



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE
CORPS OF ENGINEERS
BIRMINGHAM FIELD OFFICE
218 SUMMIT PARKWAY, SUITE 222
HOMEWOOD, ALABAMA 35209

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PUBLIC NOTICE NO.
SAM-2013-00185-CHE

April 2, 2013

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

PROPOSED RESIDENTIAL SUBDIVISION

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 USC 1344). Please communicate this information to interested parties.

APPLICANT: Signature Homes
3545 Market Street
Hoover, Alabama 35226

AGENT: Spectrum Environmental, Inc.
Attention: Mr. Steve Castleman
85 Spectrum Cove
Alabaster, Alabama 35007

LOCATION: In wetlands, unnamed streams tributary to Acton Creek, and impoundments of an unnamed creek tributary to Acton Creek commonly known as Moon Glow Lake and Lower Moon Glow Lake, at Hoover, Shelby County, Alabama (33.39965,-86.731868).

WORK: The applicant wishes to impact 1.05 acres of open waters (i.e. Moon Glow Lake and Lower Moon Glow Lake, impoundments of an unnamed stream tributary to Acton Creek), 1.68 acres of forested wetlands, 0.02 acres of spillway/ditch, and 1,911 linear feet of ephemeral streams in association with the construction of a residential subdivision.

PROJECT PURPOSE: The agent has stated that “the basic project purpose is to construct access roads and place[ment of] localized fill for construction of residential lots as well as to provide rehabilitation of an existing dam as part of an overall residential subdivision development. The project has received approval from the city of Hoover Planning and Zoning Board as well as the Hoover City Council and is consistent with surrounding land uses.”

ADDITIONAL INFORMATION: The U.S. Army Corps of Engineers (Corps) has also received a permit application for a project located immediately adjacent to this proposed project. This project is being advertized separately under public notice number SAM-2013-00351-CHE.

AVOIDANCE AND MINIMIZATION: The agent has submitted the following statement: “The Applicant originally considered two previous iterations of the planned project layout (Figures 1364097-5 and 1364097-6) before choosing the [proposed project]. During the initial plan, [Signature Homes] avoided impact to the following resources:

- 267 linear feet of Stream 1, an intermittent stream;
- 1.55 acres of the Lower Lake, an open water wetland;
- 6 acres of the Upper Lake, an open water wetland;
- 121 linear feet of Stream 8, an ephemeral stream;
- 78 linear feet of Stream 10, an ephemeral stream; and
- 50 linear feet of Stream 11, an ephemeral stream.

Subsequent revisions of the development plan resulted in further minimization of impact to resources including:

- .05 acres of the Lower Lake, an open water wetland;
- 10 linear feet of Stream 12, an ephemeral stream;
- 0.53 acres of Wetland B, a palustrine – forested wetland;
- 86 linear feet of Stream 6, an ephemeral stream;
- 136 linear feet of Stream 7, an ephemeral stream; and
- 138 linear feet of Stream 9, an ephemeral stream.”

ALTERNATIVES: The agent has provided the following statement concerning alternatives considered by the applicant: “The proposed project will require the construction of access roads off of Caldwell Mill Road, the placement of localized fill for residential lot construction and the rehabilitation of the existing dam associated with the 6+ acre Upper Lake mentioned previously. These tasks will necessitate the impact to certain resources that meet the definition of waters of the US and/or jurisdictional wetlands. In accordance with Section 404(b)(1) of the Clean Water Act, The Applicant provides the following discussion to document their Alternative Analysis. The overall project purpose is used to assess practicable alternatives for the project. For this action, the overall project purpose is defined as the completion of the planned residential development. The tasks listed below and discussed further herein require impact to jurisdictional resources and are critical to achieving the overall project purpose.

1. The construction of the access road from Caldwell Mill Road to the development;
2. The placement of localized fill for the completion of certain residential lot sites; and
3. The rehabilitation of an existing earthen dam.

The Applicant is proposing a new residential development project within Hoover, Shelby County, Alabama. The housing sector remains viable in Hoover due to the City’s commitment to education, vocational, and quality of life concerns. Recently, the city of Hoover’s Planning and

Zoning Board as well as the City Council voted to approve the proposed development presented by the Applicant. The need for this project is reflected in the fact that there is an increasing demand for housing needs in the city of Hoover as a major part of the Birmingham area residential housing market. The Alabama Center for Real Estate (ACRE) recently reported on the housing market that “homebuilders continue to increase production to keep up with steadily rising demands of new homebuyers. The ACRE states that the new construction inventory is up by 7.3% in the state from last December...” (2011). ACRE went on to report that “The year 2012 revealed the best performance for home sales in the Birmingham metro area since 2008 with a 10% increase in sales over last year.” This report also states that “The trend continues this year with January home sales beating out January 2012 by a significant margin of 15%...”. Finally, ACRE reports that inventory (of available homes) has now declined 38.9% from the peak hit in February 2008.” All of this supports the need for the planned residential development proposed by the Applicant.

The Applicant had a list of criterion it was trying to achieve when seeking property to develop in the Hoover – northern Shelby County vicinity. The site selection criteria can be described as:

1. Availability of property for sale;
2. Property of sufficient size to allow for a financially viable project;
3. Access to existing infrastructure, inclusive of transportation and utility corridors;
4. Close proximity to educational facilities, preferably the city of Hoover School System;
5. Property in which the planned use (residential) would be consistent with surrounding land use;
6. Property that would allow for conservation of natural areas; and
7. Property that has amenity potential.

The O’Neal property addresses each of these selection criterion in the following ways:

1. The O’Neal property was for sale at the time that the applicant began to search for these development opportunities;
2. The O’Neal site was of sufficient size to allow for a development footprint that met the financial pro-forma for the applicant to consider purchase;
3. The site is accessed by Caldwell Mill Road and is positioned less than 5 miles from US Interstate 65, US Interstate 459 and US Highway 280;
4. Further, the site is positioned immediately adjacent to the campuses of Berry Middle School and Spain Park High School, both part of the city of Hoover School System;
5. The subject site is bounded on the north, west, and east by existing residential developments and to the south by the Berry Middle School, therefore, the planned land use is perfectly consistent with surrounding land use;
6. The topographic lay of the O’Neal property and the length and width ratios provide ample opportunity for the applicant to engineer a development plan that includes large

percentages of natural buffer. In fact, the proposed development plan will leave more than 40% or 28 acres of land in undisturbed, natural vegetative buffer; and
7. The applicant has worked closely with its land planning consultants, architects and engineers in utilizing the existing upper lake as part of the development plan for the property. This allows the applicant to take advantage of the existing lake along with maintaining the 28 acres of undisturbed, natural buffer as neighborhood amenities.

Reviews of available properties within a reasonable radius of the subject site yielded no alternative sites for consideration that met each of the selection criteria so fully. The ability of the applicant to use the upper lake as a primary amenity and not pursuing other properties in which impacts would be sought was a key factor in choosing this site.

MITIGATION: The applicant has proposed to mitigate for non-stream impacts through the purchase of credits from a mitigation bank. The applicant has proposed to conduct on and offsite permittee responsible mitigation for proposed stream impacts. The offsite mitigation area is a portion of Little Shades Creek. See the attached drawing for more specific site location information.

WATER QUALITY: The applicant has applied for state certification in accordance with Section 401(a)(1) of the Clean Water Act, and has certified that the proposed activity complies with and will be conducted in a manner that is consistent with the State Coastal Zone Management Program. Upon completion of the required advertising and public comment review, a determination relative to consistency will be made by the Alabama Department of Environmental Management.

COMMENTS: This public notice is being distributed to all known interested persons in order to assist in developing facts on which a decision by the U.S. Army Corps of Engineers can 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. 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 use 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.

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 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.

Evaluation of the probable impacts involving deposits of dredged or fill material into waters of the United States will include the application of guidelines established by the Administrator of the U.S. Environmental Protection Agency.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known to exist which would be affected by the proposed work. The applicant has also conducted a Phase I Study, however this study has yet to be reviewed by the Alabama Historical Commission. As a result of the Phase I Study, no new archaeological sites or historic standing structures were identified. 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 that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the U.S. Department of the Interior, National Park Service, Division of Archeological Services.

The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of the ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat. The applicant has conducted an endangered and threatened species survey, and this survey has been submitted to the USFWS. After receipt of comments from this public notice, the U.S. Army Corps of Engineers will evaluate the potential impacts to proposed and/or listed species and their designated critical habitat.

In accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Corps assessed the potential impacts of the project on Essential Fish Habitat (EFH). The

Corps has determined that the proposed action will “not adversely affect” EFH. No further EFH consultation is necessary.

Correspondence concerning this Public Notice should refer to Public Notice Number listed on this document and should be directed to:

District Engineer
ATTN: Casey Ehorn
U.S. Army Engineer District, Mobile
Birmingham Field Office
218 Summit Parkway, Suite 222
Homewood, Alabama 35209

with a copy to the:

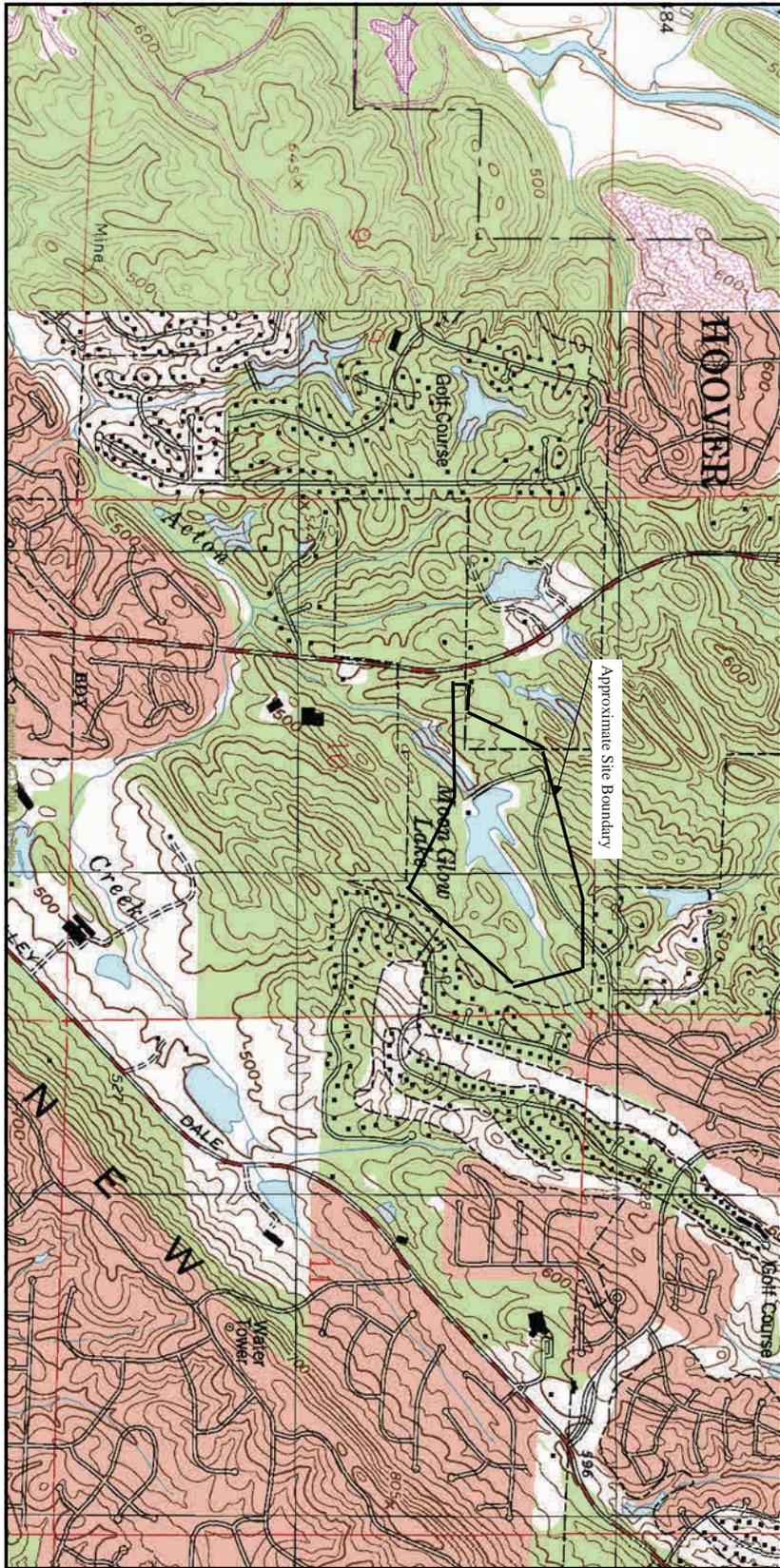
Alabama Department of Environmental Management
Field Operations Division
Office of Field Services
Post Office Box 301463
Montgomery, Alabama 36130

All comments must be sent in time to be received not later than 30 days from the date of this notice. If you have any questions concerning this publication, you may contact Mr. Casey Ehorn at telephone number (205) 290-9096 or Casey.H.Ehorn@usace.army.mil. Please refer to Public Notice number located on the first page of this document.

For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil, and please take a moment to complete our customer satisfaction survey. Your responses are appreciated and will allow us to improve our services.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosure



Taken from USGS 7.5 Min Quadrangles—Birmingham South, ALA dated 1959 (photoinsppected 1988) and Cahaba Heights, ALA dated 1998
 Scale 1" = 3,000'

NO.	DATE	REVISION DATE	BY

Drawn By:	Project #:
SPC	1364-097
Checked By:	Date:
SPC	12-04-12
Proj. Mgr.:	File Name:
	1364-097

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 www.specenviro.com

TITLE
Figure 1364097-1 Site Location and Topographic Map O'Neal Property Hoover, Shelby County, Alabama
SAM-2013-00185-CHE April 2, 2013 Sheet 1 of 6



Taken from Google earth image 9-4-2010



NO.	DATE	REVISION DATE	BY

Drawn By:	Project #:
SPC	1364-097
Checked By:	Date:
SPC	12-04-12
Proj. Mgr.:	File Name:
	1364-097

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TITLE
Figure 1364097-2 Aerial Photography Map O'Neal Property Hoover, Shelby County, Alabama SAM-2013-00185-CHE April 2, 2013 Sheet 2 of 6



Source: USGS
 Source: NASA, NGA, USGS
 © 2008 Microsoft Corp.

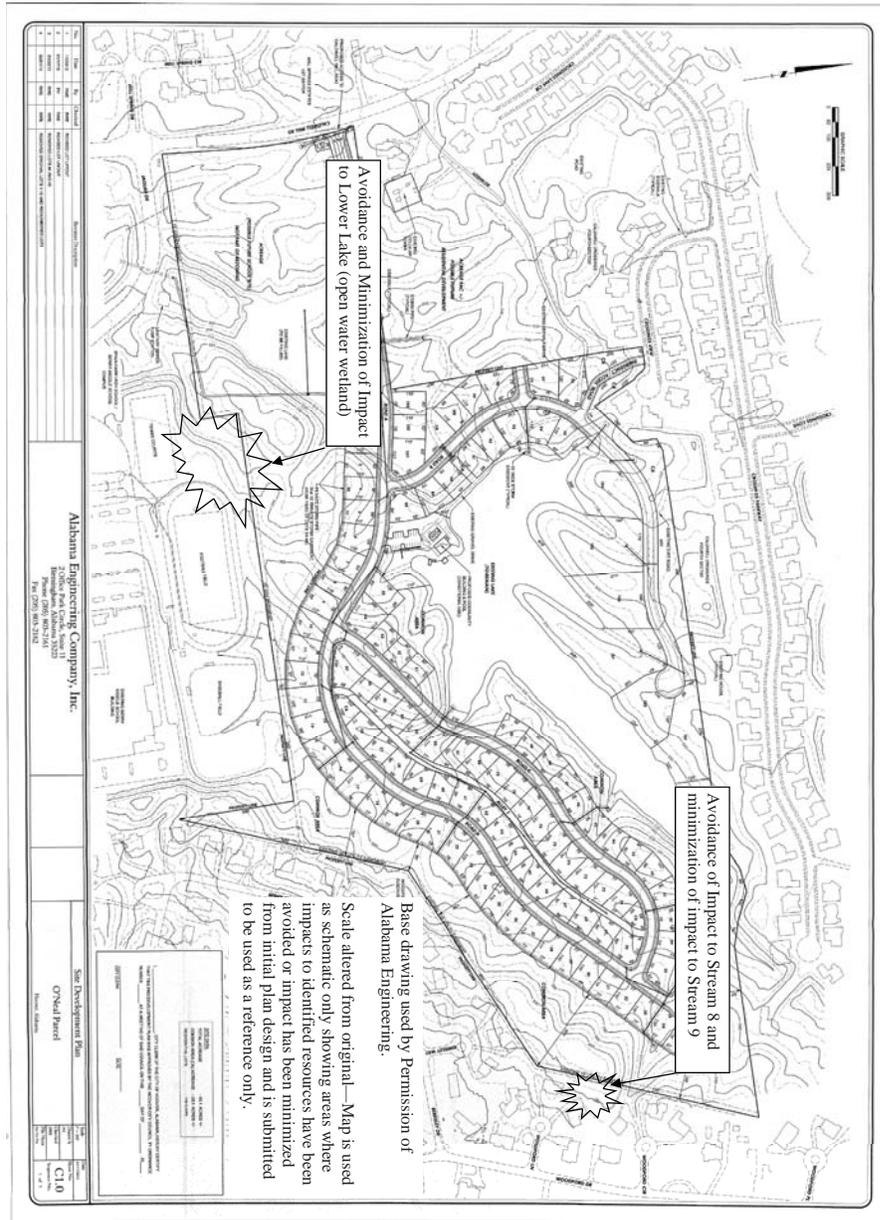
NO.	DATE	REVISION DATE	BY

Drawn By:	Project #:
	1364-097
Checked By:	Date:
	3-22-2013
Proj. Mgr.:	File Name:

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TITLE
Figure 1364097-4 Jurisdictional Delineation Map O'Neal Property Hoover, Shelby County, Alabama SAM-2013-00185-CHE April 2, 2013 Sheet 3 of 6



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Figure 1364097-6 Plan Revision 1—January 2013 Avoidance and Minimization O'Neal Property Hoover, Shelby County, Alabama
SAM-2013-00185-CHE April 2, 2013 Sheet 4 of 6



NO.	DATE	REVISION DATE	BY

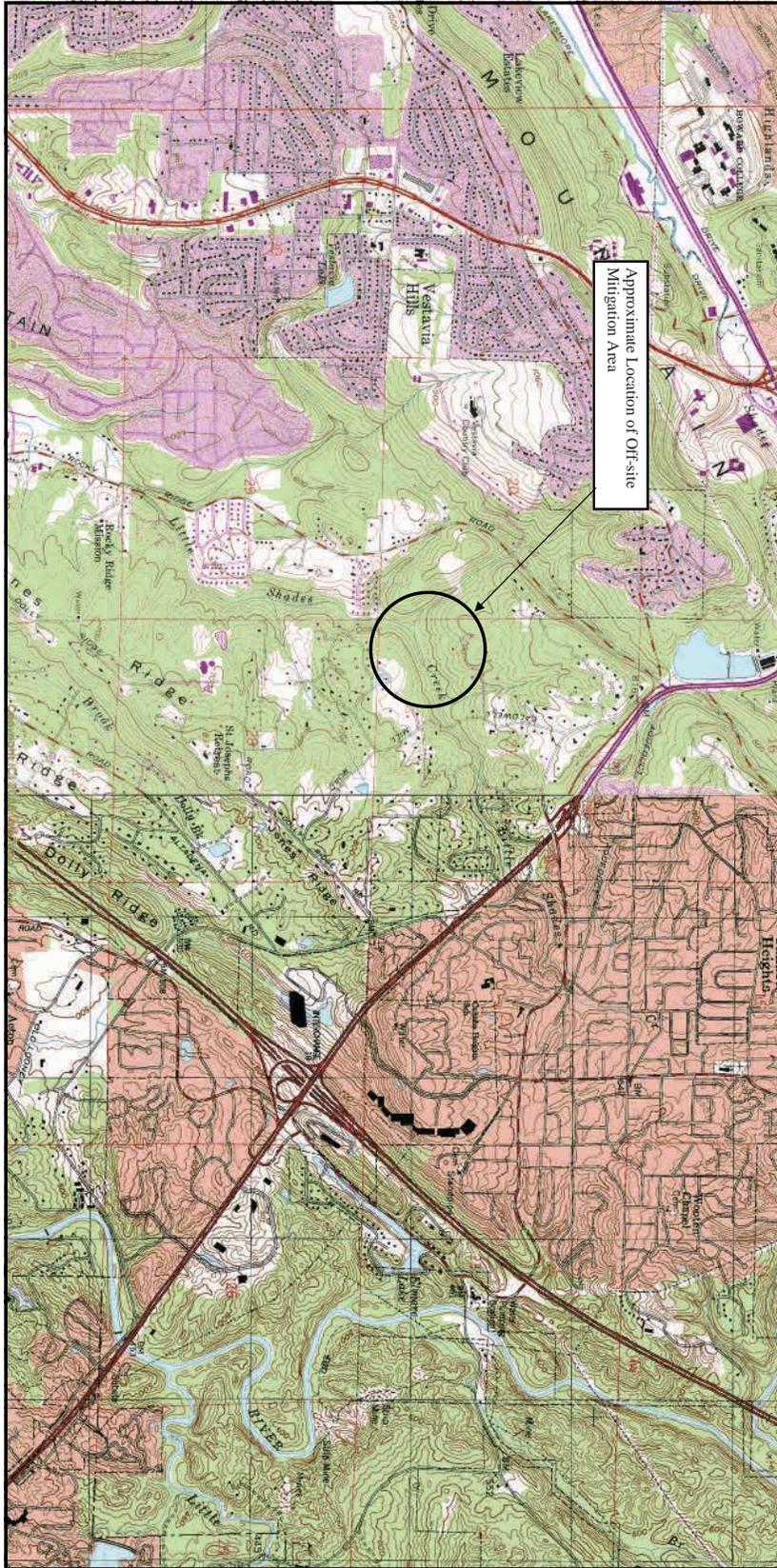
Drawn By:	Project #:
	1364-097
Checked By:	Date:
	3-22-2013
Proj. Mgr.:	File Name:

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TITLE

Figure 1364097-7
 Final Impact Map
 O'Neal Property
 Hoover, Shelby County, Alabama
SAM-2013-00185-CHE
 April 2, 2013
 Sheet 5 of 6



Taken from the USGS 7.5 Minute Quadrangles—Birmingham South, ALA (photoinspected 1988 and the Cahaba Heights, ALA (dated 1998)
 Scale 1" = 3,000'

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TITLE
Figure 1364097-8 Potential Off-Site Mitigation Area O'Neal Property Hoover, Shelby County, Alabama
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