

Agenda

Town of Fairview



Agenda “Council Special Meeting” October 16, 2025 @ 6:00 pm

Meeting will be in the Fairview Town Hall Meeting Room

1. Call the meeting to order: --- Mayor Wilfong

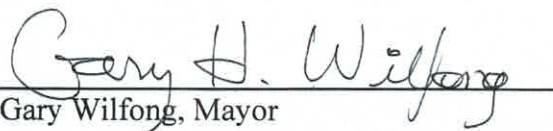
2. Items of Business:

2.A. Motion to go into Closed Session pursuant to NCGS 143-318.11(a)(3) to consult with the Town Attorney and preserve the attorney-client privilege: Discussing Macon Farms to include permit # FDP24089 Parcel ID # 08258002 and 25-CV-4936-890.

2.B. Motion to come out of Closed Session into Regular Session

2.C. Discussion and possible motion regarding items in 2A.

3. Adjournment


Gary Wilfong, Mayor



FAIRVIEW

NORTH CAROLINA

DECISION LETTER OF THE FAIRVIEW TOWN COUNCIL

September 24, 2024

Via Certified Mail – Return Receipt Requested

Michael Macon

Macon Family Farms

6317 Springs Mill Road

Charlotte, NC 28277

Re: Appeal by Mr. Macon of the Land Use Administrator/Floodplain Administrator's Decision dated December 14, 2023, revoking Floodplain Development Permit number 21062.

Dear Mr. Macon:

This matter was heard during a public hearing before the Fairview Town Council ("Board") on April 10, 2023, and April 30, 2023, wherein the Decision was stayed for 120 days. This matter was heard again on September 11, 2024, to determine if you had obtained a no-rise certificate. The purpose of the hearing was to consider your appeal of the Floodplain Administrator's (Ed Humphries) Decision and Findings of Fact and Order ("Order") dated December 14, 2023. The Order revoked the floodplain development permit number 21062 dated August 5, 2021, regarding Parcel 08-258-002 for 6802 West Duncan Road in Fairview. Based on the evidence presented at the hearing, the Board **REVOKES** the Floodplain Administrator's December 14, 2023, Decision as a temporary permit in lieu of a floodplain development permit was required. The Board bases its decision on the following Findings of Fact:

FINDINGS OF FACT

1. Mr. Macon applied for a Floodplain Development Permit on August 5, 2021, and received said permit for road construction on parcel 08-258-002 at 6802 West Duncan Road in Fairview. The permit required that no fill material encroach into the floodway of Goose Creek.
2. Mr. Macon was informed by NCDENR via email on June 7, 2021, that he was to comply with all local floodplain regulations.

3. Mr. Macon constructed a road to his parcel on 6802 West Duncan Road and used a railroad car to build up the elevation and construct a bridge and cross Goose Creek to have access to his property.
4. The bridge is located in a designated floodway.
5. The Fairview Flood Damage Prevention Ordinance states in Article 5, Floodways and Non-Encroachment Area, Section F 1(a)(b):
 - (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
6. As of the date of the April hearing, Mr. Macon has not completed a no-rise study as required in the ordinance, nor did he have a CLOMR approved by FEMA.
7. A farm use classification does not relieve the landowner of obtaining the proper certifications, approvals and permits in a floodplain.
8. The Floodplain Administrator sent a letter dated October 24, 2023, to Mr. Macon indicating that either 1) the bridge must be removed within 15 days of the date of the letter or 2) a no rise certificate must be provided to the Town.
9. Mr. Macon timely filed an appeal pursuant to Section D (4) of the Town of Fairview's Flood Damage Prevention Ordinance.
10. As of the date of September 11, 2024, hearing, the bridge remains and a no rise study has been conducted by Mr. Macon's engineer showing a base flood elevation increase of .08, and therefore does not meet the no rise requirement.
11. From that date of the April 30, 2024 hearing until the September 11, 2024 hearing, both Mr. Macon, the Floodplain Administrator, and the Town Attorney had extensive conversations with Terry Foxx from the NC Department of Public Safety, Division of Emergency Management, Hazard Mitigation Section, as well as Steve Garrett, State National Flood

12. Based on those conversations, along with correspondence from FEMA and the U.S. Army Corps of Engineers, it was determined that Mr. Macon's bridge qualifies as a "temporary encroachment into the floodway," requiring only a temporary permit while Mr. Macon submits an application to obtain a CLOMR (condition letter of map revision) and LOMR (letter of map revision), which is an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map. Once the map amendment is obtained, Mr. Macon plans to construct a permanent bridge with no increase in base flood elevation.
13. Mr. Macon intends to obtain a CLOMR and LOMR from FEMA. He is also requesting a temporary permit for the current temporary bridge to remain and be issued by the Floodplain Administrator for a period of 12 months. The permit can be renewed or extended by this board, if necessary, and as long as Mr. Macon is making progress and cooperating with FEMA's requirements. Mr. Macon will also be required to obtain a floodplain permit for construction of the permanent bridge.
14. During this period of time (next 12 months, or longer if necessary), Mr. Macon and his invitees and guests are permitted to use the temporary bridge on his property for ingress and egress. However, no development or activity may occur in the floodplain.
15. Mr. Macon agrees to mark the boundaries of the floodplain on his property. The contributory to Goose Creek must maintain a 100-foot buffer and there is to be no activity in the buffer.
16. Mr. Macon is not responsible for acts of nature in the waterway and has no obligation to remove tree limbs or debris occurring naturally.

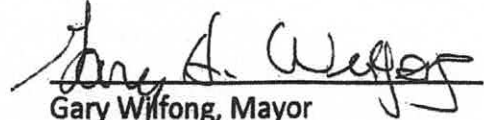
Based on the foregoing Findings of Fact, the Board concluded the following:

1. Mr. Macon's property located at 6802 West Duncan Road is no longer in violation of the floodplain management regulations and Flood Damage Prevention Ordinance.
2. Said violation is REVOKED as the bridge is a "temporary bridge" in nature and is not required to comply with the no-rise requirement of a permanent structure while Mr. Macon applies for a CLOMR and LOMR to construct a permanent bridge.

Based on the foregoing Findings of Fact and Conclusions, the Board makes the following Decision:

1. The Floodplain Administrator's Decision of December 14, 2023, is REVOKED as a no rise certificate is not required for a temporary structure to be placed in the floodway. A temporary permit shall be issued to Mr. Macon for the existing temporary bridge for a period of 12 months, which may be extended as long as sufficient progress is made to apply for a CLOMR and LOMR from FEMA. No application fee shall be required by the Town of Fairview for the temporary permit.

This 24 day of September 2024.


Gary Wilfong, Mayor
Town of Fairview

Decision filed with the Fairview Clerk


Teresa Gregorius, Town Clerk

STATE OF NORTH CAROLINA
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
UNION COUNTY

FILED

DATE: October 9, 2025
TIME: 10:08:14 AM
UNION COUNTY
CLERK OF SUPERIOR COURT
BY: S. Higgins

MICHAEL MACON,
Pro Se Plaintiff

v.

TOWN OF FAIRVIEW, NORTH CAROLINA, and LAND USE ADMINISTRATOR,
Defendants.

Case No.: 25CV005201-890

VERIFIED EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
(Filed Pursuant to N.C. R. Civ. P. 65)

NOW COMES the Plaintiff, Michael Macon, appearing pro se, and respectfully moves this Court pursuant to Rule 65 of the North Carolina Rules of Civil Procedure for the entry of a Temporary Restraining Order ("TRO") to maintain the existing use and access to his property pending completion of FEMA's review of his Conditional Letter of Map Revision (CLOMR) submission.

I. BACKGROUND AND PROCEDURAL HISTORY

Plaintiff owns property located at 6802 West Duncan Road, in the Town of Fairview, North Carolina, which requires bridge access across Goose Creek.

On September 10, 2025, Plaintiff submitted a CLOMR application to FEMA, with full hydrologic and hydraulic analyses prepared by a licensed engineer.

FEMA requires local concurrence from the community via the MT-2 form. The Town of Fairview has refused to provide such concurrence, asserting noncompliance before reviewing the actual engineering documentation.

The Town previously issued a Decision Letter on September 24, 2024, which revoked prior enforcement and explicitly authorized a temporary bridge permit for 12 months, allowing ingress and egress pending CLOMR and LOMR completion.

Despite that Decision Letter, the Town issued a Cease-and-Desist Notice on October 7, 2025, claiming the temporary permit expired and ordering the Plaintiff to "immediately cease all use of the bridge for any purpose."

A hearing regarding progress on the CLOMR submission is scheduled before the Town of Fairview on October 17, 2025.

II. LEGAL STANDARD

Under Rule 65 of the North Carolina Rules of Civil Procedure, a TRO is warranted where:

STATE OF NORTH CAROLINA
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
COUNTY OF UNION

MICHAEL MACON,)

Plaintiff,)

v.)

VERIFICATION AND AFFIDAVIT

) IN SUPPORT OF TRO MOTION

TOWN OF FAIRVIEW, NORTH CAROLINA;)

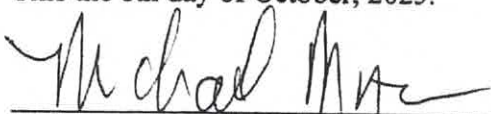
and LAND USE ADMINISTRATOR,)

Town of Fairview,)

Defendants.)

I, Michael Macon, being first duly sworn, depose and say that I am the Plaintiff in the above-entitled action; that I have read the foregoing Emergency Motion for Temporary Restraining Order and the accompanying Memorandum in Support; and that the statements of fact contained therein are true and correct to the best of my knowledge, information, and belief.

This the 8th day of October, 2025.



Michael Macon
Pro Se Plaintiff

STATE OF NORTH CAROLINA
IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

COUNTY OF UNION

FILED
DATE: October 9, 2025
TIME: 10:15:29 AM
UNION COUNTY
CLERK OF SUPERIOR COURT
BY: S. Higgins

MICHAEL MACON,

)

Plaintiff,

)

v.

) EMERGENCY MOTION FOR

) TEMPORARY RESTRAINING ORDER

TOWN OF FAIRVIEW, NORTH CAROLINA;)

and LAND USE ADMINISTRATOR,)

Town of Fairview,)

Defendants.)

Case No. 25CV005201-890

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

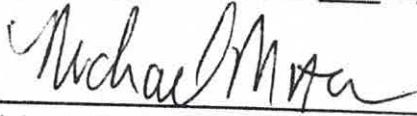
NOW COMES the Plaintiff, Michael Macon, appearing pro se, and pursuant to Rule 65(b) of the North Carolina Rules of Civil Procedure, respectfully moves this Court for entry of a Temporary Restraining Order to preserve the status quo and prevent irreparable harm pending FEMA's review of Plaintiff's Conditional Letter of Map Revision (CLOMR) application.

I. FACTUAL BACKGROUND

1. Plaintiff is the owner of property located at 6802 West Duncan Road, in the Town of Fairview, North Carolina, which is accessed by a private bridge crossing Goose Creek.
2. On September 24, 2024, the Fairview Town Council issued a formal Decision Letter revoking a prior enforcement order and authorizing Plaintiff to maintain a temporary bridge under a temporary permit for twelve (12) months, pending submission of a CLOMR and LOMR to FEMA.

use of the bridge solely for ingress and egress pending FEMA's review of the CLOMR application.

Respectfully submitted this 8 day of October, 2025.

A handwritten signature in black ink, appearing to read "Michael Macon", written over a horizontal line.

Michael Macon

Pro Se Plaintiff

Macon Family Farms

6317 Springs Mill Road

Charlotte, NC 28277

michael.macon@maconfamilyfarms.com

Melanie Cox

From: Ed Humphries <ehumphries@fairviewnc.gov>
Sent: Tuesday, October 7, 2025 9:16 AM
To: michael.macon .
Cc: Melanie Cox; Teresa Gregorius; David Link; Gary Wilfong; John Biggers; Kerry Price; Patricia Kindley
Subject: Bridge over Goose Creek
Attachments: Macon Decision Letter 9-24-24.pdf; Macon temporary permit 10.1.24.pdf

Dear Michael,

This letter serves as official notice that the Temporary Permit for the bridge located on your property expired as of October 1, 2025. You have not submitted a request for an extension, as required by the Decision Letter dated September 24, 2024, and the Permit Terms and Conditions (copies of both are attached for your reference).

We have received reports indicating that the bridge is still being used to dump debris onto your property, in direct violation of the permit expiration.

You are hereby directed to immediately cease and desist all use of the bridge for any purpose, including but not limited to the dumping or transportation of materials. Continued use may result in enforcement actions, including fines and/or legal proceedings.

If you believe this notice was issued in error or wish to discuss remedial actions, please contact our office immediately.

Ed Humphries

Town of Fairview
Land Use Administrator
7516 Concord Highway
Monroe NC 28110
704.564.3412
ehumphries@fairviewnc.gov



Town of Fairview

TEMPORARY FLOODPLAIN DEVELOPMENT PERMIT

Permit # FDP 24089 Issuance Date 10/1/24 Parcel # 08258002

In accordance with the Town of Fairview Flood Damage Prevention Ordinance and the Town of Fairview's Decision letter from Town Council dated September 24, 2024, a Temporary Floodplain Development Permit is hereby granted to:

MICHAEL MACON (MACON FAMILY FARMS)

To allow the temporary bridge to remain within the area of special flood hazard on property located at:

6802 WEST DUNCAN RD INDIAN TRAIL NC 28079

recorded in Book _____, Page _____ Registry of Union County.

This Permit is issued to the individual, firm, partnership, etc. for the purpose noted above and in accordance with the Town of Fairview Flood Damage Prevention Ordinance, Floodplain Development Permit No. FDP 24089 and attachments thereto; and is subject to the following modifications and/or performance reservations:

1. Permit issued for the following development only. * See Letter DATED Sept 24 '24
- Excavation: _____ Fill: _____ Grading: _____ Utility Construction: _____
- Road Construction: _____ Residential Construction: _____ Nonresidential Construction: _____
- Addition: _____ Renovation: _____ Other (specify): Residential AND Farm Use

The lowest floor and all attendant utilities shall be at or above 519.4 feet Mean Sea Level (MSL).

2. This permit is in effect for 12 months after the date of issuance and may be extended for good cause shown.

Failure to comply with the Town of Fairview Flood Damage Prevention Ordinance including any modifications and/or performance reservations could result in assessment of civil penalties or initiation of civil or criminal court actions.

Home Address:
6317 Springs Mill Road
Charlotte, NC 28277

Issued this 1 day of Oct, 2024

[Signature]
Floodplain Administrator for The Town of Fairview
Land Use Administrator