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To: North Carolina Division of Water Resources

Date: February 6, 2021

### **Comments on the Revised 401 State Certification for the Joint Chatham Park Investors and NC Department of Transportation Application**

The Haw River Assembly submits the following comments for the Revised 401 Permit Certification for the Chatham Park Investors and Department of Transportation joint permit application to dredge and fill over streams and wetlands in the Haven and Robeson Creek sub basins in Chatham County. These comments are on behalf of the Haw River Assembly, our Board of Directors, and the over 1,000 members of our organization in the Haw River watershed. The Haw River Assembly has worked since 1982 to protect the Haw River watershed, and Jordan Lake in North Carolina.

This 404 permit will cover 2224 acres of Chatham Park land for North Village, and 334 acres of land by DOT's North Chatham Parkway. This extremely large project will have major impacts on a critical water supply watershed, significant natural heritage areas, rare and endangered species habitat and numerous floodplains, streams and wetlands that are part of the Haw River and Jordan Lake. As proposed, this project would result in the temporary impacts to 1,301 linear feet of streams, and the permanent loss of 1,756 linear feet of streams and 1.1 acres of wetlands. This is in addition to 443 linear feet of stream that Chatham Park Investors plan to fill with refuse dirt and permanent damage to 79,639 sq. feet of riparian buffers.

**We believe this 401 Certification should be denied due to incomplete, insufficient and incorrect information. We do not believe the information contained in it should lead to a Finding of No Significant Impact, and we ask that the US Army Corps (USACE) require an Environmental Impact Statement for this project.**

**These are our primary reasons why certification for this 401 Application should be denied by the NC Division of Water Resources (DWR)**

## **1. The 401 Application Does Not Meet Certification Requirements for NC Water Quality Standards**

We believe this revised permit still does not provide adequate information, or justification for the negative impacts it will have on water, the environment and the surrounding community. and should be denied. It does not adequately discuss the numerous direct, indirect and cumulative negative impacts it will have on the streams, wetlands and receiving waters, including the Haw River and Jordan Lake. **We believe this revised permit will allow activities that will not comply with water quality rules of 15A NCAC 02B .0200 and the rules of 15A NCAC 02L .0100 and .0200. Thus, we do not agree that it meets the requirements for certification under 15A NCAC 02H .0506.**

**15A NCAC 02H .0506 (b) (1)** This application does not show how it has avoided and minimized impacts to surface waters and wetlands to ensure any remaining surface waters or wetlands, and any surface waters or wetlands downstream, continue to support existing uses during and after project completion. In a letter to USACE, Oct. 21, 2012 DWR stated “it appears that all impervious surfaces within the drainage areas will be routed to SCMs that may not provide hydrology to the top of the jurisdictional features in these locations. Although the Division is unable to complete a detailed review because stormwater elements are not identified within the plan sheets provided, the Division has identified multiple areas within the project limits where there are similar concerns of indirect impacts from reduction in hydrology to headwater features.”

**15A NCAC 02H .0506 (b) (2)** Based on past incidents during development of Chatham Park, we believe approval of this permit and the activities allowed under it, would cause or contribute to a violation of water quality standards. Chatham Park Investors and their subcontractor have been responsible for multiple water quality and sediment erosion control violations in Pittsboro and Chatham County for over two years. Haven Creek, which drains the land where Chatham Park has been building for the past few years, has been filled with silt after almost every storm. This unpermitted fill degrades conditions for the aquatic life that lives in the wetlands and creeks, and receiving waters - smothering habitat and degrading water quality, including habitat for threatened and endangered federal and state listed species. These activities do not meet the 15A NCAC 02B .0201 Antidegradation Policy that protects existing uses of our state’s waters, and are not in compliance with the biological integrity standard in 15A NCAC 02B .0211(1).

**15A NCAC 02H .0506 (b) (3)** We believe that activities allowed under this permit application would result in secondary or cumulative impacts that cause or contribute to, or will cause or contribute to, a violation of water quality standards. The revised application still has insufficient information on the indirect and cumulative impacts of this project. Most of what is covered under these sections are actually direct impacts, such as Chatham Park claiming it will provide housing and jobs for the very growth they are creating, and listing current development and road projects underway in Chatham County, rather than a true analysis of what indirect and cumulative impacts can be expected due to the building of North Village and the North Chatham Parkway. In Section 10.3 of this Application it is stated that additional development will occur, and sewer expansion will be needed outside of North Village due to the new access from Chatham Parkway North, but the DOT FLUSA report says indirect land use impacts are unlikely and a Cumulative Impacts Assessment is not needed. We disagree. This massive North Village

development and the new Park Way will be built on land that is currently rural and forested in Chatham County. It will cause and contribute to more development with deforestation and water quality impacts through sedimentation, stormwater pollution and flooding, not only in CPI land, but in the adjoining and downstream properties.

## **2. An Environmental Impact Statement (EIS) is Needed**

On page 2 of the NC DOT FLUSA report (Appendix I) the following information is provided:

The following notable human and environmental features are located in the Future Land Use Study Area (FLUSA):

- Critical Water Supply Watersheds for the Haw River and Jordan Lake
- Two 303(d) listed streams, Robeson Creek and Turkey Creek
- Pittsboro Wilderness National Heritage Program Natural Area
- Suitable habitat for three federally protected endangered species, as well as the Bald Eagle and northern long-eared bat (NLEB)

These are extremely important environmental features - Critical Water Supply Watershed, 303(d) listed streams, a NHP Natural Area and suitable habitat for federally protected endangered species. There should be an Environmental Impact Statement for the entire 401 Application project area of North Village and the North Chatham Park Way.

On page of the May 28 letter from US Fish and Wildlife (Appendix M) they recommend that an EIS be done:

The magnitude of this project's land disturbance, coupled with the sensitive species, habitats, and natural communities present in this area, leads the Service to recommend that an Environmental Impact Statement (EIS) be completed to fully address the primary, secondary and cumulative impacts of the Chatham Park North Village and Chatham Parkway. The scope of this project warrants the opportunity for a public hearing (when safe and allowable), appropriate outreach, and a longer review time to address the human and environmental aspects of the proposed development.

**There is insufficient information given to support a Finding of No Significant Impact (FONSI) by the US Army Corps of Engineers (USACE).** The first sentence of the Application's Executive Summary – "This document is intended to provide supplementary information in support of the U.S. Army Corps of Engineers' (USACE) preparation of the, Environmental Assessment (EA), Finding of No Significant Impact (FONSI)..." is misleading to the general public, local, state, and federal agency personnel, and to our political leaders. There are other outcome options available to the permitting agencies, including no FONSI, which leads to a requirement of an Environmental Impact Statement (EIS). Under the North Carolina State Environmental Policy Act requirements associated with EAs and EISs, it is essential that the applicants provide sufficient information in their application to allow the USACE to produce a valid EIS if a FONSI cannot be rendered following a thorough review of available data. The

limited information provided in the this application is not sufficient to render an accurate decision for an EA FONSI. The application must include sufficient information to allow the Corps to produce the EIS without the need for additional information from the applicant. The application should be returned to the applicants. An Environmental Impact Statement should be developed by the USACE, which thoroughly evaluates a reasonable number of alternatives. Every alternative should be evaluated in the same way, including watershed modeling (e.g. LSPC)

A critical reason that an EIS be developed for the proposed North Village and the North Chatham Park Way is to identify, describe and quantitatively evaluate the direct, cumulative, and indirect effects of the proposed project. Such efforts are critical to ensure that Jordan Lake, a major Serious questions were raised when Jordan Lake was first proposed as a reservoir on the Haw River about its ability to adequately process nutrient loading, based upon 1970s data. Since then, nutrient, sediment, and toxicant loadings have only increased. Each alternative must be quantitatively evaluated relative to Jordan Lake nutrient, sediment, and toxicant loading, and cumulative effects from all upstream impacts must be included in these evaluations. The impacts from growth in Jordan Lake headwaters – the Haw River (e.g., Greensboro, Burlington, Graham), and New Hope Creek and its tributaries (e.g. Chapel Hill-Carrboro and Durham), must be evaluated.

In general, North Carolina is not being sufficiently protected by implementation of the National Environmental Policy Act (NEPA). During the past six years, thousands of acres of our landscape have been developed resulting in the outright destruction of species' occupied habitats or significant fragmentation of species' habitats and reductions in ranges. Water quality has suffered. During these years, only 49 North Carolina federal EIS documents were produced or drafted - five during 2020, 11 during 2019, four during 2018, 10 during 2017, 16 during 2016, and only 3 during 2015. The bottom line is that EA-FONSIs dominate the state and federal environmental review process, resulting in the vast majority of projects never having their alternatives sufficiently reviewed or selected as viable projects. Additionally, cumulative impacts of the vast majority of projects are never adequately identified or evaluated. Chatham Park is proposed to be the largest Master Plan community ever built in North Carolina and among the largest in all of the United States. This is too big a development not to undergo the careful scrutiny of an EIS.

### **3. Impacts Disregarded to Threatened, Endangered and Protected Species**

Both US Fish and Wildlife Service and NC Wildlife Resources Commission expressed strong concerns in their May 28, 2020 letters (Appendix M) on the need for more investigation, protection and monitoring of the Cape Fear shiner, and for other rare and protected species (including several mussel species, the Carolina ladle crayfish and Harperella) that will be impacted by activities allowed under this permit. The field surveys reported in the 401 Application project area did not find species listed in the report, including Bald Eagles, which contradict both agency reports and those of local residents.

There are records for the following, rare aquatic species, downstream of the site in the Haw River: the federal and state-endangered, Cape Fear shiner (*Notropis mekistocholas*); the federal, at-risk species and state-endangered, brook floater (*Alasmidonta varicosa*); and the state-endangered, yellow lampmussel (*Lampsilis cariosa*). There are also records for the state-significantly rare, Carolina ladle crayfish (*Cambarus davidi*) in an unnamed tributary to Robeson Creek, located within the project footprint.

From the the NC Wildlife Resources Commission May 28 letter:  
CPI and NC DOT consultants may have been doing field surveys outside of the nesting season. By regulation, surveys of endangered animal species must be conducted by biologists permitted by the NC Wildlife Resources Commission (NCWRC). Surveys for these animals should be conducted at appropriate times of the year (e.g., Bald Eagle winter nesting season, Cape Fear shiner during spring spawning season with water low and clear). At a minimum, the application must include names of permitted biologists, permit numbers, and reports of site-specific findings.

In the case of bald eagles, there are frequent sightings by residents of these magnificent birds fishing along the Haw River. At least 2 nesting sites were reported in 2019 to state and federal agencies in the project area. We direct your attention to the 401 comment letter submitted to your agencies on 2/4/2021 from Ken and Debbie Tunnell regarding the known sightings of both bald eagles and nests in the project area: “In 2019, we reported the in use bald eagle nest located along the Haw River corridor near an applicant’s property to NC State Parks, NC Wildlife, US Army Corp, along with other officials. Google Earth 35 45 20 north 79 07 32 west. iNaturalist.org reported **Lat:** 35.724582 **Lon:** -79.097394. Other eyewitnesses have also seen another nest either on NC State Parks or Chatham Parks land across from Pokeberry Creek. “ They also note the recent identification of the federally listed red cockaded woodpecker: “On 12.26.2020 another rare and protected species, the red cockaded woodpecker, was seen south of the Bynum pedestrian bridge along Bynum Rd on private property near the land owned by Chatham Park Investors.” Field surveys of the endangered, rare and protected species must be done thoroughly and in the appropriate seasons.

The North Carolina Endangered Species Act (NCESA) specifies that the act cannot affect a landowner’s ability to develop his property; however, the act does apply to local, state, and federal governments and their agencies (a fact ignored since the Act’s revision in the early 1990s). Local, state, and federal governments and their agencies cannot take (e.g., harm, harass, kill) state listed species. Therefore, NCDOT (one of the permit applicants) is responsible for conservation of both federal and state listed species. Thus, surveys for state listed species, including the Atlantic Pigtoe, Brook Floater, and other species, need to be conducted associated with this application. When appropriate, their conservation must be included in all alternative evaluations. There is an important practical question concerning NCESA: If state listed species are potentially affected by the applicants’ projects, are state and federal permitting agencies required to conserve state listed species through their permitting process? If they ignore the taking of state listed species while issuing permits, are they violating the act?

Finally, it is critical that a thorough aquatic inventory of most animal and plant taxa is developed through sufficient field surveys of all affected streams and the Haw River. These species constitute most of the “existing uses” of these waterbodies. By state regulation **15A NCAC 02H .0506 (b) (1)**., and as dictated by the Federal Clean Water Act, these existing uses must be protected. This inventory constitutes an environmental baseline which can be used in evaluations

of impacts from the various alternatives (again, in part, using LSPC). Without this baseline, the evaluations of impacts to present uses from the alternatives are simply conjecture.

**We object to the disregard given in the application concerning impacts to the more common wildlife that live in the current project area, who will lose an enormous area of forest that is currently their habitat.** This was discussed as well in the NC DWR May 28, 2020 letter: “Forest fragmentation is also a concern as large areas of Chatham County remain predominantly rural. Reduction of habitat due to fragmentation has severe impacts on wildlife populations, including deleterious effects on reproduction and migration. Small patches of forest often become degraded and provide little of no value to remaining wildlife”.

#### **4. Purpose for North Village and North Chatham ParkWay Not Justified**

The proposed North Chatham Parkway will impact 21 streams, and take land from 15 property owners outside of land owned by Chatham Park. 9 of those property owners are unwilling to sell which means DOT would have to use eminent domain to take their land. The assertion that this Park Way will take traffic out of downtown Pittsboro is not true, as it will only connect 15-501 north to Hwy 64 Bypass east, something through drivers can already do via the 64 Bypass. The purpose of the Park Way is to benefit Chatham Park, not the general public. The application does not give sufficient arguments for a no-build or other alternatives. We do not agree with the conclusion that “No Build” is an option off the table, since the Park Way will primarily serve the needs of the Chatham Park development, and not the general public. Highway 64 Bypass already connects to 15-501 north of downtown Pittsboro, and rejoins Hwy 64 business East of downtown. It already accomplishes what North Chatham Park Way will do for through travelers. Use of eminent domain by a government agency to force property owners to sell road Right of Ways should be used only when absolutely necessary, and for the good of the public at large. We do not believe this is the case here.

CPI’s stated purpose for the need for North Chatham Park Way needs an independent analysis of population growth and housing needs in Chatham County’s future. In some respects the stated purpose is circular – the applicant wants to build a massive development (the largest ever built in NC and one of the largest in USA). In order to do so, they need to build these roads. But is that a sufficient need, and is it best for Chatham County’s future? The amount of retail space, housing and the number of jobs that Chatham Park plans to provide could be drastically altered by the post-pandemic economy ahead. There is no mention in this report of how any of the project plans are taking into account changes to accommodate more stormwater and flooding than they engineered for, with larger storms expected to increase with climate change. The North Village development for which CPI has applied for a permit has not been approved yet. Although the Master Plan was approved in 2015, that was an approval of a zoning classification and overall master plan. Small Area Plans (SAP) for site and subdivision development must be approved by the Town of Pittsboro.

## Comments on Specific Sections of the 401 Application

### Stormwater Impacts: Section 5.2

**Chatham Park:** Many requests made by the Division of Water Resources (DWR) were inadequately addressed by Chatham Park Investors. after the denial of the first 401 application. Most notably is the response to the concerns about inadequate stormwater and erosion control measures. DWR acknowledges Chatham Park Investors pledge to have robust stormwater designs, however, the actual commitments to stormwater control in this proposal only minimally surpasses the requirements for Pittsboro and the state. Chatham County has far more protective stormwater control requirements than the 10 year storm, requiring post development peak for discharge not to exceed the 25 year storm event, which happens much more often than when these outdated "design storms" were outlined due to climate change. The standards outlined in Chatham Parks stormwater elements do not adhere to the 25 year storm. Chatham Park Investors did not provide any additional information on which BMPs will be used in the final design. The purpose of this permit application is to review all impacts to waterways and identify alternatives or opportunities to mitigate or avoid permanent loss of water quality. **Without critical stormwater designs included in this proposal, the division will have no tools to enforce higher quality BMPs and Chatham Park Investors will have no accountability to adhere to the divisions recommendations.**

The Nitrogen and Phosphorus loading limits provided in Section 5.2 reflect the Jordan Lake “New Development” rule, if it were in full effect. However, the NC Policy Collaboratory research on Jordan Lake has shown that the target loadings for new development in the Haw are far too generous. This rule is currently frozen to allow for upstream municipalities to evaluate how to comply with updated targets. Also, the standards for this development require an annual average of 85% removal of total suspended solids. Adhering to an "annual average" is not appropriate to provide any sort of protection for downstream water quality. By limiting any potential violation to exceeding an annual average, enforcement of total suspended solids can not be done on an instantaneous basis when the significant rain event and sedimentation is ongoing. **We believe these insufficient targets will contribute to degradation of water quality both within and downstream of the project area.**

**NC DOT:** On page 32 of Section 5.2, DOT says they are designing to the NCDOT Guidelines for Drainage Studies & Hydraulic Design and discuss basic minimum stormwater practices such as grass swales. The Oct. 20, 2020 letter from NC DENR to the applicants states that This section should also include designing per the NCDOT Post -Construction Stormwater Program Manual, and per section 3. 1 of the NCDOTGREEN Stormwater Management Program for Jordan Lake. [ 15A NCAC 02H . 0506( b)( 3)]...Since this project is in the Jordan Lake watershed, use of higher treatment BMPs like wetlands, biofiltration, wetland swales, infiltration swales, etc. should be implemented to the MEP along the roadway. Please revise your plans to reflect the use of these BMPs, or demonstrate why they are infeasible. [ 15A NCAC 02H . 0506( b)( 3)]”. **Have these higher treatment BMPs been incorporated into the designs for North Chatham Park Way?**

## **Section 1.3 Existing Site Conditions**

### **Section 1.3.1 Land Use**

Under this section for “Existing Site Conditions” there is discussion of specific violations and additional adverse impacts that have occurred in Chatham Park during development of the Mosaic, and the projects north of Thompson St, in Pittsboro. These contradict statements by CPI in this application about how excellent their sedimentation erosion control and stormwater practices will be. Inadvertent impacts to a small stream and wetlands during construction of Chatham Parkway were allowed to be stabilized but not restored, impacts were requested (after the fact) in this application in Section 5 Sheet 1.4 26-28 A. New impacts for utilities, water lines and road improvements were requested (and approved) for Thales Academy and the Vineyards construction despite the initial plan “to avoid all impacts”

### **Section 1.3.6 Vegetation**

By their own account Chatham Park North Village is a 2200 acre forested site near the Haw River with mature hardwoods - we believe it needs greater conservation and protection than is proposed for the development of North Village and North Chatham Park Way. The description of existing vegetation downplays the ecological significance of the project area, and instead emphasizes invasive species. The application still contains the incorrect species of *Elaeagnus* on page 16, under Headwater forests and Wetland seeps as *Elaeagnus commutata*, a species of the Pacific Northwest. What else may be incorrect or missing?

The following is from the Natural Heritage Program assessment in the 2008 Triangle Land Conservancy [“Southwest Shore Conservation Assessment”](#) SSCA, referring to lands that are within the North Village and therefore should be included in its entirety in the 401 Application. The SSCA includes a plant inventory with many species not identified or listed in this application.

"The area adjacent to the Lower Haw River State Natural Area is in good to excellent quality and is worth protecting. The area is mostly Dry-Mesic Oak-Hickory Forest, but with Mesic Mixed Hardwood Forest along the ravines. This portion could be added to the Haw River Slopes State Natural Area. At a minimum, the eastern portion of this area--the missing gap between the Park tracts--should be added to the Park unit."

### **SSCA Natural Heritage Program recommendations:**

**B.1.** Conserve areas adjacent to the Lower Haw River Corridor, Robeson Creek, and Jordan Lake. (*\*this is in North Village area*)

**B.2.** Work with the North Carolina Division of Parks and Recreation to add to the Lower Haw State Natural Area and the Deep River State Trail (see figure 21) (*\*this is in the North Village area*)

**B.3.** Ensure landscape connectivity by conserving lands adjacent to US Army Corps of Engineers Jordan Lake Lands, particularly the areas adjacent to the Robeson Creek Significant Heritage Area, as well as of areas of steep and dissected lands.

**B.4.** Cluster development to preserve large contiguous forested areas, particularly those areas adjacent to existing protected lands and areas identified in the state habitat guild analysis

**B.5.** Utilize the Department of Environment and Natural Resources' Conservation Planning Tool to plan for conservation, restoration, and site development ([www.conservision-nc.net](http://www.conservision-nc.net)). Particular emphasis should be on the green and brown areas identified in the Biodiversity/Wildlife Habitat maps, as well as the preservation of a minimum of 100 foot buffers along all intermittent and perennial streams.

**B.6.** Conduct a full natural community inventory of remaining areas to inform sustainable site design and highest quality areas to be set aside as open space within the development.

**B.7.** Preserve 300 foot wildlife corridors along both sides of the Haw River, Robeson Creek, and Stinking Creek

**B.8.** During site design, incorporate recommendations from the NC Wildlife Resources Commission's "Guidance Memorandum to Address and Mitigate Secondary and Cumulative Impacts to Aquatic and Terrestrial Wildlife Resources and Water Quality" (August 2002) found at [http://www.ncwildlife.org/pg07\\_WildlifeSpeciesCon/pg7c3\\_impacts.pdf](http://www.ncwildlife.org/pg07_WildlifeSpeciesCon/pg7c3_impacts.pdf)

**The Natural Heritage Program did NOT inventory a significant portion of where North Village and North Chatham Park Way will be built, and had recommended that this be done. The incomplete information in this 401 application of the existing vegetation conditions within the project area are further justification for the need for an Environmental Impact Statement.**

## **Section 6.0 Project Alternatives and Mitigation**

**The Revised 401 Application** has made some changes to reduce stream impacts as North Village and the Park Way are built, but there are many other excellent recommendations by NC Wildlife Resources Commission in their May 28, 2020 letter (included in Appendix M) that have not been adopted, including:

- Larger buffers (200' in each side of perennials and 100' on intermittent), and 150' buffers on small isolated wetlands (which provide critical breeding habitats). Reforestation of buffers when needed to protect wildlife travel corridors and water quality.
- Alternative to riprap dissipators at stream crossings, whose detrimental impacts are not mitigated for in the application.
- Use of native plants and seeds and use of LID landscaping technologies.
- No applications of herbicides and pesticides within riparian buffers, floodplains and wetlands
- More protective sediment and erosion controls to reduce hazards to aquatic wildlife.

**All the recommendations from NC Wildlife Resources Commission should be adopted to reduce hazards to aquatic and terrestrial wildlife.**

## **Section 7.2 Mitigation Outside of Impacted Area**

The required mitigation proposed for the permanent stream and wetland damage will be through a Mitigation Bank or in-lieu fee program (DOT). Though these stream restorations for mitigation must be in the Cape Fear River basin and at least 2 mitigation banks are in the Haw watershed, it is more likely that most stream restoration will be downstream of the Haw River and Jordan Lake, with no benefit to this watershed in Chatham Count or to the Jordan Lake reservoir used as a drinking water supply. In the letter to Applicants from the Division of Water Resources on

10/21/2020 it its stated on page 2:“offset payments may not protect specific downstream water quality for all streams within the proposed project. Specifically, offset payments could potentially put downstream water quality at risk while providing water quality benefit to other streams within the watershed. Please describe what measures will be taken to ensure that using variances and/ or offset payments would not compromise downstream water quality within individual subwatersheds within the project limits”. Is DWR satisfied with the measures now described by the applicants?

## **Section 9 Public Interest Factors**

We have the following concerns about the information provided in the “Public Interest Factors” section:

**9.1.1 Conservation:** There are no dedicated natural area conservation lands proposed by Chatham Park outside of regulatory riparian buffers, and none proposed for the North Chatham Parkway

### **9.1.2 Economics**

It is sheer speculation that this development will benefit the county or region, especially if it ends up being more residential than commercial, considering the current retail and commercial building situation.

### **9.1.3 Aesthetics**

This is only opinion that North Village and North Chatham Park Way will not diminish the aesthetics of the surrounding community. Many people prefer trees and nature as a dominant aesthetic in Chatham County.

### **9.1.4 General Environmental Concerns (and Environmental Justice)**

We question calling “temporary” the adverse impacts that will go on for decades as the project is built out, and that degradation of wetlands and streams and loss of wildlife will be “offset”.

- What is the basis for their claim of no negative impacts to persons living or owning land in the vicinity of the project?
- Where is their data to support the claim that there will be no environmental justice impacts? Under an EIS this demographic information and impacts to lower wealth and minority communities would be clearly provided.

### **9.1.5 Wetlands**

Offsite mitigation will not replace the biological functions of lost wetlands. Many species, including amphibians, are dependent on wetlands for breeding and survival.

### **9.1.7 Fish and Wildlife Values**

It is ridiculous to say that “The project would not expect to result in permanent adverse effects to the overall fish and wildlife values in the area” This is a meaningless statement. The huge loss of habitat and direct loss of life (e.g. for nesting animals, or those such as box turtles, too slow to move out of the way of construction equipment) that will result from the clearing of forest for this project will be devastating to the wildlife that lives there. Animals fleeing construction are forced to compete with existing populations nearby, or perish. We expect aquatic wildlife to be permanently impacted or extirpated by sediment and pollution flowing into streams, once this is no longer primarily forest land.

### **9.1.8 Flood Hazards**

North Village and the Parkway will increase downstream flooding as a result of such a large amount of impervious surface in North Village and the Park Way, with stormwater capturing only the less intense storm events. Many of the historic floods on the Haw River have been since 1995, and more are expected due to the kind of heavy rainfalls in short periods that are attributed to climate change in our region. (See the 2020 [North Carolina Climate Science Report](#) by North Carolina Institute for Climate Studies).

### **9.1.9 Floodplain Values**

Although it may be true that the Haw River floodplains within the project will be protected by larger buffers, other floodplains downstream may be impacted by higher volumes of stormwater, as well as floodplains of creeks that are impacted.

### **9.1.10 Land Use**

The project is not consistent with Pittsboro's Land Use map which shows a 2000' protected "Open Space and Conservation" area along the Haw River, including within the Chatham Park project area. (see Pittsboro Future Land Use Map under Figures, 12 Chatham Park - North Village).

### **9.1.11 Navigation**

The "routinely paddled" stretch of river referred to includes dangerous rapids, and new boater access areas would only happen if allowed by NC State Parks, who owns the entire river edge along Chatham Park land as part of the Lower Haw River State Natural Area.

### **9.1.12 Shore Erosion and accretion**

Development and road construction will likely lead to new sediment deposits along river, as has been witnessed elsewhere.

### **9.1.13 Recreation**

We believe the Lower Haw River State Natural Area will be negatively impacted by this development including increased turbidity, light pollution, noise, and impacts to wildlife. Bird watching is a very popular recreational activity along this part of the Haw, as is hiking. Secondary recreation (swimming, boating and wading) are very popular on this stretch of river and will also be impacted by the project.

### **9.1.14 Water Supply**

Chatham Park's North Village will have a major impact on Pittsboro's water supply, already an issue due to limited water in the town's source, the Haw River. The issue of industrial contaminants in the Haw and the Town's water supply will be an issue for Chatham Park residents as well.

### **9.1.15 Water Quality**

See our earlier notes on stormwater management. There is a great impediment to public oversight due to Chatham Park's password protected stormwater website making public records requests cumbersome and delayed. Post-construction stormwater will include roadway pollutants, pesticides and fertilizers from new housing and commercial landscaping and other impacts. In addition, the loss of forest and wetland function will add to nutrient pollution.

### **9.1.16 Energy**

Shouldn't Chatham Park, which calls itself an "exceptional development" have details here of how it will be energy efficient and have innovative energy practices?

### **9.1.18 Food and Fiber**

This project will greatly impact any future use of the land for farming, and the Park Way will be impacting properties with existing operations.

### **9.1.19 Mineral Needs**

What will be the indirect and cumulative impacts on the larger community and region for gravel mining and other materials needed for construction?

**In closing, we believe this Revised Joint CPI-NCDOT 401 application is incomplete, with insufficient and incorrect information. We believe an Environmental Impact Statement is needed to provide a complete analysis of the impacts this project will have.** We have given examples throughout these comments on the degradation of water quality that would result from direct stream and wetland impacts, and from the sediment and stormwater pollution from activities that would be allowed by this permit. There is incomplete or inaccurate information on indirect and secondary impacts this project would cause, including offsite impacts to water quality and flooding. There is incomplete or inaccurate information concerning endangered and protected species, as well as for existing conditions, including a plant inventory of the entire project area. The information provided in the section on “Public Interest Factors” disregards concerns for the surrounding community including environmental justice, increased flooding, recreational uses, fish and wildlife and other impacts. We do not believe the stated Purpose and dismissal of alternatives, justifies this degradation of our waters and environment, or for the taking of land in North Wood neighborhood for the North Chatham Park Way.

**We urge the NC Division of Water Resources to deny certification for this Revised 401 Application. In addition, the limited information provided in the application is not sufficient to render an accurate decision for an EA FONSI, and we ask that the US Army Corps require an Environmental Impact Statement for this project. This is too big a development not to undergo the careful scrutiny of an EIS.**

Sincerely,



Elaine Chiosso  
Executive Director  
Haw River Assembly

Cc: James Lastinger, US Army Corp of Engineers, Raleigh Regulatory Field Office