



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

CESAM-RD-A
PUBLIC NOTICE NO. SAM-2015-01361-LET

December 17, 2015

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS AND
STATE OF ALABAMA
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

**REQUEST FOR AUTHORIZATION TO DISCHARGE FILL MATERIAL INTO 2.53
ACRES OF WETLANDS TO CONSTRUCT AN APARTMENT COMPLEX, ESLAVA
CREEK, MOBILE, MOBILE COUNTY, ALABAMA**

TO WHOM IT MAY CONCERN:

This District has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Please communicate this information to interested parties.

APPLICANT: **SHBP Investments, LLC**
Attention: Mr. Daniel Elcan
Post Office Box 8328
Mobile, Alabama 36689

AGENT: **Barry A. Vittor and Associates, Inc.**
Attention: Dr. Barry A. Vittor
8060 Cottage Hill Road
Mobile, Alabama 36695

WATERWAY/LOCATION: **Wetlands draining to Eslava Creek, property bounded to the north and south by South Avenue and College Lane South located between Du Rhu Drive and West Interstate 65 Service Road North, Section 37, Township 4 South, Range 2 West, Mobile, Mobile County, Alabama; Latitude 30.694000 North and Longitude -88.127111 West.**

PROJECT PURPOSE: **The project purpose is to construct a residential apartment complex.**

PROPOSED WORK: **The applicant proposes to discharge approximately 16,000 cubic yards of commercially obtained sandy-clay base fill material into 2.53 acres of low-quality hardwood forested jurisdictional wetlands on a 9.7 acre undeveloped parcel of property in order to construct an apartment complex with associated amenities. There is an approximately 0.08 acre non-jurisdictional isolated wetland pocket on the property that would also be impacted by the**

proposed development. The apartment complex development would include 252 apartment units, parking, access drives, recreational areas such as a swimming pool and landscaped gardens, facility management and maintenance offices, and stormwater management features and infrastructure as required by the City of Mobile. Impacts to wetlands on the property, consisting primarily of drainage ditching and minor filling, have been made previously in association with three, now expired, Department of the Army permits AL02-02408-B, AL04-01323-A, and SAM-2010-01549-SMZ.

AVOIDANCE AND MINIMIZATION: The applicant has indicated the selected project site was chosen based on factors including property availability, proximal access to Interstate 65 (I-65) and other existing traffic corridors, proximity to retail, entertainment, business and school establishments and services, a size of at least 8 acres, level of environmental resource impacts, and appropriate city zoning. Based on these factors there were no other properties meeting all the criteria were found to occur in the I-65 corridor between St. Stephens Road (US Highway 45) and the I-65/I-10 interchange. Although there were several available parcels of sufficient size in this area they all contained a greater acreage of wetlands and would have resulted in greater wetland impacts. An on-site alternative that would have avoided all wetlands on the site was considered, however the loss of apartment units would have made the project unfeasible, it would have limited ingress-egress to one location which likely would not meet city criteria, and would surround the wetlands by commercial and residential development ecologically isolating the wetlands. A second on-site alternative was considered that would have reduced wetland impacts to 2.10 acre; however, the loss of units would again have made the project unfeasible and would leave the remaining 0.43 acre of wetlands surrounded by development and ecologically isolated.

MITIGATION: The applicant proposes to mitigate for the loss of 2.53 acres of low quality hardwood forested wetlands through the purchase of mitigation bank credits from the Lillian Swamp Mitigation Bank.

WATER QUALITY: The applicant has applied for certification from the State of Alabama in accordance with Section 401(a)(1) of the Clean Water Act. Upon completion of the required advertising and public comment review, a determination relative to water quality certification will be made by the Alabama Department of Environmental Management (ADEM).

HISTORIC PROPERTIES: In accordance with Section 106 of the National Historic Preservation Act and Appendix C of 33 CFR 325, the undertaking defined in this notice is being considered for the potential to affect cultural and historic

properties within the permit area. In accordance with Appendix C of 33 CFR 325, the USACE has determined that the permit area consists of the entire undertaking in waters of the United States (WOUS) and the directly associated upland impacts that are necessary to construct the features impacting WOUS. This includes approximately the northern half of the development site extending approximately 850 feet toward the south from South Avenue. The National Register of Historic Places will be consulted for properties listed in or eligible for the National Register, which are known to exist and would be affected by the proposed work. We are seeking comment from the State Historic Preservation Officer (SHPO) regarding the existence or the potential for existence of significant cultural and historic properties within the permit area. Two cultural resource surveys that encompass the northern 9.0 acres of the proposed development site have been conducted previously; however, the 0.7 acre southern portion of the property has not been previously surveyed. The SHPO has reviewed the two previous survey reports, which were assigned the review numbers AHC 02-1451 and AHC 11-0238. The SHPO concurred with the findings of those survey reports, indicating that development within the surveyed acreage would have no adverse effect on cultural resources eligible for or listed on the National Register of Historic Places. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the State Historic Preservation Officer and the U.S. Department of the Interior, National Park Service and Division of Archeological Services.

ENDANGERED SPECIES: Preliminary review of this application and the U.S. Department of the Interior List of Endangered and Threatened Wildlife and Plants indicate that the following listed endangered or threatened species have the greatest potential to exist within the 12-digit Hydrologic Unit Code (HUC 031602050101) in which the permit area is located: Wood Stork, Florida manatee, Eastern Indigo Snake, Black Pine Snake, and Alabama Red-belly turtle; furthermore, the permit agent has evaluated the site for the potential presence of Louisiana quillwort, Gopher tortoise, Red cockaded woodpecker, Black pine snake and Eastern Indigo snake. There is no designated critical habitat within the permit area. Based on consideration of the existing species evaluation information provided by the applicant and preliminary review of the application, the USACE has made a preliminary determination that the proposed activity will have “No Effect” on the identified species having potential to exist in the project area. This determination is being coordinated with the USFWS via this Public Notice for review and comment. Further coordination with the USFWS will be performed as determined to be appropriate.

COMMENTS: This public notice is being distributed to all known interested persons and serves to solicit comments from the public, Federal, State, and local agencies and officials, Indian Tribes, and other interested parties, in order to assist in developing facts on which a decision by the USACE can be based. The USACE 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 USACE 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. 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 hearings shall state with particularity, the reasons for holding a public hearing.

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. 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. 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, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production, and in general, the needs and welfare of the people. Evaluation of the probable impacts involving deposits of dredged or fill material into waters of the United States will also include the application of guidelines established by the Administrator of the U.S. Environmental Protection Agency.

Correspondence concerning this notice should refer to Public Notice Number **SAM-2015-01360-LET** and should be directed to USACE, Mobile District, Regulatory Division, Attention: Ms. Leslie E. Turney, Post Office Box 2288, Mobile, Alabama 36628-0001, with a copy furnished to the ADEM, Field Office Mobile – Coastal Section, 3664 Dauphin Street, Suite B, Mobile, Alabama 36608.

All Comments should be received no later than 30 days from the date of this Public Notice. If you have any questions concerning this publication, you may contact the project manager at (251) 694-3873 or e-mail at leslie.e.turney@usace.army.mil. Please refer to the above Public Notice Number **SAM-2015-01361-LET**.

For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil/Missions/Regulatory.aspx.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosures

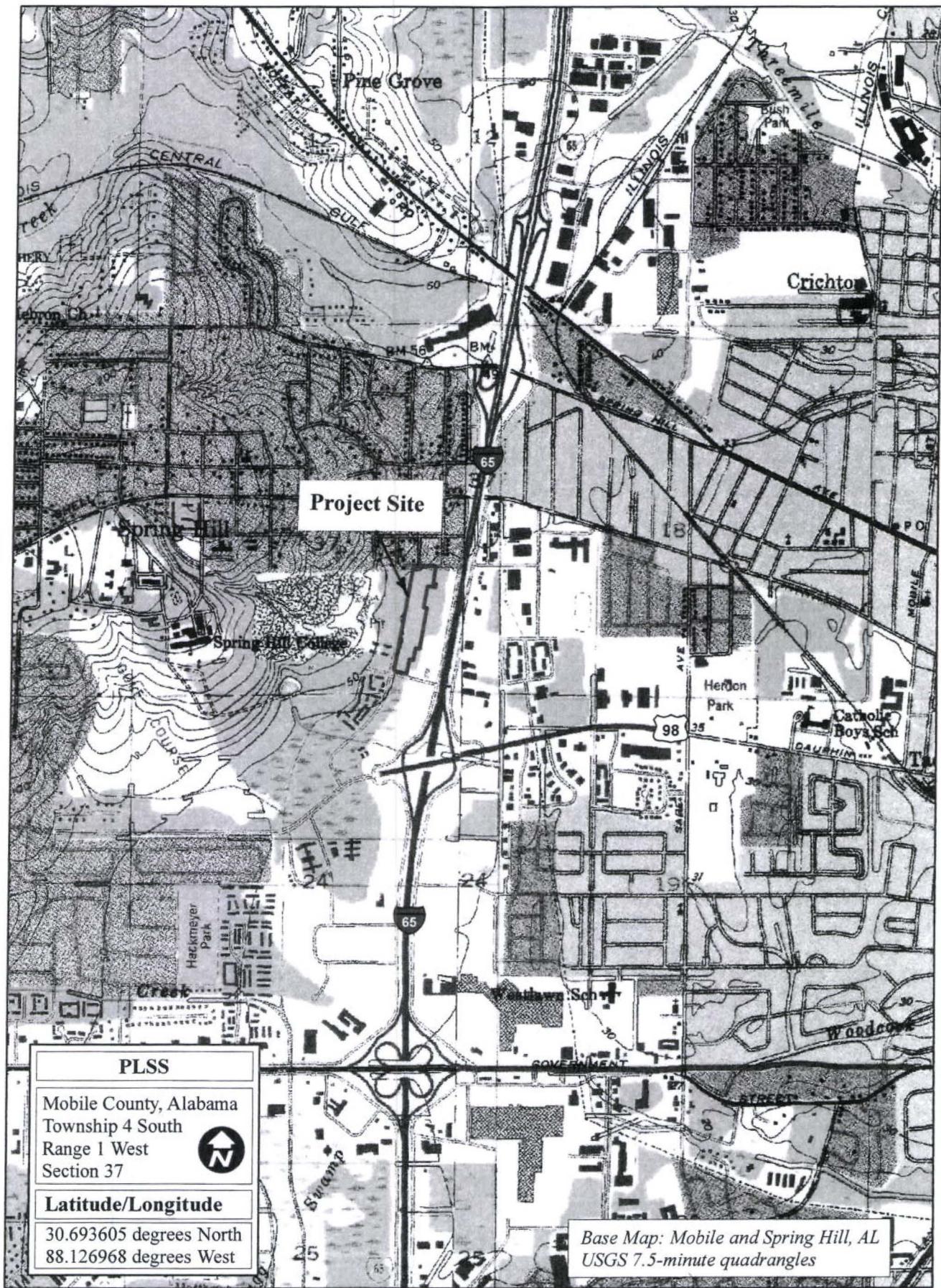


Figure 1. Project Location and Vicinity Map

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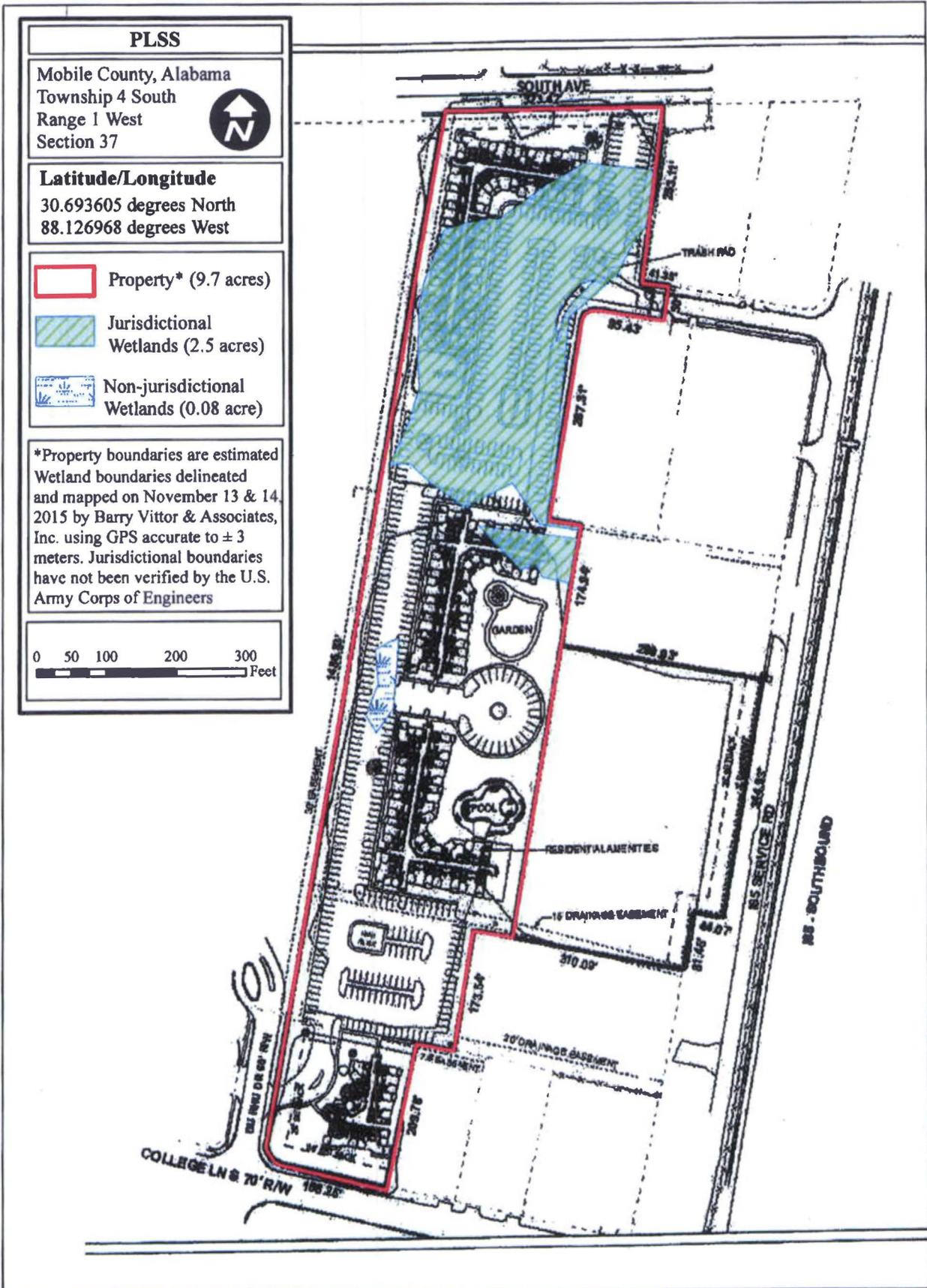


Figure 2: Proposed Site Plan and Wetland Impacts

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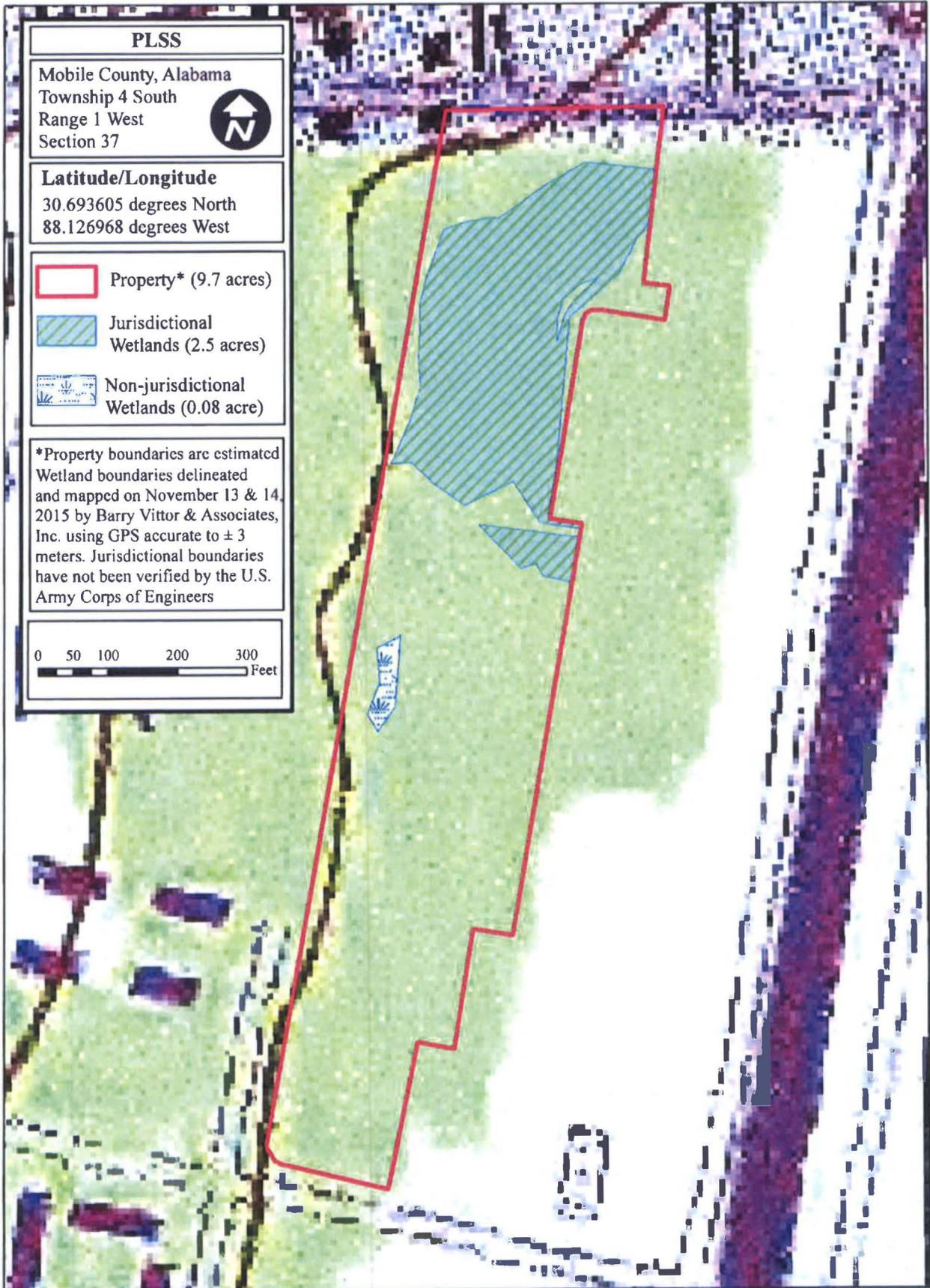


Figure 2: Wetland Map

Theodore, AL USGS Quadrangle

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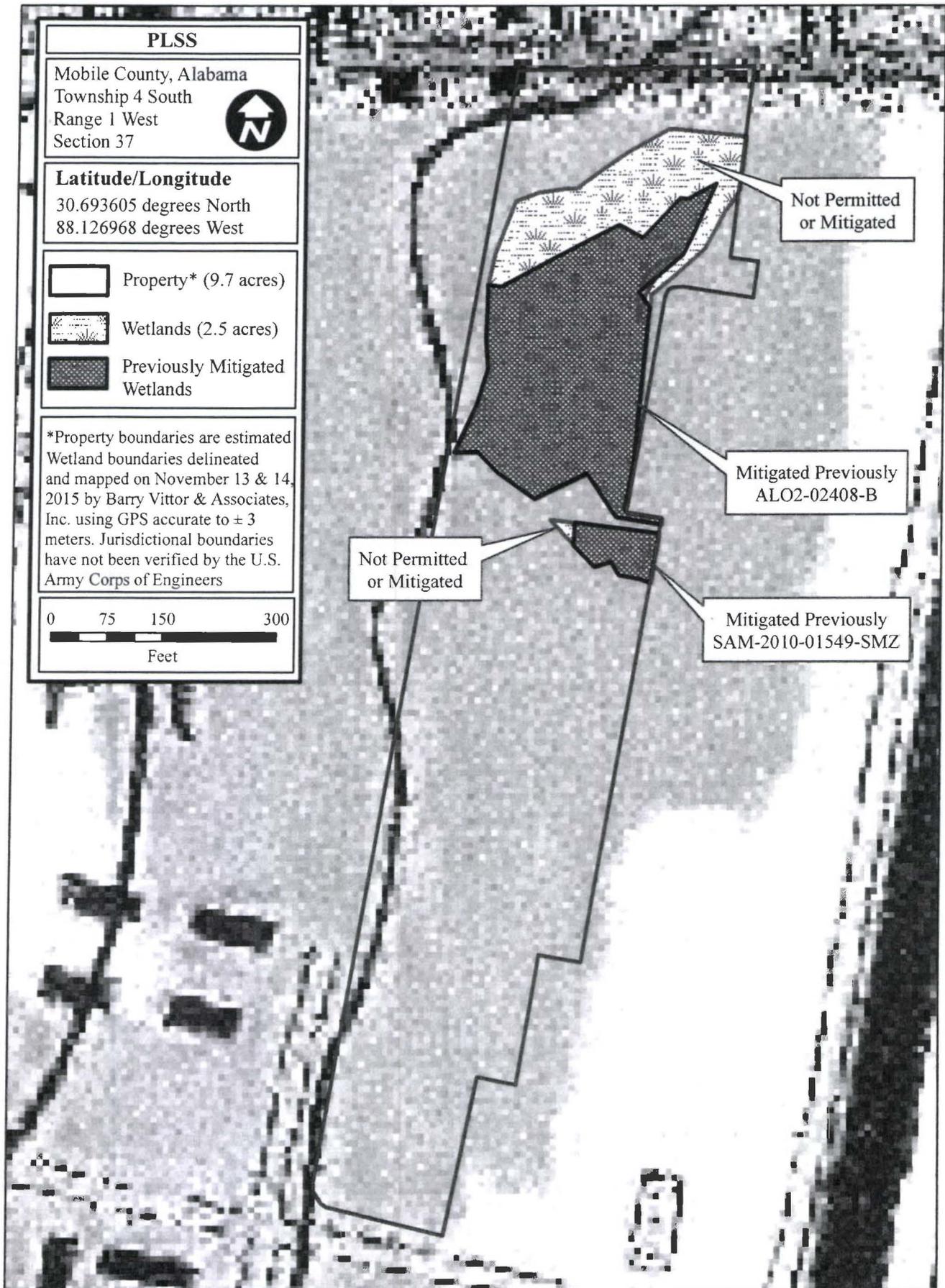


Figure 3. Depiction of Wetlands That Were Permitted and Mitigated Previously

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