



**US Army Corps  
of Engineers®**

# PUBLIC NOTICE

Applicant:  
Elizabeth Shelton  
DR Horton

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**Wilmington District  
Permit Application No. SAW-2022-02557**

TO WHOM IT MAY CONCERN: The Wilmington District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344). The purpose of this public notice is to solicit comments from the public regarding the work described below:

**APPLICANT:** Elizabeth Shelton  
DR Horton  
6752 Parker Farm Drive, Ste 210  
Wilmington, NC 28405

**AGENT:** Kim Williams  
Davey Resource Group  
3805 Wrightsville Ave, Ste 15  
Wilmington, NC 28403

**WATERWAY AND LOCATION:** The project would affect waters of the United States associated with Island Creek. The project area is located on the south side of Sidbury Road, 2.1 miles east where I-40 crosses Sidbury in northern New Hanover County at Latitude 34.328780 and Longitude -77.828900; in Wilmington, North Carolina.

## **EXISTING CONDITIONS:**

### **Habitat**

The 1,015-acre development is located south of Sidbury Road in the northern part of New Hanover County, NC. Access to the property is provided from Sidbury Road and the existing portion of the residential development, which is located in the northwestern portion of the site. Construction within the existing development has been on-going for several years. It supports a number of occupied houses. Other portions have been cleared and graded and site development is underway.

The newest addition to the development includes 708 acres located east and south of the existing subdivision. This area has been forested for many years and a network of drainage ditches is located throughout the property. The northeastern portion of the site (aka Sidbury 187) is densely forested and supports a canopy of loblolly pine (*Pinus taeda*) and pond pine (*P. serotina*). The tract was once likely all or mostly wetlands, but the site was ditched and drained many years ago, resulting in an altered water table and

a mix of uplands and wetlands. A review of available aerial photographs indicates that no significant tree clearing has occurred within this portion of the site in several decades. The site currently supports a canopy of loblolly and pond pine trees that are mostly between 6" diameter at breast height (DBH) and 12" DBH, with some areas of younger pines (~ 4" DBH) and other areas of older and larger pines (up to 18" DBH). Almost all of the site had a very dense shrub layer of gallberry (*Ilex glabra*) and red bay (*Persea palustris*), and a midstory layer of red maple (*Acer rubrum*), red bay, sweetgum (*Liquidambar styraciflua*), and younger pines.

The southwestern tract (aka Gore Tract) also supports a canopy of loblolly and pond pines. However, the trees are generally younger and smaller in size since a fire swept through the area in the 1980's. Additionally, a portion of the parcel was cleared of trees around twenty years ago. Numerous ditches (5' width average) transect the entire site. Banks of these ditches are densely vegetated. Jurisdictional wetlands extend throughout the western portion of this parcel. One manmade pond is located in the southern part of the site and was dug by NCDOT to construct Hwy 140 several years ago.

Adjacent land use is mostly undeveloped forested, with previous phases of residential development located northwest of the site and Hwy 140 located south of the site.

### **Wetlands and Water Classifications**

A site delineation of wetlands for the project area was performed by Davey Resource Group, Inc. (DRG) and was approved by the U.S. Army Corps of Engineers under four separate Jurisdictional Determinations (JD) (Appendix A). The Corps issued Preliminary JDs for the southern portions of the site on 10/19/2021 (SAW-2021-00851) and on 5/4/2023 (SAW-2022-02568). An Approved JD was issued for the northeastern parcel on 03/31/2025 (SAW-2022-02557). Finally, an Approved JD was issued by the Corps for undeveloped sections of the existing development in the northwestern tract (Action ID# SAW-2019-02224) on 04/01/2025. The additional 708-acre project area contains approximately 95.6 acres of jurisdictional wetlands, 28.9 acres of non-jurisdictional wetlands, and 24 miles of non-stream jurisdictional ditches.

According to the topographic quadrangle for this area (Scotts Hill), ditches within the site flow east to Island Creek or west to Prince George Creek, both of which are located off site. These creeks run north and west to the Northeast Cape Fear River Basin (HUC# 03030007). Island Creek and Prince George Creek are classified by the NC Division of Water Resources as C and Sw. The C water classification is given to waters protected for uses such as secondary recreation, fishing, wildlife, fish consumption, aquatic life including propagation, survival and maintenance of biological integrity, and agriculture. Secondary recreation includes wading, boating, and other uses involving human body contact with water where such activities take place in an infrequent, unorganized, or incidental manner. The Swamp Waters (Sw) classification is a supplemental classification intended to recognize those waters which have low velocities and other natural characteristics which are different from adjacent streams. No CAMA-regulated Areas of Environmental Concern (AEC) exist within this site.

According to the New Hanover County Generalized Soil Survey, soil classifications are mostly Leon sand and Murville fine sand, with some Seabrook fine sand, and Wrightsville fine sandy loam. As noted previously, ditches within the site have altered the water table of the site over the past several decades, which has likely affected soil conditions.

## **PROJECT PURPOSE:**

**Basic:** To construct a residential development to provide housing.

**Overall:** The applicant's stated purpose of this project is to expand an economically viable residential community within the project area to serve the housing needs of the area.

**PROPOSED WORK:** The applicant requests authorization to continue construction of a residential subdivision that would result in the following discharges into Waters of the U.S.: permanent impacts to 9.49 acres of non-stream jurisdictional ditches and 0.107 acres of 404 wetland waters and temporary impacts to 1.78 acres of non-stream jurisdictional ditches for infrastructure needs.

**AVOIDANCE AND MINIMIZATION:** The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

Once this site was chosen, the engineer redesigned the site plan several times to minimize jurisdictional wetland impacts to the greatest extent possible. The site contains 95.6 acres of jurisdictional wetlands and the applicant has avoided most of them. The original plan proposed approximately one acre of wetland impact. These impacts have been reduced to 0.107 acres by tightening up the fill slopes to 3:1 and bringing the silt fence/limits of disturbance lines closer to the toe of fill.

The engineer also evaluated ways to minimize ditch impacts. However, this proved to be difficult. The County has requirements for connectivity throughout the development to provide multiple points of ingress/egress for traffic flow and emergency services access. This requirement eliminates the possibility of simply running single dead-end roads between all the ditches with lots on each side. Additionally, the emphasis in the land planning effort was to reduce jurisdictional wetland impacts and preserve/enhance a significant portion of the double ditches to maintain historical drainage patterns. Additionally, some ditch impacts are needed to obtain on-site fill material that will reduce construction costs and help to make the project economically feasible.

**COMPENSATORY MITIGATION:** The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

To mitigate for proposed 0.107 acres of wetland impacts, the applicant proposes purchasing 0.2 acres of non-riparian wetland credit from the Northeast Cape Fear Umbrella Mitigation Bank. Additionally, the applicant proposes to preserve a significant amount of remaining jurisdictional wetlands within the site. The applicant will work with the USACE and NCDWR to determine the amount of wetlands to be preserved.

**CULTURAL RESOURCES:**

The Corps evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA) utilizing its existing program-specific regulations and procedures along with 36 CFR Part 800. The Corps' program-specific procedures include 33 CFR 325, Appendix C, and revised interim guidance issued in 2005 and 2007, respectively. 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:** The Agent has performed an initial review of the application with the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) (Project Code 2025-0103875) to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. Based on this initial review provided by the agent included as part of the application, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed in Table 1. No other ESA-listed species or critical habitat will be affected by the proposed action.

**Table 1:** ESA-listed species and/or critical habitat potentially present in the action area.

<b>Species Common Name and/or Critical Habitat Name</b>	<b>Scientific Name</b>	<b>Federal Status</b>
Monarch Butterfly	<i>Planorabella magnifica</i>	Proposed Threatened
Northern Long-eared Bat	<i>Myotis septentrionalis</i>	Endangered
Red-Cockaded Woodpecker	<i>Dryobates borealis</i>	Threatened
Tri-Colored Bat	<i>Perimyotis subflavus</i>	Proposed Endangered
Cooley's Meadowrue	<i>Thalictrum cooleyi</i>	Endangered
Golden Sedge	<i>Carex lutea</i>	Endangered
Rough-leaved Loosestrife	<i>Lysimachia asperulaefolia</i>	Endangered

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402.

This notice serves as request to the U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

**NAVIGATION:** The proposed structure or activity is not located in the vicinity of a federal navigation channel.

**SECTION 408:** The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

**WATER QUALITY CERTIFICATION:**

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](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

### **COASTAL CONSISTENCY DETERMINATION:**

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.

**NOTE:** This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has been verified by Corps personnel.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact 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 benefits, 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated

by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

**COMMENTS:** The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to 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 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.

The Wilmington District will receive written comments on the proposed work, as outlined above, until July 20, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Brad Shaver at [brad.e.shaver@usace.army.mil](mailto:brad.e.shaver@usace.army.mil). Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Wilmington District, Attention: Brad Shaver, 69 Darlington Ave Wilmington, NC 28403. Please refer to the permit application number in your comments.

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.