

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

COPY

Action ID: 200520152 200620770

County: Chatham

USGS Quad: Bynum

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner: **Darden Development, LLC**

Attn: Robert Swain

Address: **Post Office Box 5689**

Cary, NC 27513

Telephone No.: **(919) 469-8674**

Authorized Agent: **Soil & Environmental Consultants, P.A.**

Attn: Debbie Edwards

Address: **11010 Raven Ridge Road**

Raleigh, NC 27614

Telephone No.: **(919) 846-5900**

Size and location of property (waterbody, road name/number, town, etc.): **The property is located west of Old NC 87, immediately south of its crossings of Dry Creek, approximately 5 miles north of Pittsboro, North Carolina.**

Site Coordinates: **35.7939 °N 79.2169 °W**

Waterway: **Dry Creek**

River Basin: **Cape Fear**

Description of project area and activity: **The project includes mechanized landclearing, excavation, and placement of fill material, including culverts and riprap, associated with the construction of two road crossings, a driveway crossing, and two utility crossings required for the development of Woodlands Subdivision.**

Applicable Law:



Section 404 (Clean Water Act, 33 USC 1344)



Section 10 (Rivers and Harbors Act, 33 USC 403)

Authorization: Nationwide or Regional General Permit Number(s): **12 39**

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached conditions and your submitted plans. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order and/or appropriate legal action.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. If, prior to the expiration date identified below, the nationwide permit authorization is reissued and/or modified, this verification will remain valid until the expiration date identified below, provided it complies with all new and/or modified terms and conditions. The District Engineer may, at any time, exercise his discretionary authority to modify, suspend, or revoke a case specific activity's authorization under any NWP.

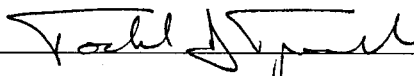
Activities subject to Section 404 (as indicated above) may also require an individual Section 401 Water Quality Certification. You should contact the NC Division of Water Quality (telephone (919) 733-1786) to determine Section 401 requirements.

For activities occurring within the twenty coastal counties subject to regulation under the Coastal Area Management Act (CAMA), prior to beginning work you must contact the N.C. Division of Coastal Management.

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact **Todd Tugwell** at telephone **(919) 876-8441, ext. 26**.

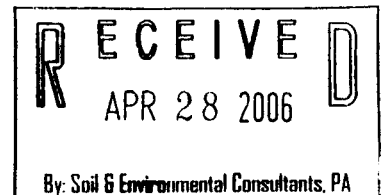
Corps Regulatory Official:



Date: **April 26, 2006**

Expiration Date of Nationwide Permit Verification: **March 18, 2007**

Copy Furnished:



Determination of Jurisdiction:

- A. Based on preliminary information, there appear to be waters of the US including wetlands within the above described project area. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331).
- B. There are Navigable Waters of the United States within the above described project area subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- C. There are waters of the US and/or wetlands within the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- D. The jurisdictional areas within the above described project area have been identified under a previous action. Please reference the jurisdictional determination issued on (Action ID:).

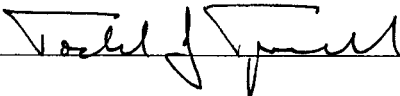
Basis of Jurisdictional Determination: The site contains Dry Creek, a stream channel with ordinary high water marks, defined bed and bank, and adjacent wetlands. The stream channel is a tributary to the Haw River in the Cape Fear River Basin.

Appeals Information: (This information does not apply to preliminary determinations as indicated by paragraph A. above)
 This correspondence constitutes an approved jurisdictional determination for the above-described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the South Atlantic Division, Division Office at the Following address:

Mr. Michael F. Bell, Administrative Appeal Review Officer
 CESAD-ET-CO-R
 U.S. Army Corps of Engineers, South Atlantic Division
 60 Forsyth Street, Room 9M15
 Atlanta, Georgia 30303-8801

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by June 24, 2006.

****It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.****

Corps Regulatory Official: 

Date: **April 26, 2006**

Expiration Date of Jurisdictional Determination: **April 26, 2011**

Summary of Authorized Impacts and Required Mitigation

Action ID #	NWP / GP #	Open Water (ac)		Wetland (ac)		Unimportant Stream (lf)		Important Stream (lf)		
		Temporary	Permanent	Temporary	Permanent	Temporary	Permanent	Temporary	Permanent	
200520152	12	0	0	0	0	9	0	15	0	
200620770	39							41	212	
Impact Totals		0	0	0	0	9	0	56	212	
Total Loss of Waters of the U.S. (ac)				0		Total Loss of Waters of the U.S. (lf)				212
Required Wetland Mitigation (ac)			0			Required Stream Mitigation (lf)			424	In-Lieu/EEP

Additional Remarks and/or Special Permit Conditions:

See the following page for Special Permit Conditions.

Special Permit Conditions

- 1. In order to compensate for impacts to 212 linear feet of stream the permittee shall make payment to the North Carolina Ecosystem Enhancement Program (NCEEP) in the amount determined by the NCEEP, sufficient to perform the restoration of 424 linear feet of warm water stream in the Cape Fear River Basin, Cataloging Unit 03030002. Construction within jurisdictional areas on the property shall begin only after the permittee has made full payment to the NCEEP and provided a copy of the payment documentation to the Corps, and the NCEEP has provided written confirmation to the Corps that it agrees to accept responsibility for the mitigation work required, in compliance with the MOU between the North Carolina Department of Environment and Natural Resources and the United States Army Corps of Engineers, Wilmington District, dated November 4, 1998.**
- 2. The permittee shall cause to be recorded in the Register of Deeds for Chatham County a plat, showing the subdivision plan for the property, which shall include the boundary of all jurisdictional waters of the United States, prior to any construction within waters of the U.S. , and prior to the sale or transfer of any property within the subdivision. A copy of the recorded deed shall be provided to the Corps within 30 days of its recordation.**
- 3. The permittee shall identify the wetland boundaries on site with the installation of surveying stakes. Markings on stakes (or attached flags) shall identify the area as a wetland. Staking of wetland areas shall be accomplished prior to initiation of any impacts to jurisdictional areas (fill, mechanized landclearing, culvert installation, etc.) authorized by this permit. The stakes shall remain in place throughout the duration of all construction activities associated with the project, except in impact areas authorized by this permit. The Corps of Engineers regulatory project manager shall be contacted at least two weeks prior to removal of wetland boundary stakes.**
- 4. The permittee shall install temporary fencing (e.g., orange webbed tree-protection fencing) to identify all wetlands located within 20 feet of any development activity (including clearing of vegetation, grading, excavating, etc.) associated with the project. In areas where impacts to wetlands are authorized by this permit, the fencing shall be installed at the limits of the authorized impact. Markings on the boundary fencing (or attached flags) shall identify the area as a wetland. Wetland protection fencing shall be installed prior to initiation of any impacts to jurisdictional areas (fill, mechanized landclearing, culvert installation, etc.) authorized by this permit. The fencing shall remain in place throughout the duration of all construction activities associated with the project. The Corps of Engineers regulatory project manager shall be contacted at least two weeks prior to removal of wetland boundary fencing.**
- 5. All in-stream work is prohibited between 15 March and 30 June to minimize impacts to spawning fish.**
- 6. Stormwater discharges from water quality ponds shall not be piped or channelized through stream buffers on site.**

**WILMINGTON DISTRICT
POST-CONSTRUCTION COMPLIANCE FORM**

Action ID Number: 200520152 200620770

County: **Chatham**

Permittee: **Darden Development, LLC**

Attn: **Robert Swain**

Date Permit Issued: **April 26, 2006**

Project Manager: **Todd Tugwell**

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US Army Corps Of Engineers
Wilmington District
Raleigh Regulatory Field Office
6508 Falls Of The Neuse Road
Suite 120
Raleigh, North Carolina 27615

Please note that your permitted activity is subject to a compliance inspection by a U. S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and condition of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Darden Development, LLC Attn:	File Number: 200520152	Date: April 26, 2006
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Todd Tugwell
Raleigh Regulatory Field Office
US Army Corps of Engineers
6508 Falls of the Neuse Road, Suite 120
Raleigh, North Carolina 27615

If you only have questions regarding the appeal process you may also contact:

Mr. Michael Bell, Administrative Appeal Review Officer
CESAD-ET-CO-R
U.S. Army Corps of Engineers, South Atlantic Division
60 Forsyth Street, Room 9M15
Atlanta, Georgia 30303-8801

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
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DIVISION ENGINEER:
Commander
U.S. Army Engineer Division, South Atlantic
60 Forsyth Street, Room 9M15
Atlanta, Georgia 30303-3490