



REPLY TO
ATTENTION OF:

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

CESAM-RD-M
PUBLIC NOTICE NO. SAM-2014-00508-DMY

September 2, 2014

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF POLLUTION CONTROL

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PROPOSED IMPACTS FOR A COMMERCIAL DEVELOPMENT,
ON A TRIBUTARY TO PARKER CREEK,
ALONG SHRINERS BOULEVARD, 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. Please communicate this information to interested parties.

APPLICANT: **KBM Commercial Properties, LLC**
Attention: **Mr. K. D. Moore**
1550 Highway 126
Bristol, Tennessee 37620

AGENT: **D. R. Sanders and Associates**
Attention: **Dr. Dana R. Sanders, Sr.**
4017 Lake Wilma Road
Moss Point, Mississippi 39562

LOCATION OF WORK AND WATERWAY: The proposed project site is located on a 70.4-acre tract at the southeast intersection of Shriners Boulevard (formerly Highway 67) and Woolmarket Road in the north Biloxi area, approximately a quarter mile north of Interstate 10 (I-10). The project site crosses a tributary to Parkers Creek, Section 2, Township 7 South, Range 10 West, Biloxi, Harrison County, Mississippi (Latitude 30° 28' 06" North, Longitude 88° 58' 04" West).

PROJECT PURPOSE: The basic project purpose of the proposed development is the construction of a commercial development, "The Retail Center", which consists of upscale retail shops, large, national, name-brand box stores, including a prominent chain of recreational stores, restaurants, banks, hotels, cinemas and several outparcels. The U.S. Army Corps of Engineers (Corps) has initially determined this project to be non-water dependent. Additional coordination will be performed with cooperating Federal and State agencies.

EXISTING CONDITIONS: The project is sited on a 71.4-acre tract situated at the southeast intersection of Shriners Boulevard (formally named Highway 67) and Woolmarket Road approximately a quarter mile north of I-10. According to the agent, the site was clear-cut approximately 2 to 3 years previously, with most standing timber removed except for the hardwoods along wet drainages (Figure 1).

The area around the property consists primarily of moderately high-volume roads on the west and north side. A large auto salvage company occupies the area east of the property, and low-density residential and light industrial businesses are south of the property. The majority of trees on the 71.4-acre tract, especially the portion that would qualify as overgrown wet pine savanna, have been removed within the past 5 years. The site has three utility lines, two of which are gas pipelines, the other is a high intensity electricity transmission line. The project has been designed to avoid these features except for streets, parking lots, detention basins, and green space. There is a gravel driveway that originates on Woolmarket Road and extends south to an old house site.

ALTERNATIVES: Alternative sites were evaluated. The applicant states the proposed preferred site is the only property available that meets the required criteria for the project location. Selection criteria for the location of the preferred alternative was based upon the size of the property, target client population, location, accessibility, traffic, environmental, cultural, site availability and costs. On-site alternatives were considered for environmental concerns; available parking requirements, available retail space and costs.

PROPOSED WORK: The total area of wetlands on the proposed project area is approximated at 51.3 acres, of which approximately 48.8 acres are proposed to be filled by the applicant. This total discharge of fill material will impact 43.1 acres of low quality wet pine savanna wetlands and 5.7 acres of medium quality bottomland hardwood wetlands (Figure 2). The proposed impacts to wetlands are to involve fill associated with the construction of streets and utilities, along with the construction of the various buildings, more than 2,500 parking stalls and a sufficient number of detention ponds to account for the post construction surface run-off from the site. Details regarding detention ponds are proposed for coordination with cooperating Federal and State agencies. Outflow from detention basins is proposed to be directed to the southeast into a natural drain generally having a southeasterly to easterly flow into Parkers Creek (Figure 3).

In addition, approximately 750 linear feet of drain located on the property is proposed to be realigned to the east to accommodate the eastern-most buildings, along with the circular street around the perimeter of the project. A typical modified creek cross-section shows the bottom elevation will be 8 feet with fill material being placed to a top elevation of 18 feet. Side slopes would be at a 4:1 slope, according to the agent. The bottom width would be 50 feet and the top width 130 feet (Figure 4).

AVOIDANCE & MINIMIZATION: The plan view of the project shows that impacts to wet pine savanna wetlands are unavoidable for this project. No other configuration could be offered that would result in fewer wetland impacts without reducing the scope of the project, which cannot be justified economically. A majority of the bottomland hardwood wetlands within the project footprint will be avoided (Figure 5). The bottomland hardwood wetlands to be avoided are the highest quality of those occurring on the site and the wetlands proposed to be impacted are the lowest quality of those on the site.

The applicant states that minimization of wetland impacts will be carried out by limiting fill in to only the minimum required. Best management practices (i.e. over-seeding) will be carried out in all areas where bare ground exists in order to minimize sediment loading of surface runoff. Silt fences will be constructed and maintained to prevent sedimentation. The Corps has not verified the accuracy or adequacy of the applicant's avoidance and minimization at this time.

MITIGATION: The applicant proposes to purchase sufficient number of in-kind credits from a Corps' approved mitigation bank. The applicant proposes to mitigate the impacts of 5.7 acres of moderate quality bottomland hardwood wetlands and 43.1 low quality wet pine savanna by purchasing 17.1 bottomland hardwood mitigation credits and 86.2 wet pine savanna credits from an IRT-approved wetlands mitigation bank. Further mitigation may be required for stream relocation, if applicable.

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. The Corps has not verified the adequacy of this mitigation proposal at this time.

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 by the Mississippi Department of Environmental Quality.

The National Register of Historic Places (NRHP) will be consulted for properties listed in or eligible for the National Register, which would be affected by the proposed work. 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 for further consultation and comments. Previous investigations for the facility have determined that no properties are listed in or eligible for listing in the NRHP. In accordance with Appendix C of 33 CFR Part 325, the Corps has determined the permit area is the full area of development for the overall project footprint.

The agent representing the applicant submitted a Cultural Resource Assessment of the current permit review area to the Mississippi Department of Archives and History (MDAH) for review. A Cultural Resources Survey of the site was performed and has been reviewed by MDAH (MDAH Project Log #05-084-14 (Report #14-0194, Harrison County). MDAH has concurred

that no known archeological resources listed or eligible for listing are likely to be affected. DAH advised in letters they have no concerns with proposed undertaking. Copies of this public notice are being sent to the SHPO.

ENDANGERED SPECIES: A pedestrian survey of the site was conducted for Federally listed species during November of 2013. Preliminary review of this application and the U.S. Department of the Interior List of Endangered and Threatened Wildlife and Plants indicate the proposed activity may require additional coordination with the U.S. Fish and Wildlife Service (FWS). The gopher tortoise is the only federally listed species that could potentially occur on this site knowing to the lack of any supporting habitat that might otherwise be potentially occupied by red-cockaded woodpeckers, Louisiana quillwort, Mississippi gopher frog, Mississippi Sandhill Crane or other Federally listed species that may occur temporarily or otherwise in coastal Mississippi.

The site was surveyed by the agent representing the applicant and no evidence of occupancy (burrows or tracks) was found, allowing the conclusion the site is not occupied by gopher tortoises. Additional coordination will be performed with the FWS on the proposed project.

This public notice is being distributed to all known interested persons in order to assist in developing facts on which a decision by the 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, protected species, 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 for consideration of this application. Requests for public hearings shall state with particularity, the reasons for holding a public hearing.

Correspondence concerning this Public Notice should refer to Public Notice Number **SAM-2014-00508-DMY** and should be directed to the District Engineer, U.S. Army Engineer District Mobile, Attention: **Mr. Rudolph C. Villarreal**, Post Office Box 2288, Mobile, Alabama 36628-0001, with a copy to the Mississippi Department of Environmental Quality, Office of Pollution Control, Attention: **Ms. Florance Bass, P.E.**, Post Office Box 2261, Jackson, Mississippi 39225 and the Mississippi Department of Marine Resources, Attention: **Mr. Chris Pickering**, 1141 Bayview Avenue, Suite 101, Biloxi, Mississippi 39530.

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) 690-3246, or at rudolph.c.villarreal@usace.army.mil. 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/Missions/Regulatory.aspx.

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MOBILE DISTRICT
U.S. Army Corps of Engineers

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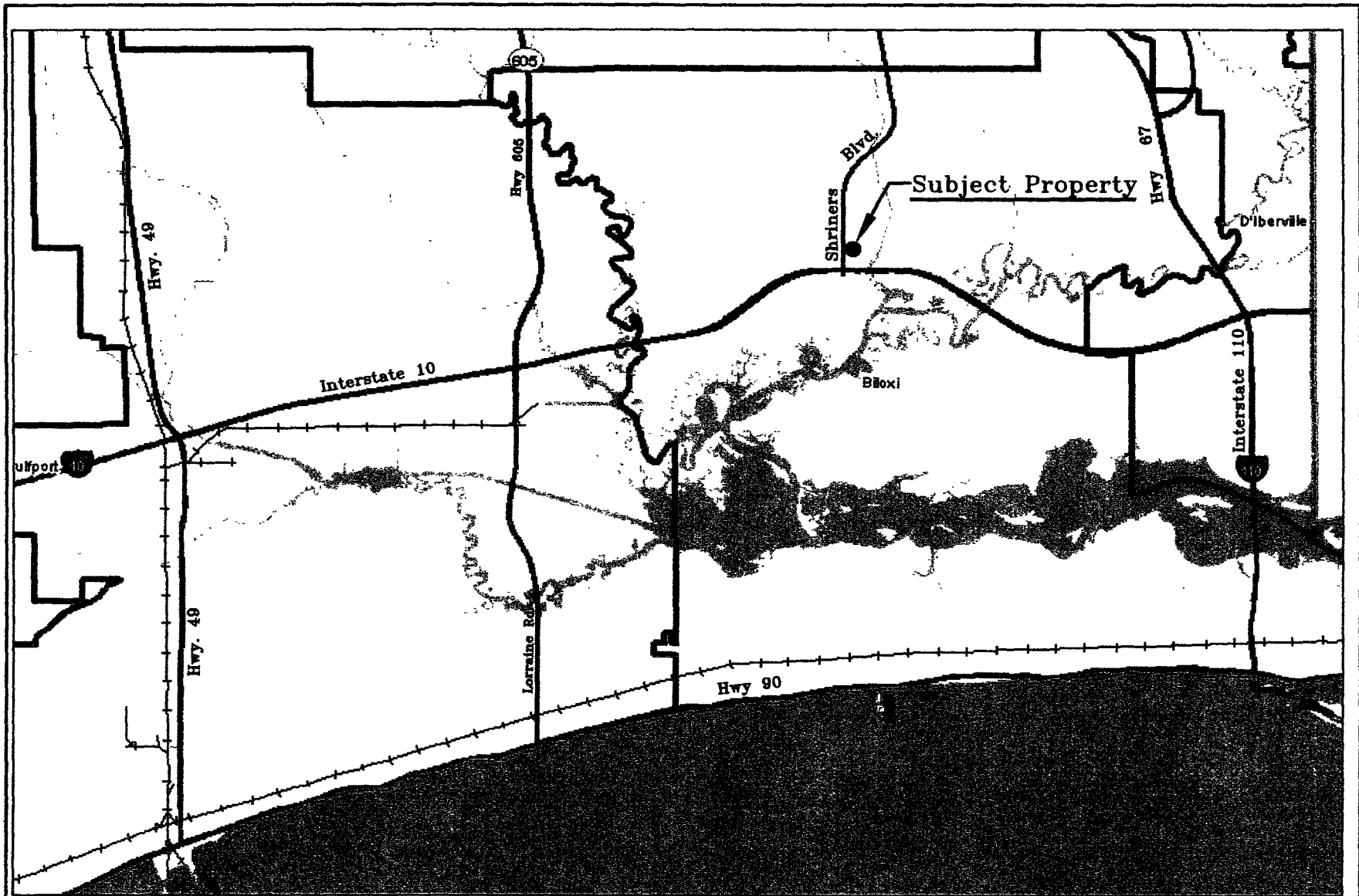


Figure 1 Proposed Site Plan



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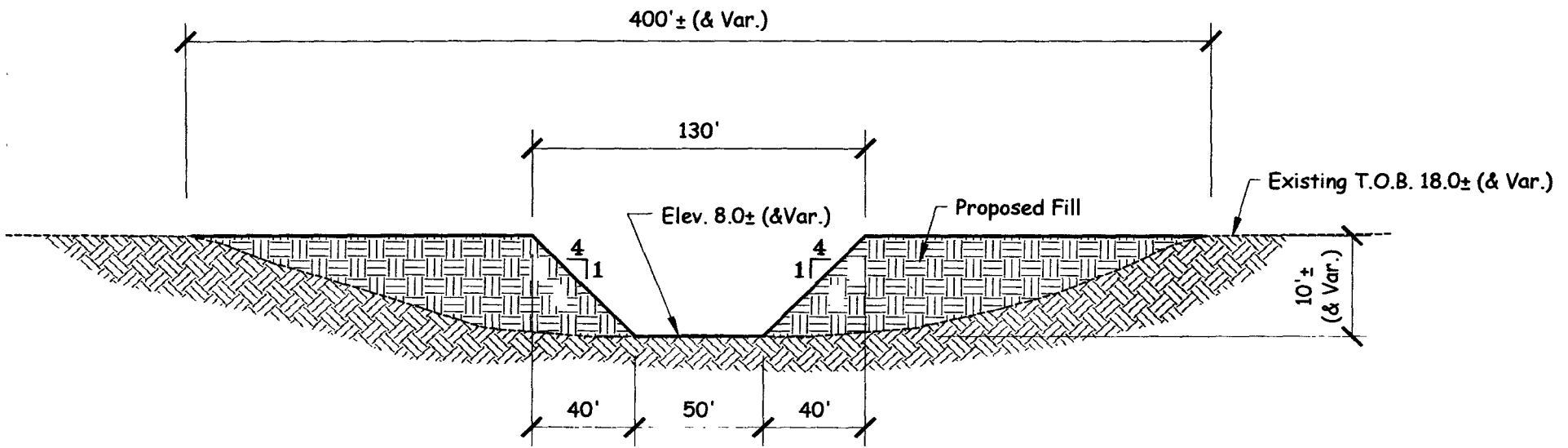


Fig. 4 Typical Modified Creek Section
NTS

FIGURE 5 TYPICAL CROSS-SECTION AT A STORE LOCATION IN WETLANDS (SEE FIGURE 2)

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