



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: November 21, 2024
Comment Deadline: December 21, 2024
Corps Action ID Number: SAW-2023-01857

The Wilmington District, Corps of Engineers (Corps) received an application on November 14, 2024 from Rhetson Companies Inc c/o: Jamie Encinosa seeking Department of the Army authorization to permanently impact 1.31 acres of jurisdictional wetlands, associated with retail site in the Calabash area 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: Jamie Encinosa
Rhetson Companies Inc
2075 juniper Lake Rd.
West End, NC 27376

AGENT (if applicable): Stuart Bryan
Terracon
2401 Brentwood Road, Suite 107
Raleigh, NC 28409

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: Located to the west side of Calabash Road NW in Calabash , NC. Parcel ID: Portions of 2280000410, 22800010, 2280001005, 22800003, 2290000102 & 2290000705.

Project Area (acres): 1.8

Nearest Town: Calabash

Nearest Waterway: Persimmon Swamp

River Basin: Lumber

Latitude and Longitude: 33.91118N, -7859622W

Existing Site Conditions

The 1.8-acre project area is located 0.7 miles NW of the intersection of Calabash Road NW and Ocean Highway West (US 17) in Calabash, NC (Brunswick County). The majority of the site consists of an open mowed-maintained area dominated by mixed herbaceous vegetation. A site delineation of 404 wetlands for the project area was performed by Terracon and was approved by the U.S. Army Corps of Engineers on January 17, 2024 (Action ID# SAW-2023-01857).

According to the Brunswick County Generalized Soil Survey, uplands within the site are predominantly in a Rains fine sandy loam soil series that is poorly drained. Wetlands are predominantly Pantego mucky loam that is very poorly drained.

Applicant's Stated Purpose

The applicant's stated purpose of this project is to construct a commercial development to meet the growing need for affordable retail options within the target area.

Project Description

The Preferred alternative plans to impact 1.3-acres of wetlands for the construction of a Dollar General. Impacts will include the construction of a 140' x76' (10,640 sqft) building, stormwater management infrastructure, 44 parking spaces, dumpster pad and an area for loading and unloading.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Several off-site evaluations and on-site alternatives and determined that the preferred project is the least environmentally damaging yet practicable alternative. The applicant has attempted to minimize wetland impacts as much as possible by evaluating several design iterations. The present plan

is the result and has reduced the proposed impacts from originally 1.55-acres to the current plan of 1.31-acres of impact.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant proposes to purchase up to 2.62 wetland mitigation units from either the North Carolina Division of Mitigation Services or through a private mitigation bank that services this area. In order to secure a lower amount of mitigation the application will be further evaluating the wetlands for their relative condition and limited connectivity.

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, Not Likely To Adversely Affect -Northern Long Eared Bat. Red-cockaded Woodpecker Slopes determination key was completed with a no effect determination.
 - 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. Informal consultation through IPAC will be conducted for the Northern Long Eared Bat
 - The Corps has initiated 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

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 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, July 28, 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.