP). The current SIP does not contain any transportation control measures for Mecklenburg County. The Mecklenburg-Union Metropolitan Planning Organization (MUMPO) 2035 Long Range Transportation Plan and the 2012-2018 Transportation Improvement Program conform to the intent of the SIP. The USDOT made a conformity determination on the LRTP on May 3, 2010 and the TIP on July 20, 2011. The MUMPO made a conformity determination on the LRTP Amendment / FY 2012-2018 TIP Amendment, and NCDOT made a conformity determination on projects from the FY 2012-2018 STIP on September 19, 2012 (see attached correspondence dated October 18 and 25, 2012). The current conformity determination is consistent with the final conformity rule found in 40 CFR Parts 51 and 93. There are no significant changes in the project's design concept or scope, as used in the conformity analyses.

During construction of the proposed project, all materials resulting from clearing and grubbing, demolition or other operations will be removed from the project, burned, or otherwise disposed of by the Contractor. Any burning done will be done in accordance with applicable laws and ordinances and regulations of the North Carolina SIP for air quality in compliance with 15 NCAC 2D.0520. Care will be taken to insure burning will be done at the greatest distance practical from dwellings and not when atmospheric conditions are such as to create a hazard to the public. Burning will be performed under constant surveillance. Also during construction, measures will be taken to reduce the dust generated by construction when control of dust is necessary for the protection and comfort of motorists or area residents. This evaluation completes the assessment requirements for air quality of the 1990 Clean Air Act Amendments and the NEPA process, and no additional reports are necessary.

### **E. Traffic Noise**

The *North Community House Road Traffic Noise Analysis* (October 2011) was prepared in order to predict existing and future traffic noise levels, define impacted receptors, and assess potential impact abatement measures. Existing traffic noise impacts one receptor in the vicinity of the proposed North Community House Road bridge project. Design Year 2035 traffic noise impacts are predicted to occur as a result of loudest-hour equivalent noise levels that will meet or exceed NCDOT Noise Abatement Criteria (NAC) thresholds, and/or as a result of predicted “substantial increase(s)” over existing loudest-hour equivalent noise levels. This same receptor is predicted to have traffic noise impacts in the Design Year 2035 No Build and Build scenarios.

Construction noise impacts are expected to occur due to the close proximity of noise-sensitive receptors to project construction activities. Noise impacts during construction will be temporary.

## **VII. ENVIRONMENTAL EFFECTS**

This action is classified as a Federal “Categorical Exclusion,” as defined by FHWA’s environmental guidelines (23 CFR 771.117). The proposed project is not expected to have an adverse effect on the quality of the human or natural environment with the use of current NCDOT standards and specifications.

No new right of way acquisitions are anticipated. No relocations or impacts to residences or businesses are anticipated.

No adverse effect on public facilities or services is anticipated. The project is not expected to adversely affect social, economic, or religious opportunities in the area. There are no anticipated impacts from this project to publicly owned public facilities, wildlife or waterfowl refuges, or sites of national, state, or local importance.

There are no properties or sites protected by Section 4(f) or 6(f) in the project study area. There are no anticipated Section 4(f) or 6(f) impacts.

The proposed bridge carrying North Community House Road over I-485 includes a retaining wall and will span the UT to McAlpine Creek and its floodplain. No stream impacts are anticipated. There are no wetlands in the project study area; therefore, no wetland impacts are anticipated.

## **VIII. COORDINATION AND AGENCY COMMENTS**

Staff from NCDENR-DWQ visited the site on September 7, 2011, and determined that the UT to McAlpine Creek is a jurisdictional, perennial stream. A Jurisdictional Determination was approved by the NCDENR-DWQ on September 7, 2011 and approved by the USACE on April 9, 2012. These documents are included in the Appendix.

## **IX. PUBLIC INVOLVEMENT**

Efforts were undertaken in 2011 to contact local officials and the public. The North Community House Road Extension and Bridge project was discussed at the following public involvement events:

### *Community Meeting (June 11, 2011)*

The Community Meeting was announced via postcard, newspaper, and email and posted on several websites such as *The Ballantyne Scoop*. The meeting was held as part of the Ballantyne Breakfast Club, a monthly meeting attended by local and state officials as well as the public. A detailed presentation was provided on the project, which included a discussion of traffic, overview of proposed improvements, and schedule. Attendees asked questions regarding traffic and schedule. The meeting was well attended by local officials (County and City commissioners) and the public.

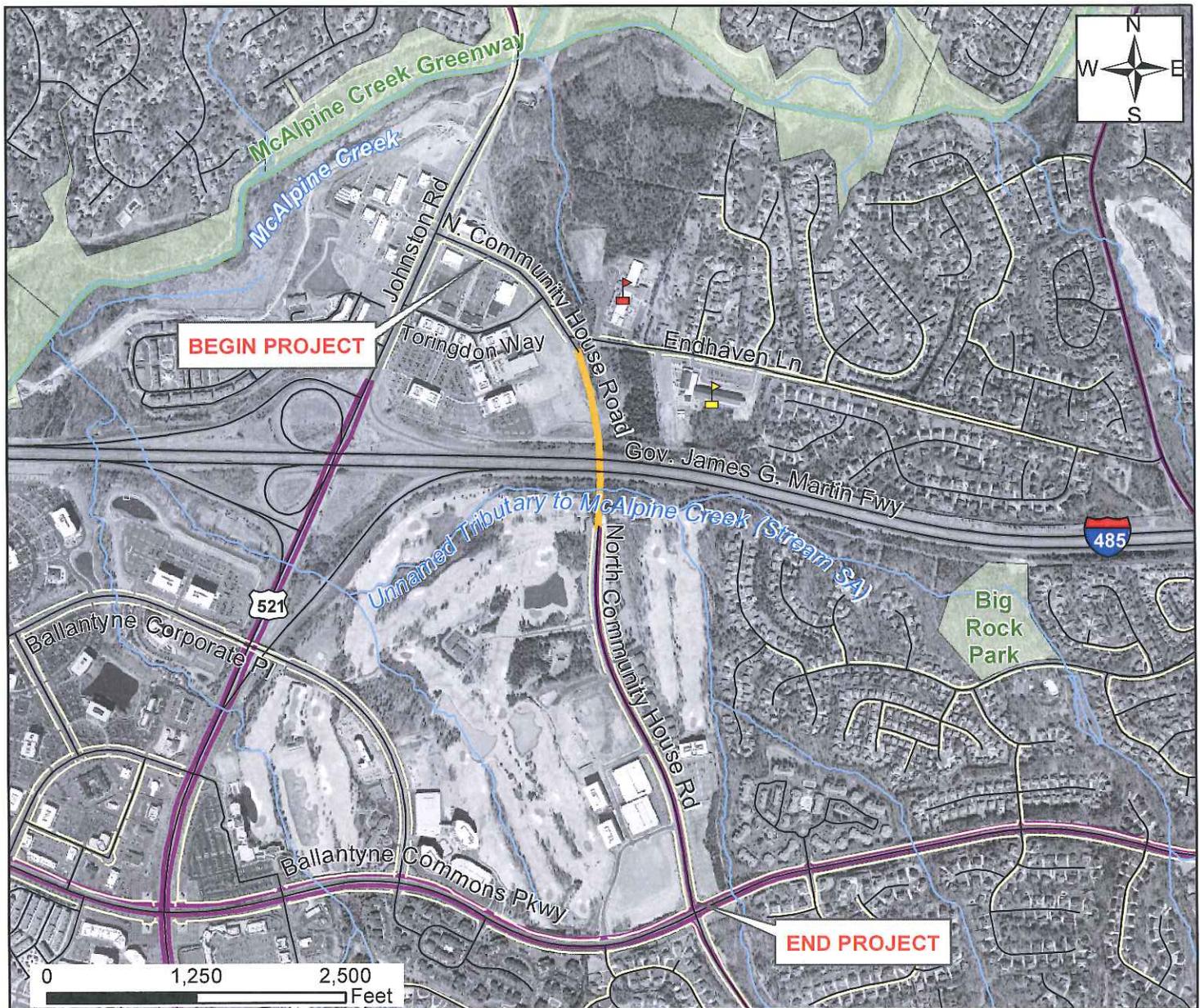
### *City Commissioners Public Hearing (July 18, 2011)*

A public hearing was held before the City of Charlotte commissioners to discuss the project. The project was announced via postcard and on the City's website. The public hearing provided residents the opportunity to offer feedback regarding the project. The North Community House Road Extension and Bridge project was covered in this presentation. The meeting was well attended by zoning committee members and the public. No public concerns were voiced at this meeting.

## **X. BASIS FOR CATEGORICAL EXCLUSION**

Based on the studies done for the proposed project, it is concluded that the project will not result in significant social, economic, or environmental impacts, and that the categorical exclusion classification, as defined in 40 CFR 1508.4 and 23 CFR 771.117, is appropriate.

## FIGURES



Mecklenburg County



Legend			
Sidewalks	City of Charlotte	Proposed New Connection	British American School
Greenways	Mecklenburg County	Parks	Endhaven Elementary School
Bicycle Routes			

Figure 1  
Project Area

North Community House Road Extension and Bridge Project  
Charlotte, Mecklenburg County



*Unnamed Tributary to McAlpine Creek*



*North Community Road (North Side Terminus)  
Looking South*



*North Community House Road  
(South of I-485, in Ballantyne Corporate Park)*



*North Community House Road  
(Approaching Ballantyne Commons Parkway)*



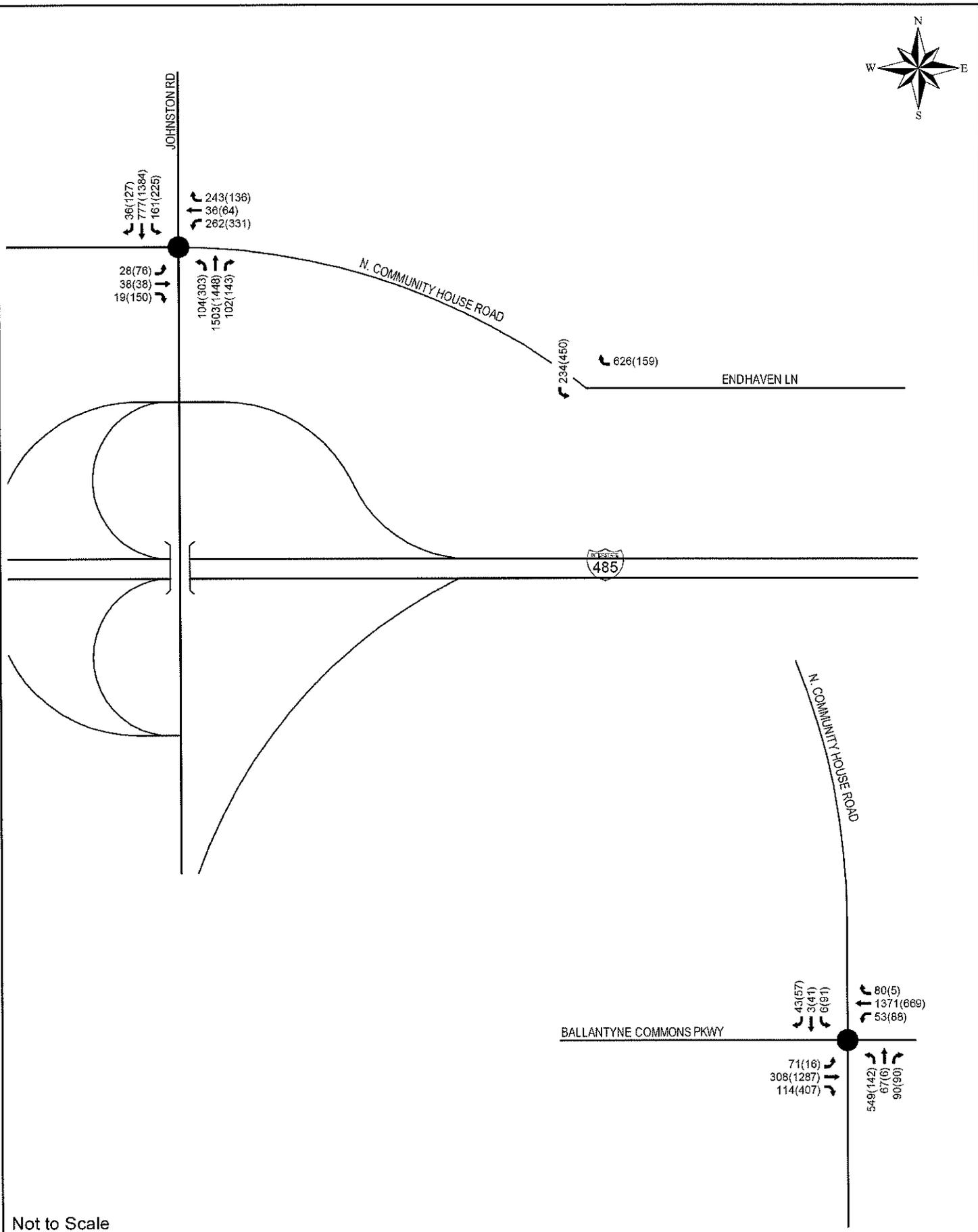
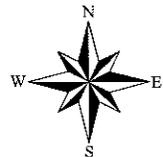
*Johnston Road at North Community House Road  
(Looking North)*



*North Community House Road at Endhaven Lane*

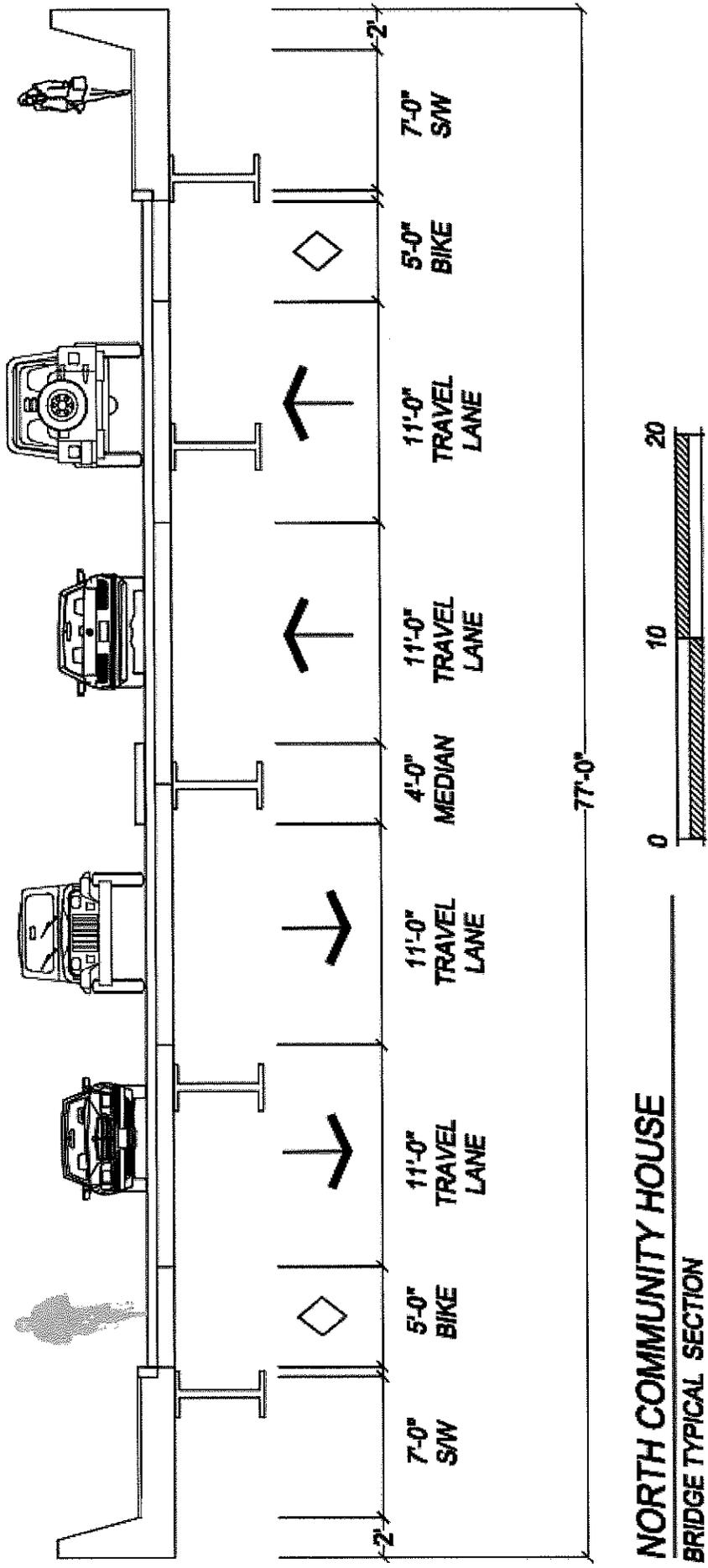
**Figure 2  
Photographs in the Project Area**

North Community House Road Extension and Bridge Project  
Charlotte, Mecklenburg County

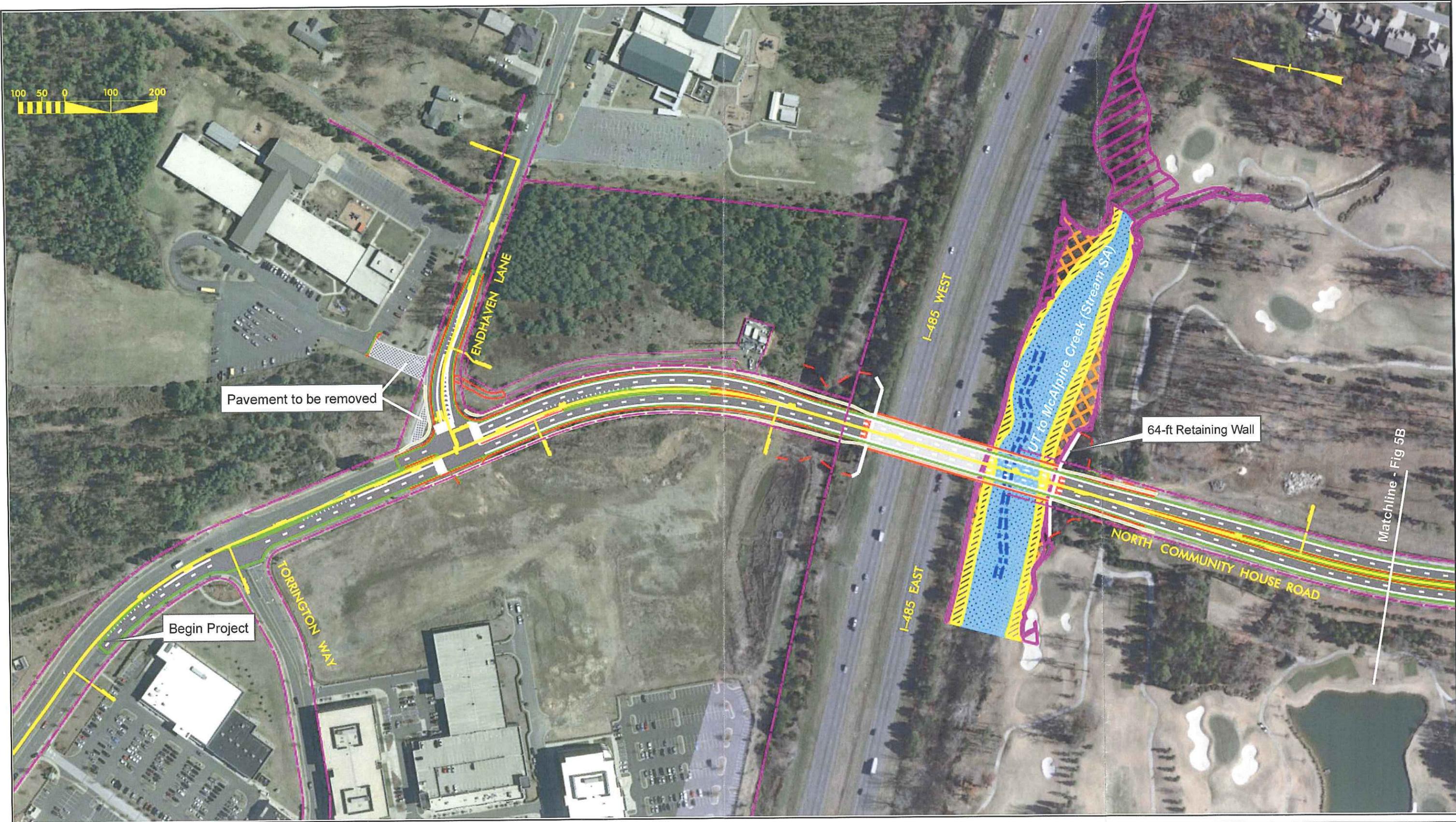


Not to Scale

**Figure 3**  
**2010 Existing Traffic Volumes**  
 North Community House Road Extension and Bridge Project  
 Charlotte, Mecklenburg County



**NORTH COMMUNITY HOUSE  
BRIDGE TYPICAL SECTION**



**Legend**

- |   |                   |   |                     |   |                  |  |                   |   |              |
|---|-------------------|---|---------------------|---|------------------|--|-------------------|---|--------------|
|  | 100-Year Floodway |  | 100-Year Floodplain |  | Grassed Median   |  | Curb and Gutter   |  | Right of Way |
|  | 500-Year Floodway |  | 500-Year Floodplain |  | Edge of Pavement |  | Pavement Markings |   |              |

**Figure 5A  
Roadway Design**

North Community House Road Extension and Bridge Project  
Charlotte, Mecklenburg County



Legend

- |   |                   |   |                     |   |                  |  |                   |   |              |
|---|-------------------|---|---------------------|---|------------------|--|-------------------|---|--------------|
|  | 100-Year Floodway |  | 100-Year Floodplain |  | Grassed Median   |  | Curb and Gutter   |  | Right of Way |
|  | 500-Year Floodway |  | 500-Year Floodplain |  | Edge of Pavement |  | Pavement Markings |   |              |

Figure 5B

Roadway Design

North Community House Road Extension and Bridge Project  
Charlotte, Mecklenburg County

## APPENDIX



North Carolina Department of Environment and Natural Resources  
Division of Water Quality

Beverly Eaves Perdue  
Governor

Coleen H. Sullins  
Director

Dee Freeman  
Secretary

September 12, 2011

Chris Tinklenberg, WPIT  
Kimley-Horn and Associates, Inc.  
2000 South Boulevard, Suite 440  
Charlotte, NC 28203

**SUBJECT: On-Site Determination for Applicability to the Mitigation Rules [15A NCAC 2H .0506(h)], North Community House Extension, 11798 North Community House Road, Charlotte, Mecklenburg County**

Dear Mr. Tinklenberg:

Polly Lespinasse of the Division of Water Quality (DWQ) visited the above referenced site on September 7, 2011, in order to provide verification of a potential jurisdictional feature previously identified by your consulting firm for the above referenced project. The feature was evaluated for applicability to the mitigation rules set forth in [15A NCAC 2H .0506(h)]. Based on the site review DWQ identified one (1) jurisdictional feature, a **perennial stream**, located on the south side of the property (south side of I-485). The determination was based on completion of the NCDWQ Stream Identification Form and an evaluation of existing site conditions.

This letter only addresses the applicability to the mitigation rules and does not approve any activity within buffers, Waters of the United States, or Waters of the State. Any impacts to wetlands, streams and buffers must comply with 404/401 regulations, water supply regulations (15A NCAC 2B .0216), applicable buffer rules, and any other required federal, state and local regulations. Please be aware that even if no direct impacts are proposed to any protected buffers, sheet flow of all new stormwater runoff as per 15A NCAC 2B .0250 is required.

Landowners or affected parties that dispute a determination made by the DWQ or Delegated Local Authority that a surface water exists and that it is subject to the mitigation rules may request a determination by the Director. A request for a determination by the Director shall be referred to the Director in writing c/o Karen Higgins, DWQ 401 Permitting Unit, 1650 Mail Service Center, Raleigh, NC 27699-1650.

Mooreville Regional Office  
Location: 610 East Center Ave., Suite 301 Mooreville, NC 28115  
Phone: (704) 663-1699 \ Fax: (704) 663-6040 \ Customer Service: 1-877-623-6748  
Internet: <http://portal.ncdenr.org/web/wq>

An Equal Opportunity \ Affirmative Action Employer - 50% Recycled/10% Post Consumer paper

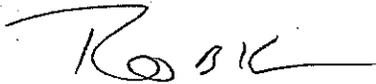
One  
North Carolina  
*Naturally*

Chris Tinklenberg  
Page Two

Individuals that dispute a determination by the DWQ or Delegated Local Authority that "exempts" a surface water from the mitigation rules may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. Applicants are hereby notified that the 60-day statutory appeal time does not start until the affected parties (including downstream and adjacent landowners) are notified of this decision. DWQ recommends that the applicant conduct this notification in order to be certain that third party appeals are made in a timely manner. To ask for a hearing, send a written petition, which conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. This determination is final and binding unless you ask for a hearing within 60 days.

If you have any additional questions or require additional information please contact Polly Lespinasse at (704) 663-1699.

Sincerely,



Robert B. Krebs, Regional Supervisor  
Surface Water Protection

cc: Liz Hair, USACE Asheville Field Office (electronic copy)  
Karen Higgins, DWQ 401 Permitting Unit  
File Copy

**U.S. ARMY CORPS OF ENGINEERS  
WILMINGTON DISTRICT**

Action I.D.: 2011-01623

County: Mecklenburg

U.S.G.S. Quad: Weddington

**NOTIFICATION OF JURISDICTIONAL DETERMINATION**

Property Owner/Agent: **Kimley-Horne and Associates, Inc**

**Attn: Mr. Chris Tinklenberg**

Address: **2000 South Boulevard, Suite 440  
Charlotte, NC 28203**

Property description:

Size (acres): 210 lf

Nearest Waterway: McAlpine Creek

Coordinates: 35.065553 N/ -80.838258 W

Nearest Town: Charlotte

River Basin: Catawba

Hydrologic Unit Code: 03050103

Location Description: The proposed project site located at 11798 North Community House Road, to the north and south of I-485, in Charlotte, Mecklenburg County, North Carolina. 35065553 N/ -80.838258 W

**Indicate Which of the Following Apply:**

**A. Preliminary Determination**

Based on preliminary information, there may be stream channels on the above described property. We strongly suggest you have this property inspected to determine the extent of Department of the Army (DA) jurisdiction. To be considered final, a jurisdictional determination must be verified by the Corps. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process ( Reference 33 CFR Part 331). ). If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

**B. Approved Determination**

There are Navigable Waters of the United States within the above described property subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

**There are stream channels on the above described property subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.**

We strongly suggest you have the stream channels on your property delineated. Due to the size of your property and/or our present workload, the Corps may not be able to accomplish this wetland delineation in a timely manner. For a more timely delineation, you may wish to obtain a consultant. To be considered final, any delineation must be verified by the Corps.

**The stream channels on your property have been delineated and the delineation has been verified by the Corps. We strongly suggest you have this delineation surveyed. Upon completion, this survey should be reviewed and verified by the Corps. Once verified, this survey will provide an accurate depiction of all areas subject to CWA jurisdiction on your property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.**

The stream channels have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on \_\_\_\_\_. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

There are no waters of the U.S., to include wetlands, present on the above described property which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our

published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

Action Id.: 2011-01623

Placement of dredged or fill material within waters of the US and/or wetlands without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). If you have any questions regarding this determination and/or the Corps regulatory program, please contact Liz Hair at 828-271-7980.

### C. Basis For Determination

There are stream channels located on the property that exhibit indicators of ordinary high water marks. The stream channel on the property is an unnamed tributary to McAlpine Creek which flows into the Catawba River. Navigation: Ut to McAlpine Creek(RPW)>McAlpine Creek (RPW)>Catawba River (TNW)>Atlantic Ocean through the Santee River.

### D. Remarks:

### E. Attention USDA Program Participants

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

### F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. above)

Attached to this verification is an approved jurisdictional determination. If you are not in agreement with that approved jurisdictional determination, you can make an administrative appeal under 33 CFR 331. Enclosed you will find a request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers  
South Atlantic Division  
Attn: Jason Steele, Review Officer  
60 Forsyth Street SW, Room 10M15  
Atlanta, Georgia 30303-8801

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by June 9, 2012.

\*\*It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.\*\*

Corps Regulatory Official: Liz Hair

HAIR.SARAH.E  
A.1054693512  
DN: c=US, o=U.S. Government,  
ou=DoD, ou=PIG, ou=USA,  
cn=HAIR.SARAH.E.A.1054693512  
Date: 2012.04.10 10:02:40 -0400

Issue Date: April 10, 2012

Expiration Date: April 10, 2017

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the Customer Satisfaction Survey located at our website at <http://per2.nwp.usace.army.mil/survey.html> to complete the survey online.

CF: (property owners)

Mr. Paul Trotter, Trotter Properties, LLC 1515 Mockingbird Lane Suite 900, Charlotte, NC 28209;

Mr. Clifton Coble, Bissell Development, LLC, 13860 Ballantyne Corporate Place, Suite 300 Charlotte, NC 28277;

Mr. Harold Lichtin, Lichtin/Toringdon III, LLC, 3110 Edwards Mill Road Suite 200 Raleigh, NC 27612

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL**

Applicant: Kimley-Horne and Associates, Inc Attn: Mr. Chris Tinklenberg	File Number: 2011-01623	Date: April 10, 2012
--	-------------------------	----------------------

Attached is:	See Section below
--------------	-------------------

	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at [http://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to re-evaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Liz Hair, Project Manager  
 USACE, Asheville Regulatory Field Office  
 151 Patton Ave  
 RM 208  
 Asheville, NC 28806  
 828-271-7980

If you only have questions regarding the appeal process you may also contact:

Mr. Jason Steele, Administrative Appeal Review Officer  
 CESAD-PDO  
 U.S. Army Corps of Engineers, South Atlantic Division  
 60 Forsyth Street, Room 10M15  
 Atlanta, Georgia 30303-8801  
 Phone: (404) 562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

<p>_____</p> <p>Signature of appellant or agent.</p>	<p>Date:</p>	<p>Telephone number:</p>
--	--------------	--------------------------

For appeals on Initial Proffered Permits send this form to:

District Engineer, Wilmington Regulatory Division, Attn: Liz Hair, 69 Darlington Avenue, Wilmington, North Carolina 28403

For Permit denials, Proffered Permits and approved Jurisdictional Determinations send this form to:

Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Jason Steele, Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801  
 Phone: (404) 562-5137



North Carolina Department of Environment and Natural Resources

Division of Water Quality  
Charles Wakild, P.E.  
Director

Beverly Eaves Perdue  
Governor

Dee Freeman  
Secretary

June 28, 2012

Chris Tinklenberg, WPIT  
Kimley-Horn and Associates, Inc.  
2000 South Boulevard, Suite 440

**Subject: On-Site Determination for Applicability to the Mitigation Rules [15A NCAC 2H .0506(h)],  
North Community House Extension, 11798 North Community House Road, Charlotte,  
Mecklenburg County**

Dear Mr. Tinklenberg:

On September 12, 2011, Polly Lespinasse, North Carolina Division of Water Quality (NCDWQ) staff, sent to you an on-site determination letter of applicability to mitigation rules for the aforementioned project. In that letter, reference was made to impacts to protected buffers, and that sheet flow of all new stormwater runoff would be required per 15A NCAC 2B .0250. It has been brought to our attention that 15A NCAC 2B .0250 is a reference to the Department's Randleman Lake Watershed rules, and that this project area is not located within the Randleman Lake watershed. The determination letter should instead reference 15A NCAC 2B .0243, the Catawba River Basin mitigation rules. Therefore, your project is subject to the mitigation rules as outlined in 15A NCAC 2B .0243, and not 15A NCAC 2B .0250 as initially stated in the letter.

This letter does not in any way change the jurisdictional determination of features within your project area.

We apologize for any inconvenience this may have caused. Should you have any further questions, please do not hesitate to contact me at (919)807-6405 or [David.Wainwright@ncdenr.gov](mailto:David.Wainwright@ncdenr.gov).

Sincerely,

David Wainwright, Acting Supervisor  
Transportation Permitting Unit

Cc: Liz Hair, USAGE Asheville Field Office (electronic copy)  
Alan Johnson, NCDWQ, Mooresville Regional Office  
File Copy

Transportation Permitting Unit  
1650 Mail Service Center, Raleigh, North Carolina 27699-1650  
Location: 512 N. Salisbury Street, Raleigh, North Carolina 27604  
Phone: 919-807-6300 | FAX: 919-807-6488  
Internet: <http://portal.ncdenr.org/web/wq>

One  
North Carolina  
*Naturally*



**North Carolina Department of Cultural Resources  
State Historic Preservation Office**

Ramona M. Bartos, Administrator

Beverly Eaves Perdue, Governor  
Linda A. Carlisle, Secretary  
Jeffrey J. Crow, Deputy Secretary

Office of Archives and History  
Division of Historical Resources  
David Brook, Director

August 20, 2012

Meredith Van Duyn  
Kimley-Horn and Associates, Inc.  
PO Box 33068  
Raleigh, NC 27636-3068

Re: North Community House Road Extension and Bridge, Charlotte, U-5519, Mecklenburg County,  
ER 12-1365

Dear Ms. Van Duyn:

Thank you for your letter of August 7, 2012, concerning the above project.

We have conducted a review of the project and are aware of no historic resources which would be affected by the project. Therefore, we have no comment on the project as proposed.

The above comments are made pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106 codified at 36 CFR Part 800.

Thank you for your cooperation and consideration. If you have questions concerning the above comment, please contact Renee Gledhill-Earley, environmental review coordinator, at 919-807-6579. In all future communication concerning this project, please cite the above-referenced tracking number.

Sincerely,

*Renee Gledhill-Earley*

for Ramona M. Bartos



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

October 18, 2012

John F. Sullivan, III, P.E.  
Division Administrator  
North Carolina Division Office  
Federal Highway Administration  
310 New Bern Avenue, Suite 410  
Raleigh, North Carolina 27601

Dear Mr. Sullivan:

Thank you for your letter requesting our review of the transportation conformity determinations for the 8-hour ozone and carbon monoxide conformity determinations for the amended 2035 Long Range Transportation Plan (LRTP) and FY 2012-2018 Transportation Improvement Program (TIP) for the Mecklenburg-Union MPO; and the FY 2012-2018 TIP for the donut portion Union County in the North Carolina portion of the Charlotte bi-state nonattainment area. As allowed by the Transportation Conformity Rule, the South Carolina portion of this nonattainment area implements transportation conformity independent of the North Carolina portion of this area. We have completed our review, and recommend a finding of conformity for both the 1997 8-hour ozone and carbon monoxide standards for the amended 2035 LRTP and FY 2012 -2018 TIP.

On August 15, 1997, and subsequently on July 1, 2004, U.S. Environmental Protection Agency published revisions related to the "Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," or Transportation Conformity Rule (40 Code of Federal Regulations Part 93). These revisions outline the criteria that must be met for the 8-hour ozone standard. The EPA has reviewed the conformity determinations related to the 8-hour ozone and carbon monoxide standards for the amended 2035 LRTP and FY 2012-2018 TIPs, and has concluded that all of the criteria, including those outlined in the July 1, 2004, conformity rule revision entitled, "Transportation Conformity Rule Amendments: Conformity Amendments for New 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards, Response to March 1999, Court Decision and Additional Rule Changes," (69 FR 40004) have been met.

The EPA has considered this conformity determination in light of the current status of the Clean Air Interstate Rule (CAIR). The EPA notes that the District of Columbia (D.C.) Circuit issued a decision on July 11, 2008, vacating CAIR. North Carolina v. EPA, 531 F.3d 896 (D.C. Cir. 2008). On September 24, 2008, the EPA and other parties in the case filed motions for rehearing asking the D.C. Circuit to reconsider its decision in the case. On December 23, 2008, the court granted the EPA's motion for rehearing to the extent it agreed to remand CAIR without vacating it. However, the court made no other changes to the July 11, 2008 opinion, remanding the case to the EPA for further rulemaking consistent with this opinion. Therefore, the CAIR rule remained in place, but the EPA was required to promulgate another rule consistent with the court's July 11, 2008 opinion.

On August 8, 2011, (76 FR 48208) the EPA finalized the Cross State Air Pollution Rule (CSAPR) as replacement for the remanded CAIR rule. The final rule was effective on October 7, 2011.

On December 30, 2011, the D.C. Circuit Court stayed the implementation of CSAPR pending its review of the rule. The Court also ruled that the EPA was expected to continue administering the CAIR pending the Court's resolution of the petitions for review of CSAPR.

On August 21, 2012, the D.C. Circuit Court issued its decision on CSAPR. The Court vacated the rule and the associated federal implementation plans. The Court further ruled that the EPA must continue to administer CAIR pending the promulgation of a valid replacement. Therefore, CAIR remains in place. (EME Homer City Generation v. EPA, No. 11-1302 (D.C. Cir))

Thank you again for the opportunity to review the conformity determinations for the amended 2035 LRTP and FY 2012-2018 TIP for the Mecklenburg-Union MPO and the FY 2012-2018 TIP for the donut portion of Union County in the North Carolina portion of the Charlotte Bi-State nonattainment area. If you have any questions regarding this letter, please contact Dianna Smith of the EPA Region 4 staff at (404) 562-9207.

Sincerely,



Curt Fehn

Chief

Air Quality Modeling  
and Transportation Section

cc: Eddie Dancausse, FHWA NC  
Loretta Barren, FHWA NC  
Heather Hildebrandt, NC DAQ  
Keith Melton, FTA Region 4



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**North Carolina Division** 310 New Bern Avenue, Suite 410  
Raleigh, NC 27601  
(919) 856-4346  
(919) 747-7030  
<http://www.fhwa.dot.gov/ncdiv/>

October 25, 2012

In Reply Refer To:  
HDA-NC

Mr. Eugene A. Conti, Jr.  
Secretary  
North Carolina Department of Transportation  
1501 Mail Service Center  
Raleigh, NC 27699-1501

Dear Secretary Conti:

We reviewed the Metrolina Region Transportation Conformity Determination Report for the:

- ❑ The Mecklenburg Union MPO 2035 LRTP Amendment (Project U-5519-North Community House Road Bridge and Extension)
- ❑ The Mecklenburg Union MPO FY 2012-2018 TIP Amendment (Project U-5519-North Community House Road Bridge and Extension)
- ❑ Projects from the FY 2012-2018 State TIP for the donut area of Union County

The Mecklenburg Union MPO made conformity determinations on the 2035 LRTP Amendment/FY 2012-2018 TIP Amendment and the North Carolina Department of Transportation made a conformity determination on projects from the FY 2012-2018 State TIP for the donut area of Union County on the following dates:

- ❑ Mecklenburg Union MPO on September 19, 2012
- ❑ The NCDOT (for the county donut area of Union) on September 28, 2012

The Mecklenburg Union amended MPO FY 2012-2018 TIP is a direct subset of the amended 2035 LRTP.

The Federal Highway Administration and the Federal Transit Administration reviewed these documents. We have also coordinated our review with the Environmental Protection Agency (EPA) Region 4 and have enclosed their comments to this letter.

Based on our review and the comments provided to us by the EPA, we find that the following conforms to the purpose of the State Implementation Plan in accordance with 40 CFR Part 93:

- ❑ The MUMPO 2035 LRTP Amendment (Project U-5519-North Community House Road Bridge and Extension)
- ❑ The MUMPO FY 2012-2018 TIP Amendment (Project U-5519-North Community House Road Bridge and Extension)
- ❑ Projects from the FY 2012-2018 State TIP for the donut area of Union County

Sincerely,

For John F. Sullivan, III, P.E.  
Division Administrator

Enclosure