



PUBLIC NOTICE

Issue Date: August 12, 2016

Comment Deadline: September 12, 2016

Corps Action ID Number: SAW-2008-02698

The Wilmington District, Corps of Engineers (Corps) received an application from Chris Bailey, Bailey and Fuller Properties, LLC seeking Department of the Army authorization to impact 1.01 acres of 404 wetlands, associated with construction of a commercial development located at 810 West Corbett Avenue (Hwy 24), Swansboro, Onslow County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at:

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

Applicant:

Chris Bailey
Bailey & Fuller Properties, LLC
405D Western Boulevard.,
Jacksonville, North Carolina 28546

AGENT (if applicable):

Dana Lutheran
Southern Environmental Group, Inc
5315 South College Road, Suite E,
Wilmington, North Carolina 28412

Authority

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

- ☒ Section 404 of the Clean Water Act (33 U.S.C. 1344)
- ☐ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
- ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

Location

Directions to Site: The project area is located at 810 West Corbett Avenue (Hwy 24), Swansboro, Onslow County, NC. The project area is located on the north side of West Corbett Avenue directly across the street from McDonalds.

Project Area (acres): 4.51 Nearest Town: Swansboro
Nearest Waterway: Cartwheel Branch River Basin: White Oak
Latitude and Longitude: 34.698035 N, -77.139209 W

Existing Site Conditions

As stated in the application: Currently tracts A and B are wooded. Tract C has been cleared of smaller trees. Within the project area, there are approximately 1.04 acres of 404 jurisdictional wetlands. The wetland feature can be described as a hardwood depressional forest, with *Nyssa sylvatica var biflora* (black gum), *Acer Rubrum* (red maple), *Ulmus americana* (swamp elm), and *Smilax, laurifolia* (greenbrier) being the predominate species. The site is located within the White Oak River drainage basin.

Applicant's Stated Purpose

The applicants stated purpose is for commercial development of three parcels (approximately 4.51 acres), which will consist of three commercial buildings and associated infrastructure and parking.

Project Description

The proposed project involves potential permanent fill impacts to 1.01 acres of 404 wetlands. The project involves removing hydric soil from the wetland feature to be impacted and replaced with clean earthen fill. Utilities such as electric, sewer, water and stormwater will be installed and then the area will be graded to the desired contour to support the construction of roads, parking and three commercial buildings.

Avoidance and Minimization

The Agent provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Originally, the Applicant intended to access the property off West Main Street. Unfortunately, due to the heavy amount of vehicular traffic anticipated to be generated from the development, the Town of Swansboro requested the access road aligned with Phillips Loop Road, which is located south of US Hwy 24. With this design, impacts to wetlands are unavoidable. This requirement, in conjunction with providing adequate buildable area on Tracts A and B, pushes the easement to the western property boundary. A retaining wall has been incorporated into the design plan, along the western boundary line. This measure reduced wetland impacts by 1200 square feet.

During the construction process, best management practices will be utilized. Any temporary impact to wetlands, associated with the installation of the road or other development activities, will be restored to their pre-construction conditions.

The applicant has provided an alternatives analysis. Please see the attached analysis for more information.

Compensatory Mitigation

The Agent offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The Applicant intends to offset the loss of chemical, biological and physical processes, which will be removed as a result of the proposed fill of 1.01-acre of non-riparian wetland, by making payment to the Hofmann Forest Wetland Mitigation Bank, for 2.02-acre of non-riparian wetland restoration credit.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. Because no resources are present within the project area, the Corps' initial determination is that the proposed project would not effect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C, the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

- ☐ Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.
- ☒ No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).
- ☐ Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).

- ☐ Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).
- ☐ Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).
- ☐ The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Endangered Species

Pursuant to the Endangered Species Act of 1973, the Corps reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information:

- ☒ The Corps determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- ☐ The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat.
The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- ☐ The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

Other Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

North Carolina Division of Water Resources (NCDWR): The Corps will generally not make a final permit decision until the NCDWR issues, denies, or waives the state Certification as required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by September 12, 2016 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617
Or, (physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

North Carolina Division of Coastal Management (NCCDM):

- ☐ The application did not include a certification that the proposed work complies with and would be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2 (b)(2) the Corps cannot issue a Department of Army (DA) permit for the proposed work until the applicant submits such a certification to the Corps and the NCCDM, and the NCCDM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt,, concurrence or objection from the NCCDM.
- ☒ Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors

which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

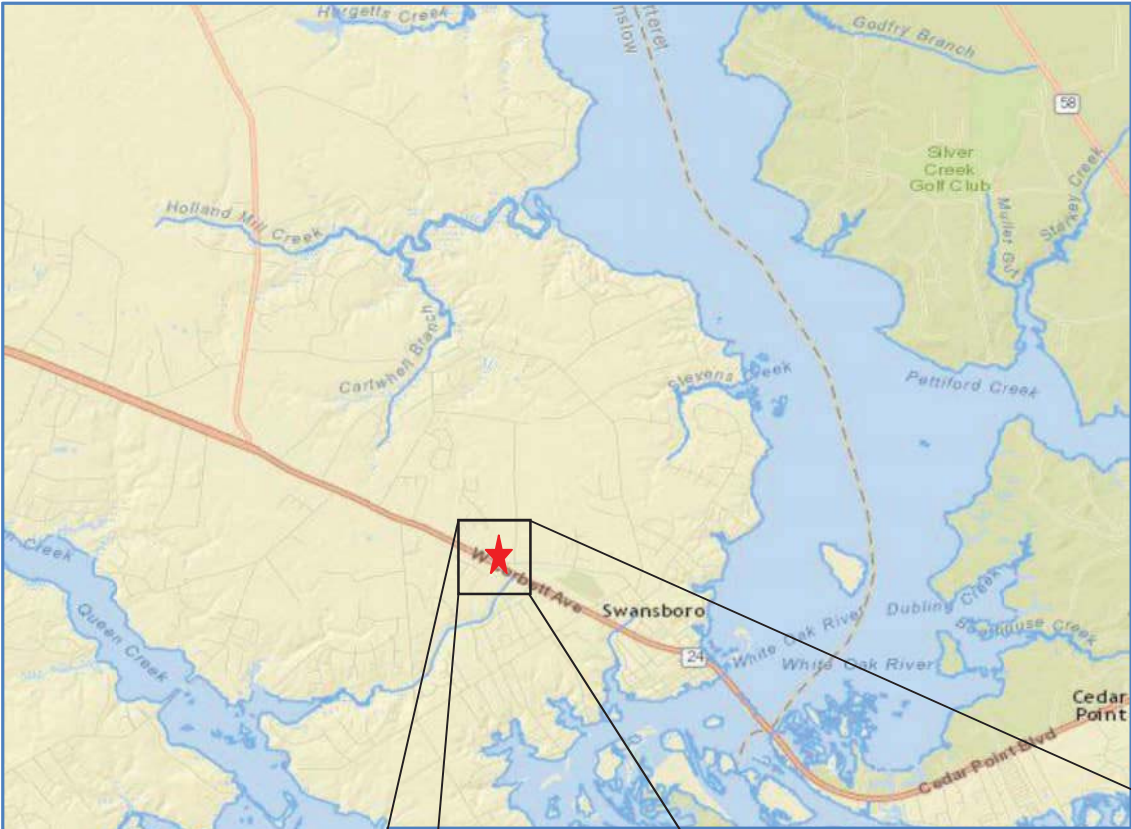
Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, September 12, 2016. Comments should be submitted to Brennan Dooley, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4694.

810 West Corbett Avenue, Swansboro, NC



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Swansboro Park Supplemental Information to the DoA Individual Permit

Prepared for:

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Prepared by:

3 August 2016

I. Introduction

Bailey & Fuller Properties, LLC (herein referred to as the “Applicant”) is seeking Department of the Army and NC Division of Water Resources approval to impact 1.01-acre of wetlands located within three (3) parcels, with one having a physical address of 810 West Corbett Avenue, Swansboro, and Onslow County, North Carolina.

II. Ownership:

There are three tracts of land being affected by the proposed development. They are as follows:

- A. Tract A – Bailey & Fuller Properties, LLC (Map ID): 1319-265)
- B. Tract B – Jerry Gower Construction Co. (Map ID: 1319b-21)
- C. Tract C – Timothy Baker (Map IDs: 1319-207, 1319B-23)

III. Existing Conditions:

Currently tracts A and B are wooded. Tract C has been cleared of smaller trees. Within the project area, there are approximately 1.04-acres of 404 jurisdictional wetlands (see Attachment 2). The wetland feature can be described as a hardwood depressional forest, with *Nyssa sylvatica* var. *biflora* (black gum), *Acer rubrum* (red maple), *Ulmus americana* (swamp elm), and *Smilax laurifolia* (greenbriar) being the predominate species. The site is located within the White Oak River drainage Basin.

IV. Project History:

The USACE issued the following jurisdictional determinations (JDs) for the subject parcels:

Tract	Ownership of Property	Date Issued/Site Verified	USACE AID #
A	Bailey & Fuller Properties, LLC	29 April 2008	2008-02698
B	Jerry Gower Construction Co.	29 April 2008	2008-02698
C	Timothy Baker	5 April 2005	2005-00567

Table 1 USACE Action IDs associated with the project

All have since expired. SEGi has been working with the USACE to finalize the request for the new JDs.

V. Proposed Impacts:

The construction of the proposed development would require filling approximately 1.01-acre of 404 jurisdictional wetlands.

VI. Purpose and Need:

The purpose of the proposed fill is to facilitate the installation of an egress/ingress road, 3 commercial buildings, with associated infrastructure and parking.

VII. Alternative Analysis:

A. Off-site Alternative Analysis

A comprehensive off-site alternatives analysis has been conducted, as part of the Individual Permit process. SEGi applied the Section 404(b)(1) guidelines by utilizing historical aerial photography and available current land use records, to best determine if any off-site alternatives existed.

The Applicant sought to utilize property they already owned, as well as property that is in a location that has direct access from Highway 24, has an existing traffic light, is highly visible from the roadway, is zoned appropriately for commercial development, and provides sufficient buildable area. With that in mind, several sites were evaluated. The following table contains the properties that were evaluated as alternative sites for the development:

Map Key	Onslow Co. Map ID	Size	Zoning	Access from Hwy 24
1	1319-52	1.3	B-1	Yes
2	1319-78	19.0	B-1	Yes
3	1319-55	7.58	B-1	Yes
4	1319-82 & 83	4.25	B-1	Yes
5	1319-100	14.6	B-1	Yes

Table 2 Alternative site information

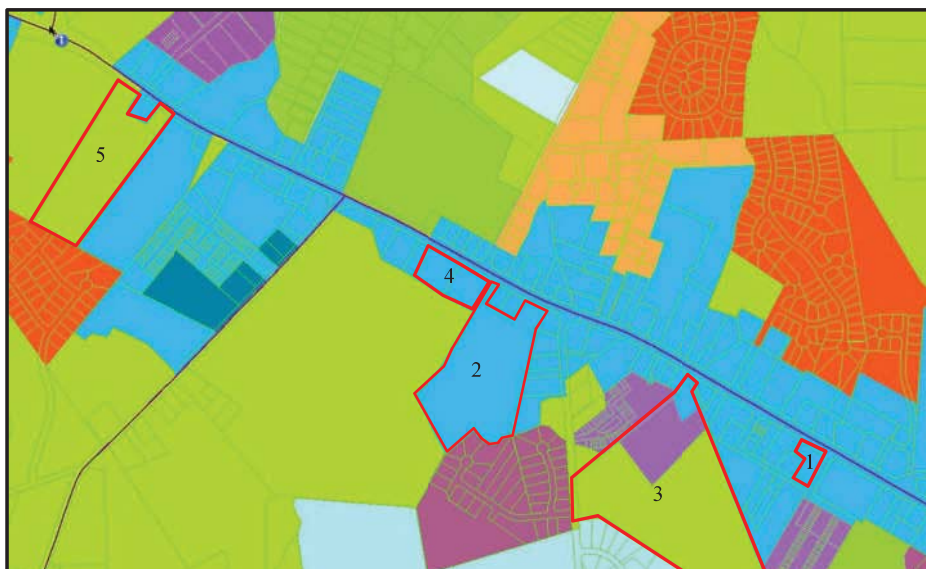


Figure 1 Alternative site analysis map

Alternative Site 1 – 1319-52: This site did not meet the size criteria. Therefore, Alternative Site 1 was rejected.

Alternative Site 2 – 1319-78: This site appears to meet most of the Applicant's criteria, but is too large. In addition this site is not for sale. Therefore, it was rejected.

Alternative Site 3 – 1319-55: While this site meets the location and visibility requirements, it does not provide adequate frontage to Hwy. 24 and is too large, and therefore, was rejected.

Alternative Site 4 – 1319-82 & 83: This site met all of the Applicant's criteria except there is no existing traffic light. However, this property is not for sale. Therefore, this site was rejected.

Alternative Site 5 – 1313-100: This site is too large, is not zoned business, does not have an existing stoplight and appears to contain a large area of wetlands. Therefore, this site was rejected.

Proposed Site – The proposed site meets all of the Applicant's criteria for development of three commercial buildings, with associated infrastructure and parking. The Applicant already owns Tract A and is in the process of acquiring ownership of Tracts B and C. Therefore, this is the only alternative that was accepted.

B. On-Site Alternatives Analysis

During the design of the project, several on-site alternatives were considered.

Alternative 1 – Current Proposed Design: This site plan was designed to accommodate three potential businesses (i.e. Bojangles, Dollar General and a strip mall, with Starbuck's Coffee shop), with whom the Applicant has entered into agreement. The Applicant already owns part of the land and is in negotiations with the other two property owner's to acquire the remaining property. The site provides the buildable area necessary, fronts Hwy 24 and is located where a traffic light is already in place. Therefore, this alternative was accepted.

Alternative 2 – Utilization of other uplands within the tract to avoid impacts: This alternative was reviewed, but all available uplands are proposed to be developed. Therefore, this alternative was rejected.

Alternative 3 – Minimizing the impact area: The Applicant investigated the potential of utilizing retaining walls to minimize impacts, but was rejected due to the fact that the entire area is needed to achieve the Applicant's stated goal and meet city's commercial development requirements.

Alternative 4 – Avoiding all impacts to wetlands: The Applicant investigated other potential means for developing the property without impacting wetlands and has been unable to find a practicable alternative that would achieve his stated goal. Therefore, this alternative was rejected.

VIII. Avoidance and Minimization:

Originally, the Applicant intended to access the property off West Main Street. Unfortunately, due to the heavy amount of vehicular traffic anticipated to be generated from the development, the Town of Swansboro requested the access road aligned with Phillips Loop Road, which is located south of US Hwy 24. With this design, impacts to wetlands are unavoidable. This requirement, in conjunction with providing adequate buildable area on Tracts A and B, pushes the easement to the western property boundary. A retaining wall has been incorporated into the design plan, along the western boundary line. This measure reduced impacts by 1200 square feet.

During the construction process, best management practices will be utilized. Any temporary impact to wetlands, associated with the installation of the road or other development activities, will be restored to their pre-construction conditions.

IX. Mitigation:

The Applicant intends to offset the loss of chemical, biological and physical processes, which will be removed as a result of the proposed fill of 1.01-acre of non-riparian wetland, by making payment to the Hofmann Forest Wetland Mitigation Bank, for 2.02-acre of non-riparian wetland restoration credit.

X. Summary

In summary, Bailey & Fuller Properties, LLC has conducted alternative site analysis and evaluated the investigated alternative site designs and feels the proposed site achieves their stated purpose and need. Minimization was achieved by incorporating a retaining wall into the site plan. Unavoidable impacts to 1.01-acre of non-riparian wetland will be mitigated through the Hofmann Forest Wetland Mitigation bank at a 2:1 mitigation-to-impact ratio

(i.e. 2.02-acre if non-riparian wetland restoration credit for 1.01-acre of impact).

The Applicant believes the proposed plan is the least environmentally damaging, practicable alternative.