



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Public Notice Number: 200375298

Date: September 10, 2003

Comments Due: October 1, 2003

In reply, please refer to the Public Notice Number

TO WHOM IT MAY CONCERN:

SUBJECT: Application for a Department of the Army permit under authority of Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material in the Wilson Gulch and adjacent wetlands, as shown in the attached drawings.

APPLICANT: Tierra Group, LLC
Attention: Mr. Tim Zink
Post Office Box 757
Durango, Colorado 81301

LOCATION: The project site is located approximately 1.5 miles southeast of the City of Durango within Sections 1, 2, 11 and 12, Township 34 North, Range 9 West, and Sections 35 and 36, Township 34 1/2 North, Range 9 West, LaPlata County, Colorado.

PURPOSE: To develop a comprehensively planned community at the 682-acre Grandview Parcel that allows for planned growth within the City of Durango, Colorado Region. The proposed project includes a 60-acre site for construction of state-of-the-art medical campus and a 20-year phased residential development which would consist of 2,211 residential units. The proposed project would be developed with an integrated mixed-use, traditional neighborhood design.

PROJECT DESCRIPTION: The proposed project includes a variety of land uses to include: public recreation that may include sport centers, playing fields, tennis courts, trails and watercourses (51.1 acres); two schools within the main village (46.4 acres); an additional 17.3-acre joint parcel for shared recreational purposes, which creates a total of 68.4 acres available for recreation. The project would provide 62 acres of open space offering wetland protection, land use buffers, and hiking and wildlife viewing opportunities. The project would also provide a diverse range in housing styles to include detached single-family residences, town homes, cottages/rowhouses, apartments, and flexbuilding commercial/residential units. Commercial utilization, both retail/light manufacturing and office (1,268,000 gross square feet) would be situated primarily in the village center and along the main entry road.

Short-term habitation will be available in the form of bed and breakfasts, motels, hotels and suites (300 units). The proposed medical center would provide hospital and outpatient services, medical offices, specialty clinics and support services facilities (Hospital 309,300 gross square feet and medical offices [433,700 gross feet]).

AREA DESCRIPTION: The total project area of 682 acres is located at between 6,695 and 6,900 feet above mean sea level. The project lies within a gradually sloping valley drained by Wilson Gulch.

Wilson Gulch forms a confluence with the Animas River approximately 2.3 miles from the southern boundary of the project area. The project site contains 33.5 acres of wetlands (Figure 2-Wetland Delineation Map), and the project as proposed would result in impacts to approximately 20.4 acres of jurisdictional wetlands.

ADDITIONAL INFORMATION:

Wetland hydrology analysis: Wetland hydrology on-site is provided primarily by three springs located along the eastern side of the project. Since about the 1940s, supplemental hydrology has been provided across the project area by a network of irrigation ditches that originate from the Florida Canal (which flows across the northwestern corner of the project area). Hydrology provided by irrigation has combined with water provided by the springs to form the wetlands that are concentrated on the southern end of the project area.

Function and value analysis: Following discussion with the Corps of Engineers in April of 2003, the applicant's agent conducted two functional analyses of wetlands on the Tierra Group Grandview property as following: (1) an assessment based on the principles of the Hydrogeomorphic (HGM) Method and (2) a descriptive functions and values assessment. Results from these assessments (Figures 5--HGM Figure and 6--Descriptive Analysis Figure) yielded similar results - that the bulk of the wetlands located on-site are relatively low in quality. The majority of proposed impacts on-site occur in wetlands identified as having relatively lower functional values (approximately 88 percent of the project impacts occur in lower quality wetlands).

ALTERNATIVES: Both off-site and on-site alternative development plans were evaluated to determine whether a practicable alternative to the proposed project existed which would result in fewer wetland impacts.

Five alternative development locations were evaluated for being able to develop a traditional neighborhood designed community that would include a 60-acre hospital site. The locations are as follows: Ewing Mesa, the Carter/Anesi property on LaPosta Road, the Crader property in Grandview, the Tierra property in Grandview, and the Kneller property on the old sawmill site on State Highway 3. Owners and developers of each property presented their development ideas to the project proponents.

A systematic approach was utilized to determine which alternative location could achieve the project purpose with minimal environmental impacts. After careful consideration, it was determined that the proposed project--the Tierra property in Grandview--best met the development objectives.

The applicant considered four on-site alternatives (Alternatives A-D). These alternatives ranged in degrees of development densities and the location of key features of the proposed development plan.

Alternative A (Figure 7) achieves total avoidance of wetlands via a reduction in the overall size of the development and positioning roads to avoid wetland crossings. This option would entail construction of residential, commercial and civic/medical development in areas without wetlands throughout the site. However, this design would create a highly dispersed development that would directly contradict Tierra Group's Comprehensive Development Plan, and the City of Durango Comprehensive Plan. Therefore, this alternative is not practicable.

Alternative B (Figure 8) provides approximately 2,211 residential units in several villages or communities on the site. This option achieves substantial avoidance of relatively high quality wetlands and results in on-site and off-site mitigation and wetland preservation, while incorporating essential project components. These villages are designed under traditional neighborhood design concepts, which promote livable and pedestrian-oriented communities (in accordance with Tierra Group's Comprehensive Development Plan, and the City of Durango Comprehensive Plan and Land Use Development Codes). Features in this alternative include village centers with a mixture of retail facilities, office and residential

opportunities, neighborhoods with diverse housing products, and community schools and parklands. In addition, 13.1 acres of wetlands will be preserved within the parcel itself. Compensation for wetlands impacted by this action will be conducted using the watershed and ecosystem approach, utilizing appropriate and practicable mitigation to replace functional losses to aquatic resources. This design and conceptual development plan represents the best practicable alternative that can satisfy the project purpose while avoiding, minimizing and compensating for impacts to wetlands to the greatest degree practicable while minimizing other adverse environmental impacts.

Alternative C (Figure 9) achieves further avoidance of wetlands and results in on-site and off-site mitigation and wetland preservation. The proposed design and layout under this alternative result in the highest level of impact minimization and avoidance by a partial use of the site. This alternative incorporates the TND concept, and attempts to minimize wetland impacts through a reduction in overall project size. Unfortunately, this alternative is economically infeasible. A smaller project such as proposed Alternative C could not economically support the required infrastructure and financing, while at the same time, provide an attainable and appealing alternative housing market, which is a major component of the project purpose.

Positioning the development in the northern portion of the project site would disconnect the community from the regional thoroughfare provided by US 160 and create increased traffic congestion and pollution. Furthermore, significant reductions in the size of the development area would remove the applicant's ability to finance and set aside preserve areas and open space, and allow for the donation of 35 acres for the new Regional medical center. Although Alternative C would result in less impact to wetlands, it is economically infeasible and functionally impractical.

Alternative D (Figure 10). Under this proposal 3,211 units are proposed. This alternative achieves minimal avoidance of wetlands and results in minor on-site and major off-site mitigation. Alternative D entails the development of higher return single-family residential units within the currently proposed preserve areas, and the majority of the area apportioned for use as civic/recreation. This scale of development would create excessive environmental degradation throughout the site, and would not comply with the Comprehensive Development Plan and the City of Durango Comprehensive Plan and Land Use Development Codes. The magnitude of such a development would create excessive environmental degradation, which would be avoided by implementing other alternatives. In total, this alternative would impact 27.86 acres of wetlands. This alternative would also impact the highest quality wetlands on the subject property. Compensation for these wetland impacts could be accomplished by similar means as proposed under Alternative B, but at a much greater scale and cost. The additional costs associated with such a large-scale mitigation, would likely offset any increased financial returns created by this proposal, making it a non-practicable alternative for use of the site.

MITIGATION: According to Corps of Engineers Regulatory Guidance Letter No. 02-2, which calls for flexibility in mitigation based upon wetland functions, the applicant used a watershed and ecosystem approach to develop the mitigation plan for this project. The HGM study completed by the applicant (see above) presents a basis and guide for the Corps of Engineers to determine losses (debits) and conversely gains (credits) in terms of the amounts, types and locations in assessing the proposed project impacts and compensatory mitigation plan. "Appropriate" levels of mitigation are based upon the functions lost or adversely affected by the proposed impacts. The overall objective of this mitigation plan is to provide a functional replacement for wetlands impacted at the Grandview site. By focusing on the replacement of wetland functions, rather than only a calculation of acreage impacted or restored, an effective mitigation plan was developed to achieve "no net loss" to wetland functions or habitat values. A combination of both on-site and off-site mitigation is proposed, as to maintain wetland functional levels within the local watershed (Animas River) (See Figures 11, 12, 13, 14, 15 and 16)--Mitigation Site Locations and Details).

On-site Mitigation: The most valuable aquatic resource in the project area (as demonstrated by the HGM study [above]) is Wilson Gulch (part of which runs east-west, across the southern end of the project

area). The on-site wetland mitigation plan has been designed to ensure that this important resource is not adversely impacted by the project. Two approaches have been taken to protect and improve on this system: wetland enhancement and wetland creation.

Water Quality Detention Basins--As seen in Figure 13, three storm water detention basins will be developed on the project site (Detention Basins A, B and C, from west to east). Through the development of the project, there will be a need to detain the project's increase in runoff as to minimize downstream impacts. Wetland creation and enhancement activities will be conducted in conjunction with these structures.

Restoration and enhancement of Wilson Gulch--To ensure the long-term health and viability of this resource, the mitigation plan calls for wetland restoration activities to be conducted along this corridor (see Figure 14).

Riparian Enhancement and Buffer Areas--Several drainages and a canal that run through the northern portion of the project site will be enhanced and buffered from the proposed development (Figure 15). This will be done through riparian plantings such as cottonwoods and willow and the sowing of native grasses and wetland species.

Off-Site Mitigation: Complete mitigation for proposed project impacts is not practicable at the Grandview site. Therefore, off-site mitigation will be conducted in conjunction with on-site mitigation. The proposed location for off-site mitigation activities is located to the southeast of the project site, along the Florida River (Figure 11). Mitigation at this site will include wetland creation, wetland enhancement, and riparian enhancement and buffering.

Wetland Creation--Wetland creation will be conducted in the hatched areas shown in Figure 16. Created wetlands will be designed to exhibit much higher functional values than those they replace. As stated in the direction provided by the Regulatory Guidance Letter No. 02-2, the replacement of functions provided by one wetland area can potentially be achieved by another, smaller wetland (replacement ratio may be less than one-to-one where the functions associated with the area being impacted are demonstrably low and the replacement wetlands are of higher functions). Therefore, the mitigation matrix discussed in the HGM study conducted by Sugnet in 2003, in conjunction with direction from the USACOE, will be used to determine appropriate compensation credit ratios.

Wetland Enhancement--Wetland enhancement will be conducted in the areas shown in Figure 16. This will be obtained through excavation of surface soils, as necessary, to reach hydrological connectivity and an adequate moisture regime for hydrophytic vegetation growth. The areas identified as "enhancement areas" have been invaded by noxious weed species. Seeding, plug and container plantings with appropriate species will ensure that the enhancement areas achieve greater functional values than in existing conditions. Enhanced wetlands will be designed to exhibit higher functional values than those they replace.

Riparian Enhancement and Buffer Areas--Much of this reach of the Florida River is being negatively affected by adjacent land uses in the area. This mitigation plan proposes to enhance the riparian corridor and to provide a buffer from adjacent land uses for this area. This will be done through riparian plantings such as cottonwoods and willow, and the sowing of native grasses and wetland species. Enhancing and buffering these areas will enhance the aquatic functions of the proposed off-site mitigation site and will improve on the overall ecological functioning of the aquatic resources within the watershed.

A total of 11 federally listed or candidate species were analyzed for the potential to be negatively impacted by this project. Site visits were conducted during the spring and summer of 2002 and southwestern willow flycatcher presence/absence surveys were conducted in 1998, 2002 and 2003 on the subject property (with negative results). Our determination is that eight of the eleven species analyzed will not be affected by the proposed project (Knowlton's cactus, Gunnison sage grouse, Bald Eagle,

Yellow-billed cuckoo, Black-footed ferret, Boreal Toad, Canada Lynx, and Mexican Spotted Owl). No sensitive fish species are found on the site and the applicant is conducting a water depletion analysis to determine if this project will adversely affect the Colorado pikeminnow and razorback sucker down stream. Suitable southwestern willow flycatcher habitat is located along Wilson Gulch in the southern end of the subject property. Presence/absence surveys conducted in this area in 1998, 2002 and 2003 yielded negative results. The U.S. Fish and Wildlife Service was previously consulted on proposed impacts to this habitat (as part of an adjacent CDOT highway improvement project) and determined that proposed impacts to the survey area are not likely to adversely affect the southwestern willow flycatcher. The District Engineer has made this determination based on information provided by the applicant and on the Corps' preliminary investigation.

The applicant has requested water quality certification from the Colorado Department of Public Health and Environment, Water Quality Control Division in accordance with Section 401 of the Clean Water Act. Written comments on water quality certification should be submitted to Mr. John Hranac, Assessment Unit, Colorado Department of Public Health and Environment, Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado, 80246-1530, on or before **October 1, 2003**.

The Colorado Department of Public Health and Environment, Water Quality Control Division also reviews each project with respect to the anti-degradation provision in state regulations. For further information regarding anti-degradation provision, please contact Mr. Hranac at the Colorado Department of Public Health and Environment at telephone (303) 692-3586.

The latest published version of the National Register of Historic Places and its monthly supplements have been reviewed. The Colorado Historical Society site listing indicated that one previously recorded site exists at the project site.

Interested parties are invited to submit written comments on or before **October 1, 2003**. Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

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, cultural values, 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, consideration of property ownership, and in general, the needs and welfare of the people.

For activities involving 404 discharges, a permit will be denied if the discharge does not comply with the Environmental Protection Agency's Section 404(b) (1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines it would be contrary to the public interest.

The Corps of Engineers 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 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.

You may request the complete public notice, which includes 15 additional drawings depicting impact locations, conceptual development plans, project alternatives and mitigation plans by contacting the applicant's agent: Sugnet Environmental Incorporated, 679 East 2nd Avenue, Suite 10, Durango, Colorado 81301, telephone (970) 259-9595, Attention Mr. Sean Moore.

Written comments on this permit application should be submitted to the District Engineer at the address listed above. Please furnish a copy of your written comments to the attention of Ken Jacobson, Colorado/Gunnison Basin Regulatory Office, U.S. Army Engineer District, Sacramento, 400 Rood Avenue, Room 142, Grand Junction, Colorado 81501-2563. For further information, please contact Mr. Jacobson, at telephone number 970-243-1199, extension 11, or email Ken.Jacobson@usace.army.mil.

Mark W. Connelly
Lieutenant Colonel,
Corps of Engineers
Acting District Engineer

Enclosures: Drawing(s)