



Public Notice

US Army Corps
of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Number: 200675385
Date: February 26, 2007
Comments Due: March 26, 2007

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct a residential development known as the San Juan River Villas development, which would result in impacts to approximately 0.48 acres of waters of the United States, including wetlands, adjacent to the San Juan River. 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. The project involves the placement of fill material into wetlands adjacent to the San Juan River for the construction of residential homes and associated infrastructure. The application is being processed as an Individual Permit because impacted wetlands are located within the 100 year floodplain of the San Juan River, which is an interstate waterway.

APPLICANT: Pagosa Partners, LLC
Mel Lampi
Post Office Box 2817
Pagosa Springs, Colorado 81147
970-946-4346

LOCATION: The 5.2-acre project site is located on the north side of US Highway 160, 1/4 mile east of US Highway 84 in Section 18 of Township 35 North and Range 1 West, Pagosa Springs, Archuleta County, Colorado, and can be seen on the Jackson Mountain USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The applicant is proposing to construct multifamily homes, detached garages, associated infrastructure, and a multi-use trail system. As shown on the Preferred Alternative drawing (Alternative #3), the San Juan Villas project includes the construction of 22 residential units clustered into seven buildings with six detached garages. The project site is 5.2 acres in total, in which half will be developed. Based on the available information, the overall project purpose is to construct residential homes. The applicant believes there is a need to provide additional housing opportunities within the Town of Pagosa Springs. The attached drawings provide additional project details.

Attachments Included:

Alternative Analysis (5 pages)
Location Map (1 page)
Alternative Figures (4 pages)

ADDITIONAL INFORMATION:

Environmental Setting. The property is located between the San Juan River and US Highway 160. The site is a mix of upper floodplain terrace and a lower riparian bench. There are a few depressional

wetlands located within the upper terrace. The majority of the site's wetland areas are located on the lower riparian terrace. Site development is limited to the upper floodplain terrace. Seasonal drainage from a nearby irrigation ditch flows across the south side of the property. The entire property lies within the limits of the FEMA 100-year floodplain. The proposed development would be constructed outside the FEMA 100-year floodway.

The applicant has developed water surface profile models of the site, with and without the proposed development. These models (HEC-RAS) show that 1) the maximum change in the 100-year water surface elevation on the site is 0.6 feet; 2) the change in water surface elevation occurs only where the new residential buildings are proposed; 3) the depth and velocity of flow at the downstream end of the property are not changed by the proposed development; and 4) the depth of flow is increased 0.3 feet at the upstream property boundary and decreases to no net change within the first 100 feet upstream of the property boundary.

The property site includes approximately 1.27 acres of wetlands and 0.897 acres of other waters of the US (San Juan River) within the project site. The wetland communities located at the site are characterized as a depressional scrub-shrub and palustrine emergent communities. The wetlands located within the upper terrace have experienced degradation due to historical land use activities. The wetland communities at the site may be influenced by irrigation water; however, the degree to which irrigation water has affected the wetland communities has not been determined. The surrounding land-use is rural with mixed commercial.

Alternatives. The applicant has provided information concerning other project alternatives in the form of a narrative and associated drawings which are attached with the public notice. Additional information concerning project alternatives may be available from the applicant or their agent, Riverbend Engineer, 970-264-1195. 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.

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 the construction of 0.72 acres (1.5:1) of riparian wetland at the project site to compensate for the proposed 0.48 acres of impacts to palustrine emergent wetlands. The location of the wetland mitigation is shown on the attached plans.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the State of Colorado, Department of Public Health and the Environment, is required for this project. The applicant has not indicated whether an application for 401 certification has been submitted to the state.

HISTORIC PROPERTIES: The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Preservation Act, as appropriate.

ENDANGERED SPECIES: The project will not affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act.

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 200675385, must be submitted to the office listed below on or before March 26, 2007:

Kara Hellige, Project Manager
US Army Corps of Engineers, Sacramento District
Durango Regulatory Office
799 E 3rd Street, #2
Durango, Colorado 81301
Email: kara.a.hellige@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 Kara Hellige, 970-375-9452, kara.a.hellige@usace.army.mil.

Attachments: 10 pages

Alternative No. 1: The “Do Nothing” Alternative

Alternative Description – In this alternative there is no land development. No trail system is constructed and no open space is dedicated for public use. See attached drawing, sheet 3 of 6.

1. **Project Impacts-** There are no new impacts at the property. Upland areas should experience little or no *Cumulative Impacts* from this alternative. There are no known *Historic Properties* on the site.
2. **Project Benefits** - The Do Nothing Alternative will prevent any impact to existing *Wetlands*.
3. **Project Economics-** The capital investment in the land purchase (approximately \$1.8 million) has no return on investment, unless property values rise in the area. The ability to extract *Mineral Needs* from the property is considered low because of the site constraints. The Do Nothing Alternative would have a severe impact on the *Economic* entitlements that are allowed for this *Property Owner*. Current zoning allows for the proposed residential development.

This Alternative results in a net loss on the project of \$1,875,000.

(Please refer to the detailed project economic analysis included with this application.)

4. **Environmental Issues-** The current environmental state of the site will not change.
5. **Recreation and Public Welfare-** The existing conditions in the San Juan River that relate to *Recreation or Navigation* will not change in this Alternative. Without some form of economic incentive, the land owner has no motivation to invest in *Recreational* opportunities such as pedestrian trails and public access to the river that would improve the *Welfare of the People*.

Alternative No. 2: Limited Build, Complete Wetland Avoidance

Alternative Description – In this Alternative, a limited residential land development project is proposed, configured on the site so that no jurisdictional wetlands are affected. See attached drawing, sheet 4 of 6.

1. **Project Impacts-** There are no permanent impacts to wetlands, however this Alternative will require careful implementation to avoid impacts to wetlands. Upland areas will change as buildings and fill are placed for the development. With temporary and permanent stormwater management systems in place, the long term *Cumulative Impacts* from this Alternative are believed to be minimal. There are no known *Historic Properties* on the site.
2. **Project Benefits-** This Alternative will avoid any impacts to existing *Wetlands*.

3. **Project Economics-** The development of a limited scope residential subdivision will yield some return on investment, but not enough to offset the capital investment in the land purchase and the cost of infrastructure and entitlements. This Alternative would have an impact on the entitlements that are allowed for this *Property Owner* since the return on the investment is not realized and the potential land use allowed under the zoning code cannot be achieved. The ability to extract *Mineral Needs* from the property would be eliminated completely.

This Alternative results in a net loss on the project of \$120,000.

(Please refer to the detailed project economic analysis included with this application. Note: Lot values are based on current market values and infrastructure improvement costs are based on engineer's estimates.)

4. **Environmental Issues-** The river corridor and existing high quality wetlands at the south end of the site will remain intact. It is possible that the construction of the residential subdivision in such close proximity to existing wetlands may affect the groundwater and surface water hydrology that supports these features.
5. **Recreation and Public Welfare-** Construction of this Alternative will not change *Recreation and Navigation* in the San Juan River. This Alternative proposes to construct a pedestrian trail in the river bottom for public access and *Recreation*. Public access to the riparian corridor and *Conservation* of these features is critical for the long term *Welfare of the People*. *Flood Hazards* From the 100-yr flood are eliminated by elevating the buildings above the 100-yr water surface elevation. This alternative will create only a minor change in flood water elevations and water velocities on the site, and will not change these parameters on the adjoining properties. Potential *Flood Hazards* from less than the 100-yr flood are minimized by the location of the buildings. *Floodplain Values* such as 1) improved riparian vegetation and vegetated buffer strips, and 2) opportunities for and diversity of terrestrial habitat are retained with this Alternative. Only in the event of extreme flood events (greater than a 50 year return frequency event) will there be a change in the horizontal extent of flood water inundation.

Alternative No. 3: Moderate Build, Wetland Impacts and Mitigation (Applicants Preferred Alternative)

Alternative Description – In this Alternative, a moderate density residential land development project is proposed, configured on the site so that impacts to jurisdictional wetlands are limited (< 1/2 acre) to low quality wetlands. Impacted wetlands will be mitigated on site and existing high quality wetlands will be enhanced with storm water drainage.

1. **Project Impacts-** Two areas of low quality upland wetlands will be impacted by the proposed subdivision area. The applicant proposes to salvage the plant material and topsoil from the impacted areas for re-use where wetland mitigation is proposed.
2. **Project Benefits-** This Alternative provides the best balance of impacts to benefits. Wetland impacts are limited in scope and wetland mitigation opportunities are utilized in on-site locations where consistent water in the soil should ensure long term plant establishment. The proposed development does not impact the entire build-able part of the property. There are no impacts to the higher quality wetlands on the property, and the riparian buffer strip would remain intact. This Alternative is considered the least environmentally damaging practicable alternative because it is the lowest level of site impact associated with economic viability, and the proposed wetland mitigation more than offsets the loss of existing low quality wetlands.
3. **Project Economics-**This Alternative generates sufficient revenue to pay for the infrastructure improvements and the public access (see economic analysis below). This Alternative allows the land owner to take advantage of his entitlements, as current zoning allows for the proposed residential development. The applicant is able to achieve a reasonable return on investment.

This Alternative results in a net gain on the project of \$1,805,000.

(Please refer to the detailed project economic analysis included with this application. Note: Lot values are based on current market values and infrastructure improvement costs are based on engineer's estimates.)

4. **Environmental Issues-** The river corridor and existing high quality wetlands at the south end of the site will remain intact. All wetland impacts will be mitigated on-site. The existing riparian buffer strips will remain intact. Stormwater runoff from the site will flow through a conventional detention pond, then filter through several wetlands features before release to the San Juan River.
5. **Recreation and Public Welfare-** Construction of this Alternative will not change *Recreation and Navigation* in the San Juan River. This Alternative proposes to construct a pedestrian trail through the southern wetlands area and then north along the river edge for public access and *Recreation*. Public access to the riparian corridor and *Conservation* of these features is critical for the long term *Welfare of the People*. *Flood Hazards* from the 100-yr flood are eliminated by elevating the buildings above the 100-yr water surface elevation and by not building within the FEMA Floodway. This alternative will create only a minor change in flood water elevations (0.6 ft maximum rise) and water velocities on the site, and will not change these parameters on the downstream properties. Theoretical *Flood Hazards* from less than the 100-yr flood are minimized by the location of the buildings. *Floodplain Values* such as 1) improved riparian vegetation and vegetated buffer strips, and 2) opportunities for and diversity of terrestrial habitat are retained with this Alternative. Only in the case of flood events greater than a 25 year return frequency will there be a change in the horizontal extent of flood water inundation.

Alternative No. 4: Maximum Build & Wetland Impacts, Offsite Mitigation

Alternative Description – In this Alternative there would be 32 residential units fit onto the site, maximizing the potential density. The development would have significant impacts (>1/2 acre) on low and high quality wetlands. Impacted wetlands will be mitigated at an off-site location.

1. **Project Impacts-** The low quality upland wetlands will be impacted by the proposed subdivision area. In addition, a portion of the higher quality wetlands on the southern half of the property will be impacted. The acreage of the wetland impact will be extensive enough that mitigation will have to be accomplished offsite. The applicant has access to upland areas to the east of this project where intermittent surplus irrigation water creates an opportunity for wetland mitigation, as required.
2. **Project Benefits-** This Alternative will allow the developer to take full advantage of his zoned entitlements and maximize profit from his investment.
3. **Project Economics-**This Alternative generates more than sufficient revenue to pay for the infrastructure improvements and the public access. This Alternative includes maximizing the density of residential units, as allowed by current zoning. The capital investment in the project is the largest of any of the Alternatives, and the potential profit is also the highest.

This Alternative results in a net gain on the project of \$3,580,000.

(Please refer to the detailed project economic analysis included with this application. Note: Lot values are based on current market values and infrastructure improvement costs are based on engineer's estimates.)

4. **Environmental Issues** – This Alternative has the greatest impact to existing wetlands and creates the greatest footprint on the landscape. Placement of buildings and an access road in the southern portion of the site will reduce this area's potential to act as a natural island in an urban setting. Stormwater runoff from the site will be limited to temporary detention and then quick release to the San Juan River.
5. **Recreation and Public Welfare-** This Alternative has land development occurring in more of the potential open space and limits the opportunity for *Recreation*. *Navigation* on the San Juan River will remain unchanged. The Alternative does not maximize the opportunities for *Public Welfare*. This Alternative proposes to construct a pedestrian trail near the river edge for public access and *Recreation*. Construction of the pedestrian trail around the development may increase impacts to existing wetlands and increase the extent of

off-site wetland mitigation efforts. *Flood Hazards* from the 100-yr flood are eliminated by elevating the buildings above the 100-yr water surface elevation. This alternative will create a change in flood water elevations and water velocities on the site, although these changes will be within the FEMA allowable changes. Flood water elevations should not be changed on the downstream properties. Potential *Flood Hazards* from less than the 100-yr flood are minimized by elevating the buildings. *Floodplain Values* such as 1) improved riparian vegetation and vegetated buffer strips, and 2) opportunities for and diversity of terrestrial habitat are compromised with this Alternative. Flood events in excess of the 10-yr return frequency will experience a change in the horizontal extent of flood water inundation.