



# **PUBLIC NOTICE**

## **APPLICATION FOR PERMIT**

**U.S. ARMY  
CORPS OF ENGINEERS  
CHICAGO DISTRICT**

**PUBLIC NOTICE/APPLICATION NUMBER: LRC-2018-00113**

**COMMENT PERIOD BEGINS:** January 8, 2025  
**COMMENT PERIOD EXPIRES:** February 7, 2025

U.S. Army Corps of Engineers

### **APPLICANT**

Troy Mertz  
Gilberts Development LLC  
340 W Butterfield Road  
Elmhurst, Illinois 60126

### **PROPOSED ACTION**

Proposal for the development of The Conservancy residential development, neighborhoods 5-11 (See attached drawings). A detailed description of this proposal is provided on page 2 of this notice.

### **LOCATION OF PROPOSED ACTION**

North of Freeman Road, West of Galligan Road, and South of Huntley Road in Gilberts, Kane County, Illinois (Latitude 42.136277, Longitude -88.376715).

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and as shown on the attached drawings. You are invited to provide your comments by **February 7, 2025** on the proposed work, which will become part of the record and will be considered in the decision. A permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344).

Written comments shall be mailed to:  
U.S. Army Corps of Engineers  
Chicago District, Regulatory Branch  
Attn: **LRC-2018-00113**, Mr. Soren Hall  
231 South LaSalle Street, Suite 1500  
Chicago, Illinois 60604-1437

It should be noted that ALL comments received by this office (via hard copy or electronic) will only be accepted with the full name and address, and email address, if available of the individual commenting, and must be received by the close of the public notice period. Electronic comments may be sent to the project manager at Soren.G.Hall@usace.army.mil.

## **PROJECT DESCRIPTION**

The project purpose is to complete a large, multi-phase residential development that began construction in 2006 with the development of the first neighborhood north of Freeman Road. The project would involve the development of a portion of a 542-acre farm and consist of seven interconnected neighborhoods. The project boundary, adjacent roadways, and aquatic resource locations are depicted on Exhibit 1.

The proposed residential project would continue the original master plan development with the construction of five hundred ninety-five (595) single-family homes, internal roadways, city sewer and water service infrastructure, stormwater management, and open space areas:

- Neighborhood 5: 100 Single Family Homes
- Neighborhood 6: 75 Single Family Homes
- Neighborhood 7: 100 Single Family Homes
- Neighborhood 8: 136 Single Family Homes
- Neighborhood 9: 89 Single Family Homes
- Neighborhood 10: 34 Single Family Homes
- Neighborhood 11: 61 Single Family Homes

Aquatic resource impacts would primarily result from the proposed roadway connecting the neighborhoods. The development layout and resource impacts are depicted on Exhibits 2-5. The proposed project would result in filling 1.85-acres of jurisdictional wetland and 0.20-acres of tributary. Additionally, 0.40-acres of temporary impact would result from the installation of a water main. This impact area will be restored to pre-construction grades and re-vegetated. Individual resource impacts are listed on page 3 of this notice.

Wetlands and waters will be partially impacted. The majority of the resources will remain and are considered viable. Additional analysis will be conducted to assess indirect or secondary impacts. A detailed vegetation assessment was conducted for all wetlands. No wetland met the criteria of a high quality aquatic resource based on findings of this assessment.

The proposed stormwater management basins would be constructed to handle stormwater (from development run-off) and compensatory storage (to capture flood waters) from the project. The basins are partially open water but would have a native planting application that replicates wetland and prairie functions such as infiltration, flood mitigation, and water quality improvement. The basins would be near wetlands and would increase the amount of open space and habitat within and around the wetland complex. The basin locations were also designed to provide separation from the residents and the protected/preserved wetlands.

Site	Type of Impact	Wetland Impact Permanent/ Temporary	Requested Impact Acreage	Mitigation Ratio	Mitigation required	Preserved Wetland Acreage	Kane County Buffer Width (ft)	Required Buffer acreage	Provided Buffer acreage
Wetland 2	No Impact	N/A	N/A	N/A	N/A	16.32	50	2.91	6.94
Wetland 3	No Impact	N/A	N/A	N/A	N/A	0.47	50	N/A	N/A
Wetland 6	Roadway	Permanent	0.94	1.5:1	1.41	27.42	50	3.78	5.76
Wetland 6A	Roadway	Permanent					50	0.97	1.41
Wetland 8	Roadway	Permanent	0.02	1.5:1	0.03	53.97	50	6.8	11.04
Wetland 8A	Detention Basin	Permanent	0.27	N/A	N/A	7.82	50	0.6	0.8
Wetland 9	Detention Basin	Permanent	0.1	1.5:1	0.15	17.12	50	3.96	9.97
Wetland 10	No Impact	N/A	N/A	N/A	N/A	0.91	30	1.19	2.88
Wetland 11A	Detention basin	Permanent	0.36	1.5:1	0.54	N/A	50	N/A	N/A
Wetland 12	No Impact	N/A	N/A	N/A	N/A	0.61	50	0.77	2.1
Wetland 13	Roadway	Permanent	0.16	1.5:1	0.24	N/A	50	N/A	N/A
Wetland 17	No Impact	N/A	N/A	N/A	N/A	10.58	50	1.41	2.84
Wetland 18	No Impact	N/A	N/A	N/A	N/A	0.33	50	0.52	0.92
Wetland 19	No Impact	N/A	N/A	N/A	N/A	2.88	50	2.59	6.27
			1.83		2.37	138.43		25.5	50.93

USACE WATERS OF THE US IMPACT SUMMARY	
WOUS LABEL	PERMANENT IMPACT (AC)
TRIBUTARY C (DITCH 1)	0.18
TRIBUTARY D (DITCH 3)	0.10
TOTAL	0.28

## AVOIDANCE & MINIMIZATION

The applicant has stated the following concerning avoidance and minimization of impacts to Waters of the United States. The Corps has not verified the adequacy of the avoidance and minimization measures at this time: A series of large jurisdictional emergent wetlands are found within the development amounting to 153-acres. The proposed development avoids 98.8% of the jurisdictional wetlands.

*Water line:* The water line resulting in 0.40-acres of temporary impact to Wetland 8 would be used to service the subdivision and possible future development to the north. This water line is part of a water distribution loop as a redundancy and for pressure balancing required by the Village of Gilberts. Wetland 8 is partially located off-site so avoidance to the wetland is not

possible. The requested temporary wetland impact will provide the closest and most direct route to the Gilberts Water Tower. Avoidance of the temporary impact is not possible.

*Julie Drive Impact at Wetlands 6 & 8:* The proposed roadway connection between neighborhoods 5 & 6 will provide connectivity for all neighborhoods from Galligan Road to Huntley-Dundee Road. This connection is critical to regional traffic patterns and has been discussed at length with the local division of transportation. The location of the roadway was chosen because it is located in a natural separation between Wetlands 6 & 8. The approved wetland boundary identifies a small bump out from the north boundary of wetland 6 along with a little drainage conveyance ditch from a small pocket wetland south of Wetland 8. The proposed roadway bends in between the wetlands to minimize the impact while providing the necessary roadway cross-section and safe grading transitions required by the Village of Gilberts and other governing bodies. Any modification of the requested roadway alignment will result in a larger wetland impact to either wetland 6 or wetland 8.

*Julie Drive Impact at Wetland 6:* Due to roadway geometry requirements, including minimum centerline radii for traffic visibility and safety, the placement and radius of Julie Drive is fixed. The configuration of the two Colorado Court and Julie Drive intersections have been laid out in a way that meets the requirements for safety and efficiency for the transport of all vehicles (pedestrian vehicles, school buses, garbage and fire trucks, and snow plows).

*Julie Drive Crossing at Ditch 3:* To provide connectivity between neighborhoods, a crossing of Ditch 3 (Trib A) is required. Beyond the regional traffic connectivity goals mentioned above, the Village of Gilberts and local fire districts expressed that it was critical to have multiple points of emergency access to the neighborhoods. This includes having access to the neighborhoods from both Galligan Road and Huntley-Dundee Road. The proposed crossing is located at a narrow point of the ditch ensuring the shortest crossing distance and aiming to minimize wetland impacts. Due to the existing environmental resources (wetland 6, 8, 12, Ditch 3 & Kishwaukee River), options for alternative cross-connections and secondary emergency accesses are not available.

*Julie Drive Crossing at Ditch 1:* As above, to provide connectivity between neighborhoods, a crossing of Ditch 1 (Trib C) is required. Similarly, the proposed crossing is located at a narrow point of the ditch ensuring the shortest crossing distance and aiming to minimize impacts. The Julie Drive crossing provides a second point of access and/or emergency access to Neighborhood 10 if Bridges Boulevard is blocked or inaccessible.

## **MITIGATION**

The applicant has stated the following concerning compensatory mitigation for unavoidable impacts to Waters of the United States:

The preferred method for wetland mitigation is off-site wetland mitigation purchase within USACE Approved Wetland Mitigation. MEI has spoken with two wetland mitigation bankers (Land & Water Resources & V3 Companies) that will have sufficient credits for purchase sometime in 2025. The requested permanent wetland impact for the development is 1.83-acres.

The mitigation ratio is as follows: 1.83-acre @ 1.5:1 = 2.75-acres of off-site wetland mitigation purchase.

The Corps has not verified the adequacy of this mitigation proposal at this time and will make the final determination on whether the proposed mitigation is appropriate and practicable in accordance with 33 CFR Part 332.

## **REGULATORY AUTHORITY**

This proposed action will be reviewed according to the provisions of Section 404 of the Clean Water Act of 1972.

## **JURISDICTION**

This application will be reviewed according to the provisions of Section 404 of the Clean Water Act of 1972 due to placement of fill in wetlands and waters. An approved jurisdictional determination was previously completed that found the resources proposed to be impacted as jurisdictional due to their connection to the Kishwaukee River, a tributary to the Rock River.

## **EVALUATION FACTORS**

The decision whether to issue a permit will be based on an evaluation of probable impact 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 benefit 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 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, considerations of property ownership and, in general, the needs and welfare of the people. In addition, if the proposed activity involves the discharge of dredged or fill material into waters of the United States, the evaluation of the impact on the public interest will include application of Section 404(b)(1) guidelines (40 CFR 230) promulgated by the U.S. Environmental Protection Agency.

The Corps of Engineers is also soliciting comments from the public, Federal, state and local agencies, Indian tribes, and other interested parties in order to consider and evaluate the potential impacts of the proposed activity. Once this office completes a review of the comments received, it will be determined whether to issue, modify, condition, or deny a permit for this proposal.

To prepare this decision, comments are taken into consideration to assess impacts on the public interest factors listed above, as well as endangered species, historic properties, water quality, and general environmental effects. Comments will be used in the preparation of an Environmental Assessment and/or Environmental Impact Statement pursuant to the National Environmental Policy Act. A determination concerning the need for a public hearing will also be based on the comments received.

## **PRELIMINARY EVALUATION OF SELECTED FACTORS**

### **WATER QUALITY:**

The applicant has applied to the Illinois Environmental Protection Agency (IEPA) for water quality certification, or waiver thereof, for the proposed activity in accordance with Section 401 of the Clean Water Act. Certification or waiver indicates that the IEPA believes the activity will not violate applicable water quality standards. The review by the IEPA is conducted in accordance with the Illinois water quality standards under 35 Illinois Administrative Code Subtitle C by providing an antidegradation assessment, which includes an evaluation of alternatives to any proposed increase in pollutant loading that may result from this activity.

The "Fact Sheet" containing the antidegradation assessment for this proposed project may be found on the IEPA's web site, at <https://www2.illinois.gov/epa/public-notices/Pages/section-401-notices.aspx>. In the event that the IEPA is unable to publish the "Fact Sheet" corresponding to the timeframe of this Joint Public Notice, a separate public notice and "Fact Sheet" will be published by the IEPA at the web site identified above. You may also obtain a copy of the "Fact Sheet" by contacting the IEPA at the address or telephone number shown below.

Written comments concerning possible impacts to water quality should be addressed to the following agency, along with a copy of the comments provided to the Corps of Engineers:

Illinois Environmental Protection Agency  
Bureau of Water  
Watershed Management Section  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

If you have any questions please contact the IEPA at (217) 782-3362.

### **DEPARTMENT OF NATURAL RESOURCES:**

The applicant may have to submit an application to the Illinois Department of Natural Resources, Office of Water Resources (IDNR-OWR) for a permit pursuant to the State of Illinois Rivers, Lakes and Streams Act (615 ILCS 5). Comments concerning the IDNR-OWR permit should be addressed to the following agency, along with a copy of the comments provided to the Corps of Engineers:

Illinois Department of Natural Resources  
Office of Water Resources  
2050 West Stearns Road  
Bartlett, Illinois 60103

If you have any questions please contact the IDNR at (847) 608-3116.

### **ENDANGERED AND THREATENED SPECIES:**

The Corps of Engineers has preliminarily determined that the proposed activity would not affect any federally-listed endangered or threatened species or critical habitat for any endangered or threatened species, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). Therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act does not appear to be warranted at this time.

### **HISTORIC PROPERTIES/CULTURAL RESOURCES:**

Review of information provided indicates that the proposed activity is not likely to adversely affect any historic property which is listed, or eligible for listing, on the National Register of Historic Places. Therefore, a finding of No Potential to Effect historic properties has been made.

### **ENVIRONMENTAL IMPACT STATEMENT**

A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

### **PUBLIC HEARING**

Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing. A request for a hearing may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

It should be noted that materials submitted as part of the permit application become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Chicago District Corps of Engineers Office of Counsel.

Interested parties wishing to comment on the proposed activity must do so in writing no later than **February 7, 2025**. It is presumed that all parties receiving this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply Corps of Engineers endorsement of the project as described.

If you have any questions, please contact Mr. Soren Hall of my staff by telephone at (312) 846-5532, or email at [Soren.G.Hall@usace.army.mil](mailto:Soren.G.Hall@usace.army.mil). **It is noted that ALL comments received by this office (via hard copy or electronic) will only be accepted with the full name and address of the individual commenting.** For more information on our program, you can also visit our website at: <https://www.lrd.usace.army.mil/Wetlands-Permits/Illinois/>