

DEPARTMENT OF THE ARMY SAVANNAH DISTRICT, CORPS OF ENGINEERS 100 WEST OGLETHORPE AVENUE SAVANNAH, GEORGIA 31401-3604

September 28, 2016

Regulatory Division SAS-2015-00761

JOINT PUBLIC NOTICE Savannah District/State of Georgia

The Savannah District has received an application for a Department of the Army Permit, pursuant to Section 10 of the Rivers and Harbors Act of I899 (33 U.S.C. § 403) and Section 404 of the Clean Water Act (33 U.S.C. § I344), as follows:

Application Number: SAS-2015-00761

Applicant: Mr. Eric Welch

2 Knolls Road

Wallkill, New York 12589

Agent: Mr. Daniel Bucey

Resource & Land Consultants

41 Park of Commerce Way, Suite 303

Savannah, Georgia 31405

<u>Location of Proposed Work</u>: The project site is located on Lot 13 and Lot 14 on Maiden Creek Drive, in Waverly, Camden County Georgia (Latitude 31.0790, Longitude -81.5737)

Basic Project Purpose: Construction of a new single-family residential home.

<u>Description of Work Subject to the Jurisdiction of the U.S. Army Corps of Engineers</u>: The discharge of fill in 0.36 acre of waters of the United States, including wetlands in association with the development of a single family residential lot.

Avoidance and Minimization: The applicant has provided the following information regarding their efforts to avoid and/or minimize impacts to the aquatic environment: The location of the wetlands on the subject lots does not allow for the feasible placement of the home and attendant features in such a way as to avoid and/or minimize the wetland impacts. The Applicant purchased two lots for the specific purpose of constructing a large home, and minimizing the building footprint by reducing the size of the structure would be contrary to the intent of the initial investment. Further, even if it were feasible

to minimize the impact footprint, the lots on both sides of the subject property have been developed and the remaining wetlands would be measured in hundredths of an acre in size and would be environmentally insignificant. Retaining extremely small wetland areas on a single-family lot within a large master-planned development would result in an inhospitable environment for the Applicant and neighbors due to the presence of potential mosquito breeding habitat and the heightened risk of infectious mosquitoborne disease.

<u>Compensatory Mitigation</u>: The applicant has proposed the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The Applicant will purchase 2.4 wetland credits from an approved compensatory mitigation bank, which has a primary service area that includes the subject lots.

BACKGROUND

This Joint Public Notice announces a request for authorizations from both the U.S. Army Corps of Engineers and the State of Georgia. The applicant's proposed work may also require local governmental approval.

STATE OF GEORGIA

Water Quality Certification: The Georgia Department of Natural Resources, Environmental Protection Division, intends to certify this project at the end of 30 days in accordance with the provisions of Section 401 of the Clean Water Act, which is required for a Federal Permit to conduct activity in, on, or adjacent to the waters of the State of Georgia. Copies of the application and supporting documents relative to a specific application will be available for review and copying at the office of the Georgia Department of Natural Resources, Environmental Protection Division, Watershed Protection Branch, 2 MLK Jr. Drive, Suite 418, Atlanta, Georgia 30334, during regular office hours. A copier machine is available for public use at a charge of 10 cents per page. All coastal projects are filed at our Brunswick office and will need to be requested from Mr. Bradley Smith at Bradley. Smith@dnr.ga.gov. Any person who desires to comment, object, or request a public hearing relative to State Water Quality Certification must do so within 30 days of the State's receipt of application in writing and state the reasons or basis of objections or request for a hearing. The application can be reviewed in the Savannah District, U.S. Army Corps of Engineers, Regulatory Division, 100 West Oglethorpe Avenue, Savannah, Georgia 31401-3604.

<u>State-owned Property and Resources</u>: The applicant may also require assent from the State of Georgia, which may be in the form of a license, easement, lease, permit or other appropriate instrument.

Georgia Coastal Management Program: Prior to the Savannah District Corps of Engineers making a final permit decision on this application, the project must be certified by the Georgia Department of Natural Resources, Coastal Resources Division, to be consistent with applicable provisions of the State of Georgia Coastal Management Program (15 C.F.R. § 930). Anyone wishing to comment on Coastal Management Program certification of this project should submit comments in writing within 30 days of the date of this notice to the Federal Consistency Coordinator, Ecological Services Section, Coastal Resources Division, Georgia Department of Natural Resources, One Conservation Way, Brunswick, Georgia 31523-8600 (Telephone 912-264-7218).

U.S. ARMY CORPS OF ENGINEERS

The Savannah District must consider the purpose and the impacts of the applicant's proposed work, prior to a decision on issuance of a Department of the Army Permit.

<u>Cultural Resources Assessment</u>: Review of the latest published version of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion are located at the site or in the area affected by the proposed work. Presently unknown archaeological, scientific, prehistorical or historical data may be located at the site and could be affected by the proposed work.

<u>Essential Fish Habitat (EFH)</u>: This notice initiates the EFH consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The applicant's proposal may result in the destruction or alteration of EFH utilized by various life stages of species comprising the red drum, shrimp, bluefish or snapper grouper management complexes. Our initial determination is that the proposed action would not have an individual or cumulatively substantial adverse impact on EFH or federally managed fisheries in the Atlantic Ocean. Our final determination relative to project impacts to EFH and the need for mitigation measures are subject to review by and coordination with the NMFS and the South Atlantic Fisheries Management Council.

Endangered Species: Pursuant to Section 7(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 et seq.), we request information from the U.S. Department of the Interior, Fish and Wildlife Service, the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service; or, any other interested party, on whether any species listed or proposed for listing may be present in the area.

<u>Public Interest Review</u>: 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 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, 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.

Consideration of Public Comments: The U.S. Army Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Native American 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 U.S. Army 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 and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Application of Section 404(b)(1) Guidelines: The proposed activity involves the discharge of dredged or fill material into the waters of the United States. The Savannah District's evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act.

<u>Public Hearing</u>: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application for a Department of the Army permit. Requests for public hearings shall state, with particularity, the reasons for requesting a public hearing. The decision whether to hold a public hearing is at the discretion of the District Engineer, or his designated appointee, based on the need for additional substantial information necessary in evaluating the proposed project.

<u>Comment Period</u>: Anyone wishing to comment on this application for a Department of the Army Permit should submit comments in writing to the Commander, U.S. Army Corps of Engineers, Savannah District, Attention: Meredith Allen, 100 West Oglethorpe Avenue Savannah, Georgia 31401-3604, no later than 30 days from the date of this notice. Please refer to the applicant's name and the application number in your comments.

If you have any further questions concerning this matter, please contact Meredith Allen, Project Manager, Coastal Branch at 912-652-5503.

Enclosures

- Applicant Project Description (6 pages)
 Wetland Survey (1 page)
 Plan View Drawing (1 page)
 County Assessor Map (1 page)

1.0 Introduction

Mr. Eric A. Welch (Applicant) is seeking authorization under Section 404 of the Clean Water Act to fill 0.36-acre of non-tidal wetlands to construct a single-family dwelling on Lots 13 and 14 on Maiden Creek Drive, in Waverley, Camden County, Georgia (Latitude 31.0790, Longitude -81.5737).

2.0 Existing Conditions

The 3.16-acre subject lots are bordered to the east and west by vacant residential lots and single-family dwellings, to the south by the tidal marshes of Maiden Creek, and Maiden Creek Drive to the north. The subject lots consist of a mowed understory with scattered large trees. The Coastal Marshlands Protection Act (CMPA) marsh jurisdiction limits have been delineated and verified by the Georgia Department of Natural Resources, Coastal Resources Division (CRD) staff via letter of July 13, 2016 (Attachment C). The tidal and non-tidal wetland limits have been verified by the Savannah District U.S. Army Corps of Engineers via letter of May 13, 2016 (Attachment C). The survey attached to the verified USACE jurisdictional determination inadvertently depicted the outdated CMPA jurisdiction limits, and the correct CMPA and USACE jurisdiction limits are depicted on the survey produced by Cumberland Land Surveyors titled *Specific Purpose Survey for Eric A. Welch, Lots 13 & 14, Maiden Creek Landing Subdivision, Tax Parcel 125P 013 & 125P 014, 33rd G.M.D. Camden County, GA.* (Attachment D). The subject lots contain 0.36-acre of non-tidal wetland, 1.69-acres of tidal marsh, and 1.11-acres of upland.

3.0 Project Purpose & Need

The Applicant purchased the lots in 2012, and was unaware that wetlands were present until an environmental survey was undertaken while seeking building permits from Camden County. Due to the size and location of the wetlands within the lots, the home cannot be constructed without unavoidable wetland impacts. The purpose and need for the wetland fill is to facilitate the construction of the Applicant's single family home and attendant features including driveway access, yard, landscaping, and septic field.

3.1 Basic Project Purpose

The basic project purpose is to construct a single-family home. A single family dwelling is not a water-dependent structure, and therefore it is presumed that a non-wetland alternative is available.

3.2 Overall Project Purpose

The overall project purpose is to construct a single family dwelling on lot 13 and lot 14 at Maiden Creek Drive, which requires unavoidable impacts to non-tidal wetlands. The overall project purpose cannot be satisfied at an alternate location (see Section 5.0).

4.0 Project Description

The project requires the filling of Wetlands A, B, C and D (0.36-acre) to facilitate the construction of the Applicant's home and attendant features (site plan, Attachment E). The location of the wetlands on the subject lots does not allow for the feasible placement of the home and attendant features in such a way as to avoid and/or minimize the wetland impacts. The Applicant purchased two lots for the specific purpose of constructing a large home, and minimizing the building footprint by reducing the size of the structure would be contrary to the intent of the initial investment. Further, even if it were feasible to minimize the impact footprint, the lots on both sides of the subject property have been developed and the remaining wetlands would be measured in hundredths of an acre in size and would be environmentally insignificant. Retaining extremely small wetland areas on a single-family lot within a large master-planned development would result in an inhospitable environment for the Applicant and neighbors due to the presence of potential mosquito breeding habitat and the heightened risk of infectious mosquito-borne disease.

5.0 Compliance with Section 404(b)(1) Guidelines

As stated in Section 3.2, there are no practicable alternate sites that would satisfy the overall project purpose. The Applicant must construct the home at this location due to the irretrievable commitment of resources that have been expended on the subject lots. Therefore, the development of the subject lots and the resulting 0.36-acre of unavoidable wetland impact is the Applicant's preferred (and only) alternative.

The Applicant's intent to avoid the requirement of seeking alternate locations for his home is supported by Regulatory Guidance Letter 95-01 (RGL 95-01), which states:

"In order to clearly affirm the flexibility afforded to small landowners under Section 404 of the Clean Water Act, this policy clarifies that for discharges of dredged or fill material affecting up to two acres of non-tidal wetlands for the construction or expansion of a home or farm building, or expansion of a small business, it is presumed that alternatives located on property not currently owned by the applicant are not practicable under the Section 404(b)(1) Guidelines.

Specifically, for those activities involving discharges of dredged or fill material affecting up to two acres into jurisdictional wetlands for:

1. the construction or expansion of a single family home and attendant features, such as a driveway, garage, storage shed, or septic field..."

In accordance with RGL 95-01, the applicant is not required to seek alternate sites not currently owned by him. As stated in the project description at Section 4.0, avoidance and minimization of wetlands on the subject lots is not practicable and would not result in any measurable environmental benefit to the local ecosystem or to the general public interest.

6.0 Federally Protected Species

The subject lots consist of a mowed understory and scattered pockets of trees, 0.36-acre of non-tidal wetland areas, and 1.69-acres tidal marsh adjacent to Maiden Creek situated within an existing master-planned residential development.

An inquiry was made to the U.S. Fish & Wildlife Service through their Information for Planning and Conservation (IPaC) website to determine federally listed species that may be found on or near the subject property (Attachment B). While the West Indian Manatee (*Trichechus manatus*) and wood storks (*Mycteria americana*) may utilize marsh portions of the lots, the land-based activities proposed in this action would have no effect on their continued existence. Since the proposed project is located within an existing developed area and does not contain suitable habitat for listed species, no listed species or designated critical habitat is anticipated to be directly or indirectly affected by this action.

7.0 State Permits

No state permits are required to construct the Applicant's project in accordance with the preferred site plan.

8.0 Cultural, Historic, and Archaeological Resources

A review of the National Register of Historic Places (NRHP) database revealed that there are no known resources on or near the subject property (Attachment F). The subject lots are located within an existing master-planned residential development, and the likelihood for encountering cultural resources is low.

9.0 Compensatory Mitigation

The proposed project will result in the permanent impact to 0.36-acre of non-tidal wetlands. In order to offset the unavoidable wetland impacts, the Applicant will purchase 2.4 wetland credits from an approved compensatory mitigation bank which has a primary service area that includes the subject lots (SOP, Attachment G).

10.0 Public Interest Review Factors

- **10.1 Economics/Social:** The proposed project will allow the Applicant to construct a single-family home on the subject lots. The resulting project would have a minor beneficial effect on economics/social factors by increasing local employment opportunities during construction.
- **10.2** Educational/Scientific: Authorization of the project would not result in the loss of educational or scientific resources. Upon completion of the project, increased property taxes will provide long-term and minor benefit to local pubic schools.
- **10.3. Aesthetics:** The proposed project is located within an existing master-planned residential development and would have no effect on existing aesthetic values.

- **10.4. Food/Fiber Production:** The subject lots are not currently used for food/fiber production, and therefore the proposed project would have a no effect on food/fiber production.
- **10.5.** Historical/Archaeological/Architectural: The applicant consulted the NRHP database, which indicated that no known cultural resources are located on or near the subject property. The nearest listed resource, the Brunswick Old Town Historic District, is located approximately 6.7 miles northeast of the subject property. The project will have no effect on historical, archaeological, or architectural resources.
- **10.6. Recreation:** The proposed project is located on existing privately-owned platted residential lots and will not result in the loss of recreational opportunities to the general public.
- **10.7 Land Use:** The project is consistent with surrounding land uses and zoning, and thus the will have no effect on land use concerns.
- **10.8 Mineral Resources:** The proposed project location is within an existing master-planned residential development. The project will not result in the loss of mineral resource extraction sites, and therefore would have no effect on mineral resources.
- **10.9 Soil Conservation:** Appropriate erosion and silt control measures will be maintained in effective operating condition in accordance with Camden County erosion control regulations. In addition, any permit issued by the Savannah District Corps would include a special condition that requires the permittee to, "use appropriate erosion and siltation controls and maintain them in effective operating condition during construction. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date." The proposed project would have a negligible effect on soil conservation concerns.
- **10.10 Water Supply Conservation:** The project not require water withdrawals or any permits from Georgia Environmental Protection Division (EPD), Water Resources Management Branch. The water supply associated with a single-family home would have a negligible effect on water supply conservation.
- **10.11 Water Quality:** A minor increase in impervious surfaces will result from the construction of the home. However, no direct discharge of untreated stormwater into adjacent marsh will occur. The yard and landscaping surrounding the dwelling will serve to absorb runoff generated by the dwelling and driveway. As a result of the proposed action, minor adverse effects to water quality are expected; however, use of Best Management Practices during construction and after construction will offset these minor impacts.
- **10.12** Air Quality: The proposed project would have minor adverse impacts on the local air quality during and post-construction. There will be a temporary minor adverse impact on air quality during construction activity due to the heavy equipment fuels and stirring of dust, dirt and debris in the project vicinity.
- **10.13 Noise Levels:** The proposed project would have a minor adverse impact on the noise levels during construction. The addition of the heavy equipment during construction will temporarily increase noise levels in the immediate area. Post-construction, the proposed project would have a negligible effect on noise level concerns.

10.14 Public Safety: The project is located within an existing master-planned residential development and would not result in the creation of any public safety hazards.

10.15 Energy Needs: The home construction itself would result in a negligible increase in the need for energy in the form of electricity, petroleum fuels, natural gas, etc. Post-construction, the home would require energy needs consistent with single-family homes. These resources are readily available and expected to be available in the future, both in conventional and renewable sources. The proposed project would have a negligible effect on energy need concerns.

10.16 National Security: The proposed project is located in a urbanized area of Camden County. No military installations or other law enforcement or security facilities are located in proximity to the site. The proposed project would have no effect on national security concerns.

10.17 Navigation: The proposed is land-based and will have no effect on navigable waters.

10.18 Shoreline Erosion/Accretion: The proposed project does not include any modifications or impacts to the existing shoreline. Therefore, the proposed project would have no effect on any shoreline erosion/accretion concerns.

10.19 and **10.20** Flood Hazards and Flood Plain: The home construction will not alter existing drainage patterns. The applicant is responsible for insuring that the project complies with all rules, regulations and/or requirement of the Federal Emergency Management Agency (FEMA) with regard to home construction in flood plains and flood ways. A special condition requiring compliance with applicable FEMA regulations would be included in any draft Department of the Army permit issued for this project. With these conditions in place, the project is expected to have a negligible impact on flood hazard/flood plain concerns.

10.21 Wetlands: The proposed project would directly impact 0.36-acre of non-tidal wetlands. Since the wetlands proposed for impact are isolated within the project limits and are not part of a larger inter-connected system, no indirect or secondary impacts are anticipated. The wetlands on site are low-quality habitat and surrounded by existing residential development. Unavoidable wetland impacts will be offset by the purchase of wetland mitigation credits from an approved compensatory mitigation bank with a primary service area that includes the project site. The project would result in a minor adverse impact to wetland functions due to the direct loss of wetland in the footprint of the home construction.

10.22 Refuges: The proposed project is not located in close proximity to any refuge. Cumberland Island National Seashore is located approximately 12 miles southeast of the proposed project, and Cumberland Island National Seashore is located approximately 11.5 miles southeast of the subject property, and the Okeefenokee National Wildlife Refuge is located approximately 34 miles southwest of the subject property. The proposed project will have no effect on refuges.

10.23 Fish: The proposed project will occur in non-tidal wetlands that do not have a direct hydrologic connection to waters that support fish populations. The wetlands themselves that are proposed for impact do not support fish. The wetlands proposed for impact are not included as essential fish habitat for the snapper grouper complex. The proposed project will have no effect on EFH and the conservation of fish.

10.24 Wildlife: Since the project site is located in a developed area, little wildlife utilization of the project area currently exists. The project would have a negligible effect on wildlife value.

10.25 Food Chain Organisms: The loss of 0.36-acres non-tidal wetland would result in an associated loss in food chain organisms produced by this habitat. However, the impact is so minimal that the project would have a negligible effect.

10.26 Shellfish Production: There is no shellfish habitat associated with the proposed impact area. There may be shellfish located in the non-upland marsh section of the lots, but no activities are proposed in those areas. The minimal impact to non-tidal wetlands landward of the marsh would not result in a degradation of water quality that would lead to adverse effects on shellfish habitat. Therefore, the project would have a negligible effect on shellfish production.

10.27 Threatened and Endangered Species: The subject lots consist of a mowed understory and scattered pockets of trees, 0.36-acre of non-tidal wetland areas, and 1.69-acres tidal marsh adjacent to Maiden Creek situated within an existing master-planned residential development.

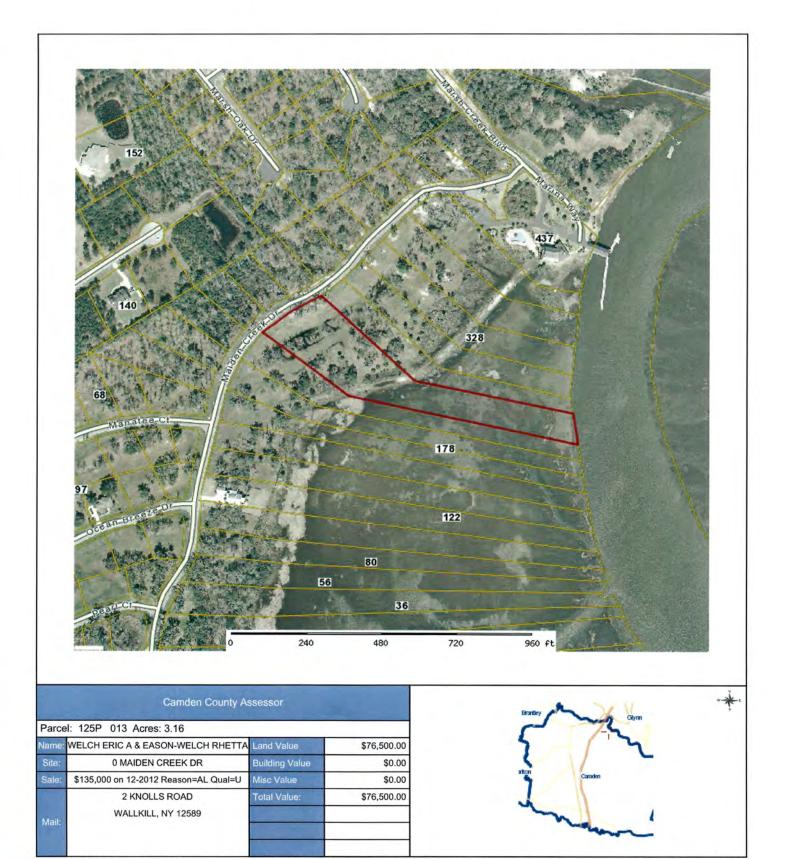
An inquiry was made to the U.S. Fish & Wildlife Service through their Information for Planning and Conservation (IPaC) website to determine federally listed species that may be found on or near the subject property (Attachment B). While the West Indian Manatee (*Trichechus manatus*) and wood storks (*Mycteria americana*) may utilize marsh portions of the lots, the land-based activities proposed in this action would have no effect on their continued existence. Since the proposed project is located within an existing developed area and does not contain suitable habitat for listed species, no listed species or designated critical habitat is anticipated to be directly or indirectly affected by this action.

10.28 General Environmental Concerns: The environmental concerns for this project focus on the potential impacts of the proposed project on wetlands, streams, cultural resources, fish, wildlife, and food chain organisms. Each of these concerns were discussed above. No other adverse environmental impacts are anticipated. The net adverse effect of this project would have a negligible effect on environmental factors as evaluated above.

10.29 Property Ownership: There would be no effect on property ownership since the Applicant owns the property. The proposed project would have no effect on property ownership.

10.30 Mineral Needs: Construction of the home site would require a small amount of construction material such as sand, gravel, concrete, etc. However, mineral resources are readily available and in ample supply. Therefore, the construction of the home would have a negligible effect on mineral need concerns.

10.31 Other: There may be other unknown project-related impacts that are not discussed above, and therefore, we would be unable to evaluate the potential for those impacts to occur. Therefore, we recognize there maybe undetermined effects associated with other, unknown concerns.



The Camden County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER CAMDEN COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS —THIS IS NOT A SURVEY—

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