



Michael F. Easley, Governor

William G. Ross Jr., Secretary  
North Carolina Department of Environment and Natural Resources

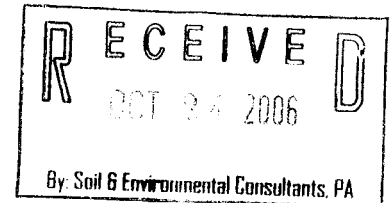
Alan W. Klimek, P.E. Director  
Division of Water Quality

October 20, 2006

DWQ Project # 06-1424  
Chatham County

Mr. Tommy Fonville  
Community Properties, Inc.  
1000 St. Albans Drive, Suite 400  
Raleigh, NC 27609

Subject Property: **The Creekside Development**  
UT to Dry Creek [030604, 16-34-(0.7), WSIV, NSW]



**Approval of 401 Water Quality Certification with Additional Conditions**

Dear Mr. Fonville:

You have our approval, in accordance with the attached conditions and those listed below, to place fill within or otherwise impact 275 linear feet of stream (138 linear feet permanent, perennial stream impacts, 11 linear feet temporary, perennial stream impacts, 52 linear feet temporary, intermittent stream impacts, and 74 linear feet temporary, intermittent stream impacts), as described in your revised application dated September 1, 2006, and received by the Division of Water Quality (DWQ) on September 1, 2006, for the purpose of constructing the residential subdivision and accompanying utilities at the site. After reviewing your application, we have decided that the impacts are covered by General Water Quality Certification Number(s) 3374 and 3402 (GC3374 and GC3402). The Certification(s) allows you to use Nationwide Permit(s) NW12 and NW39, respectively, when issued by the US Army Corps of Engineers (USACE). In addition, you should obtain or otherwise comply with any other required federal, state or local permits before you go ahead with your project including (but not limited to) Erosion and Sediment Control, and Non-discharge regulations. **Also, this approval to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application shall expire upon expiration of the 404 or CAMA Permit.**

This approval is for the purpose and design that you described in your application. If you change your project, you must notify us and you may be required to send us a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter and is thereby responsible for complying with all conditions. If total fills for this project (now or in the future) exceed one acre of wetland or 150 linear feet of stream, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h). **This approval requires you to follow the conditions listed in the attached certification and any additional conditions listed below.**

**The Additional Conditions of the Certification are:**

1. Impacts Approved

The following impacts are hereby approved as long as all of the other specific and general conditions of this Certification (or Isolated Wetland Permit) are met. No other impacts are approved including incidental impacts:

	Amount Approved (Units)	Plan Location or Reference
Stream	275 (linear feet) (138 linear feet permanent, perennial stream impacts, 11 linear feet temporary, perennial stream impacts, 52 linear feet temporary, intermittent stream impacts, and 74 linear feet temporary, intermittent stream impacts)	PCN page 5 of 10

2. No Waste, Spoil, Solids, or Fill of Any Kind

No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the footprint of the impacts depicted in the Pre-Construction Notification. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

3. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards:

- a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
- b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
- c. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.

4. Sediment and Erosion Control Measures

Sediment and erosion control measures shall not be placed in wetlands or waters to the maximum extent practicable. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, they shall be removed and the natural grade restored within six months of the date that the Division of Land Resources has released the project;

5. Protective Fencing

The outside buffer, wetland or water boundary and along the construction corridor within these boundaries approved under this authorization shall be clearly marked with orange warning fencing (or similar high visibility material) for the areas that have been approved to infringe within the buffer, wetland or water prior to any land disturbing activities to ensure compliance with 15A NCAC 2B .0233 and GC 3404;

6. Culvert Installation

Culverts required for this project shall be installed in such a manner that the original stream profiles are not altered. Existing stream dimensions (including the cross section dimensions, pattern, and longitudinal profile) must be maintained above and below locations of each culvert. Culverts shall be designed and installed to allow for aquatic life movement as well as to prevent head cutting of the streams. If any of the existing pipes are or become perched, the appropriate stream grade shall

be re-established or, if the pipes installed in a perched manner, the pipes shall be removed and re-installed correctly.

Culvert(s) shall not be installed in such a manner that will cause aggradation or erosion of the stream up or down stream of the culvert(s). Existing stream dimensions (including the cross section dimensions, pattern and longitudinal profile) shall be maintained above and below locations of each culvert.

Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in disequilibrium of wetlands or streambeds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested in writing by DWQ.

The establishment of native, woody vegetation and other soft stream bank stabilization techniques must be used where practicable instead of rip rap or other bank hardening methods. If rip-rap is necessary, it shall not be placed in the stream bed, unless specifically approved by the Division of Water Quality.

Installation of culverts in wetlands must ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions.

Upon completion of the project, the Applicant shall complete and return the enclosed "Certificate of Completion" form to notify NCDWQ when all work included in the §401 Certification has been completed. The responsible party shall complete the attached form and return it to the 401/Wetlands Unit of the NC Division of Water Quality upon completion of the project. *Please send photographs upstream and downstream of each culvert site to document correct installation along with the Certificate of Completion form.*

#### 7. Deed Notifications

Deed notifications or similar mechanisms shall be placed on all retained jurisdictional wetlands, waters and protective buffers in order to assure compliance for future wetland, water and buffer impact. These mechanisms shall be put in place prior to impacting any wetlands, waters and/or buffers approved for impact under this Certification Approval and Authorization Certificate. A sample deed notification can be downloaded from the 401/Wetlands Unit web site at <http://h2o.enr.state.nc.us/ncwetlands>. The text of the sample deed notification may be modified as appropriate to suit to this project;

#### 8. Sewer Systems

The project shall comply with 15A NCAC 2H .0219(i)(2)(G) and all other State, Federal and local sewer system regulations.

#### 9. Construction Stormwater Permit NCG010000

Upon the approval of an Erosion and Sedimentation Control Plan issued by the Division of Land Resources (DLR) or a DLR delegated local erosion and sedimentation control program, an

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NPDES General stormwater permit (NCG010000) administered by DWQ is automatically issued to the project. This General Permit allows stormwater to be discharged during land disturbing construction activities as stipulated by conditions in the permit. If your project is covered by this permit [applicable to construction projects that disturb one (1) or more acres], full compliance with permit conditions including the sedimentation control plan, self-monitoring, record keeping and reporting requirements are required. A copy of this permit and monitoring report forms may be found at [http://h2o.enr.state.nc.us/su/Forms\\_Documents.htm](http://h2o.enr.state.nc.us/su/Forms_Documents.htm);

#### 10. Certificate of Completion

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return the attached certificate of completion to the 401 Oversight/Express Review Permitting Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650.

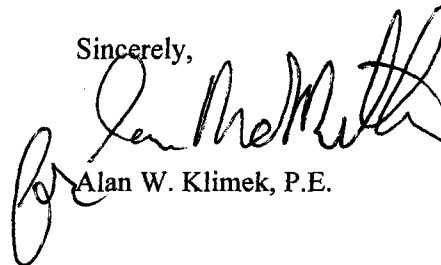
Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. The authorization to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application and as authorized by this Certification, shall expire upon expiration of the 404 or CAMA Permit.

If you do not accept any of the conditions of this Certification (associated with the approved wetland or stream impacts), you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. 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 certification and its conditions are final and binding unless you ask for a hearing.

Any disputes over determinations regarding this Authorization Certificate (associated with the approved buffer impacts) shall be referred in writing to the Director for a decision. The Director's decision is subject to review as provided in Articles 3 and 4 of G.S. 150B.

This letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act and the Neuse riparian buffer protection rule as described within 15A NCAC 2B .0233. If you have any questions, please telephone Cyndi Karoly or Ian McMillan at 919-733-1786.

Sincerely,



Alan W. Klimek, P.E.

AWK/ijm

Enclosures: GC 3374, GC3402  
Certificate of Completion

cc: Nicole Thomson, Soil & Environmental Consultants, P.A., 11010 Raven Ridge Road, Raleigh, NC 29614  
USACE Raleigh Regulatory Field Office  
Eric Kulz, DWQ Raleigh Regional Office  
DLR Raleigh Regional Office  
File Copy  
Central Files

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