



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: September 3, 2024
Comment Deadline: October 3, 2024
Corps Action ID Number: SAW-2020-01560

The Wilmington District, Corps of Engineers (Corps) received an application on July 26, 2024 from 35 North Land Holding, LLC seeking Department of the Army authorization to permanently impact 0.767 acres of acres of wetlands, 6.04 acres of jurisdictional ditches, and 2.86 acres of an open water pond. This work is to facilitate the completion of the Timber Farms Residential Subdivision located in the northwest corner of Highway 17 and Longwood Road in Ash, NC. Plans include lot fill for residential homes, construction residential streets and utilities for 1,700 single-family lots, 500 multi-family units, 300 townhomes, and an approximately 6.7-acre amenity area, associated with Timber Farms subdivision in Brunswick 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: Bengy Hardee
Hardee Timber Tract LLC
55 Park Street Extension
Little River, SC 28403

AGENT (if applicable): Kim Williams
Davey Resource Group
3805 Wrightsville Avenue; Suite 15
Wilmington, NC 28403

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: Northwest corner of Highway 17 and Longwood Road

Project Area (acres): 781

Nearest Town: Grissettown

Nearest Waterway: Shallotte River

River Basin: Lumber

Latitude and Longitude: 33.957305N, -78.519710W

Existing Site Conditions

The project area consists of undeveloped land containing approximately 160 acres of wetlands, 1,000 LF of stream, and 10.8 miles of non-stream jurisdictional ditches. The current site conditions consist of cutover uplands and pocosin wetlands.

The northwestern and eastern portions of the property are predominantly agricultural fields. Remaining uplands within the site have recently been timbered. Wetlands are located in the southwestern and central portions of the property. These wetlands are Carolina bays, pocosins, or pine flats that support a dense assemblage of pond pine (*Pinus serotina*), titi (*Cyrilla racemiflora*), gallberry (*Ilex glabra*), and fetterbush (*Lyonia lucida*). A stream is located in the southeastern portion of the site and flows northeast to the Shallotte River. A network of drainage ditches are located throughout the property and one manmade pond is in the northern part of the tract. A canal has recently been constructed in the southern part of the site, as depicted in the Phase 1 site plan that was previously authorized. Several agricultural dirt roads provide access throughout the property. Adjacent land use is undeveloped and forested, agriculture fields, or residential.

Uplands within the site are predominantly Foreston loamy fine sand, Goldsboro fine sandy loam, Leon fine sand, Lynchburg fine sandy loam, Rains fine sandy loam, and Tomahawk loamy fine sand (Figure 3). Wetlands are predominantly Murville mucky fine sand and Torhunta mucky fine sandy loam

Applicant's Stated Purpose

The purpose of the proposed project is to construct the infrastructure and lot fill needed to complete the development of a residential subdivision.

Project Description

The proposed project consists of developing 1,700 single-family lots, 500 multi-family units, 300 townhomes, and an approximately 6.7-acre amenity area within this site . The proposed project will also consist of roadway grading and paving, the installation of water main services, and the installation of stormwater and wastewater collection systems. Roads for the project will be private but constructed to NCDOT minimum standards for subdivision roads. Sewer will be pumped into an existing force main located on Hwy 17 at the site's entrance (i.e. spine road). The main water connection will also be on Hwy 17 at the spine road, but it is anticipated there will be additional connections at the NC-904 entrance and Pea Landing Road for redundancy. All stormwater will be collected via a storm drain piping system.

One road crossing through wetlands is needed in the northern part of the site to access uplands in this area. It is an extension of the main spine road, which will traverse the entire site. The road will be 36-ft wide and will have 5-ft wide sidewalks on either side in accordance with Brunswick County Planning Department requirements. Additionally, 3:1 fill slopes will be used. A 36-inch culvert will be installed to maintain hydrologic flow. The wetland crossing has been revised to closely align with the existing dirt road in an effort to minimize wetland impacts.

Jurisdictional ditches to be impacted are located entirely within the tract. Filling these ditches will not result in a hydrologic trespass issue to adjacent property owners. Boundary ditches will remain open. Wetland pockets within the site will remain connected to downstream waters through swales as depicted on the site plan.

Prior to site development, sediment and erosion control measures will be put in place. The limits of disturbance will then be cleared of vegetation and graded, and roadways and utilities will be installed. Building construction will occur once infrastructure is complete. Track hoe, loader, dump truck, bob cat, and other standard construction equipment will be used.

Phase 1 which is located to the south and east of this proposed project was permitted under a NWP 29 on 4/3/2023 and included the impact 0.49 acres of jurisdictional open water ditches for the development of a Residential Development (Timber Farms) and includes the construction of the main road off Hwy 17 and single family and multi-family residential development in the central portions of the site.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The applicant has attempted to minimize wetland impacts as much as possible. One wetland impact is needed for a road crossing in order to gain access to uplands located in the northern part of the tract. The road has been positioned to align with an existing dirt road crossing to minimize impacts. Additionally, 3:1 slopes will be used. .

Compensatory Mitigation

The applicant offered to mitigate for proposed wetland impacts, the applicant proposes to buy into the Stone Farm Mitigation Bank for the restoration of 1.5 acres of non-riparian wetlands (2:1 mitigation to impact ratio) within the Lumber River Basin.

Essential Fish Habitat (EFH)

The Corps' 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 resources listed in or eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work; however, the permit area has not been formally surveyed for the presence of cultural resources. Additional work may be necessary to identify and assess any cultural resources that may be present. This notice serves as a request to SHPO, THPO, and/or other interested parties to provide any information they may have regarding historic properties.

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.
- For the proposed project, the Corps has made the following determination for federally listed endangered or threatened species or their formally designated critical habitat: May Affect, Likely to Adversely Affect
-Northern Long Eared Bat

-Tricolor Bat: although its federal listed has not been finalized, the Corps is including this species in our determination with expectation that the species listed may be completed during the review of this permit request

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. Add Additional Information If Necessary

The Corps will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete. Add Additional Information If Necessary

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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 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 should do so in writing, within 30 days of the issue date of the notice by emailing comments to publiccomments@deq.nc.gov with the subject line of "401 Water Quality Certification" or by mail to:

NCDWR Central Office
Attention: Stephanie Goss, 401 and Buffer Permitting Branch
(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 requests, via the public notice, 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, October 3, 2024. Comments should be submitted to David Moose, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403, or via email at David.e.moose@usace.army.mil. The Corps Project Manager can be contacted at (910) 251-4810. Comments may also be submitted to WilmingtonNCREG@usace.army.mil.