



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

CESAM-RD-NB-M
PUBLIC NOTICE NO. SAM-2013-00644-JSC

December 27, 2013

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

REQUEST TO RETAIN UNAUTHORIZED FILL IN WATERS OF THE
UNITED STATES IN ASSOCIATION WITH A COMMERCIAL
DEVELOPMENT
IN MONTGOMERY COUNTY, ALABAMA

TO WHOM IT MAY CONCERN: This District has received an after-the-fact (ATF) application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 USC 1344). This public notice is being distributed to all known interested persons to assist in developing facts on which a decision by the Corps can be based. Please communicate this information to interested parties.

APPLICANT: J. Simmons Leasing
Attention: Mr. John Simmons
2125 Upper Wetumpka Road
Montgomery, Alabama 36107

AGENT: Spectrum Environmental
85 Spectrum Cove
Attention: Mr. Stephen P. Castleman
Alabaster, Alabama 35007

LOCATION: The subject site is approximately 40 acres in size, and is located on the Alabama River Parkway in Montgomery, Alabama. The site is further described as being located within Section 20 of Township 17 North and Range 18 East (center coordinates of Latitude 32.43229° /Longitude - 86.27447°). The property contains/contained approximately 18.36 acres (ac) of jurisdictional wetlands, and drains to an unnamed tributary of the Alabama River. The parcel can be found on the Alabama: Montgomery North USGS Quadrangle Map, and is located within the Upper Alabama River watershed (HUC 03150201).

WORK DESCRIPTION: The applicant has –without prior authorization– discharged fill material into approximately 7.36 ac of waters of the U.S. (WOUS) on the subject parcel. However, he is only seeking ATF authorization to retain fill material in 4.4 ac. WOUS, and has agreed to voluntarily restore 2.96 ac of wetlands. The referenced unauthorized (UA) discharge of fill material was conducted in association with the applicant’s development of the parcel as a mixed use commercial property.

AVOIDANCE AND MINIMIZATION: Once the applicant became aware of the UA activity on the property, he attempted to minimize further impacts to WOUS by stopping work. As previously mentioned, the applicant has also volunteered to restore approximately 2.96 ac of impacted wetlands to further minimize any adverse effects resulting from the project. The applicant has submitted a restoration plan, which is currently under review. The USACE has not verified the adequacy of the applicant’s avoidance and minimization statement at this time.

COMPENSATORY MITIGATION: Wetland credit calculations have been performed based on WRAP functional assessments. The applicant proposes to mitigate for unavoidable impacts to WOUS through the purchase of wetland mitigation credits from a USACE approved wetland mitigation bank, within the Upper Alabama River watershed, in conjunction with implementation of a permittee responsible mitigation plan (PRM). The applicant has submitted a draft PRM, which is under review. The USACE has not fully evaluated the adequacy of the applicant’s proposed compensatory mitigation at this time.

The applicant is preparing their application for certification from the State of Alabama in accordance with Section 401(a) (1) of the Clean Water Act, and upon completion of the required advertising, a determination relative to certification will be made.

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 (Corps) 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 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.

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 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 discharges of dredged or fill material into waters of the United States will include the application of the Section 404(b)(1) guidelines established by the Administrator of the U.S. Environmental Protection Agency.

A preliminary review of this application and the U.S. Department of the Interior List of Endangered and Threatened Wildlife and Plants indicate that the proposed activity will not affect listed endangered or threatened species, or their critical habitat. Copies of this notice are being sent to the U.S. Fish and Wildlife Service.

The National Register of Historic Places will be consulted for properties listed in or eligible for the National Register which would be affected by the proposed work. This review will constitute 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 project area. Copies of this notice are being sent to the State Historic Preservation Officer.

Any correspondence concerning this publication should refer to this Public Notice **SAM-2013-00644-JSC** and should be directed to the following address:

December 27, 2013

District Engineer:

U. S. Army Engineer District, Mobile
Regulatory Division, Montgomery Field Office
Attn: James S. Cherry, II
609 Maple Street
Building 1429, Room 105
Maxwell, AFB, AL 36112

with a copy to the :

Director
Alabama Department of Environmental Management
Post Office Box 301463
Montgomery, Alabama 36130-1463

All comments should be received no later than 30 **days** from the date of issuance of this Public Notice.

Enclosed to assist you with your review are: Location map; WOUS Impacts figure; Project Site Layout.

If you have any questions concerning this publication, you may contact the Project Manager via e-mail at james.s.cherry@usace.army.mil or telephone number (334) 953-2172. Please refer to the above Public Notice number.

For additional information about the Mobile District's Regulatory Program, please take a moment to visit our web site at www.sam.usace.army.mil/RD/reg, while there please take a moment to complete our customer satisfaction survey. Your responses are appreciated and will allow us to improve our services.

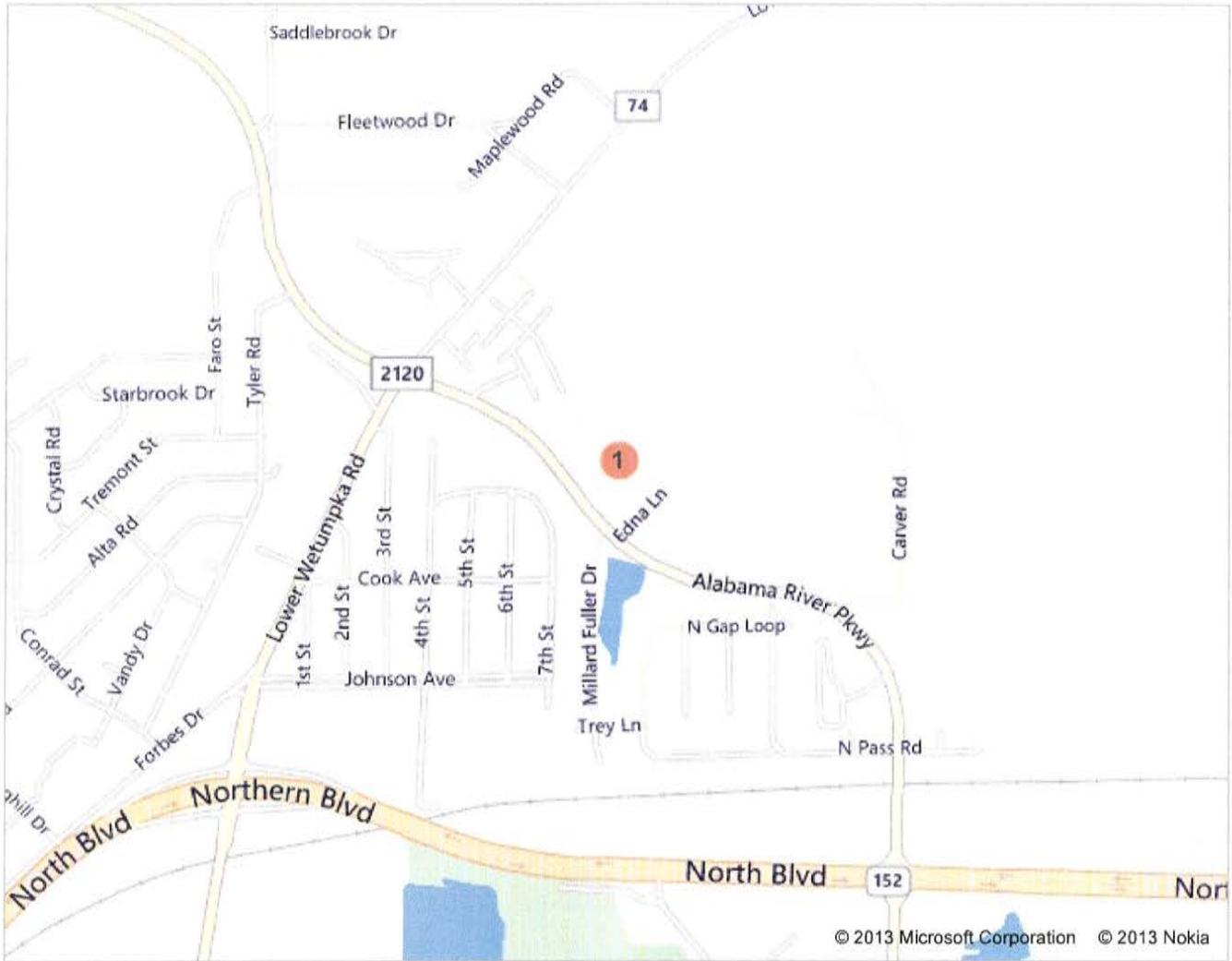
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MOBILE DISTRICT
U.S. Army Corps of Engineer

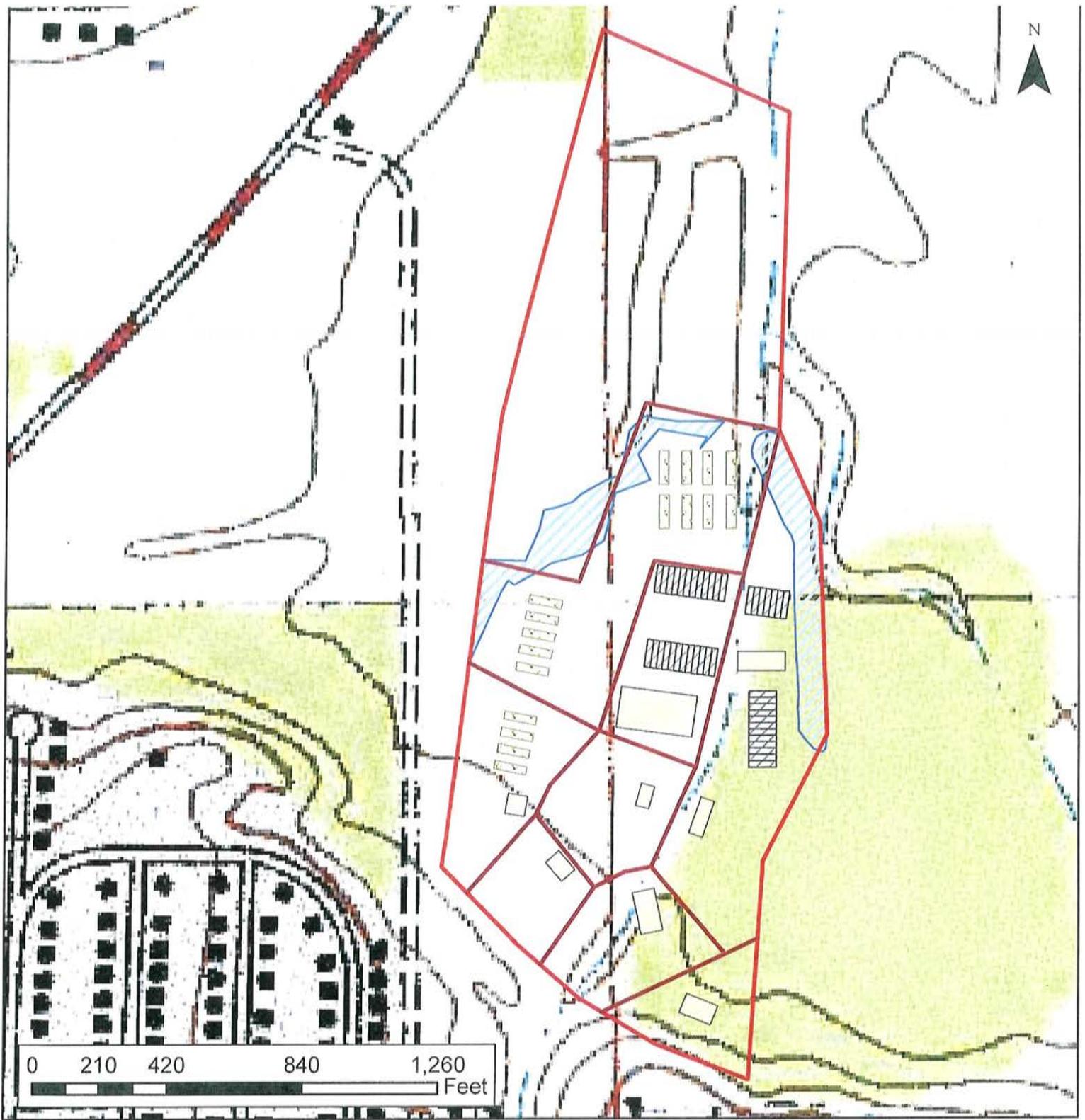


Unsaved places

- 1. SAM-2013-00644-JSC



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Legend

- Tenant Lines
- Approximate Property Boundary
- Area of Wetland (Fill to be Removed)
- Building (Existing, Current Tenant)
- Greenhouses
- Parking Lot

Figure 2662002 - 5A
 Tenant Parcel Map
 AL River Pkwy Commercial Property
 Montgomery County, AL

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