



US Army Corps  
of Engineers®

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

NUMBER: 25599N

DATE: September 8, 2003

RESPONSE REQUIRED BY: October 8, 2003

Regulatory Branch  
333 Market Street

San Francisco, CA 94105-2197

PROJECT MANAGER: Philip Shannin TELEPHONE: (415) 977-8445 Email: pshannin@smtp.spd.usace.army.mil

**1. INTRODUCTION:** Mr. Brad Stipe (949-461-7190), Chelsea Property Group, 27762 Vista Del Lago, Suite A-11, Mission Viejo, California 92602 has applied for a Department of the Army (Corps) permit to fill 0.33 acre of wetlands to construct a movie theater and other retail structures on property located east of Petaluma Boulevard North and west of the U.S. 101 freeway in the City of Petaluma in Sonoma County, California (Figures 1 & 2). This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

**2. PROJECT DESCRIPTION:** As shown in the attached drawings, the applicant plans to develop a 41,000 square foot, 12-screen movie theater and 36,000 square foot retail structure on Parcel C, and five retail structures totaling 173,400 square feet on Parcel B. The existing 25.0 acre Petaluma Village Premium Outlet complex is located on Parcel A. Parcel B (approximately 22.9 acres) is adjacent to Parcel A to the southeast. Parcel C (approximately 16.3 acres) is adjacent to Parcel A to the northwest (Figure 2).

Site Description – The Petaluma River runs from north to south along the western boundary of the Project Area. This portion of the Petaluma River is referred to as the Corona Reach, an approximately one-mile stretch of the Petaluma River, running parallel to U.S. 101, from Lynch Creek to Corona Road. The Corona Reach has historically been subject to flooding, and a portion of the Project would be situated within the 100-year floodplain as designated by FEMA.

Three creeks cross the Project Site, running north to south. The first is Corona Creek, which forms the

northern boundary of Parcel C. The second is Capri Creek, which forms the northern boundary of Parcel B. The third is an unnamed creek (sometimes referred to as Deer Creek), which bisects the southern portion of Parcel B (Figure 2).

Parcels B and C of the Project Area are currently undeveloped and covered by mostly non-native annual grassland, which has been disced annually for fire control purposes for many years. Dominant plants in the annual grassland include wild oat (*Avena* sp.), riggut brome (*Bromus diandrus*), soft chess (*Bromus hordeaceus*), rattlesnake grass (*Briza minor*), and canary grass (*Phalaris* sp.).

According to the Corps of Engineers' September 2002 determination, Parcels B and C of the Project Site contain a total of 1.47 acres of jurisdictional wetlands and non-wetland "waters of the United States"(stream). The wetland communities include 1.13 acres of seasonal wetlands, which are low-lying depressions and drainages dominated by rabbit-foot grass (*Polypogon monspeliensis*), curly dock (*Rumex crispus*), Italian ryegrass (*Lolium multiflorum*), creeping wild-rye (*Leymus triticoides*), cattail (*Typha latifolia*), and wild rose (*Rosa californica*). Capri Creek supports emergent wetland vegetation totaling approximately 0.17 acres and dominated by such species as cattail, sedges (*Carex* spp.), and tall cyperus (*Cyperus eragrostis*). Riparian habitat along the creeks and river is comprised of such species as willow (*Salix* spp.), coast live oak (*Quercus agrifolia*), poplar (*Populus* spp.), Himalayan blackberry (*Rubus discolor*), and wild rose. Large patches of fennel (*Foeniculum vulgare*) and poison hemlock (*Conium maculatum*) are also found near the creeks and river.

**3. WETLAND IMPACTS:** As shown in Figure 2, the applicant proposes to place fill material in one 0.33-acre jurisdictional seasonal wetland while preserving the remaining 1.14 acres of wetlands and drainages on the site. The wetland that would be filled as a result of project activities is in the eastern corner of Parcel C adjacent to the existing parking lot in Parcel A. This area is disced annually for fire control purposes, and the wetland is dominated by non-native vegetation.

**4. PROPOSED MITIGATION:** Within the Project Area, 0.50 acres of jurisdictional seasonal wetlands will be created (1.5:1 creation to impact ratio). The resulting mitigation seasonal wetlands are expected to have increased functions and values over the existing low value wetland to be impacted. A net gain of 0.17 acres of seasonal wetlands will result from implementation of this mitigation plan.

The mitigation wetlands will be located in two locations in the Project Area (see Figure 2) and will be modeled after previously constructed mitigation wetlands located west of Parcel C. These previously constructed wetlands exceeded their performance criteria and exceeded habitat quality measures of nearby preserved wetlands. Therefore, there is an expectation of achieving comparable success with the new mitigation wetlands, if similar grading and planting plans are employed.

**5. STATE APPROVALS:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the North Coast Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification or waiver. A will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60

days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period of this public notice.

**6. ENVIRONMENTAL ASSESSMENT:** The Corps of Engineers will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of the Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

**7. COMPLIANCE WITH OTHER FEDERAL LAWS:**

Endangered species – No federally listed plant or animal species have been known to occur in the Project Area. Furthermore, due to the highly disturbed nature of the site, it seems unlikely that the project site provides habitat for federally listed species. No federally listed plant species were observed during multiple seasonally timed surveys conducted on the project site and vicinity in 1997. At the same time, surveys were performed for the California red-legged frog, with none found onsite or the immediate vicinity.

The northwestern pond turtle (*Clemmys marmorata marmorata*), a federal and state Species of Concern, has been recorded in the Petaluma River in the vicinity of the Project Area. To minimize potential impacts to the turtles, as well as to other reptiles and amphibians, exclusion fencing will be erected to prevent the turtles from entering the construction zone from the Petaluma River or tributaries. Additionally, preconstruction surveys for northwestern pond turtles shall be conducted, and any turtles found in the construction zone will be removed and relocated.

National Historic Preservation Act of 1966 (NHPA).

Based upon the results of a records search at the Northwest Information Center, Sonoma State University, no historical sites have been recorded on the Project Site. No site-specific information was discovered through contact with the Petaluma Historic Society or records on file at the Bancroft Library at U.C. Berkeley. In 1989 an archaeological foot reconnaissance (consisting of 10-m transects) was conducted over the Project Site, and no evidence of archaeological material was discovered.

If prehistoric or historic artifacts are encountered during land modification, then activities in the immediate area of the finds will be halted, an on-site inspection will be performed by a qualified archaeologist, and the County Planning Department will be notified.

**8. EVALUATION OF ALTERNATIVES:**

Evaluation of this activity's impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344(b)). An evaluation under the 404(b)(1) Guidelines indicates that the project is not water/wetland dependent. The applicant has not submitted an Analysis of Alternatives and has been informed that such an Analysis is required and will be reviewed for compliance with the guidelines.

**9. PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must 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, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

**10. CONSIDERATION OF COMMENTS:**

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.

**11. SUBMISSION OF COMMENTS:** Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any

such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of 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. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting Philip A Shannin of our office at telephone 415-977-8445 or E-mail: pshannin@spd.usace.army.mil. Details on any changes of a minor nature, which are made in the final permit action, will be provided on request.