



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
450 Golden Gate Ave., 4th Floor
San Francisco, CA 94102-3406

PUBLIC NOTICE

PROJECT: Laguna Sequoia Apartment Development

PUBLIC NOTICE NUMBER: 2017-00062S

PUBLIC NOTICE DATE: May 14, 2021

COMMENTS DUE DATE: June 14, 2021

PERMIT MANAGER: Greg Brown

TELEPHONE: 415-503-6791

E-MAIL: gregory.g.brown@usace.army.mil

1. **INTRODUCTION:** Laguna Sequoia Land Company, LLC (POC: Wallace Murfit, 650-867-3399), 11 Wood Lane, Menlo Park, California 94026 has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to fill wetlands and other waters and conduct other work in jurisdictional navigable waters of the United States associated with a proposed apartment development in Redwood City, San Mateo County, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*), and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*).

2. PROPOSED PROJECT:

Project Site Location: The proposed development is at 199 Seaport Blvd (APN 052-392-350 and 052-392-360) in Redwood City, within a tidal lagoon consisting of a diked former salt pond bordering Redwood Creek and Steinberger Slough.

Project Site Description: The project site is a 21.9-acre parcel consisting primarily of a 17.4-acre former salt pond which has reverted to a fully tidal lagoon, with approximately 1800 linear feet of dikes on the west and south sides separating it from Redwood Creek and Steinberger Slough (Figure 1). An adjacent 40-foot wide, 1.01-acre easement parcel along the north shore of the lagoon is also included in the project area. The lagoon consists of intertidal mud flats and remnant slough channels with bottom elevations 1-2 feet below mean sea level (3-4 feet above MLLW) which have been open to full tidal influence through a gap in the dike since approximately 2018. The site supports approximately 2.6 acres of tidal marsh, primarily along the dikes, interspersed with some

upland areas along the crest of the western dike. The site also includes additional upland areas on the eastern edge including the entrance road to Seaport Blvd and portions of an active concrete recycling facility that borders the site.

Project Description: As shown in Figure 2, the applicant proposes to permanently fill approximately 6 acres of the tidal lagoon along the inboard side of the western dike in order to build an apartment complex consisting of 350 units in eight buildings around a landscaped courtyard. The buildings would be three stories of wood framed construction. An underground 500-car parking garage would be built below the courtyard. The development would also include a public trail around the perimeter of the apartment complex, and an access road along the existing north shore of the lagoon. An additional two acres in the northeast part of the lagoon would be permanently filled for construction of a public park.

In the remaining unfilled portion of the tidal lagoon, 6 acres would be deepened by about 12 feet (generating approximately 100,000 cubic yards of excavated material which would be used as fill for other parts of the project), and approximately 4.8 acres of tidal wetlands would be established. An additional 1.2 acres of existing wetland on the outboard side of the western dike would be enhanced. To facilitate construction the dike gap would be closed and the entire site dewatered to allow excavation and grading to occur in the dry. Following construction, approximately 650 linear feet of the eastern dike adjacent to the deepened lagoon would be removed.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is residential housing.

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to develop residential housing in the Redwood City area, consistent with local laws and regulations.

Project Impacts: The proposed development would dredge approximately 100,000 cubic yards from 5.5 acres of the lagoon and use the dredged material to permanently fill approximately 7.4 acres of the lagoon for the apartment and park developments. An additional 4.4 acres of the lagoon would be partially filled and graded to establish tidal marsh in areas that are currently mud flats and remnant slough channels. Approximately 1.3 acres of existing tidal marsh around the periphery of the lagoon would be permanently filled by development or removed during excavation of the eastern dike.

Proposed Mitigation: The project would avoid impacts to approximately 1.3 acres of tidal marsh and 0.4 acre of other waters, primarily along the outboard side of the western dike. To mitigate for impacts, the applicant proposes to establish approximately 4.8 acres of tidal marsh in 4.4 acres of existing lagoon and 0.4 acre of existing uplands along the western dike. An additional 1.2 acres of the avoided wetlands along the western dike would be enhanced. In the southeastern part of the project area. The applicant proposes to deepen 6 acres of the lagoon by removing the eastern dike and excavating the area to subtidal depths.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver thereof is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant is hereby notified that, unless USACE is provided documentation indicating a complete application for water quality certification has been submitted to the RWQCB within 30 days of this Public Notice date, the District Engineer may consider the Department of the Army permit application to be withdrawn. No Department of the Army Permit will be

issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed 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.

Coastal Zone Management: Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification that indicates the activity conforms with the state's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate state agency has issued a Consistency Certification or has waived its right to do so. Although the project appears to occur in the coastal zone or may affect coastal zone resources, the applicant states that the San Francisco Bay Conservation and Development Commission (BCDC) determined the project is not within their jurisdiction. This determination, however, remains subject to verification by BCDC.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 375 Beale St., Suite 510, San Francisco, CA 94105 by the close of the comment period.

Other Local Approvals: The applicant is coordinating with Redwood City staff for any necessary local approvals as well as CEQA coverage.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of

NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's regulations at 40 C.F.R. § 1500-1508, and USACE regulations at 33 C.F.R. § 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to ensure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has made a preliminary determination that the following federally-listed species and designated critical habitat is present at the project location or in its vicinity and may be affected by project implementation. Tidal areas of Redwood Creek contain federally-listed threatened Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*), threatened North American green sturgeon (*Acipenser medirostris*), and designed critical habitat for North American green sturgeon. The California Ridgway's rail (*Rallus longirostris obsoletus*), California least tern (*Sterna antillarum browni*), western snowy plover (*Charadrius alexandrinus nivosus*), and salt marsh harvest mouse (*Reithrodontomys raviventris*) may also occur in the area, particularly around Bair Island. To address potential project related impacts to these species and designated critical habitat, USACE will initiate consultation with

USFWS and NMFS, pursuant to Section 7(a) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires Federal agencies to consult with the NMFS on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, or the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, USACE has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, USACE has made a preliminary determination that EFH is present at the project location or in its vicinity and that the critical elements of EFH may be adversely affected by project implementation. To address project related impacts to EFH, USACE will initiate consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRSA of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains any required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project is not likely to affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce or their designee.

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted a review of the latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the

availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites. The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

6. PUBLIC INTEREST EVALUTION: The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include 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.

7. CONSIDERATION OF COMMENTS: USACE is soliciting comments from the public; Federal, State, and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Greg Brown, San Francisco District, Regulatory Division, 450 Golden Gate Avenue, 4th Floor, San Francisco, California 94102-3404; comment letters

should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent or by contacting the Regulatory Permit Manager by telephone or e-mail (cited in the public notice letterhead). An electronic version of this public notice may be viewed under the *Public Notices* tab on the USACE website: <https://www.spn.usace.army.mil/Missions/Regulatory>.