



# Public Notice

**U.S. Army Corps  
Of Engineers**

**Galveston District**

Permit Application No: SWG-2016-00264

Date Issued: 17 October 2017

Comments

Due: 17 November 2017

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**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT  
AND  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**PURPOSE OF PUBLIC NOTICE:** To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. The U.S. Army Corps of Engineers (Corps) is not the entity proposing or performing the proposed work, nor has the Corps taken a position, in favor or against the proposed work.

**AUTHORITY:** This application will be reviewed pursuant to Section 404 of the Clean Water Act (CWA).

**APPLICANT:** Moon Real Estate Holdings, Ltd.  
2605 Lyndon B. Johnson Freeway, Suite A  
Dallas, Texas 75234  
Telephone: 214-352-5003  
POC: Mr. Daniel Moon

**AGENT:** Kimley-Horn and Associates, Inc.  
12750 Merit Drive, Suite 1000  
Dallas, Texas 75251  
Telephone: 972-776-1733  
POC: Mr. Larry Clendenen

**LOCATION:** The project site is located beneath Harpers Horsepen Branch and within wetlands and open water features adjacent to and neighboring Harpers Horsepen Branch, south of Texas 242 and east of Interstate 45, near the City of Shenandoah, in Montgomery County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Tamina, Texas.

**LATITUDE & LONGITUDE (NAD 83):**

Latitude: 30.195° North;

Longitude: -95.448° West

**PROJECT DESCRIPTION:** The applicant proposes to permanently discharge 150,000 cubic yards of fill material into 16.85 acres of emergent wetlands, 0.13 acre of linear emergent wetlands, 2.88 acres of forested wetlands, and 4.30 acres of open water features to construct a mixed-use development. The applicant proposes to temporarily discharge fill material into 0.33 acres of emergent wetlands and 50 linear feet of Harpers Horsepen Branch during the open cut trench installation of an eight-foot-wide box culvert. The applicant proposes to construct a mixed-use development (MetroPark Square) which would consist of 200,000 square feet of retail space, a movie theater, a full service hotel and convention space, a limited service hotel, 900 multifamily units, and 750,000 square feet of office and medical office space. The proposed work includes the extension of David Memorial Drive and the construction of a detention facility.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by proposing to develop an area that was mostly previously disturbed. The applicant has stated they have avoided impacts to 5.17 acres of emergent wetlands and 0.27 acres of forested wetlands within the project boundaries, and 1,270 linear feet of Harpers Horsepen Branch by constructing a bridge for David Memorial Drive. The applicant has further avoided impacts to an adjacent preserved mitigation area, Department of the Army Permit SWG-2007-00737, by restricting construction of the associated detention within the 5-acre tract excepted from 160-acre mitigation area.

**MITIGATION:** The applicant is proposing to mitigate for the unavoidable loss of aquatic functions and values that would result from the proposed work through an offsite, Permittee Responsible mitigation at a 28.80-acre tract of land situated adjacent to the Houston-Conroe Mitigation Bank and pending Tarkington Bayou Mitigation Bank. The mitigation activities include protecting the entire 28.80-acre tract with an executed conservation easement held by an accredited land trust, establishing 17.72 acres of wetlands consisting of 2.28 acres of herbaceous wetlands, 12.95 acres of scrub/shrub wetlands, and 1.95 acres of forested wetlands, and enhancing 11.08 acre of upland buffer and inclusions within and around the established wetlands to protect and enhance wetland functions within the mitigation area tract. The applicant's mitigation plan is enclosed, Attachment B, in 38 sheets.

**CURRENT SITE CONDITIONS:** The western portion of the project site is developed as mixed-use, including a sports facility, and retail shopping center. A golf course was likely constructed within the northeastern portion of the project site sometime after 1996 and before 2004. The majority of the golf course has since been abandoned with only a portion of the course now used as a driving range. Aquatic features are located on the project site. The aquatic features include, open water, forested wetlands, emergent wetlands, and a perennial stream. Generally the northern, eastern, and southern portions of the project site are poorly drained and dominated by hydrophytic vegetation while the western portion of the project site is higher in landscape position and is mostly developed. The dominant wetland vegetation consists of black willow (*Salix nigra*), Chinese tallow (*Triadica sebifera*), green ash (*Fraxinus pennsylvanica*), dwarf palmetto (*Sabal minor*), broadleaf cattail (*Typha latifolia*), Pennsylvania smartweed (*Persicaria pennsylvanica*), and annual marsh elder (*Iva annua*).

The subject wetlands and waters are located in the Crystal Creek-West Fork San Jacinto River Watershed (United States Geological Survey (USGS) Hydrologic Unit Code (HUC) 1204010104) which flows into Carters Slough.

**NOTES:** This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. The applicant's plans are enclosed in 18 sheets, the applicant's Alternative Analysis is enclosed in Attachment A in 14 sheets, and the applicant's Permittee Responsible Mitigation Plan is enclosed in Attachment B in 38 sheets.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the CWA.

**OTHER AGENCY AUTHORIZATIONS:** The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management Program.

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

**NATIONAL REGISTER OF HISTORIC PLACES:** The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

An historic properties investigation was requested by the Corps and conducted within the permit area. No historic properties were identified within the survey as documented in the report titled "Archaeological Survey of the Proposed MetroPark Square Development, Montgomery County, Texas" prepared by AR Consultants, Inc., and dated January 2017. The Texas State Historic Preservation Officer concurred with the Corps' determination on March 3, 2017.

**THREATENED AND ENDANGERED SPECIES:** Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

**PUBLIC INTEREST REVIEW FACTORS:** This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Programs of the Corps, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, 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 and, in general, the needs and welfare of the people.

**SOLICITATION OF COMMENTS:** 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 the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an EIS 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.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

**PUBLIC HEARING:** The purpose of a public hearing is to solicit additional information to assist in the evaluation of the proposed project. Prior to the close of the comment period, any person may make a written request for a public hearing, setting forth the particular reasons for the request. The District Engineer will determine if the reasons identified for holding a public hearing are sufficient to warrant that a public hearing be held. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this public notice must reach this office on or before **17 November 2017**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should reference our file number, **SWG-2016-00264**, and should be submitted to:

North Unit/Evaluation Branch  
Regulatory Division, CESWG-RD-E  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3869 Phone  
409-766-6301 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS