



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: November 7, 2019
Comment Deadline: December 9, 2019
Corps Action ID Number: SAW-2014-01693

The Wilmington District, Corps of Engineers (Corps) received an application from Terraces Development, LLC seeking Department of the Army authorization to permanently fill approximately 0.71-acres and temporarily impact approximately 0.11-acre of wetland and 20 linear feet of stream associated with the development of a 76-lot single-family residential development, The Terraces Subdivision, located in Surf City, Pender 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 <https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

Applicant: Terraces Development, LLC
c/o Charles Poindexter
7923 Reunion Road
Wilmington, NC 28411
910.620.4672

AGENT (if applicable): Southern Environmental Group, Inc.
c/o Dana Lutheran
5315 South College Road, Suite E
Wilmington, NC 28412
910.452.2711

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: From Wilmington, NC, traveling east on NC Highway 17 North, turn right on Cornel Lane, left on Pagoda Court, and left on Osier Drive. The site is located at the end of Osier Drive, as shown on the attached Vicinity Map and Aerial Photograph (Attachment 1).

Project Area (acres): 39.87

Nearest Town: Surf City

Nearest Waterway: Mullett Run

River Basin: Virginia Creek

Latitude and Longitude: 34.450N, -77.611W

Existing Site Conditions

The proposed, undeveloped site is approximately 40 acres and has mapped hydric soil types of the Leon fine sand and Murville muck series. The site consists of uplands and pocosin, swamp forest, and headwater forest wetlands. Identified uplands and pocosin wetlands have been clear-cut and currently support an herbaceous and shrub-sapling canopy that is dominated by fetterbush (*Lyonia lucida*), blue huckleberry (*Gaylussacia frondosa*), shiny blueberry (*Vaccinium myrsinites*), loblolly pine (*Pinus taeda*), swamp bay (*Persea palustris*), red bay (*P. borbonia*), and western brackenfern (*Pteridium aquilinum*). Identified headwater forest and swamp forest wetlands are dominated by red maple (*Acer rubrum*), coastal sweetpepperbush (*Clethra alnifolia*), brownish beaksedge (*Rhynchospora capitellata*), blackgum (*Nyssa sylvatica*), laurel greenbrier (*Smilax laurifolia*), and sweetgum (*Liquidambar styraciflua*). Two tributaries originate onsite and flow south across the property for approximately 0.5-mile to their respective offsite confluence with Virginia Creek, a Section 10 water that is classified by the state as a SA and High Quality Water resource. Virginia Creek discharges directly into the Atlantic Intracoastal Waterway, then the Atlantic Ocean.

Applicant's Stated Purpose

The applicant's stated purpose is to construct a small-scale, single-family residential development to meet the housing demand in the Surf City, NC area.

Project Description

The proposed project consists of the permanent filling of approximately 0.71-acre of wetland and temporary impacts to approximately 0.11-acre of wetland and to 20 linear feet of stream channel. These impacts are associated with the construction of roads, driveways, and utility installation for a 76-lot, single-family residential development, The Terraces (Attachment 2).

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

As their preferred alternative, the applicant chose a site layout that did not require fill impacts for individual lot development and that attempted to exclude wetlands from lot

boundaries in order to prevent unauthorized, inadvertent fill by future homeowners. For those lots that do include wetlands, the applicant proposes to place a deed notification on those lots in an effort to notify homeowners about the presence of jurisdictional wetlands on their property upon initial conveyance of the property. The applicant avoided and minimized wetland impacts further by designing shared driveways for lots 15 and 16, 17 and 18, and 55 and 56 and has chosen to not develop three potential lots because of significant wetland encroachment. Additionally, the applicant avoided impacts to a perennial stream and minimized wetland impacts by proposing to construct a bottomless culvert with retaining walls to reduce the fill slope (See Attachment 2, Impact Area B). According to the applicant, these avoidance and minimization measures reduced wetland impacts by 0.238-acre and stream impacts by 60 linear feet compared to other site designs.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

The applicant proposes to purchase 0.50-acre of riparian wetland restoration credits to offset 0.22-acre of impact and 1.0 acre of non-riparian wetland restoration credits to offset 0.49-acre of impact. The applicant proposes to purchase mitigation credits from the Hofmann Forest Wetland Mitigation Bank located northeast of Jacksonville, Onslow County, North Carolina.

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 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:

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).

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 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 December 6, 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.

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, December 6, 2019. Comments should be submitted to Ms. Emily Greer, Regulatory Specialist, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 or at emily.c.greer@usace.army.mil.