



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

Regulatory Division
Coastal Branch
SAM-2006-1987-TMZ

August 25, 2008

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF POLLUTION CONTROL

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES (MDMR)

MODIFICATION REQUEST for Wetland Fill for Construction of a Retail
and Residential Complex, on Veterans Avenue, in Biloxi, Harrison
County, Mississippi

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: RW Development
234 Caillavet Street,
Suite 100
Biloxi, Mississippi 39530

AGENT: Mr. Larry Lewis
BMI Environmental Services, LLC
521 34th Street
Gulfport, Mississippi 39507

WATERWAY: Mississippi Sound, Mississippi Coastal Drainage Basin,
Hydrologic Unit Code 03170009, Harrison County, Mississippi.
(Sections 25&36, T7S, R10W; Latitude 30.40° N, Longitude 88.95° W)

ORIGINALLY PERMITTED WORK: The applicant previously received a Department of the Army permit to discharge fill material into non-tidal jurisdictional wetlands for the purpose of constructing a 720-unit apartment complex along the west side of Veteran's Avenue. The work would have involved impacting 5.43 acres of forested bay head drain wetlands at the proposed 18.66-acre site. The applicant had proposed to avoid 1.67 acres of on-site wetlands and was to purchase the mitigation credits at a Corps-approved mitigation bank to compensate for on-site wetland impacts. The applicant has purchased the required credits from the Corps-approved mitigation

bank at the time of this modification request. None of the work previously permitted has been performed at the time of this modification request.

REASON FOR MODIFICATION REQUEST: The applicant has stated that the City of Biloxi has proposed a roadway expansion project for Veterans Avenue. The roadway project would involve the widening of Veterans Avenue by 50' to allow for additional lanes of traffic and for underground storm drainage. The applicant would be required to transfer a 25-foot wide strip of land along the western margin of Veterans Avenue to accommodate the expanded right-of-way. The loss of the 25-foot wide strip of land along the length of the permitted development would result in the loss of 0.67 acres of developable land for the apartment project which requires a change in the site plan and building configuration originally proposed.

DESCRIPTION OF WORK: The applicant proposes to construct a Retail and Residential Complex on a 20.75-acre site adjacent to Veterans Avenue in Biloxi, Harrison County, Mississippi. The site is located on the west side of Veterans Avenue between the CSX Railroad and Pass Road.

The applicant's proposed development would include fifteen (15) buildings, streets, and associated parking areas. Ten (10) of the buildings would be three (3) stories and the remaining five (5) buildings would be four (4) stories. Approximately 680 units would comprise the apartment portion of the proposed project. The applicant has proposed to construct 20,000 square feet for restaurant use, 35,000 square feet of retail space, and 30,000 square feet of general commercial facilities. The retail/commercial buildings would be located in the bottom floors of the five (5) buildings to be located along the western margin of Veterans Avenue. The upper three (3) floors of those buildings would include residential apartments. Residential apartments would also be located in the remaining ten (10), three-story buildings.

Site Description: The proposed project would be located on a 20.75 acre site. The site contains approximately 8.08 acres of forested wetlands. The on-site wetlands are located in three portions of the site. Each of the three wetland areas traverse the property from west to east in the northern, middle, and southern portions of the site.

Historically, the wetland area located in the southern portion of the site was a contiguous wetland. A portion of those wetlands have previously been disturbed for drainage purposes and approximately 1.13 acres around the existing drain are now considered upland habitat.

The Natural Resources Conservation Service (NRCS) Soil Survey for Harrison County indicates that soil types on the proposed project site are Ponzer/Smithton soils, poorly drained, Eutis loamy sand, 0 to 5% slope, well to excessively drained, and, Lakeland fine sand, well to excessively drained. Ponzer/Smithton soil is listed as hydric. Eutis and Lakeland soils are listed as non-hydric.

Vegetation located in the wetland sites include sweetbay magnolia (*Magnolia virginiana*), black gum (*Nyssa sylvatica*), and water oak (*Quercus nigra*).

Alternatives Analysis/Mitigation:

Alternative Designs: The applicant considered alternative project configurations for the proposed site. The original development plan proposed five (5) large buildings a maximum of three (3) stories high. The revised plan proposes to use fifteen (15) buildings that have a smaller footprint, but provide for more space because the number of stories per building have been increase for five (5) of the fifteen (15) buildings. Developing the site using "high-rise" buildings which provide the same number of units as the "mid-rise" buildings proposed for this project was considered. By using "high-rise" buildings the foot print of the buildings could be reduced and the area of impacts to wetland would be reduced. While this design alternative would reduce the building footprint, there would still be a need to encroach on the wetlands for building sitting and parking. The cost of construction for a "high-rise" complex versus a "mid-rise" complex is significantly higher and the per-unit cost would increase to a level that is not considered affordable for the target market by the applicant.

Alternative Sites: The applicant reviewed alternative sites within a one (1) mile radius of the subject site:

North: Alternative sites north of the proposed site are either small residential or small commercial properties. Also, a major portion of the area north of the subject site is occupied by Veterans Administration Hospital and Keesler Air Force Base/Keesler Air Force Base Housing.

South: The applicant has several parcels of land south of the subject site. The properties are zoned for multi-family development; however, the parcels are small. Because of the location of the property in proximity to the sand beach the applicant states that the land values and construction costs for an apartment complex are extremely high. The applicant considers that construction of a retail/residential project on the property south

of the subject site is not feasible due to the cost that would be involved.

East: The applicant evaluated alternative sites east of the proposed site. The property east of the proposed site is either developed as residential property or it is occupied by Keesler Air Force Base.

West: The applicant examined parcels west of the subject site. The only large tract suitable for this project is former President Broadwater Casino Resort and Golf Course property. The applicant stated that the property is currently being planned as major development for condominiums, hotels, and casinos; therefore, not available for this project.

Mitigation Plan: Approximately 1.13 acres of on-site uplands located around a drainage area were historically wetlands. The applicant has proposed to restore the 1.13 acres of on-site uplands to wetland habitat. The upland acreage proposed for restoration surrounds a 0.3 acre low-quality wetland drain. The applicant proposes to enhance the features of the wetland drain. The total acreage for restoration and enhancement would be 1.43 acres on-site. A mitigation covenant would be placed on the 1.43 acres of on-site wetlands.

The applicant proposes to compensate for additional wetland credits required for requested wetland impacts by purchasing the appropriate number of mitigation credits from a Corps-approved mitigation bank.

STATE WATER QUALITY PERMIT: The applicant has applied for certification from the State of Mississippi 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.

STATE COASTAL ZONE CONSISTENCY: The applicant has certified that the proposed activity complies with and would be conducted in a manner that is consistent with the State Coastal Zone Management Program. A determination relative to consistency will be made by the MDMR.

CULTURAL RESOURCES: 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. 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 State Historic Preservation Officer (SHPO) and the U.S. Department of the Interior, National Park Service, 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 proposed activity will not affect listed endangered or threatened species, or their critical habitat. The National Marine Fisheries Service requires the evaluation of impacts to Essential Fish Habitat of estuarine species.

PUBLIC INVOLVEMENT: 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 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.

Correspondence concerning this Public Notice should refer to Public Notice Number SAM-2006-1987-TMZ and should be directed to the District Engineer, U.S. Army Engineer District, Mobile, Post Office Box 2288, Mobile, Alabama 36628-0001, Attention: Coastal Branch, with a copy to the Mississippi Department of Environmental Quality, Office of Pollution Control, Post Office Box 10385, Jackson, Mississippi 39289, and the Mississippi Department of Marine Resources, 1141 Bayview Avenue, Suite 101, Biloxi, Mississippi 39530, in time to be received within 15 days of the date of this public notice.

If you have any questions concerning this publication, you may contact this office, Kaaren M. Neumann (kaaren.m.neumann@usace.army.mil), telephone number (228) 523-4024. Please refer to the above Public Notice number.

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

MOBILE DISTRICT
U.S. Army Corps of Engineers

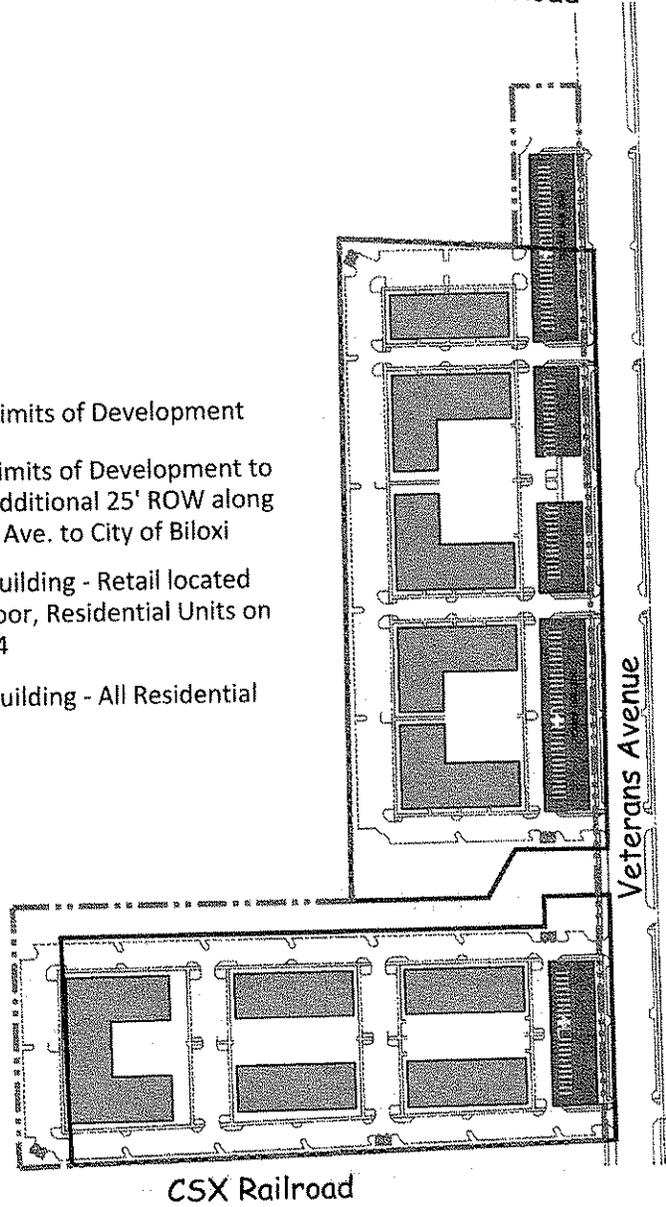
Enclosures



SCALE: 1"=300'

Pass Road

- Original Limits of Development
- - - - Revised Limits of Development to provide additional 25' ROW along Veterans Ave. to City of Biloxi
-  4 Story Building - Retail located on 1st Floor, Residential Units on Floors 2-4
-  3 Story Building - All Residential Units



Proposed Development - Modified Project
 Proposed Mixed Use Complex
 Veterans Avenue
 Biloxi, Mississippi

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BMI Environmental Services, LLC
Environmental Consultants

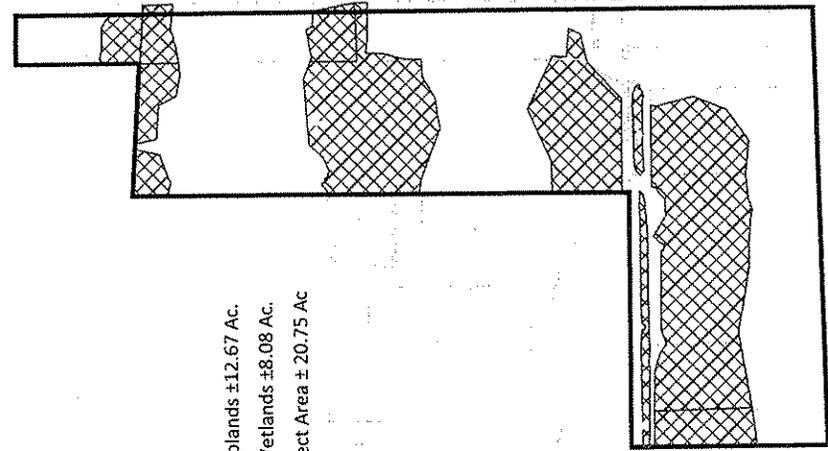
August 2008

SAM-2006-1987-TMZ
 RW Development



SCALE: 1"=400'

Pass Road

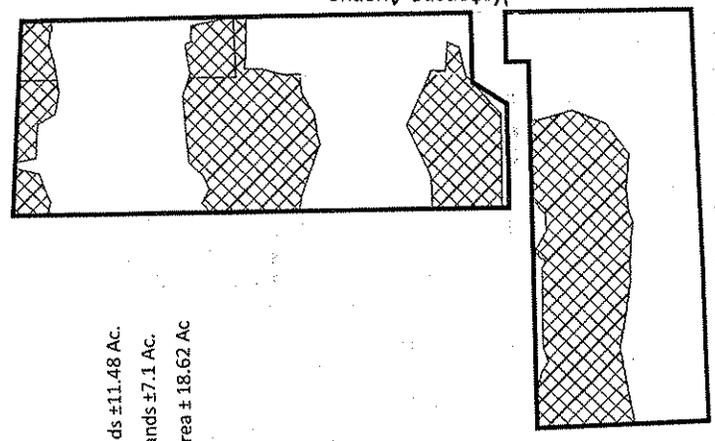


CSX Railroad

Wetland Delineation - Modified Project
Proposed Mixed Use Complex
Veterans Avenue
Biloxi, Mississippi

July 2008

Pass Road



CSX Railroad

Wetland Delineation - Original Project
Proposed Apartment Complex
Veterans Avenue
Biloxi, Mississippi

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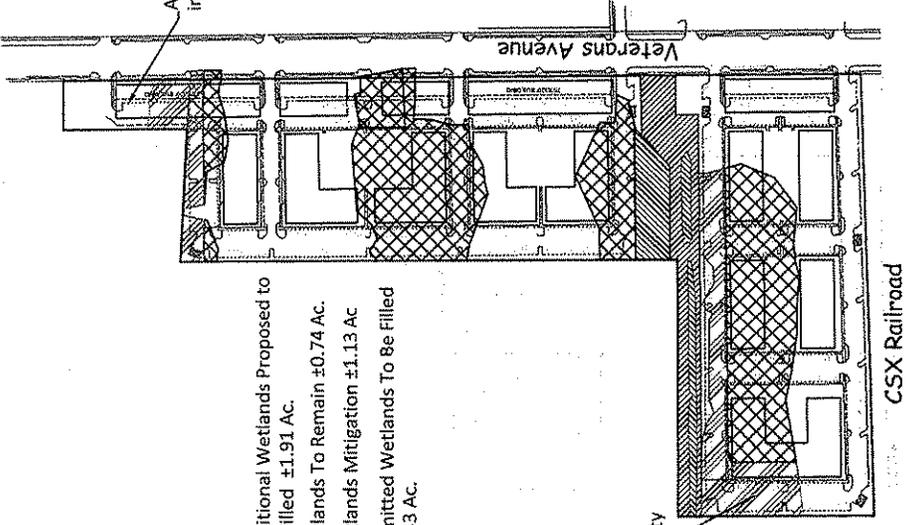
B **M** **BMI Environmental Services, LLC**

Environmental Consultants



SCALE: 1"=400'

Pass Road

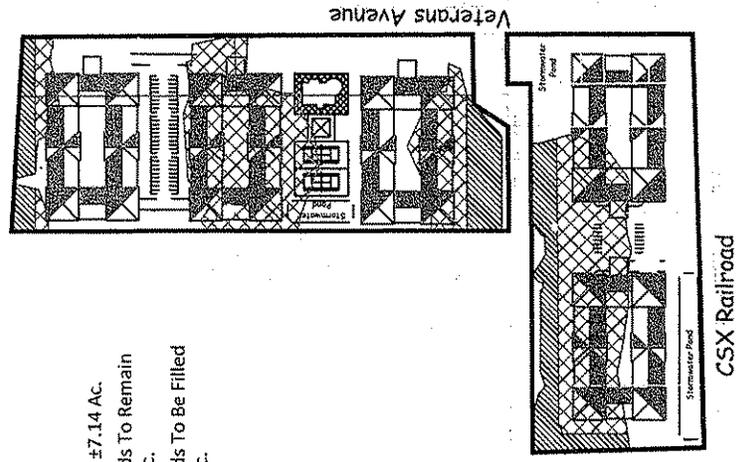


- Additional Wetlands Proposed to be Filled ±1.91 Ac.
- Wetlands To Remain ±0.74 Ac.
- Wetlands Mitigation ±1.13 Ac
- Permitted Wetlands To Be Filled ±5.43 Ac.

Additional property not included in original project

CSX Railroad

Pass Road



- Total Wetlands ±7.14 Ac.
- Wetlands To Remain ±1.71 Ac.
- Wetlands To Be Filled ±5.43 Ac.

CSX Railroad

Proposed Wetland Impacts - Modified Project
 Proposed Mixed Use Complex
 Veterans Avenue
 Biloxi, Mississippi

Permitted Wetland Impacts - Original Project
 Proposed Apartment Complex
 Veterans Avenue
 Biloxi, Mississippi

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July 2008

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