



# PUBLIC NOTICE

**US Army Corps  
Of Engineers**  
Wilmington District

Issue Date: May 15, 2024  
Comment Deadline: June 14, 2024  
Corps Action ID Number: SAW-2024-00442

The Wilmington District, Corps of Engineers (Corps) received an application on May 1, 2024, from Lance Smith seeking Department of the Army authorization to discharge dredged or fill material into potential waters of the United States, associated with construction of a driveway crossing to access Lot 2294 in the Pinewild Country Club of Pinehurst in Pinehurst, Moore 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:** Lance Smith  
4337 Johnson Avenue  
Western Springs, Illinois 60558

**AGENT (if applicable):** Adam Carter  
Wetland Solutions LLC  
PO Box 244  
Bunnlevel, North Carolina 28323

## 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 proposed development (Site) would occur at a vacant parcel within the Pinewild Country Club of Pinehurst. Specifically, the Site is parcel number 854207591376, located approximately 230 feet northwest of the intersection of Barrons Drive and Northam Court, in Pinehurst, Moore County, North Carolina.

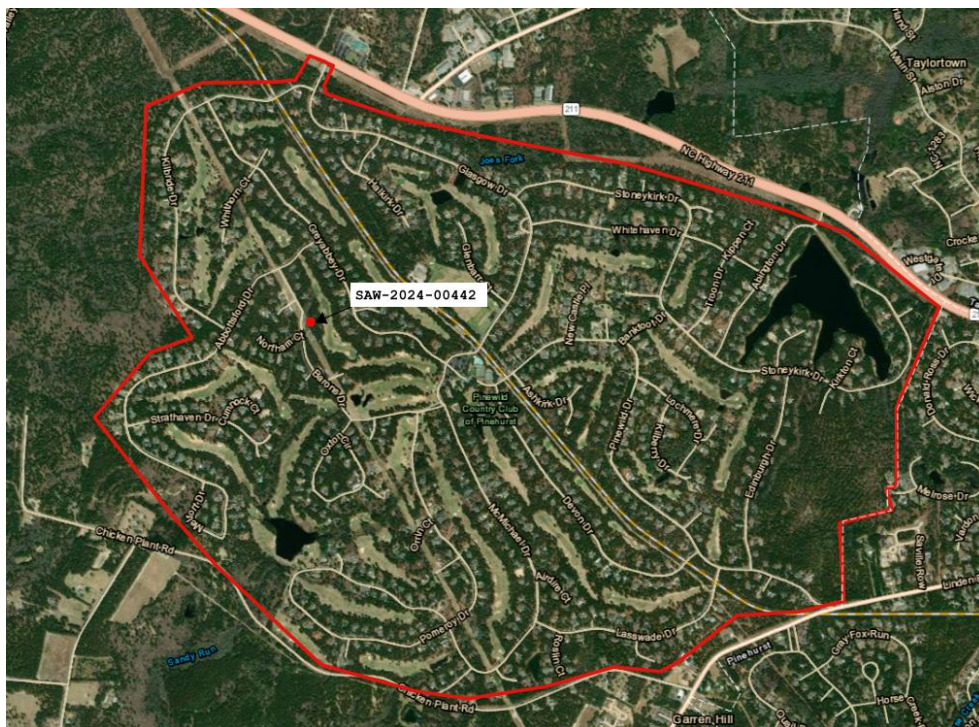
Project Area (acres): 1.34

Nearest Town: Pinehurst

Nearest Waterway: Sandy Run

River Basin: Lumber

Latitude and Longitude: 35.203690N, -79.518400W



## Existing Site Conditions

The Site is located within the Lumber River Basin (Hydrologic Unit Code [HUC] 03040203). The Site drains to Sandy Run (Stream Index: 14-2-10-1-3), which is designated as a HQW: High Quality Waters and a WS-II (Waters used as sources of water supply for drinking, culinary, or food processing purposes where a WS-I classification is not feasible) by the North Carolina Department of Environmental Quality (NCDEQ).

The project area consists of mixed pine forest and a maintained overhead transmission line corridor. The mixed pine forest is dominated by a canopy of longleaf pine (*Pinus palustris*), with dominant sampling species including longleaf pine, American holly (*Ilex opaca*), and tulip poplar (*Liriodendron tulipifera*), and an herbaceous stratum dominated

by wiregrass (*Aristida stricta*). The maintained overhead transmission line corridor includes sampling species dominated by longleaf pine and an herbaceous stratum dominated by wiregrass.

Surrounding land uses include residential and recreational golf course land.

Based on information obtained from the United State Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Soil Survey for Moore County, the Site is largely comprised of Candor sand, 4 to 12 percent slopes (CaC) with a small portion to the southwest of the Site containing Candor sand, 0 to 4 percent slopes (CaB).

A delineation was submitted with this permit application indicating that potential waters of the U.S. (WOUS), including one wetland and one stream, occur within the Site; the applicant has requested a preliminary jurisdictional determination. The Corps has not verified the accuracy of the submitted delineation.

Primary wetland hydrology indicators such as saturation, water marks, sediment deposits, drift deposits, water stained leaves and oxidized rhizospheres along living roots were observed within the wetland area. The dominant trees/sapling/shrubs observed at wetland determination data form locations included tulip popular, red maple (*Acer rubrum*), inkberry (*Ilex glabra*), black willow (*Salix nigra*), and American holly. Dominant ground cover species observed consisted of common rush (*Juncus effusus*), poison ivy (*Toxicodendron radicans*), and yellow jasmine (*Gelsemium sempervirens*). Soils within wetlands at the data form locations are sandy in texture and appear to meet the sandy redox hydric soil indicator.

Based on a review of the administrative record, aerial photography, and LiDAR resources, the greater Pinewild Country Club of Pinehurst is the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. As such, the Pinewild Country Club of Pinehurst is considered the single and complete project per 33 CFR part 330.2(i). All previous and currently proposed impacts to WOUS within the Pinewild Country Club of Pinehurst are therefore considered cumulative with respect to Nationwide Permit thresholds, including:

- Actions apparently authorized by Nationwide Permit (NWP) 26 that did not require notification to the Corps: approximately 0.92 acre (1.72 miles) of streams;
- Corps Action ID SAW-2002-00939: 0.02 acre of wetlands;
- Corps Action ID SAW-2018-02241: 0.03 acre of wetlands; and
- Corps Action ID SAW-2022-01803: 0.033 acre of wetlands.

As such, the cumulative loss of WOUS for the Pinewild Country Club of Pinehurst single and complete project currently totals at least 0.083 acre of wetlands and 0.92 acre of streams. Note that additional wetland impacts likely occurred for the development of this single and complete project, however these impacts appear to have occurred at a time when notification to the Corps was not required; such wetland impacts have not been estimated at this time. Based on the above known impact totals, the currently proposed impacts on the Site (see Project Description below) would exceed the allowable

cumulative impact thresholds for the single and complete project under Nationwide Permit 29 or any other potentially applicable General Permit. This project is therefore subject to Individual Permit review.

### **Applicant's Stated Purpose**

The purpose of the proposed impact is to allow the property owner to access the property via vehicle for the purpose of constructing and residing in a single-family structure.

### **Project Description**

The applicant proposes to construct a driveway to access an undeveloped lot within the Pinewild Country Club of Pinehurst single and complete project. The project proposes the discharge of fill material into 0.001 acre (23 linear feet) of streams and 0.016 acre of wetlands. This proposed undertaking would install a culvert under the driveway to carry flow from Sandy Run.

### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The crossing would be the minimal width with sediment fencing placed on both sides, allowing the side slopes to naturalize with grass and other vegetation.

### **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Mitigation for the proposed wetland and stream impacts would occur in the form of payment to the North Carolina Division of Mitigation Services In-Lieu Fee Program.

### **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 historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places) are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO and/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:

- 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, Not Likely To Adversely Affect

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. May Affect, Not Likely to Adversely Affect

The USACE reviewed this project in accordance with the RCW Standard Local Operating Procedures for Endangered Species (SLOPES) between the USACE, Wilmington District, and the Raleigh U.S. Fish and Wildlife Service (Service) Office and determined that the action area for this project is located inside of the Appendix A – Red-cockaded Woodpecker Consultation Area.

Service Concurrence: Pursuant to Appendix B – Red-cockaded Woodpecker Effects Determination Key this project resulted in a 'consultation required' determination.

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

There appears to be suitable habitat for Michaux's sumac (*Rhus michauxii*) on the Site. The applicant did not provide a survey or discussion of potential presence of this species.

### **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 180 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](mailto: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 (NCDWM):**

- ☒ 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, June 14, 2024. Comments should be submitted to Matthew Martin, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, or via email at [Matthew.K.Martin@usace.army.mil](mailto:Matthew.K.Martin@usace.army.mil). The Corps Project Manager can be contacted at (984) 800-3741. Comments may also be submitted to [RaleighNCREG@usace.army.mil](mailto:RaleighNCREG@usace.army.mil).