



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Number: 200450142

Date: June 25, 2004

Comments Due: July 23, 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 Birnam Woods Phase 3 residential subdivision project, which would result in impacts to approximately 2.01 acres of waters of the United States, including wetlands, adjacent to an unnamed drainage that is tributary to the Great Salt 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 of the Clean Water Act for water quality certification.

APPLICANT: Hamlet Homes
Michael Brodsky
308 East 4500 South, Suite 200
Murray, Utah 84107
801-291-2223

LOCATION: The project site is located at 2200 North 900 West, West Bountiful within a portion of Section 12, Township 2 North, Range 1 West, Davis County, Utah, and can be seen on the Farmington, Utah USGS Topographic Quadrangle. The project site is shown on Figure 1.

PROJECT DESCRIPTION: The applicant is proposing to construct a residential subdivision with a storm water detention facility and open space/park area. The applicant's stated project purpose is to provide moderate income housing within Davis County. The applicant believes there is a need to fill 2.01 acres of wetlands in order to balance minimum lot size, as required by West Bountiful City, and profit margin of the subdivision. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. There are approximately 2.01 acres of wet meadow wetlands within the 20-acre project area. The site is characterized by baltic rush (*Juncus balticus*) dominated wetlands in the northeast corner of the site. The remainder of the site is dominated by upland grasses. A small patch of non-jurisdictional wetlands dominated by cattails (*Typha latifolia*) and baltic rush (*Juncus balticus*) has formed on the south-central portion of the site due to a flowing irrigation well.

Surrounding Land Use. Properties surrounding the site are mostly single family residences on large lots. There are some vacant agricultural or ranching lands nearby. To the east of the site is the abandoned Denver and Rio Grande rail line and a proposed Legacy Highway corridor alternative is situated along the north and northwest portions of the site. Currently, the site is vacant and used as livestock pasture.

Project Constraints. The applicant has defined the following criteria as project limitations in developing alternative configurations:

- 1) Lot size. City zoning has set the minimum lot size at 1/2-acre. However, they allow PUD projects to reduce the lot size to 11,000 to 12,000 square feet if the project provides open space within the site. All alternatives presented utilize this PUD rezoning option. Additionally, the city requires a trail within the open space that may someday connect with a proposed regional system and parking for day-users.
- 2) Stormwater detention facility. The city requires a detention facility on-site to accommodate stormwater generated within the subdivision as well as storm flows conveyed from off-site through the unnamed drainage channel. To accommodate these flows, the facility has been sized at 2.49 surface acres to provide 4.8 acre-feet of storage. The depth of the facility is set by environmental limitations as well as sewer lines that cross the site. Additionally, the facility must discharge to the northwest, the lowest topographic point in the parcel.
- 3) Gas line corridors. As shown in Figure 5, two corridors of gas lines cross the property. Crossing the lines is possible, but presents a great expense to the applicant. Although crossing the lines is costly, the applicant plans to do this at certain locations. However, this will increase the cost of development of the site and the applicant states additional lots will be necessary to recoup this cost. The applicant has considered this cost in his economic analysis.
- 4) Project feasibility. An economic analysis has been conducted by the applicant for all alternatives presented. The applicant has determined an amount for the total project that sets the limits of feasibility.

Alternatives. The applicant has provided information concerning project alternatives. Additional information concerning project alternatives is available from the applicant.

- 1) The project. The project design, as depicted on the Site Development Plan, Figure 2, provides for 41 home lots, open park space with trail network and parking, and the regional stormwater detention facility. Approximately 2.01 acres of wetlands would be filled by this design. This project configuration has met the approval of the city for PUD zoning with a median lot size of 12,000 square feet. The applicant states this design would produce an economically feasible project. The applicant states this design is preferred by the city in order to maximize recreation benefits to the area.
- 2) Alternative A. This design is depicted on City Plan, Figure 3. This plan provides for 40 home lots, open park space with trail network, regional storm water detention facility, and 20-car

trailhead parking. This alternative requires 1.24 acres of fill into wetlands for the placement of home lots. The city has not yet approved the design, and the median lot size is also approximately 12,000 square feet. The applicant states the design would produce an economically feasible project, but that wetlands left on-site would be isolated.

3) Alternatives B and C. These designs, as depicted as the Small Lot Plan and No Pipeline Crossing on Figure 4, provide for 38 and 41 lots with no impact and 2.01 acres of wetland impacts, respectively. Both designs could accommodate the required amenities (open space, trail, parking, and detention facility) while providing an economically feasible project. However, the city has determined that the lot sizes do not meet their requirements as they are too small (averages 9,000 and 10,000 square feet, respectively).

4) Alternatives D and E. The applicant has demonstrated that 2 designs can be configured to avoid or limit wetland impacts, as shown on Avoidance Alternative Plan A and Avoidance Alternative Plan B on Figure 5. The designs provide for 34 and 35 lots with 0.2 acres of wetland impacts and no wetland impacts, respectively. Both plans could accommodate the required amenities and are large enough for PUD consideration from the city. However, the applicant has determined that avoidance of wetlands is too costly, and the project would not be economically feasible.

5) Offsite locations. The applicant states that no other sites are currently available in Davis County that would provide a site for moderately priced homes while providing a feasible project for the applicant. The current site is zoned residential and the city has granted the applicant's PUD request to reduce the lot sizes.

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 a mitigation scenario for the 2.01 acres of wetlands at the site impacted by the project design on Figure 2. The site currently has low value to wildlife, but provides stormwater detention and filtration prior to the water passing through to the Farmington Bay Waterfowl Management Area.

Applicant's proposed mitigation plan. The applicant proposes to use a combination of on-site mitigation for water quality mitigation and off-site mitigation for wildlife mitigation. The on-site mitigation is proposed as 1 acre of wetland plantings within the stormwater detention basin. Flows into the basin will be distributed in a manner that promotes wetland development. The site would be maintained in perpetuity as a protected wetland mitigation site. Additional on-site mitigation is proposed in the form water quality improvements. Oil and grease traps and sediment control structures will be installed into the detention pond. Water flows off site will be maintained. A wetland mitigation bank, Bailey's Meadow, is located 9 miles from the site. The off-site proposal is to purchase 2.01 credits at the Bailey's mitigation bank.

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 July 23, 2004.

HISTORIC PROPERTIES: The Utah Division of State History has reviewed the applicant's proposal and has determined that no cultural resources are within the project's area of potential effect.

ENDANGERED SPECIES: The Fish and Wildlife Service has identified that the bald eagle and the western yellow-billed cuckoo may occur in habitats such as this. The applicant's consultant completed a survey for these species and found no evidence of the use of this site by these species. Based on this preliminary information, the Corps has determined the proposed project will not effect these species or any other endangered species or their critical habitat.

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 200450142, must be submitted to the office listed below on or before **July 23, 2004**:

Anna Sutton, Project Manager
US Army Corps of Engineers, Sacramento District
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010-7744
Email: Anna.M.Sutton@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, Anna Sutton, 801-295-8380, extension 16, Anna.M.Sutton@usace.army.mil.

Attachments: 5 drawings