



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Number: 200550315

Date: July 27, 2005

Comments Due: August 29, 2005

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) and the Utah Division of Water Quality are evaluating a permit application to construct the Deer Cove Residential Development project, which would result in impacts to approximately 1.26 acres of waters of the United States, including wetlands adjacent to an unnamed stream which flows to the southwest. Water from this stream eventually reaches 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/regulatory.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: Patriot Capital Hidden Springs LLC
ATTN: Mike Flood
Hawkins Homes & Communities
39 East Eagleridge Drive, Suite 200
North Salt Lake, Utah 84054
Email: mflood@hawkinshomes.com
Telephone: (801) 936-1490, ext. 105

LOCATION: The 18.7-acre project site is located in an unnamed canyon east of Mountain Road, in Section 1, Township 3 North, Range 1 West, in Fruit Heights, Davis County, Utah, and can be seen on the Kaysville USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The applicant, Patriot Capital Hidden Springs LLC, an affiliate of Hawkins Homes and Communities, is proposing to discharge approximately 5,000 cubic yards to permanently fill 1.26 acres of wetlands in order to construct an access road, utilities, and 42 residential units targeted to house active adults in Davis County. Based on available information, the overall project purpose is to develop residential housing. The applicant cites the need to construct an adult lifestyle residential community for the growing target demographic of active couples nearing retirement who seek to live in Davis County. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. The project site is in a ravine, bounded on the north, west and south by residential development and to the east by Forest Service land. The project parcel was delineated in 2003 as part of larger property that totaled 60.9 acres. A total of 7.1 acres of jurisdictional wetlands were verified on the delineated property (Corps identification number 200450007). In April 2004, the Corps issued a Nationwide Permit 14 (under 200450007) for impacts to 0.2 acre of wetland and stream channel impacts associated with a road crossing to develop The Springs residential project site within the delineated 60.9 acre property. The Springs subdivision site is located north and west of the proposed Deer Cove project site.

The subject 18.7-acre project parcel includes 4.80 acres of wetlands. The applicant has planned to avoid 3.54 acres of wetlands and impact 1.26 acres for the proposed project. In two places, the wetlands occupy almost the entire width of the ravine. The majority of the ravine, however, has the wetlands situated along the north side, which leaves much of the south side as uplands.

The sources of hydrology on the project site include a combination of rainfall, snowmelt and groundwater. Groundwater likely contributes the greatest amount of water on a consistent basis as there are springs and seepage areas on the parcel. This groundwater forms an unnamed perennial stream that drains the property to the southwest (see Figure 2) and sustains the wetlands during dry periods. After leaving the property, the stream meanders through private property before it enters the UDOT storm drain system under Highway 89. This water eventually reaches the Great Salt Lake.

Vegetation generally falls into one of three categories: open grassland/sagebrush, forested, and riparian wetland. The plateau-like uplands typically are covered by grass and sagebrush, while the steep slopes are forested with mainly deciduous hardwoods. According to the applicant, the plateau-like uplands were historically used as pasturelands and for grazing. As the steep slopes would not have been useable for these activities, they were able to remain as mature forest. The floor of the ravine has a grassland portion to the east, while the remainder is characterized by riparian wet meadow and forest vegetation. The dominant tree species is *Salix amigdaloides* (peach leaf willow), of which many mature specimens exist in the central and eastern portions of the ravine. Wet meadow areas are dominated by *Carex* and *Distichlis* species, with some water-tolerant uplands species present as well such as *Ambrosia sp.* (ragweed). *Elaeagnus angustifolia* (Russian olive) is present in some quantity along the western portion of the ravine, particularly along the north bank of the creek. Although present, this species is not dominant. Grazing has impacted the vegetation in many portions of the project property.

Non-hydric sandy loams with gravel and cobbles comprise the soils on the upland plateaus and hydric loam on the majority of the ravine floor. The uplands soils are typical of soils found at the base of the Wasatch Front and beneath the historic Bonneville Shoreline.

Alternatives. The applicant provided the following information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

No Build: The no build alternative would preclude impacts to waters of the U.S. but would not provide additional housing in Davis County and the applicant would not be able to achieve the highest and best use of privately-owned property.

Full Site Development: The applicant originally planned to fully develop the site with 121 units (maximum density) in accordance with current local zoning. Over 4.5 of the 4.8 acres of wetlands on the site would have been impacted under this design. The applicant has stated that this layout would have maximized the economic potential of the development even after factoring in mitigation costs for 4.5 acres of wetland impact. However, this layout did not demonstrate the required avoidance and minimization measures and was abandoned.

No Impacts from Building Pads: This alternative would include residential units only in upland areas. The number of buildable units would decrease by 26 percent (from 42 to 31) from the preferred alternative and wetland impacts would be reduced to approximately 0.4 acre. The unavoidable impacts would result from construction of the access road and utility rights-of-way. According to the applicant, the access road and utility rights of ways physically cannot be located to fully avoid all wetland impacts and still service the upland areas in the southeast corner of the parcel. This alternative has fewer wetlands impacts than the preferred alternative, however, the applicant states this design is not practicable as the economic viability of the project is absent without the economy of scale present with the preferred alternative. The applicant describes this alternative as essentially another no-build option because the economics of development would deny the landowner a viable use of the parcel and would fail to provide needed housing for Davis County's growing population.

Preferred Site Layout: The applicant's preferred alternative is to permanently impact 1.26 acres of wetlands in order construct an access road, utilities, common areas, and 42 housing units. The applicant's preferred alternative extends the access road with residential units along the south side of the ravine, where most of the uplands are found. The applicant believes this alternative is environmentally responsible because it represents a composition of efforts to minimize the wetland impacts while maintaining a project that would be economically viable and topographically feasible.

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 compensate for unavoidable impacts to 1.26 acres of medium-quality wetlands through a combination of avoidance, on-site restoration, and off-site wetland preservation measures. The preferred alternative would avoid 3.54 acres of wetlands, including 1.45 acres that were negatively impacted by grazing. The applicant removed grazing in March 2004 and would restore the impaired wetlands for mitigation credit. On-site avoidance areas will be protected by a deed restriction. In addition, the applicant would purchase and preserve 5.4 acres of off-site wetlands. The applicant would team with the Utah Transit Authority to purchase wetlands for preservation and enhancement adjacent to the Farmington Bay Waterfowl Management Area, in Davis County within 10 miles of the project site. The applicant would purchase wetlands contiguous to other preservation wetlands for the purpose of achieving overall higher functioning through complexing.

The applicant proposes to provide 1.25 mitigation credits at the following ratios: Restoration of on-site wetlands at a 4:1 ratio; preservation of wetlands at a 6:1 ratio; and preservation of uplands adjacent to wetlands at an 8:1 ratio. The applicant proposes ratios based on the fact that the functional values of the project parcel are impaired by homes and roads within 0.25 mile of the site, major road/highway within 0.5 mile, the isolated and discontinuous nature of the on-site wetlands, and past grazing activities and human use of the property.

OTHER GOVERNMENTAL AUTHORIZATIONS: As required under Section 401 of the Clean Water Act, water quality certification or a waiver is required for this project from the Utah Division of Water Quality. 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 29, 2005**.

A stormwater permit for construction activities will be obtained from the Utah division of Water Quality prior to the start of construction. This permit will include an erosion control plan as well as a stormwater pollution prevention plan.

The project parcel is in Zone C for FEMA floodplain management, which is an area of minimal flooding. No FEMA permit is required.

HISTORIC PROPERTIES: Based on the available information (letter from the Utah State Historic Preservation Office dated January 21, 2004), cultural resources not are within the project's area of potential effect.

ENDANGERED SPECIES: Based on our preliminary review of available information, the Corps has determined that the proposed activity is unlikely to affect Federally-listed endangered or threatened species or their critical habitat. If additional information becomes available, the Corps will initiate consultation with the U.S. Fish and Wildlife Service Section 7 of the Endangered Species Act, as appropriate.

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, 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 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 200450007, must be submitted to the office listed below on or before **August 29, 2005**:

Kathleen Anderson, US Army Corps of Engineers
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010-7744
Email: kathleen.anderson@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 representative, Kathleen Anderson, 801-295-8380, ext. 10, kathleen.anderson@usace.army.mil.

Attachments: 3 drawings