



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Number: 200450134

Date: July 7, 2004

Comments Due: August 6, 2004

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) and Utah Division of Water Quality are evaluating a permit application to construct the Distinctive Development Project in Pleasant Grove, Utah which would result in impacts to approximately 3.47 acres of waters of the United States, including wetlands, adjacent to an unnamed tributary of Utah Lake. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/cespk-co/regulatory/PNs/index.html>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States and Section 401 for water quality certification.

APPLICANT: Distinctive Development, L.C.
John Ogden
65 East 1250 North
American Fork, Utah 84003
801-836-9435

LOCATION: The project site is located at approximately 900 West 220 South in Pleasant Grove within Section 29, Township 5 South, Range 2 East, Utah County, Utah, and can be viewed on the Pelican Point USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The applicant's stated project purpose is to provide affordable multi-family housing within a recently acquired 17.145-acre parcel. The applicant is proposing the construction of a residential development consisting of 144 condominiums, 124 town homes, three playgrounds, a swimming pool, a clubhouse, a sand volleyball court, a basketball court, and a picnic pavilion. The applicant believes there is a need to provide housing in the Pleasant Grove vicinity of Utah County. Project implementation would result in the discharge of approximately 12,800 cubic yards of gravel, rock, and fill into waters of the United States, including wetlands. The applicant's preferred alternative would impact 3.47 acres of wetland. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. The 17.145-acre surveyed area presently is used for horse pasturage. The site is generally flat with several minor depressions where open water springs exist. The area appears somewhat disturbed and shows signs of historic agricultural grading. The project area contains approximately 0.09 acre of scrub-shrub wetlands, 0.72 acre of marsh, 4.29 acres of wet meadow, 0.28 acre of open water springs, and 0.15 acre of jurisdictional channels. Two perennially flowing, spring-fed channels traverse the parcel, and are lined with Russian olive trees (*Elaeagnus angustifolia*). It is unclear if these channels have been altered in the past. Wetlands and open waters dominate the central and western portions of the property. The wet meadows are composed primarily of alkali sacaton (*Sporobolus airoides*), reed canarygrass (*Phalaris arundinacea*), arctic rush (*Juncus arcticus*), and Russian olive. Additionally, 15 spring-fed ponds and four marshes are present on-site, and contain cattail (*Typha latifolia*), bulrush (*Scirpus americanus*), and various sedges (*Carex spp.*). The single scrub-shrub wetland is located in the southwest corner of the surveyed area, and contains reed canary grass, Russian olive, and alkali sacaton. The remainder of the site is dominated by various upland grasses, Russian olives, and whitetop (*Cardaria draba*).

Surrounding Land Use. Two parcels abut the project site to the south and are under construction for the development of residential apartments. The properties to the west and northeast are used for industrial purposes; those to the northwest and west are in agricultural use.

Alternatives. The applicant has provided information concerning project alternatives.

1. **Alternative A:** Applicant's Preferred Alternative. See figure 1. The applicant plans to move the entire 692 linear-foot western channel to the western edge of the parcel. This relocation is to allow for the construction of additional housing units and parking lots. Approximately 359 linear-feet of the southern portion of the central channel will be straightened. This alternative would require the applicant to fill 3.54 acres of wetlands including 0.09 acre of scrub-shrub wetland, 0.50 acre of marsh, 2.83 acres of wet meadows, and 0.12 acre of open water springs. The applicant believes the conversion of these wetlands to uplands is necessary to accommodate the construction of the preferred configuration, which consists of 144 condominiums and 124 town homes as well as three playgrounds, a swimming pool, a clubhouse, a sand volleyball court, a basketball court, and a picnic pavilion. The applicant states the project investors have placed a limit of 15.5 units per acres. This plan has a units per acre density of 15.63, which is below the city limit of 18 units per acre. Approximately, 1.91 acres of on-site centrally located wetlands will be preserved and donated to the city. The applicant plans to use silt fence as a Best Management Practice to protect wetland/water areas not proposed for development.

2. **Alternative B:** See figure 2. The applicant plans to move the entire 692 linear-foot western channel to the western edge of the parcel. This relocation is to allow for the construction of additional housing units and parking lots. Approximately 202 linear-feet of the northern portion and 359 linear-feet of the southern portion of the central channel will be straightened. To allow for the construction of 272 units, approximately 3.38 acres of on-site

wetlands would be filled. This alternative provides a housing density of 15.8 units per acre. Impacts will be mitigated by consolidating several of the smaller springs into one large pond and by creating adjacent wetlands on-site. This would result in the creation of 2.0 acres of waters of the United States in one combined location within the parcel. Like the preferred alternative, the applicant proposes the donation of these wetlands to the city.

3. Alternative C: On-site Mitigation Alternative. See figure 3. This plan also calls for the relocation of the western channel to the western edge of the parcel. The northern and southern portions of the central channel will be straightened. Other impacts include the placement of fill material into approximately 2.5 acres of wetlands as indicated in figure 3. The applicant proposed to mitigate for these impacts by centralizing wetlands in one location for the creation and preservation of a total of 5.28 acres. The applicant states this version is not economically viable as it only allows 180 units. This results in approximately 10.49 units per acre, which is below the investor's limit of 15.5 units per acre.

4. Alternative D: Total Avoidance of Wetlands Alternative. See figure 4. This alternative calls for no placement of fill into wetlands within the parcel area. The applicant believes this alternative is not financially viable since it would result in 9.1 units per acre, which is below the project investor's required density of 15.5 units per acre. According to the applicant's cost feasibility study, this configuration would accommodate 156 units and result in a net loss of \$2.6 million. Although this alternative would avoid all wetlands, some open channel habitat would be impacted.

Additional information concerning project alternatives is available from the applicant; see the front page for contact information.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed to offset impacts for the preferred alternative by preserving 1.91 acres of on-site wetlands. Surface runoff is to be diverted to settling areas to minimize impacts to water quality. The preserved wetland is to be combined with a mitigation site on the parcel abutting the project area to the south and is to contain some created open water habitat as well as some preserved fresh water emergent marsh. Additionally, the applicant has proposed the enhancement and/or restoration of 3.4 acres of existing wetlands at a site near Utah Lake. These wetlands are managed by The Nature Conservancy.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Utah Division of Water Quality, is required for this project. The Utah Division of Water Quality intends to issue certification, provided that the proposed work will not violate applicable water quality standards. Projects are usually certified where the project may create diffuse sources (nonpoint sources) of wastes which will occur only during the actual construction activity and where best management practices will be employed to minimize pollution effects. Written comments on water quality certification should be submitted to Mr. William O. Moellmer, Utah Division of Water Quality,

288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, on or before **August 6, 2004**.

HISTORIC PROPERTIES: The applicant has consulted with Jim Dykmann of the Utah State Historic Preservation Office. At this time, Mr. Dykmann believes that no historic properties exist within the proposed project area.

SPECIAL STATUS SPECIES: According to the Utah Division of Wildlife Resources, the project site may contain habitat for the following special status species: yellow-billed cuckoo (*Coccyzus americanus*), Ute Ladies'-tresses (*Spiranthes diluvialis*), spotted frog (*Rana luteiventris*), and least chub (*Lotichthys phlegethontis*). The yellow-billed cuckoo is listed by the U.S. Fish and Wildlife Service as a Candidate species. The applicant attests that the site contains no appropriate habitat for yellow-billed cuckoo. The applicant is in the process of surveying the site for least chub and spotted frog, which are both State Sensitive Species. Surveys for Federally-listed (threatened) Ute Ladies'-tresses are scheduled for August. If the Corps determines the proposed activity may affect Federally listed species or their critical habitat, then consultation will be initiated with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described 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 described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity 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, 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, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

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 decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and 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.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 200450134, must be submitted to the office listed below on or before **August 6, 2004**:

Matt Hirkala, Project Manager
US Army Corps of Engineers
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010-7744
Email: Matthew.J.Hirkala@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information, please contact the applicant or the Corps' project manager Matt Hirkala, telephone 801-295-8380, extension 15, or email Matthew.J.Hirkala@usace.army.mil.

Attachments: 7 drawings