Public Notice

U.S. Army Corps of Engineers, Norfolk District

July 3, 2013

CENAO-WR-R
NAO-2008-2007; 13-V0292

FEDERAL PUBLIC NOTICE

The District Commander has received a joint application for Federal and State permits as described below:

APPLICANT
Kemp Del, Inc.
2312 Croix Drive
Virginia Beach, Virginia 23451

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located on approximately 112 acres of undeveloped land adjacent to West Neck Creek in the North Landing River watershed (HUC 3010205). The development site is east of West Neck Creek on the north side of Nimmo Parkway, west of Piney Bark Drive, and south of Windy Pines Bend in Virginia Beach, Virginia. (GPIN's 2404-37-1633, 2404-57-3796, & 2404-56-4943)

PROPOSED WORK AND PURPOSE: The applicant is requesting authorization to permanently impact 5.40 acres of forested headwater wetlands for the construction of Nimmo Quay East and West; a single family residential subdivision that was previously permitted (97-1450-18) in 1998 and modified in 2003 but never constructed. The general concept for development has not changed since 1998; however aquatic resource impacts have been reduced from 10.78 acres in 1998, to 7.2 acres in 2003, and now 5.40 acres under the current proposed layout. To offset unavoidable impacts the applicant proposes to preserve 39.69 acres of on-site wetlands and purchase 6.831 acres of non-tidal wetland credits from Dover Farms Mitigation Bank.

In addition to the required Department of the Army permit, the applicant must obtain a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ) assuring that applicable laws and regulations pertaining to water quality are not violated and a permit from the Virginia Beach Wetlands Board. Project drawings are attached.

AUTHORITY: Permits are required pursuant to Sections 401 and 404 of the Clean Water Act (Public Law 95-217) and Title 62.1 of the Code of Virginia.

FEDERAL EVALUATION OF APPLICATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. All of the proposal's relevant factors will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use classification, 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 Environmental Protection Agency's "Guidelines for Specification of Disposal Sites for Dredged or Fill Material" will also be applied (Section 404(b)(1) of the Clean Water Act).

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 direct, indirect, and cumulative 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. Anyone may request a public hearing to consider this permit application by writing to the District Commander within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Commander will then decide if a hearing should be held.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) after conducting the NAO ESA Project Review Process, no federally listed/proposed/candidate species and/or designated/proposed critical habitat under the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended) will be affected. Based on this no effect determination, no further coordination with the Fish and Wildlife Service is required; and (3) no known properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area, or would likely be affected by the proposal. Additional information might change any of these findings.

For compliance with the Coastal Zone Management Act of 1972, as amended for projects located in Tidewater, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal uses or resources will be conducted in a manner consistent with the Virginia Coastal Zone Management Program (VCP) and obtain concurrence from the Department of Environmental Quality (DEQ), Office of Environmental Impact Review (OEIR). The applicant's consistency certification is attached to this Public Notice and we are requesting review by DEQ-OEIR for concurrence or objection (the six-month consistency review clock begins when OEIR receives complete information to coordinate the review). It is the applicant's responsibility to submit a consistency certification to the Office of Environmental Impact Review for concurrence or objection and proof of concurrence must be submitted to the Corps prior to final permit issuance. A template federal consistency certification can be found here: **http://www.deq.state.va.us/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx#cert**. For more information or to obtain a list of the enforceable policies of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: ellie.irons@deq.virginia.gov or john.fisher@deq.virginia.gov.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-WR-R), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on August 2, 2013.

PRIVACY & CONFIDENTIALITY: Comments and information, including the identity of the submitter, submitted in response to this Public Notice may be disclosed, reproduced, and distributed at the discretion of the U.S. Army Corps of Engineers. Information that is submitted

in connection with this Public Notice cannot be maintained as confidential by the U.S. Army Corps of Engineers. Submissions should not include any information that the submitter seeks to preserve as confidential.

If you have any questions about this project or the permit process, contact Randy Steffey at 757-201-7579 or by email at randy.l.steffey@usace.army.mil .

FOR THE DISTRICT COMMANDER:

for Randy L. Steffey

Lynette R. Rhodes
Chief, Southern Virginia
Regulatory Section

Attachments: Drawings||CZMA Consistency Certification