



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: January 17, 2023
Comment Deadline: February 16, 2023
Corps Action ID Number: SAW-2017-00326

The Wilmington District, Corps of Engineers (Corps) received an application on November 4, 2022, from Eastfield Associates, LLC. seeking Department of the Army authorization to permanently impact 1,541 linear feet (lf) of stream channel [0.48 acre (ac)] and 4.686 acres of wetlands, associated with development of the Eastfield Mixed-Use Development (Eastfield), southeast of Selma, in Johnston 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/>

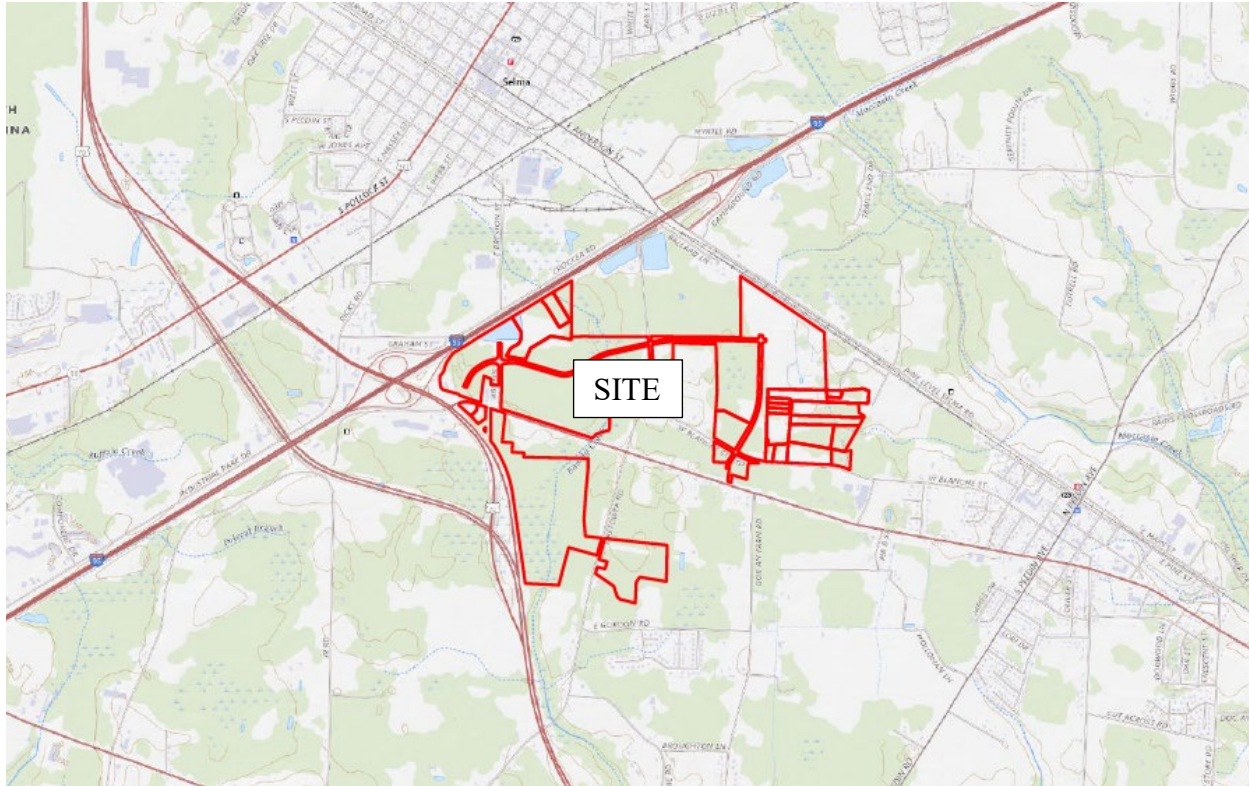
Applicant: Kevin Dougherty
Eastfield Associates, LLC
101 S. Raiford Street, Ste 200
Selma, NC 27576

AGENT (if applicable): Robert Turnbull
Terracon Consultants, Inc.
2401 Brentwood Road, Ste 107
Raleigh, NC 27604

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 of Eastfield Mixed-Use Development

Location

Location Description:

Project Area (acres): ~348.45

Nearest Waterway: Bawdy Swamp

Latitude and Longitude: 35.52007N, -78.27418W

Nearest Town: Selma

River Basin: Neuse River

Existing Site Conditions

On March 14, 2022, the Corps issued written verification to utilize Nationwide Permit 14 to construct a portion of Providence Boulevard in advance of this standard permit application. The verification authorized the loss of 0.39 ac of wetland and 67 lf (938 square feet) of Bawdy Creek and temporary impacts to 40 lf (560 square feet) to accommodate a stream pump around to protect downstream resources during construction. Other commercial facilities are currently being constructed within the Eastfield project limits in upland areas, with no impact to Waters of the United States (WoUS).

The proposed project site is characterized by rural forested and agricultural tracts and riparian and aquatic habitat. Land use is primarily active agricultural and silvicultural with scattered residences. An industrial facility is being constructed on high-ground and would be associated with Eastfield. Natural areas are comprised of mixed mesic forest, riparian buffers, and open fields. Mesic forests are comprised of pines, softwoods, and hardwoods including Loblolly Pine (*Pinus taeda*), White and Red Oaks (*Quercus spp.*), Sweet Gum (*Liquidambar styraciflua*) and Tulip Poplar (*Liriodendron tulipifera*). The site topography is generally rolling hills, with two natural valleys: one draining the majority of the site south via Bawdy Swamp and the other draining eastern portions of the site east via Moccasin Creek. The site is underlain by several soil map units: Bibb sandy loam, frequently flooded; Goldsboro silt loam; Grantham silt loam; Lynchburg sandy loam; Nahunta silt loam; Norfolk loamy sand, 0-2% slopes; and Rains sandy loam. Bibb, Grantham, Nahunta, and Rains soils are listed as hydric soils by the Natural Resources Conservation Service (NRCS). Goldsboro, Lynchburg, and Nahunta soils are known to have inclusions of hydric soils.

Other on-site riparian and aquatic communities include streams and wetlands. A site visit was conducted on May 3, 2022, to review the boundaries of potentially jurisdictional streams and wetlands on the project property. The site contains 11,345 lf (2.69 ac) of stream, and 29.468 ac of wetlands. 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. Bawdy Creek, bisecting the project from north to south has a BUC of C; NSW. Portions of the northeastern project area drain east to Moccasin Creek via unnamed tributaries. Moccasin Creek and its tributaries are also assigned a BUC of C; NSW.

Class C waters are protected for aquatic life propagation, secondary contact and recreation (wading, swimming), agriculture, wildlife, and maintenance of biological integrity. The supplemental classification NSW designates Nutrient Sensitive Waters which require limitations on nutrient inputs. The wetlands on-site are generally classified as headwater forest according to the North Carolina Wetland Assessment Method (NCWAM).

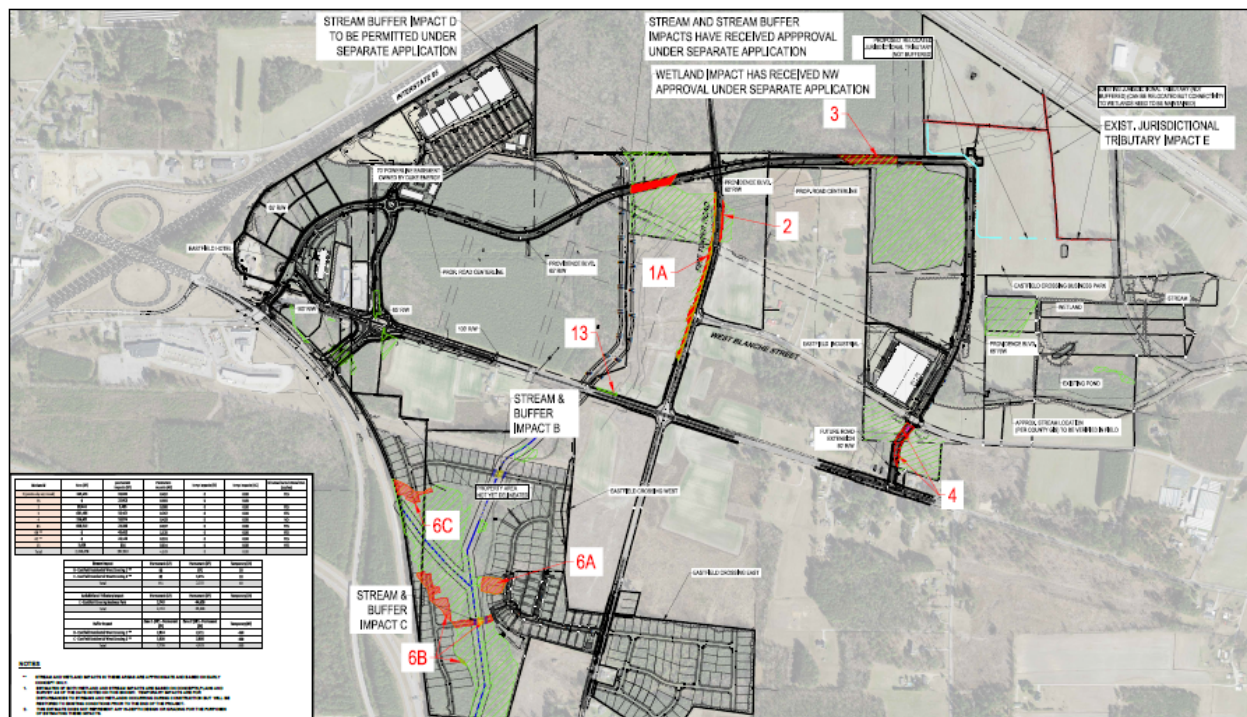
Applicant's Stated Purpose

The applicant has stated that the basic purpose of the proposed project is construct infrastructure for a mixed-use development within a strategic location in the Selma, North Carolina market. The strategy for the development is to meet the market needs of the Selma community for commercial, industrial, and residential facilities. The applicant's goal was to assemble enough land to address the voids in the community, increase the tax base of Selma and minimize any environmental impact. The site requires good access to Interstate 95 and rail lines.

Project Description

The project consists of road construction, utility installation, and site grading for future commercial, residential, and industrial uses. The proposed development goals have been oriented based on input received from the Johnston County Economic Development Commission.

According to the project's website (<https://adventuredev.com/eastfield-crossing>), "Eastfield is a 3.0 million sq. ft. master planned, mixed-use development comprised of a business park, retail, medical, professional space, hospitality, entertainment, senior living as well as single- and multi-family residences situated on 400 +/- acres of land. The Eastfield development would create a unique and pleasant environment serving the Triangle East region of Raleigh. Reported by the Johnston County Economic Development Board, Johnston County is the fastest growing county in NC, with over 205,000 current residents and is growing at a pace of 10,000 residents per year."



The proposed project would require permanent and temporary impacts to WoUS, including wetlands, to establish access to high-ground developable areas, and to grade and balance the site to facilitate the construction of the proposed mixed-use facilities. The proposed project would permanently impact 4.686 ac of wetlands, and 1,541 lf of streams (0.48 ac) subject to our regulatory authority pursuant to Section 404 of the CWA of 1972 (33 USC 1344). These impacts would be in addition to the 67 lf (0.02 ac) of stream and 0.39 acre of wetland already permanently impacted as part of the Providence Boulevard crossing of Bawdy Creek.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The proposed Eastfield Development design has minimized wetland impacts to the greatest extent practicable within the project study area. All road crossings of jurisdictional streams are perpendicular to streams and buffers. The extension of Providence Boulevard between West Blanch Street and US Highway 70A is confined to the road easement that was granted and cannot be adjusted without encroaching on property not owned by the applicant. Grading for the low-density residential area (Impacts 6A, 6B, and 6C) would occur as much as possible within the upland areas. Wetlands, streams, and surface waters proposed for impact cannot be avoided while still meeting the applicant's stated purpose and need. No instream work would occur in on-site streams during this bridge replacement. All necessary sediment and erosion control BMPs would be installed and maintained throughout.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant would compensate for unavoidable losses with compensatory mitigation. The applicant proposes to compensate for 1,541 lf of permanent streambed loss due to construction at a 2:1 mitigation ratio, and 4.686 ac of riparian wetland loss of forested wetlands at a 2:1 mitigation ratio.

Specifically, stream mitigation credits would be satisfied through purchasing credits from Restoration System's Milburnie Dam Mitigation Bank and wetlands mitigation credits would be satisfied at Wildlands Holding's Falling Creek Umbrella Mitigation Bank. Mitigation needs that are not met by commercial providers would be satisfied through the North Carolina Division of Mitigation Services.

The project proponent proposes to complete the mitigation payment within 90 days of the permit issuance.

Mitigation for the already completed Bawdy Creek crossing (SAW-2017-00326 / March 14, 2022) was provided through credit purchase from the Neu-Con Wetland & Stream Umbrella Mitigation Bank. Stream credits (134 to offset 67 feet of loss) were purchased from the Poplar Creek Site, and wetland credits (0.78 to offset 0.39 ac loss) were purchased from the Blackbird Site.

Essential Fish Habitat

The Corps' determination is that the proposed project may adversely affect 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).
- ☐ 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, not likely to adversely 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.
- ☐ 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 the 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 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 120 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 7, 2023, to:

NCDWR Central Office
Attention: Supervisor, 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, February 16, 2023. Comments should be submitted to Christopher Hopper, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919) 588-9153. Comments may also be submitted to christopher.d.hopper@usace.army.mil.