



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: February 2, 2021
Comment Deadline: March 4, 2021
Corps Action ID Number: SAW-2014-02127

The Wilmington District, Corps of Engineers (Corps) received an application on January 21, 2021, from Trinity Capital Advisors (Applicant) seeking to modify the existing Department of the Army (DA) authorization for the Hodge Road Business Park/Eastgate 540 project, located along Spectrum Drive, in Knightdale, in Wake County, North Carolina. The initial project was authorized by Nationwide Permit Number 39 in February 2016 to permanently impact 0.465 acre of wetland to construct two warehouses. Subsequently, on June 11, 2019, an additional 1.193 acres of wetlands was authorized associated with the construction of four warehouse-style buildings and associated infrastructure, which will expire on December 31, 2024. The Applicant requests to modify the existing DA authorization to permanently impact an additional 0.959 acre of wetland and 23 linear feet of stream channel for the construction of an additional warehouse-style building with the same type of supporting infrastructure as previously authorized.

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: Ms. Sherrie Chaffin
Trinity Capital Advisors
440 S. Church Street, Suite 800
Charlotte, North Carolina 28202

AGENT (if applicable): Mr. Ward Marotti
Spangler Environmental, Inc.
4338 Bland Road
Raleigh, North Carolina 27609

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 site would connect to Spectrum Drive, in Knightdale, in Wake County, North Carolina. More specifically, the project is located adjacent to Ellen Drive and Interstate 87 (US 64/264) in Knightdale, North Carolina.

Project Area (acres): 20.07 acres Nearest Town: Knightdale
Nearest Waterway: UT to the Neuse River River Basin: Neuse 03020201
Latitude and Longitude: 35.766143 N, -78.514751 W

Existing Site Conditions

The project area consists of undeveloped woodland and is located adjacent to Ellen Drive and Interstate 87, in Knightdale, in Wake County, North Carolina, in the United States (U.S.) Geologic Survey (USGS) 7.5-minute topographic quadrangle of Raleigh-East, NC (USGS 2013), and within the Neuse River Basin, USGS hydrologic unit 03020201, which is subject to the Neuse River buffer regulations. A Best Usage Classification (BUC) is assigned to waters of North Carolina based on the existing or contemplated best usage of various bodies of water. The site contains one jurisdictional stream channel, an unnamed tributary to the Neuse River (approximately 350 linear feet), which has a BUC of C; NSW. The supplemental classification C designates aquatic life, secondary recreation, and fresh water. The supplemental classification NSW designates Nutrient Sensitive Waters which require limitations on nutrient inputs. The site also contains one jurisdictional wetland (approximately 0.98 acre), which is classified as a headwater forest according to the North Carolina Wetland Assessment Method (NCWAM).

The project site is located adjacent to the previously authorized Hodge Road Business Park, which involved the construction of six warehouse-style buildings (1,008,000 square feet) and associated infrastructure. Implementation of the Hodge Road Business Park has resulted in the discharge of fill material into a total of 1.658 acres of wetland. The applicant purchased 3.316 wetland mitigation units (WMUs) from a private mitigation bank to fulfill the mitigation requirements, and to offset unavoidable functional loss to 1.659 acres of wetland.

Applicant's Stated Purpose

The purpose of the modification request, as stated by the applicant, is the following:

The purpose of the project is to construct an industrial business park/regional package transfer station, known as Eastgate 540, which has the potential to serve multiple end users. Phase 2 is proposed to add additional capacity to the Phase 1 project to satisfy market demand.

Project Description

The overall project involves the construction of one warehouse-style building, totaling 159,600 square feet, a semi-truck roadway, circulation, parking and loading infrastructure, stormwater management, and utilities. The continued development of the site proposes to impact 0.959 acre of wetland and 23 linear feet of stream channel. Cumulatively, the project would impact 2.617 acres of wetland and 23 linear feet of stream channel.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: As detailed in the plans and alternatives analysis, the selected alternative has modified proposed grading, added retaining walls, and reduced the location and size/amount of supporting infrastructure to minimize impacts to the maximum extent practicable. Similarly, stormwater control measures have been designed to entirely avoid impacting jurisdictional waters.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant provided a statement of mitigation credit availability from a private mitigation bank in the amount of 2.816 wetland mitigation units. There was no specification as to the mitigation to impact ratio.

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.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact (CHOOSE ALL THAT APPLY- marine substrate, estuarine substrate, water columns, emergent wetlands, submerged aquatic vegetation, artificial reefs, hardbottoms) (see project description) utilized by various life stages of the following species: (CHOOSE ALL THAT APPLY – coastal migratory pelagics, corals, golden crab, shrimp, snapper grouper, spiny lobster, Atlantic highly migratory species). Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by Fishery Management Councils and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

The Corps will consult under the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.

The Corps has initiated consultation the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.

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).

Please note, the NC SHPO provided a letter to the Corps for the adjacent, permitted Hodge Road Business Park. The letter, dated December 5, 2017, indicated that they had conducted a review of the project and were aware of no historic resources which would be affected by the project and accordingly, had no comment on the project as proposed.

- 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.
- By copy of this public notice, the Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

Through letter dated November 22, 2017, the USFWS concurred with the Corps determination of a may affect, not likely to adversely affect listed species or their critical habitat (for the adjacent, permitted Hodge Road Business Park).

According to the Information for Planning and Consultation (IPAC) website, the following species are listed: Northern long-eared bat (*Myotis septentrionalis*), Red-cockaded Woodpecker (*Picoides borealis*), Neuse River waterdog (*Necturus lewisi*), Carolina madtom (*Noturus furiosus*), Atlantic pigtoe (*Fusconaia masoni*), Dwarf Wedgemussel (*Alasmidonta heterodon*), and Michaux's Sumac (*Rhus michauxii*).

The proposed impacts would occur near the headwaters of the watershed, in an intermittent stream and wetland complex. The project area does not contain a mature pine-dominated forest or any maintained right-of-ways. In addition, the proposed project does not contain suitable or critical habitat for any of the above referenced species. Therefore, the Corps believes the proposed project may affect but would not likely adversely any federally listed endangered or threatened species or their formally designated critical habitat.

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 applicant did not provide or satisfy all 9 elements required for a complete 401 certification request. Therefore, the 401 Certification process has not started. 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 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. Unless NCDWR is granted a time review extension, a waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of the date of this public notice. 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 February 26, 2021, to:

NCDWR Central Office
Attention: Mr. Rick Trone, 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 WOTUS, 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, March 4, 2021. Comments should be submitted to Ms. Samantha Dailey, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, by email at Samantha.J.Dailey@usace.army.mil, or by phone at (919) 554-4884, ext. 22.