



REPLY TO  
ATTENTION OF

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

**CESAM RD-A**  
**PUBLIC NOTICE NO. SAM-2017-00487-LET**

**July 9, 2019**

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

**REQUEST TO DISCHARGE FILL MATERIAL INTO 0.54 ACRE OF WETLANDS TO**  
**CONSTRUCT RETAIL DEVELOPMENT, COTTON BAYOU, ORANGE BEACH, BALDWIN**  
**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). This public notice is being distributed to all known interested persons to assist in developing facts on which a decision by the U.S. Army Corps of Engineers (USACE) can be based. Please communicate this information to interested parties.

**APPLICANT: Pate Montgomery, LLC**  
**Attention: Mr. Stan Pate**  
**1301 Industrial Park Drive**  
**Tuscaloosa, Alabama 35401**

**AGENT: Wetland Resources Environmental Consulting**  
**Attention: Ms. Gena Todia**  
**Post Office Box 2694**  
**Daphne, Alabama 36526**

**LOCATION:** The project is located adjacent to Cotton Bayou, at Lot 1 in Cotton Bayou Commercial Park, north of Highway 182 and on the east side of Highway 161 (Orange Beach Boulevard), Latitude 30.271014° North and Longitude -87.585341° West, Section 8, Township 9 South, Range 5 East, Orange Beach, Baldwin County, Alabama.

**PROJECT PURPOSE:** The basic project purpose is to develop a commercial lot for two retail buildings, associated driveways, parking, and utilities infrastructure.

**PROPOSED WORK:** The applicant has proposed to permanently discharge approximately 7,000 cubic yards of clean, commercially obtained sandy fill material into 0.54 acre (23,596 square feet) of low quality herbaceous and shrub wetlands for the construction of a paved commercial retail facility. The filled wetland area will be utilized for the purpose of constructing two retail buildings, parking, and associated utilities.

**AVOIDANCE AND MINIMIZATION:** The applicant has indicated that impacts to aquatic resources have been minimized through avoidance of approximately 0.074 acre (3,220 square feet) of wetlands near the northwest and east portions of the subject parcel. The applicant has stated that prior to initiation of construction, a stormwater management

plan would be developed and construction Best Management Practices would be implemented to control runoff. The USACE, Mobile District, has not verified the adequacy of the applicant's avoidance and minimization efforts at this time.

**MITIGATION:** The applicant proposes compensatory mitigation for the unavoidable loss of wetlands associated with the development of the commercial property through the purchase of 1.08 pine savannah wetland mitigation credits from the Hells Swamp mitigation bank in Mobile County, Alabama. In addition to the purchase of wetland mitigation credits, the applicant has proposed onsite wetland creation and enhancement within the east portion of the subject parcel. To the east of the parking lot, 0.175 acre (7,655 square feet) of uplands would be lowered to match the elevation of the wetland mitigation area to the east (approximately 4 feet above mean sea level). An additional 0.045 acre (1,989 square feet) of existing, contiguous wetlands would be enhanced by lowering the elevation to achieve target hydrology. The entire 0.22 acre (9,644 square feet) mitigation area would be planted on 2-foot centers with Black needlerush (*Juncus roemerianus*), Saltmeadow Cordgrass (*Spartina patens*), and Swamp Sawgrass (*Cladium mariscus*) and monitored to ensure survival. The USACE, Mobile District, has not verified the adequacy of the applicant's mitigation statement at this time.

**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 and for Coastal Zone Management (CZM) consistency certification in accordance with the Alabama Coastal Zone Management Program. Upon completion of the required advertising and public comment review, a determination relative to water quality certification and CZM consistency 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 Part 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 Part 325, the USACE has determined that the permit area consists of the entire 1.66-acre parcel, which includes the undertaking in waters of the United States and associated uplands on which the development would be located. The National Register of Historic Places (NRHP) 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. By letter dated May 23, 2017, the SHPO concurred that the originally proposed development (AHC 17-0817) would have no effect on historic properties either listed on or eligible for the NRHP.

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 SHPO.

**ENDANGERED SPECIES:** Preliminary review of this application and the U.S. Department of the Interior's List of Endangered and Threatened Wildlife and Plants indicate the proposed activity will have No Effect on the following listed endangered or threatened species with the potential to exist within the watershed of the permit area: West Indian Manatee (T), Alabama Beach Mouse (E), Perdido Key Beach Mouse (E), Wood Stork (T), Piping Plover (T), Red Knot (T), Green Sea Turtle (T), Kemp's Ridley Sea Turtle (E), Loggerhead Sea Turtle (T), Eastern Indigo Snake (T), and Gopher Tortoise (candidate). Additionally, there is no designated critical habitat within the permit area. This determination is being coordinated with the U.S. Fish and Wildlife Service via this Public Notice.

**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 USACE can be based. The USACE, Mobile District, 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 below. 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, historic properties, 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 and fiber 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-2017-00487-LET**, and should be directed to the project manager, Ms. Jessica C. Comeaux by e-mail

at [jessica.c.comeaux@usace.army.mil](mailto:jessica.c.comeaux@usace.army.mil), or (251) 690-3262, or by mail at the USACE, Mobile District, Regulatory Division (RD-A), Attention: Ms. Jessica C. Comeaux, Post Office Box 2288, Mobile, Alabama 36628-0001, with a copy furnished to the ADEM, 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. Please refer to the above Public Notice Number **SAM-2017-00487-LET**, in any communication concerning this project.

For additional information about our Regulatory Program, please visit our web site at [www.sam.usace.army.mil/Missions/Regulatory.aspx](http://www.sam.usace.army.mil/Missions/Regulatory.aspx).

MOBILE DISTRICT  
U.S. Army Corps of Engineers

Attachments



**Vicinity Map**

**Pate Montgomery, LLC**

**Lot 1, Cotton Bayou Commercial Park**

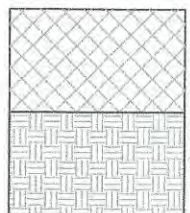
**Orange Beach, Baldwin Co., Alabama**

**Department of the Army // SAM-2017-00487-LET**

1" = 60'

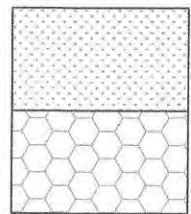


0 30' 60' 120' 180'  
GRAPHIC SCALE



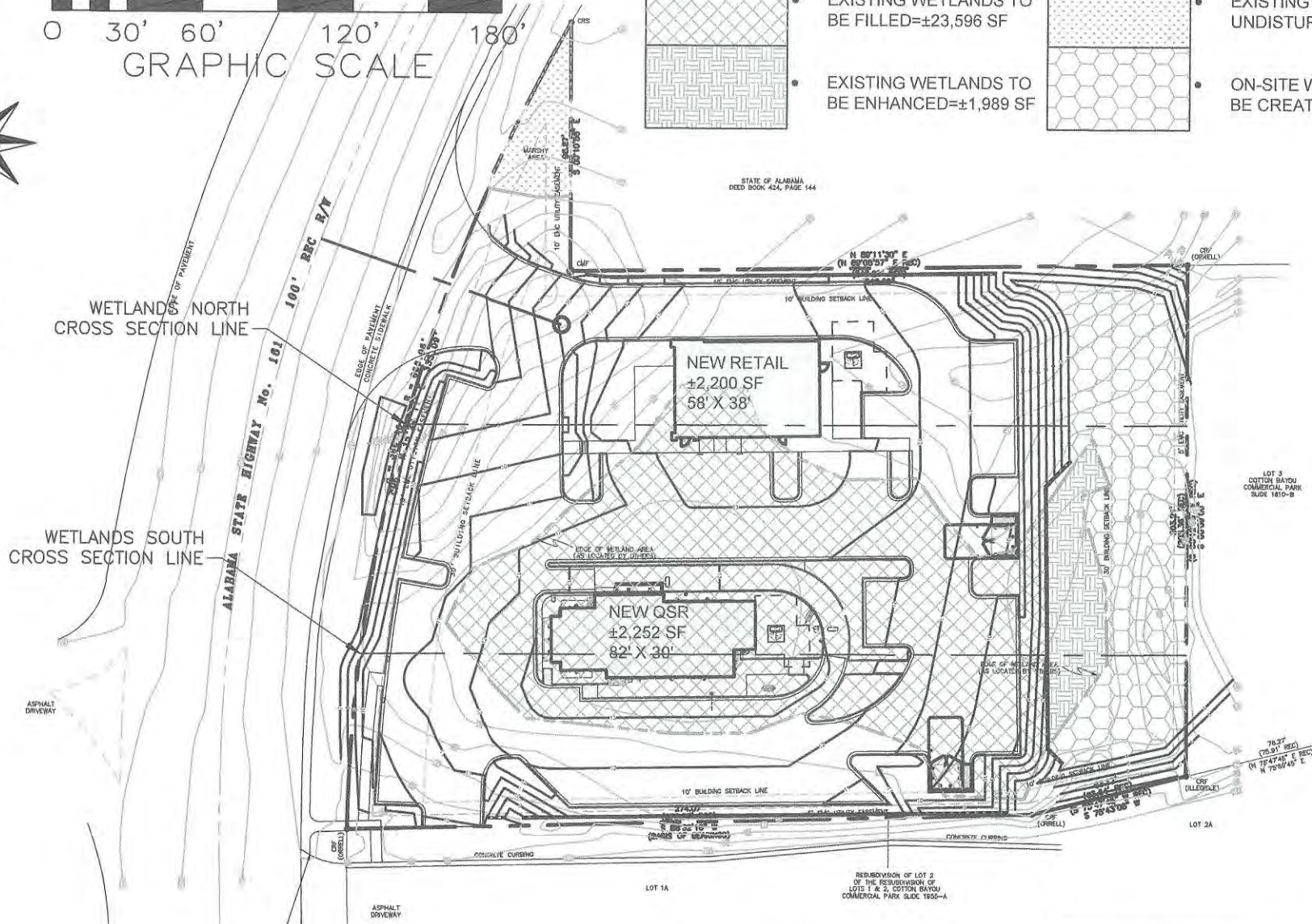
EXISTING WETLANDS TO BE FILLED=±23,596 SF

EXISTING WETLANDS TO BE ENHANCED=±1,989 SF



EXISTING WETLANDS TO BE UNDISTURBED=±1,231 SF

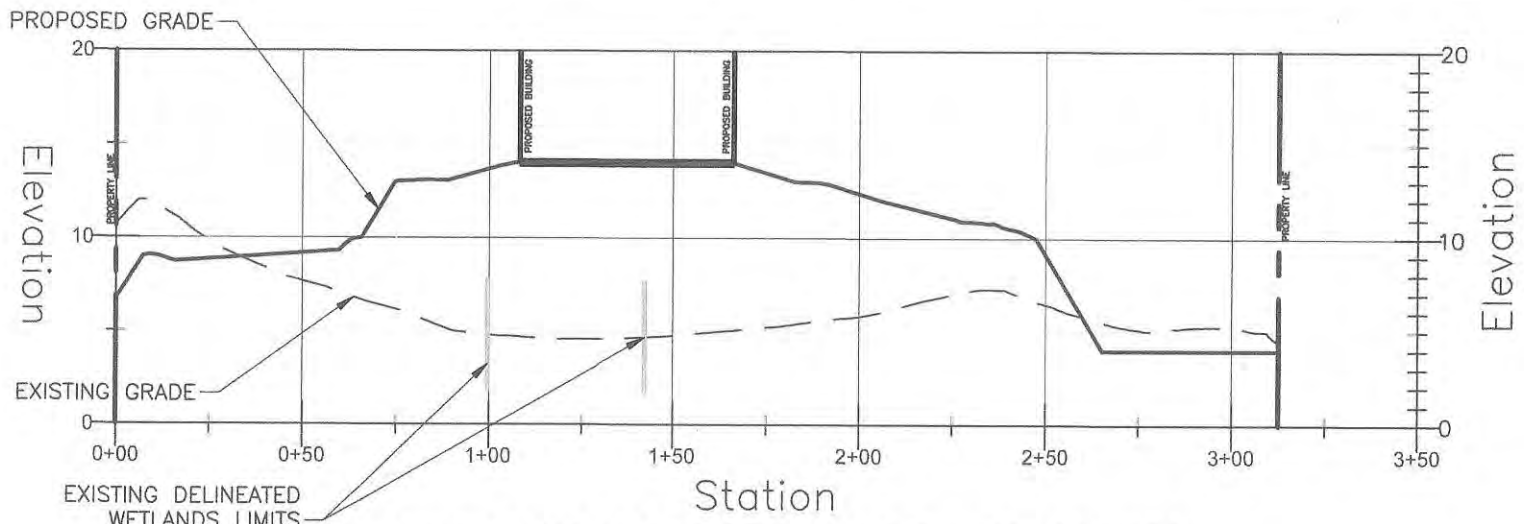
ON-SITE WETLANDS TO BE CREATED=±7,655 SF



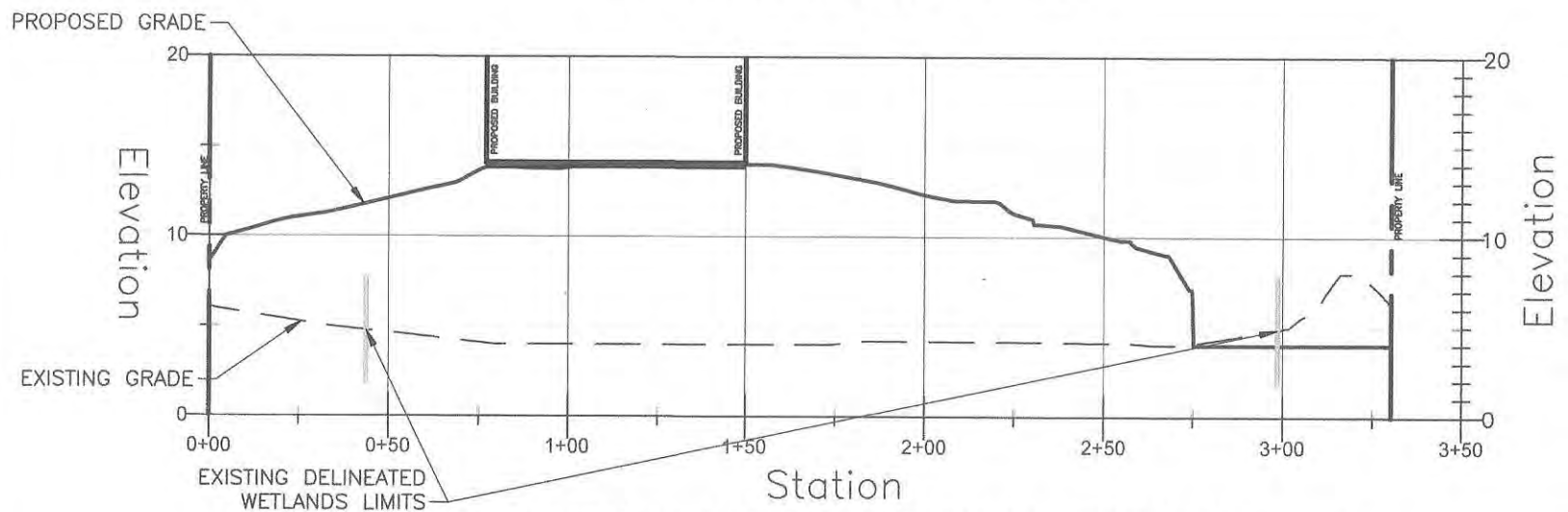
WETLANDS IMPACT MAP  
LOT 1 COTTON BAYOU COMMERCIAL PARK  
ORANGE BEACH, BALDWIN COUNTY, AL

**GSA**  
**GONZALEZ - STRENGTH & ASSOCIATES, INC.**  
 CIVIL ENGINEERING - TRANSPORTATION ENGINEERING - LAND SURVEYING  
 LAND PLANNING - LANDSCAPE ARCHITECTURE  
 1550 WOODS OF RIVERCHASE DRIVE SUITE 200  
 HOOVER, ALABAMA 36244  
 PHONE: (205) 942-2499  
 FAX: (205) 942-3033  
 www.Gonzalez-Strength.com

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**WETLANDS NORTH CROSS SECTION**  
**HORIZONTAL SCALE: 1"=50'**  
**VERTICAL SCALE: 1"=10'**



**WETLANDS SOUTH CROSS SECTION**  
**HORIZONTAL SCALE: 1"=50'**  
**VERTICAL SCALE: 1"=10'**

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