



NORTH CAROLINA
Environmental Quality

November 26, 2024

ROY COOPER

Governor

MARY PENNY KELLEY

Secretary

RICHARD E. ROGERS, JR.

Director

DWR # 20202025 V3

Wake County

Asthon Raleigh Residential, LLC
Attn: Bob Mishler
900 Ridgefield Dr., Suite 335
Raleigh, NC 27609

Delivered via email to: bob.mishler@ashtonwoods.com

Subject: Approval of Individual 401 Water Quality Certification

The Point South – Phase 3

USACE Action ID. No. SAW-2008-00871

Location: 35.904642, -78.455435

Dear Bob Mishler:

Attached hereto is a copy of Certification No. WQC007360 issued to Bob Mishler and Asthon Raleigh Residential, LLC, dated November 26, 2024. This approval is for the purpose and design described in your application.

This Water Quality Certification does not relieve the permittee of the responsibility to obtain all other required Federal, State, or Local approvals before proceeding with the project, including those required by, but not limited to, Sediment and Erosion Control, Non-Discharge, Water Supply Watershed, and Trout Buffer regulations.

Upon the presentation of proper credentials, the Division may inspect the property.

This Water Quality Certification shall expire on the same day as the expiration date of the corresponding Section 404 Permit that is current at the time this Certification is issued. The conditions shall remain in effect for the life of the project, regardless of the expiration date of this Water Quality Certification.

Non-compliance with or violation of the conditions herein set forth may result in revocation of this Water Quality Certification for the project and may also result in criminal and/or civil penalties.



North Carolina Department of Environmental Quality | Division of Water Resources
512 North Salisbury Street | 1611 Mail Service Center | Raleigh, North Carolina 27699-1611
919.707.9000

This approval and its conditions are final and binding unless contested [G.S. 143-215.5].

This Certification can be contested as provided in Chapter 150B of the North Carolina General Statutes by filing a Petition for a Contested Case Hearing (Petition) with the North Carolina Office of Administrative Hearings (OAH) **within sixty (60) calendar days**. Requirements for filing a Petition are set forth in Chapter 150B of the North Carolina General Statutes and Title 26 of the North Carolina Administrative Code. Additional information regarding requirements for filing a Petition and Petition forms may be accessed at <http://www.ncoah.com/> or by calling the OAH Clerk's Office at (919) 431-3000.

A party filing a Petition must serve a copy of the Petition on:

William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, NC 27699-1601

If the party filing the Petition is not the permittee, then the party must also serve the recipient of the Certification in accordance with N.C.G.S 150B-23(a).

This letter completes the Division's review under section 401 of the Clean Water Act and 15A NCAC 02H .0500. Please contact Kristina Morales at 919-791-4258 or kristina.morales@deq.nc.gov if you have any questions or concerns.

Sincerely,

DocuSigned by:

372DCBCB61EE4A8...

Michael Hall
Regional Supervisor
Division of Water Resources, Raleigh Regional Office
Department of Environmental Quality

Electronic cc: Jennifer Burdette, Natural Resource Consultants, LLC (burdette@nrconsultnc.com)
Eric M. Parks, USACE Technical Regional Execution Center – South Atlantic Division
Gabriela Garrison, NCWRC
DWR 401 & Buffer Permitting Branch Electronic file

Filename: 20202025v3_ThePointSPhase3_Wake_401ApprovalLetter



NORTH CAROLINA 401 WATER QUALITY CERTIFICATION

CERTIFICATION #WQC007360 is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to North Carolina’s Regulations in 15 NCAC 02H .0500 and 15A NCAC 02B .0200, to Bob Mishler and Asthon Raleigh Residential, LLC, who have authorization for the impacts listed below, as described within your application received by the N.C. Division of Water Resources (Division) on September 30, 2024, and by Public Notice issued by the Division on September 30, 2024, and within the *Reasonable Period of Time* pursuant to 40 CFR Part 121.6.

The State of North Carolina certifies that this activity will comply with water quality requirements and the applicable portions of Sections 301, 302, 303, 306, 307 of the Public Laws 92-500 and PL 95-217 if conducted in accordance with the application, the supporting documentation, and conditions hereinafter set forth.

The following impacts are hereby approved. No other impacts are approved, including incidental impacts. [15A NCAC 02H .0506(b)]

Type of Impact	Amount Approved Permanent	Amount Approved Temporary	Mitigation Amount Required
Perennial Streams			
S1: Road Crossing – Construction Access	0 linear feet	16 linear feet	0 credits
S2: Road Crossing - Culvert	81 linear feet	0 linear feet	0 credits
S3: Road Crossing – Rip Rap	28 linear feet	0 linear feet	0 credits
Totals:	109 linear feet	16 linear feet	0 credits

This approval requires you to follow the conditions listed in the certification below.

CONDITIONS OF CERTIFICATION [15A NCAC 02H .0507(c)]:

1. The plans and specifications for this project are incorporated by reference as part of this Water Quality Certification. If you change your project, you must notify the Division and you may be required to submit a new application package with the appropriate fee.

If the property is sold, the Permittee shall provide the new owner must with a copy of this Water Quality Certification and all plans and specifications incorporated by reference. The Permittee may transfer this Water Quality Certification to the new owner by submitting a letter to the Division with the following statement: *“At the time the property is transferred, the terms and conditions of this 401 Individual Water Quality Certification, including the responsibility to ensure compliance, are binding on the new owner(s) of the property.”* The letter shall be signed and dated by both the transferee and the new owner.

Citation: 15A NCAC 02H .0507(d)(2)



2. Appropriate measures should be installed prior to any land clearing activities to protect wetlands, streams, and/or buffers from turbidity and/ or sedimentation. These measures should be routinely inspected and properly maintained, and excavated materials should be contained outside wetland, stream, and/or buffer boundaries. Excessive silt and sediment loads can have numerous detrimental effects on aquatic resources including destruction of spawning habitat, suffocation of eggs, and clogging of gills of aquatic species. If water quality standards are contravened, activities shall be immediately ceased and the applicant shall contact the Raleigh Regional Office at 919-791-4258.

Citation: 15A NCAC 02H .0506(b)(2); 15A NCAC 02H .0507(c)

3. Any additional impacts to streams and/or wetlands as a result of future roads, buildings, driveways, utility lines or other development related activities within the development, or future phases of the development, may be considered cumulative to impacts approved in this Certification and may require a modification of this 401 Water Quality Certification approval.

Citation: 15A NCAC 02H .0506; 15A NCAC 02H .0507(c)

4. All wetlands, streams, and surface waters located within 50 feet of the construction area on the project site shall be clearly marked (example- orange fabric fencing) prior to any land disturbing activities and must be maintained on the property until the project phase is completed.

Citation: 15A NCAC 02H .0506(b)(2); 15A NCAC 02H .0507(c)

5. If this Water Quality Certification is used to access residential, commercial or industrial building sites, then all parcels owned by the permittee that are part of the single and complete project authorized by this Certification must be buildable without additional impacts to streams or wetlands.

Citation: 15A NCAC 02H .0502(a); 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

6. For road construction purposes, this Certification shall only be utilized from natural high ground to natural high ground.

Citation: 15A NCAC 02H .0502(a); 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

7. Deed notifications or similar mechanisms shall be placed on all lots/parcels with retained jurisdictional wetlands, waters, and state regulated riparian buffers within the project boundaries in order to assure compliance with NC Water Quality Certification Rules (15A NCAC 02H .0500), NC Isolated Wetland Rules (15A NCAC 02H .1300), and/or State Regulated Riparian Buffer Rules (15A NCAC 02B .0200). These mechanisms shall be put in place at the time of recording of the property or individual parcels, whichever is appropriate.

Citation: 15A NCAC 02H .0502(a); 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

8. For all dam removal projects meeting the definition under G.S. 143-215.25 and requirements under G.S. 143-215.27 of a professionally supervised dam removal, the applicant shall provide documentation that any sediment that may be released has similar or lower level of



contamination than sediment sampled from downstream of the dam in accordance with Session Law 2017-145.

Citation: 15A NCAC 02H .0502; 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC02B .0200; S.L. 2017-145;

9. If this Water Quality Certification is used for utility related impacts, then the following Activity Specific Conditions shall apply to those impacts.

- a. All sewer lines shall be designed, constructed and maintained in accordance with Title 15A NCAC Chapter 02T, applicable Minimum Design Criteria (MDC), and/or Alternative Design Criteria.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

- b. Any utility construction corridor that is parallel to a stream or open water shall not be closer than 10 feet to the top of bank or ordinary high-water mark.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

- c. Where there are temporary or permanent impacts from stream crossings, utility lines shall cross the stream channel at a near-perpendicular direction (i.e., between 75 degrees and 105 degrees to the stream bank).

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

- d. Construction corridors in wetlands and/or across stream channels shall be minimized to the maximum extent practicable and shall not exceed 40 feet wide for utility lines.

For construction corridors in wetlands and across stream channels, stumps shall be grubbed only as needed to install the utility and remaining stumps shall be cut off at grade level. The general stripping of topsoil within wetlands along the construction corridor is prohibited.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

- e. Permanent maintained access corridors in wetlands and across stream channels shall be restricted to the minimum width practicable and shall not exceed 30 feet wide except at manhole locations.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

- f. For all utility lines constructed within wetlands, an anti-seep collar shall be placed at the downstream (utility line gradient) wetland boundary and every 150 feet up the gradient until the utility exits the wetland. Anti-seep collars may be constructed with class B concrete, compacted clay, PVC pipe, or metal collars. Wetland crossings that are directionally drilled, and perpendicular wetland crossings that are open cut and less than 150 feet long do not require anti-seep collars. The compacted clay shall have a specific infiltration of 1×10^{-5} cm/sec or less. A section and plan view diagram is attached for the anti-seep collars.

The following specifications shall apply to class B concrete:

- i. Minimum cement content, sacks per cubic yard with rounded coarse aggregate 5.0



- ii. Minimum cement content, sacks per cubic yard with angular coarse aggregate 5.5
- iii. Maximum water-cement ratio gallons per sack 6.8
- iv. Slump range 2" to 4"
- v. Minimum strength - 28-day psi 2,500

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

- g. The permittee shall have a specific plan for restoring wetland contours to pre-construction conditions. Any excess material will be removed to a high ground disposal area.

The mixing of topsoil and subsoils within the wetlands along utility corridors shall be minimized to the greatest extent practical. During excavation, the soils shall be placed on fabric to minimize impacts whenever possible. Topsoil excavated from utility trenches will be piled separately from subsoils and will be backfilled into the trench only after the subsoils have been placed and compacted.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

- 10. The Permittee shall secure an *approved* stormwater management plan (SMP) from the Town of Rolesville **before any** impacts authorized in this certification occur. The applicable portion of the approved SMP shall be constructed and operational before any permanent building or other permanent structure is occupied at the site. If any of the SCMs are used as an Erosion and Sediment Control device, it must be restored to the approved stormwater design condition within 30 days of close-out of the Erosion and Sediment Control Plan.

Citation: 15A NCAC 02H .0506(b)(2) and (3); 15A NCAC 02H .0507(c)

- 11. The permittee shall report to the DWR Raleigh Regional Office any noncompliance with, and/or any violation of, stream or wetland standards [15A NCAC 02B .0200], including but not limited to sediment impacts to streams or wetlands. Information shall be provided orally within 24 hours (or the next business day if a weekend or holiday) from the time the permittee became aware of the non-compliance circumstances.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

- 12. No waste, spoil, solids, or fill of any kind shall occur in wetlands or waters beyond the footprint of the approved impacts (including temporary impacts).

Citation: 15A NCAC 02H .0506; 15A NCAC 02H .0507(c)

- 13. All activities shall be in compliance with any applicable State Regulated Riparian Buffer Rules in Chapter 2B of Title 15A in the North Carolina Administrative Code.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

- 14. When applicable, all construction activities shall be performed and maintained in full compliance with G.S. Chapter 113A Article 4 (Sediment and Pollution Control Act of 1973). Regardless of applicability of the Sediment and Pollution Control Act, all projects shall incorporate appropriate Best Management Practices for the control of sediment and erosion so that no violations of state water quality standards, statutes, or rules occur.



Design, installation, operation, and maintenance of all sediment and erosion control measures shall be equal to or exceed the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*, or for linear transportation projects, the *North Carolina Department of Transportation Sediment and Erosion Control Manual*.

All devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) sites, including contractor-owned or leased borrow pits associated with the project. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.

For borrow pit sites, the erosion and sediment control measures shall be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*. Reclamation measures and implementation shall comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.

If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), SA, WS-I, WS-II, High Quality Waters (HQW), or Outstanding Resource Waters (ORW), then the sedimentation and erosion control designs shall comply with the requirements set forth in 15A NCAC 04B .0124, *Design Standards in Sensitive Watersheds*.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

15. Sediment and erosion control measures shall not be installed in wetland or waters except within the footprint of temporary or permanent impacts otherwise authorized by this Certification. If placed within authorized impact areas, then placement of such measures shall not be conducted in a manner that results in dis-equilibrium of any wetlands, streambeds, or streambanks. Any silt fence installed within wetlands shall be removed from wetlands and the natural grade restored within two (2) months of the date that DEMLR or locally delegated program has released the specific area within the project to ensure wetland standards are maintained upon completion of the project.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

16. Erosion control matting that incorporates plastic mesh and/or plastic twine shall not be used along streambanks or within wetlands.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

17. If the project is covered by NPDES Construction Stormwater Permit Number NCG010000 or NPDES Construction Stormwater Permit Number NCG250000, full compliance with permit conditions including the erosion & sedimentation control plan, inspections and maintenance, self-monitoring, record keeping and reporting requirements is required.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

18. All work in or adjacent to streams shall be conducted so that the flowing stream does not come in contact with the disturbed area. Approved best management practices from the most current



version of the NC Sediment and Erosion Control Manual, or the NC Department of Transportation Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200

19. Culverts shall be designed and installed in such a manner that the original stream profiles are not altered and allow for aquatic life movement during low flows. The dimension, pattern, and profile of the stream above and below a pipe or culvert shall not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed culvert shall be such as to pass the average historical low flow and spring flow without adversely altering flow velocity. If the width of the culvert is wider than the stream channel, the culvert shall include multiple boxes/pipes, baffles, benches and/or sills to maintain the natural width of the stream channel. If multiple culverts/pipes/barrels are used, low flows shall be accommodated in one culvert/pipe and additional culverts/pipes shall be installed such that they receive only flows above bankfull.

Placement of culverts and other structures in streams shall be below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20% of the culvert diameter for culverts having a diameter less than or equal to 48 inches, to allow low flow passage of water and aquatic life. If the culvert outlet is submerged within a pool or scour hole and designed to provide for aquatic passage, then culvert burial into the streambed is not required.

For structures less than 72" in diameter/width, and topographic constraints indicate culvert slopes of greater than 2.5% culvert burial is not required, provided that all alternative options for flattening the slope have been investigated and aquatic life movement/connectivity has been provided when possible (e.g. rock ladders, cross-vanes, sills, baffles etc.). Notification, including supporting documentation to include a location map of the culvert, culvert profile drawings, and slope calculations, shall be provided to DWR 30 calendar days prior to the installation of the culvert.

When bedrock is present in culvert locations, culvert burial is not required, provided that there is sufficient documentation of the presence of bedrock. Notification, including supporting documentation such as a location map of the culvert, geotechnical reports, photographs, etc. shall be provided to DWR a minimum of 30 calendar days prior to the installation of the culvert. If bedrock is discovered during construction, then DWR shall be notified by phone or email within 24 hours of discovery.

Installation of culverts in wetlands shall ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions. When roadways, causeways, or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges shall be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in destabilization of streams or wetlands.

The establishment of native woody vegetation and other soft stream bank stabilization techniques shall be used where practicable instead of rip-rap or other bank hardening methods.



Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

20. Application of fertilizer to establish planted/seeded vegetation within disturbed riparian areas and/or wetlands shall be conducted at agronomic rates and shall comply with all other Federal, State and Local regulations. Fertilizer application shall be accomplished in a manner that minimizes the risk of contact between the fertilizer and surface waters.

Citation: 15A 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

21. If concrete is used during construction, then all necessary measures shall be taken to prevent direct contact between uncured or curing concrete and waters of the state. Water that inadvertently contacts uncured concrete shall not be discharged to waters of the state.

Citation: 15A 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

22. All proposed and approved temporary fill and culverts shall be removed and the impacted area shall be returned to natural conditions within 60 calendar days after the temporary impact is no longer necessary. The impacted areas shall be restored to original grade, including each stream's original cross-sectional dimensions, planform pattern, and longitudinal bed profile. All temporarily impacted sites shall be restored and stabilized with native vegetation.

Citation: 15A NCAC 02H.0506(b); 15A NCAC 02H .0507(c)

23. All proposed and approved temporary pipes/culverts/rip-rap pads etc. in streams or wetlands shall be installed as outlined in the most recent edition of the *North Carolina Sediment and Erosion Control Planning and Design Manual* or the *North Carolina Surface Mining Manual* or the *North Carolina Department of Transportation Best Management Practices for Construction and Maintenance Activities* so as not to restrict stream flow or cause dis-equilibrium during use of this Certification.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

24. Any rip-rap required for proper culvert placement, stream stabilization, or restoration of temporarily disturbed areas shall be restricted to the area directly impacted by the approved construction activity. All rip-rap shall be placed such that the original streambed elevation and streambank contours are restored and maintained and shall consist of clean rock or masonry material free of debris or toxic pollutants. Placement of rip-rap or other approved materials shall not result in de-stabilization of the stream bed or banks upstream or downstream of the area or be installed in a manner that precludes aquatic life passage.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

25. Any rip-rap used for stream or shoreline stabilization shall be of a size and density to prevent movement by wave, current action, or stream flows, and shall consist of clean rock or masonry material free of debris or toxic pollutants. Rip-rap shall not be installed in the streambed except in specific areas required for velocity control and to ensure structural integrity of bank stabilization measures.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0201



26. All mechanized equipment operated near surface waters shall be inspected and maintained regularly to prevent contamination of surface waters from fuels, lubricants, hydraulic fluids, or other toxic materials. Construction shall be staged in order to minimize the exposure of equipment to surface waters to the maximum extent practicable. Fueling, lubrication, and general equipment maintenance shall be performed in a manner to prevent, to the maximum extent practicable, contamination of surface waters by fuels and oils.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

27. Heavy equipment working in wetlands shall be placed on mats or other measures shall be taken to minimize soil disturbance and compaction.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0231

28. In accordance with 143-215.85(b), the permittee shall report any petroleum spill of 25 gallons or more; any spill regardless of amount that causes a sheen on surface waters; any petroleum spill regardless of amount occurring within 100 feet of surface waters; and any petroleum spill less than 25 gallons that cannot be cleaned up within 24 hours.

Citation: 15A NCAC 02H .0507(c); N.C.G.S 143-215.85(b)

29. The permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

30. The permittee shall require its contractors and/or agents to comply with the terms and conditions of this certification in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this Water Quality Certification. A copy of this Water Quality Certification shall be available at the project site during the construction and maintenance of this project.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

31. This Water Quality Certification neither grants nor affirms any property right, license, or privilege in any lands or waters, or any right of use in any waters. This Water Quality Certification does not authorize any person to interfere with the riparian rights, littoral rights, or water use rights of any other person and does not create any prescriptive right or any right of priority regarding any usage of water. This Water Quality Certification shall not be interposed as a defense in any action respecting the determination of riparian or littoral rights or other rights to water use. No consumptive user is deemed by virtue of this Water Quality Certification to possess any prescriptive or other right of priority with respect to any other consumptive user.



This Water Quality Certification shall expire on the same day as the expiration date of the corresponding Section 404 Permit that is current at the time this Certification is issued. The conditions shall remain in effect for the life of the project, regardless of the expiration date of this Water Quality Certification.

This, the 26 day of November 2024

DocuSigned by:

Michael Hall

372DCBCB61EE4A8...

Michael Hall

Regional Supervisor

Division of Water Resources, Raleigh Regional Office

Department of Environmental Quality

KM
WQC007360

