



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: August 15, 2019

Comment Deadline: September 16, 2019

Corps Action ID Number: SAW-2018-01464

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. Richard V. Scarborough (applicant) seeking Department of the Army authorization to fill 0.25 acres of wetlands, associated with the expansion of an existing boat building business in Wanchese, Dare County, North Carolina. The applicant previously filled 0.29 acres of wetlands on the property without authorization from the Corps, and was issued a notice of violation of Section 301 of the Clean Water Act (33 USC 1311) on September 27, 2018. The applicant's current proposal includes the restoration of 0.15 acres of previously-filled wetlands, as well as additional filling of 0.1 acres of wetlands, resulting in a total of 0.25 acres of permanent wetland impacts.

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>

NOTE: This public notice does not imply, on the parts of the Corps of Engineers or other agencies, either favorable or unfavorable opinion of the work done; but it is issued to solicit comments regarding the factors on which a final decision will be based. Legal action has been suspended pending the outcome of this consideration.

Applicant: Mr. Richard V. Scarborough
Post Office Box 305
Wanchese, North Carolina 27981

AGENT (if applicable): Mr. George H. Wood
Environmental Professionals, Inc.
Post Office Box 3368
Kill Devil Hills, North Carolina 27948

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

Location Description: The project area is located at 437 and 455 The Lane in Wanchese, Dare County, North Carolina. From US HWY 64, turn south on NC 345 (Mill Landing Road), turn right on SR 1143 (The Lane), travel approximately 0.4 miles and the property is on the left.

Project Area (acres): 0.77

Nearest Waterway: Roanoke Sound

Latitude and Longitude: 35.83838 N, -75.62182 W

Nearest Town: Wanchese

River Basin: Pasquotank

Existing Site Conditions

The site contains at total 0.65 acres of wetlands and 0.12 acres of high ground. Of the 0.65 acres of wetlands, 0.29 acres have already been filled for a gravel parking lot associated with the existing boat building business on the adjacent lot.

Applicant's Stated Purpose

The applicant's stated purpose of the project is to facilitate expansion of the existing boat building business on the lot to the south.

Project Description

The project involves the expansion of the existing boat building business and includes constructing a new building, wastewater system, parking, and drive aisles for large trucks delivering materials.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The project is surrounded by filled property and/or high ground. Of the total wetland area of 0.65 acres, 0.25 acres will be filled to accommodate the proposed development.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The project is located within the service area of an existing, successful mitigation bank. The wetland fill will be mitigated by a purchase of 0.5 wetland mitigation credits at a ratio of 2:1 from Great Dismal Swamp Restoration Bank, LLC.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project will have no effect on 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 will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- ☐ The Corps has initiated consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- ☐ The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat. Consultation has been completed for this type of activity and the effects of the proposed activity have been evaluated and/or authorized by the National Marine Fisheries Service (NMFS) in the South Atlantic Regional Biological Opinion or its associated documents, including 7(a)(2) & 7(d) analyses and Critical Habitat assessments. A copy of this public notice will be sent to the NMFS.
- ☐ 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 16, 2019 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 (NCDCM):

- ☒ 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 NCDCM, and the NCDCM 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 NCDCM.
- ☐ 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.

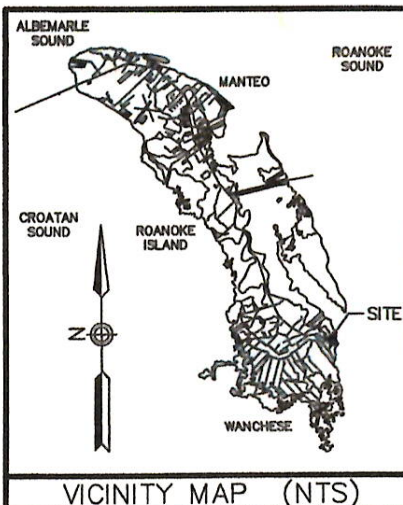
Commenting Information

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 will 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 16, 2019. Comments should be submitted to Billy Standridge, Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889, at (910) 251-4595.





AREA SCHEDULE		
SYM.	DESCRIPTION	AREA
A	EXISTING WETLANDS TO REMAIN	11,565 S.F.
B	EXISTING HIGH GROUND	5,152 S.F.
C	FILLED AREA TO REMAIN	2,149 S.F.
D	FILLED AREA TO REMAIN	2,181 S.F.
E	FILLED AREA TO REMAIN	2,039 S.F.
F	WETLANDS TO BE RESTORED	6,444 S.F.
G	AREA TO BE FILLED	1,094 S.F.
H	AREA TO BE FILLED	92 S.F.
J	AREA TO BE FILLED	3,132 S.F.
	TOTAL LOT AREA	33,848 S.F.

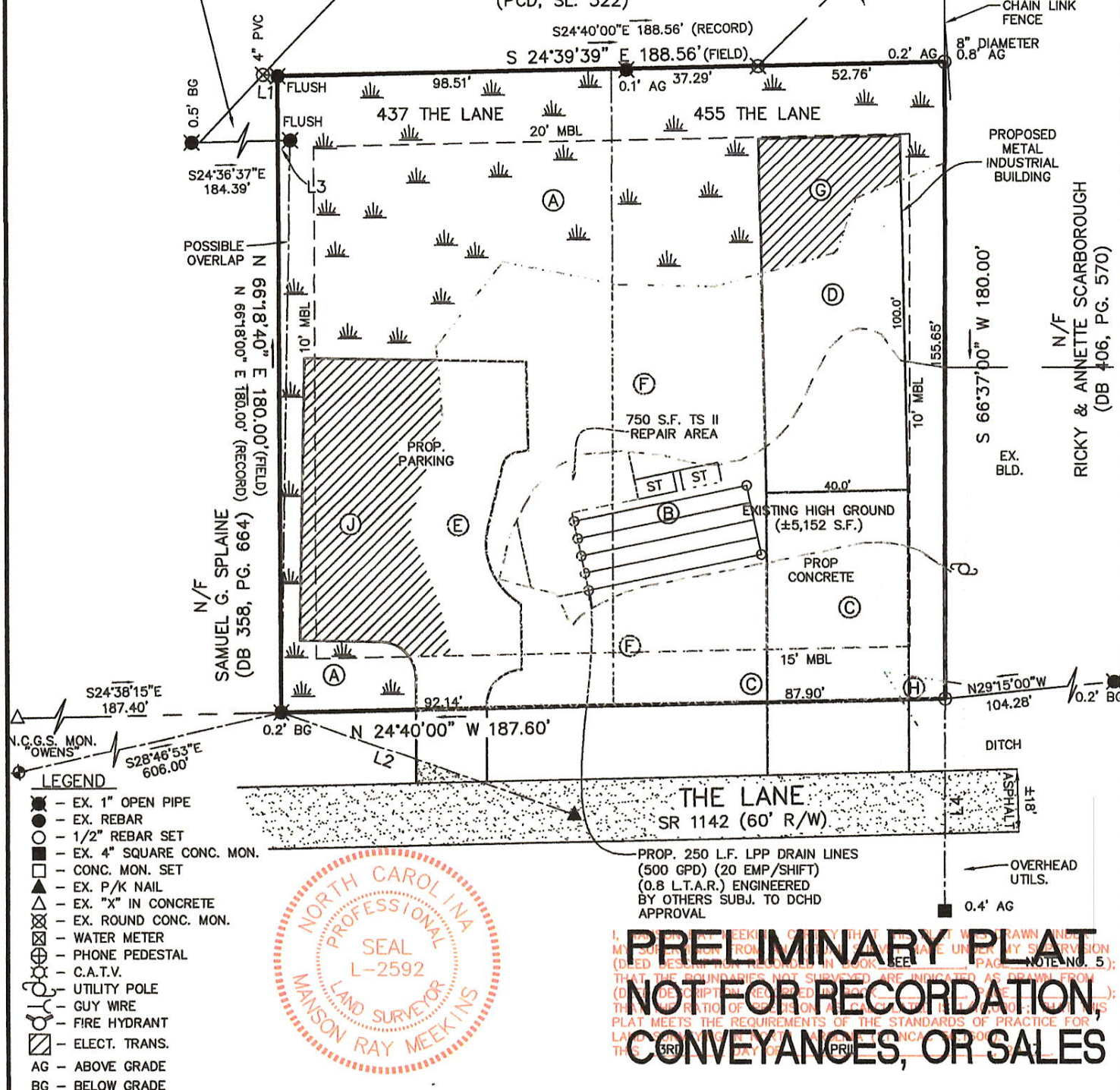
NOTES:

1. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
2. AREA BY COORDINATE COMPUTATION = 33,848 S.F.
3. F.I.R.M. ZONE: AE; B.F.E.: 10.0' (PER F.I.R.M.) + 1.0' FREEBOARD
4. PIN NO.: 17 070709 17 0123; 17 070709 17 0076
5. RECORDED REFERENCE: DB 2045, PG. 287; DB 2034, PG. 23
6. MINIMUM BUILDING LINES (MBL), IF SHOWN HEREON, ARE PER THE CURRENT LOCAL ZONING REGULATIONS. OTHER SETBACKS AND/OR RESTRICTIONS MAY APPLY AND MUST BE VERIFIED PRIOR TO CONSTRUCTION.
7. ELEVATIONS (NAVD 1988): AS SHOWN
8. DARE COUNTY ZONING: "HML"

OWNER UNKNOWN
(PER DARE CO. TAX DEPT.)
PARCEL: 024906002

OWNER UNKNOWN
(PER DARE CO. TAX DEPT.)
PARCEL: 024906001

N/F
LOT 2, DIV. FOR
LARRY L. & ALTON L. TILLET, JR.
(PCD, SL. 322)

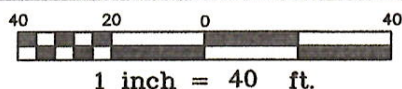


PRELIMINARY PLAT NO FOR RECORDATION, CONVEYANCES, OR SALES

SURVEYOR L-2592

SITE PLAN FOR

RICHARD V. SCARBOROUGH, JR. & SARAH SCARBOROUGH
437 & 455 THE LANE - WANCHESE
NAGS HEAD TOWNSHIP - DARE COUNTY - NORTH CAROLINA



SEABOARD SURVEYING & PLANNING, INC. C-1536

103F W. WOOD HILL DR., P.O. BOX 58, NAGS HEAD, NC 27959

OFFICE: (252) 480-9998 FAX: (252) 480-0571