

**U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT**

Action Id. SAW-2014-02296

County: New Hanover

U.S.G.S. Quad: NC-WILMINGTON

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Property Owner: Coastal Habitat Conservancy, LLC
Attn: Mr. Baker Mitchell
Address: 3610 Thaddeus Lott Ln.
Longwood, NC, 28452
Telephone Number: (910) 612-1049

RECEIVED
NOV 18 2015
WILMINGTON DISTRICT

Size (acres) ~2
Nearest Waterway Greenfield Lake
USGS HUC 03030005

Nearest Town Wilmington
River Basin Lower Cape Fear
Coordinates Latitude: 34.2182051576305
Longitude: -77.9299851621861

Location description: Property is located at 1410 & 1420 South 14th Street, between 13th and 14th Streets along Greenfield Street, in Wilmington, New Hanover County, North Carolina. Parcel IDs R05414-021-002-000 & R05414-021-003-000.

Indicate Which of the Following Apply:

A. Preliminary Determination

Based on preliminary information, there may be waters of the U.S. including wetlands on the above described project area. We strongly suggest you have this property inspected to determine the extent of Department of the Army (DA) jurisdiction. To be considered final, a jurisdictional determination must be verified by the Corps. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). 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.

B. Approved Determination

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.

There are wetlands on the above described property 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.

We strongly suggest you have the waters of the U.S. including wetlands on your project area delineated. Due to the size of your property and/or our present workload, the Corps may not be able to accomplish this wetland delineation in a timely manner. For a more timely delineation, you may wish to obtain a consultant. To be considered final, any delineation must be verified by the Corps.

The wetlands on your property have been delineated and the delineation has been verified by the Corps. We strongly suggest you have this delineation surveyed. Upon completion, this survey should be reviewed and verified by the Corps. Once verified, this survey will provide an accurate depiction of all areas subject to CWA jurisdiction on your property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.

The wetlands have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on 6/18/2015. 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.

There are no waters of the U.S., to include wetlands, present on the above described project area which are subject to the permit requirements of Section 404 of the Clean Water Act (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.

X The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management in Wilmington, NC, at (910) 796-7215 to determine their requirements.

Placement of dredged or fill material within waters of the US and/or wetlands without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). If you have any questions regarding this determination and/or the Corps regulatory program, please contact Emily Hughes at 910-251-4635 or Emily.B.Hughes@usace.army.mil.

Basis For Determination: The site exhibits wetland criteria as defined in the 1987 Wetland Delineation Manual and its appropriate regional supplement, which is adjacent to an unnamed tributary to Greenfield Lake, which drains directly to the Cape Fear River, a navigable Water of the U.S. This determination is based on information provided by ECS Limited and a site visit conducted by Emily Hughes on 12/16/2014.

D. Remarks:

E. Attention USDA Program Participants

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. 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 following address:

US Army Corps of Engineers
South Atlantic Division
Attn: Jason Steele, Review Officer
60 Forsyth Street SW, Room 10M15
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 8/18/2015.

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: June 18, 2015

Expiration Date: June 18, 2020

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete our Customer Satisfaction Survey, located online at <http://regulatory.usacesurvey.com/>.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: **Baker Mitchell, Coastal Habitat
Conservancy, LLC**

File Number: **SAW-2014-02296**

Date: **6/18/2015**

<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/Missions/CivilWorks/RegulatoryProgramandPermits.aspx> 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 district 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:
District Engineer, Wilmington Regulatory Division,
Attn: Kyle Dahl
(910) 251-4469

If you only have questions regarding the appeal process you may also contact:
Mr. Jason Steele, Administrative Appeal Review Officer
CESAD-PDO
U.S. Army Corps of Engineers, South Atlantic Division
60 Forsyth Street, Room 10M15
Atlanta, Georgia 30303-8801
Phone: (404) 562-5137

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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For appeals on Initial Proffered Permits send this form to:

District Engineer, Wilmington Regulatory Division, Kyle Dahl

For Permit denials, Proffered Permits and approved Jurisdictional Determinations send this form to:

Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Jason Steele,
Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801
Phone: (404) 562-5137

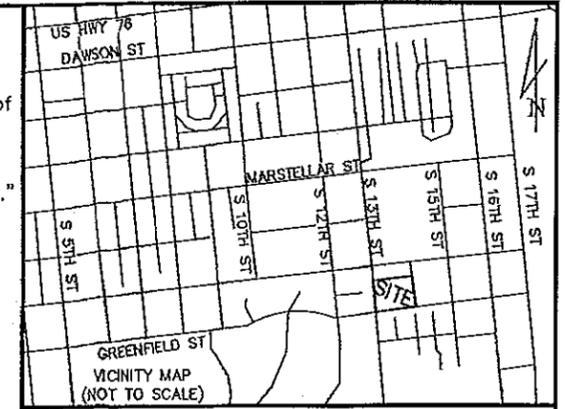
LEGEND
 NCGS=NORTH CAROLINA
 GEODETIC SURVEY
 CF=COMBINED FACTOR
 EP = EDGE OF PAVEMENT
 DB = DEED BOOK
 PG = PAGE
 C&G = CURB AND GUTTER
 ● = IRON (SEE DESCRIPTION)



I, C. Gary Brooks, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book (SEE PLAT), Page _____, etc.) and (Map Book _____, Page _____); that the boundaries not surveyed are clearly indicated as drawn from information found in Book 5662, Page 938; that the ratio of precision as calculated is 1:68,836 that this plat was prepared in accordance with the Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600).
 This 16 day of MAR, A.D. 2015.

"This certifies that this copy of this plat accurately depicts the boundary of the jurisdiction of Section 404 of the Clean Water Act as determined by the undersign on this date. Unless there is a change in the law or our published regulation, the determination of Section 404 jurisdiction may be relied upon for a period not to exceed five (5) years from this date. The undersigned completed this determination utilizing the appropriate Regional Supplement to the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual."

Regulatory Official: HUGHES.EMI Digitally signed by HUGHES,EMILY.BURTON.1289073660
 DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=HUGHES,EMILY.BURTON.1289073660
 Date: 289073660 Date: 2015.06.18 10:49:06 -04'00'
 Title: LY.BURTON.1
 USACE Action ID No.: _____



NOTES:
 THE PROPERTY MAY BE SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY.

AREAS COMPUTED BY COORDINATE METHOD.

NO DEVELOPMENTAL STUMP HOLES REPORTED TO THIS FIRM WITHIN THE LOTS WHICH MAKE UP THIS MAP.

THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET

THIS PLAT IS SUBJECT TO ANY AND ALL RIGHTS-OF-WAY UTILITY EASEMENTS, DEED RESTRICTIONS, RESTRICTIVE COVENANTS OR AGREEMENTS WHICH MAY OR MAY NOT BE RECORDED AND APPLICABLE HERE TO AND MAY OR MAY NOT BE FOUND BY LEGAL TITLE SEARCH PRIOR TO THE DATE OF SURVEY

THE NCGS COORDINATES WERE ESTABLISHED BY USING A LEICA SYSTEM 500 GPS, STATIC OBSERVATIONS PROCESSED BY ONLINE POSITION USER SERVICE (OPUS)

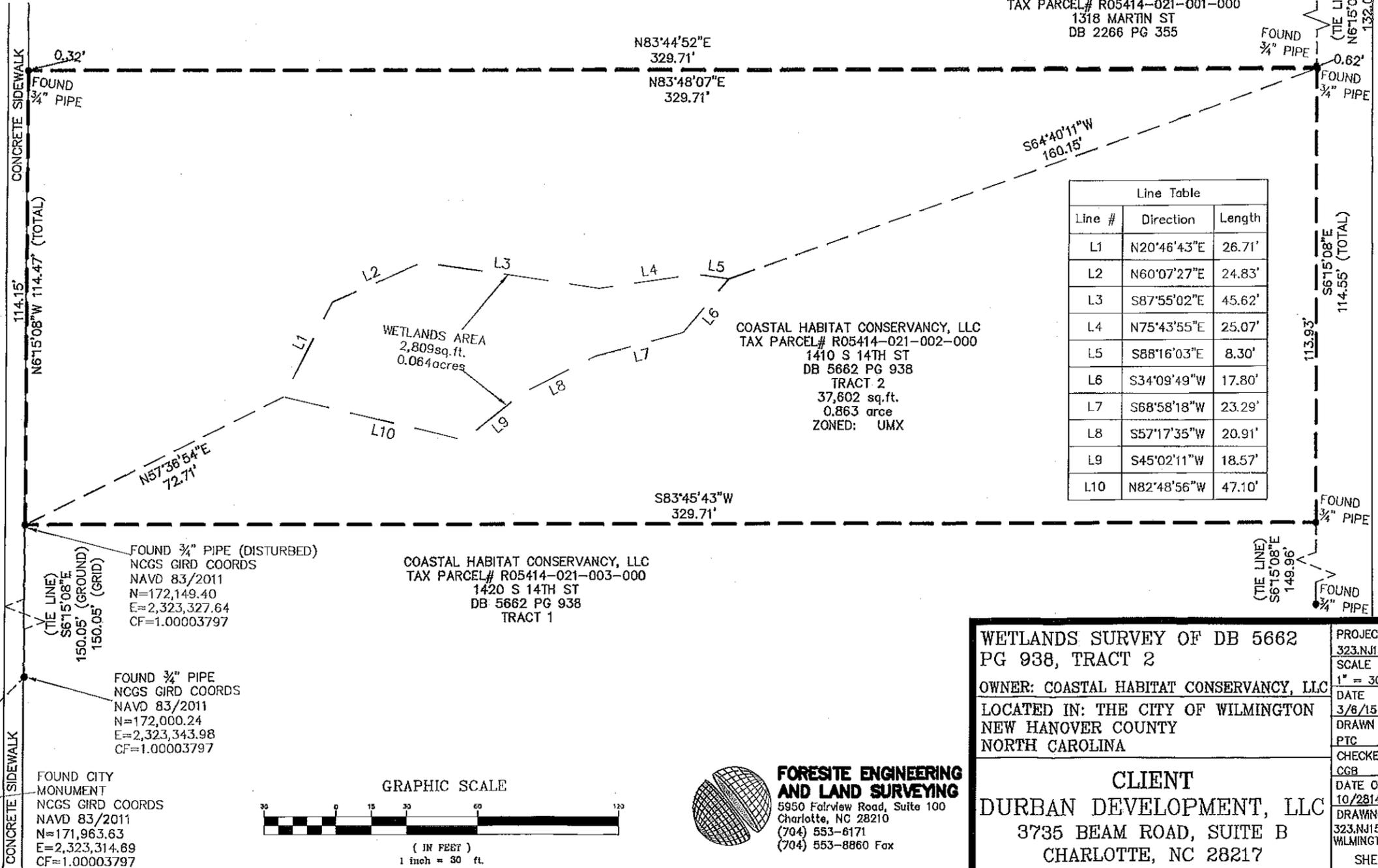
FLOOD CERTIFICATE

I CERTIFY THAT THE SUBJECT TRACT IS GRAPHICALLY LOCATED IN "OTHER AREAS ZONE X" AS DETERMINED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT/ FEDERAL INSURANCE ADMINISTRATION AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 3720312700J DATED APRIL 3, 2006.



THIS DRAWING IS THE PROPERTY OF FORESITE ENGINEERING AND LAND SURVEYING AND IS NOT TO BE REPRODUCED OR COPIED IN WHOLE OR PART. IT IS NOT TO BE USED ON ANY OTHER PROJECT AND IS TO BE RETURNED UPON REQUEST.

C. Gary Brooks
 Surveyor
 L-3180
 Registration Number



WETLANDS SURVEY OF DB 5662 PG 938, TRACT 2	PROJECT NO. 323.NJ1501
OWNER: COASTAL HABITAT CONSERVANCY, LLC	SCALE 1" = 30'
LOCATED IN: THE CITY OF WILMINGTON NEW HANOVER COUNTY NORTH CAROLINA	DATE 3/6/15
CLIENT DURBAN DEVELOPMENT, LLC 3735 BEAM ROAD, SUITE B CHARLOTTE, NC 28217	DRAWN BY PTC
	CHECKED BY CGB
	DATE OF SURVEY: 10/28/14 THRU 11/21/14
	DRAWING NO. 323.NJ1501-FDS- WILMINGTON-Wetlands.dwg
	SHEET 1 OF 1