



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-2018-00324-SBC

June 25, 2019

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

PROPOSED DISCHARGE OF FILL MATERIAL IN WETLANDS ASSOCIATED WITH A
COMMERCIAL DEVELOPMENT IN MOBILE 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 USC 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: M & E, Incorporated
Attention: Steve McKenzie
Post Office Box 69
Wilmer, Alabama 36587

LOCATION: The proposed project is located immediately west of West I-65 Service Road, between U.S. Highway 45 and U.S. Highway 98; within Section 6, Township 4 South, Range 1 West; at Latitude 30.731062° North and Longitude 88.120702° West; in Mobile, Mobile County, Alabama.

PROPOSED WORK: The applicant was previously verified for authorization under *Nationwide Permit (NWP) – 39, Commercial and Institutional Developments*, to fill 0.40-acre of wetlands for the construction of a commercial building, access road, and parking areas. The applicant has recently received a request to construct similar structures immediately to the north of the previous project footprint, on the same property. The additional proposed impacts exceed the 0.5 acre limitations of NWP-39. The new activities would require the filling of an additional 0.3 acre of the remaining 0.7 acre wetland area within the proposed project footprint for the construction of a 7,500-square-foot commercial building, customer and employee parking areas, and a truck entrance/delivery and ground storage area.

AVOIDANCE & MINIMIZATION: The applicant has stated that the propose project has been minimized to avoid impacts to high quality wetlands located on the western portion of the property, and that impacts to the adjacent intermittent stream located along the south

border of the property will be avoided entirely. Although further minimization of impacts to wetlands proposed to be filled could be obtained by implementation of an alternative orientation of the development, this alternative orientation would have the potential to cause adverse impacts to the nearby high quality wetlands, which would be completely avoided by the currently proposed plans. Additionally, the alternative plans would not meet the needs of the applicant as they would eliminate the requisite road frontage visibility. Under the alternative footprint, the applicant would be required to regularly remove vegetation from the road frontage area, leading to long-term degradation of the remaining wetlands. The U.S. Army Corps of Engineers (USACE), Mobile District, has not verified the adequacy of the applicant's avoidance and minimization efforts at this time.

MITIGATION: The applicant has proposed to compensate for unavoidable impacts to wetlands through the purchase of wetland mitigation credits from a USACE approved mitigation bank. The USACE has not verified the adequacy of the applicant's proposed mitigation plan 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. Upon completion of the required advertising and public comment review, a determination relative to water quality certification 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 U.S. Army Corps of Engineers (USACE) has determined the permit area consists of 0.386 acre, which includes the wetland fill footprint as well as the remaining 0.086-acre upland footprint of the proposed commercial facility. A Phase I cultural resources assessment performed in November 1998 was submitted for this property. The submitted information and the above-described permit area will be reviewed by USACE to provide a determination on the potential for existence of significant cultural and historic properties. The USACE, Mobile District is 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.

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 that 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 action area: Wood stork (*Mycteria americana*), and the Gulf sturgeon (*Acipenser oxyrinchus desotoi*). The Endangered Species Act (ESA) action area for this project does not intersect with any federally-designated critical habitat.

The USACE has preliminarily determined the proposed activities may affect, but are not likely to adversely affect the eastern indigo snake (*Drymarchon couperi*), and the black pine snake (*Pituophis melanoleucus lodingi*). This determination is being coordinated with the USFWS 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 U.S. Army Corps of Engineers (USACE) 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 in the paragraph 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, 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. 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-2018-00324-SBC** and should be directed via email to the project manager, Ms. Elizabeth A. Seavoy, at elizabeth.a.seavoy@usace.army.mil, or to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, Attention: Ms. Elizabeth A. Seavoy, Post Office Box 2288, Mobile, Alabama 36628-0001. Copies of all comments should be furnished to the Alabama Department of Environmental Management at coastal@adem.alabama.gov, or sent to: Alabama Department of Environmental

Management, Mobile Branch / 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. If you have any questions concerning this publication, you may contact the project manager, Ms. Elizabeth Seavoy by email at elizabeth.a.seavoy@usace.army.mil, or at (251) 694-3781. Please refer to the Public Notice Number SAM-2018-00324-SBC, 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.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Attachments

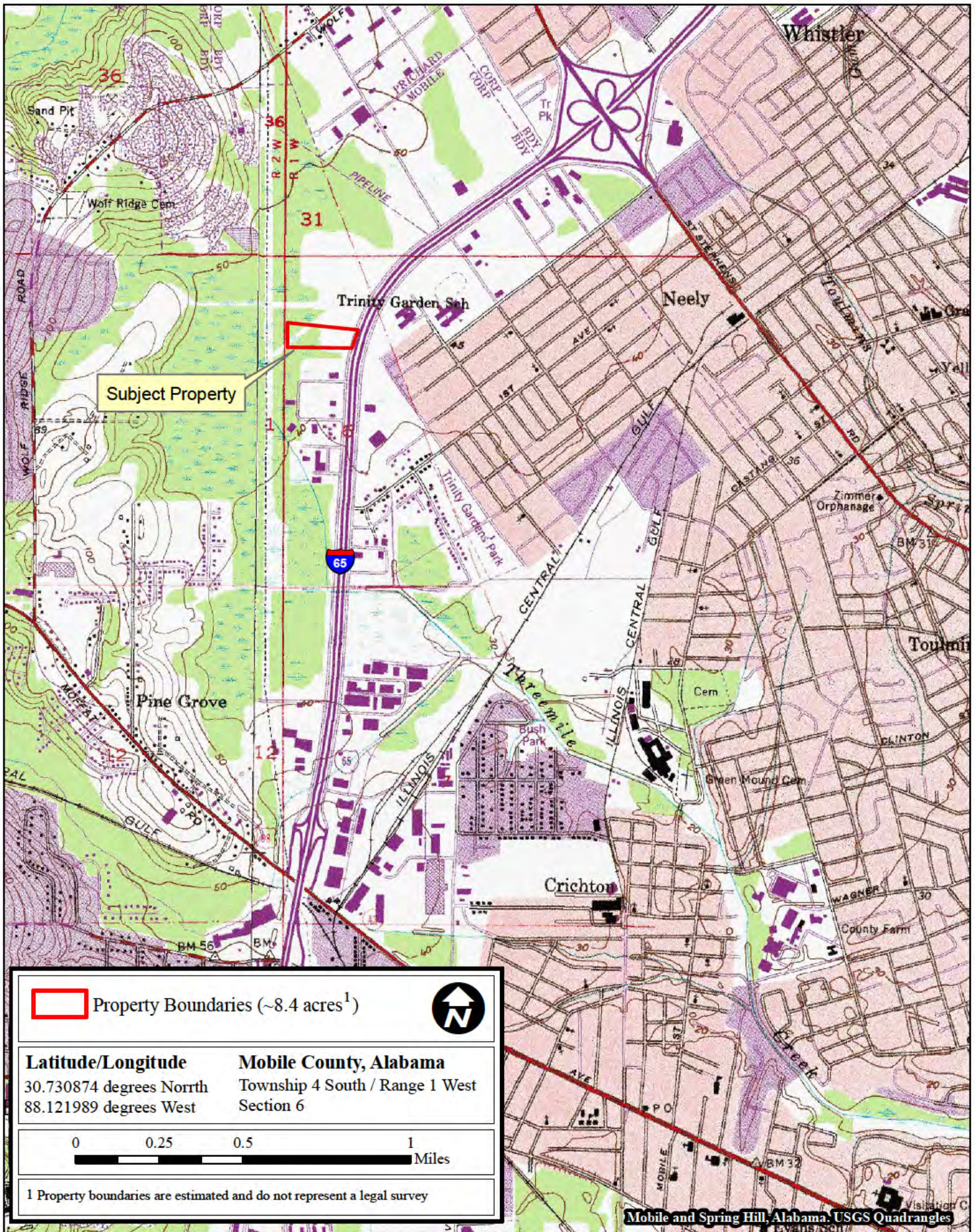


Figure 1. Project Location and Vicinity Map

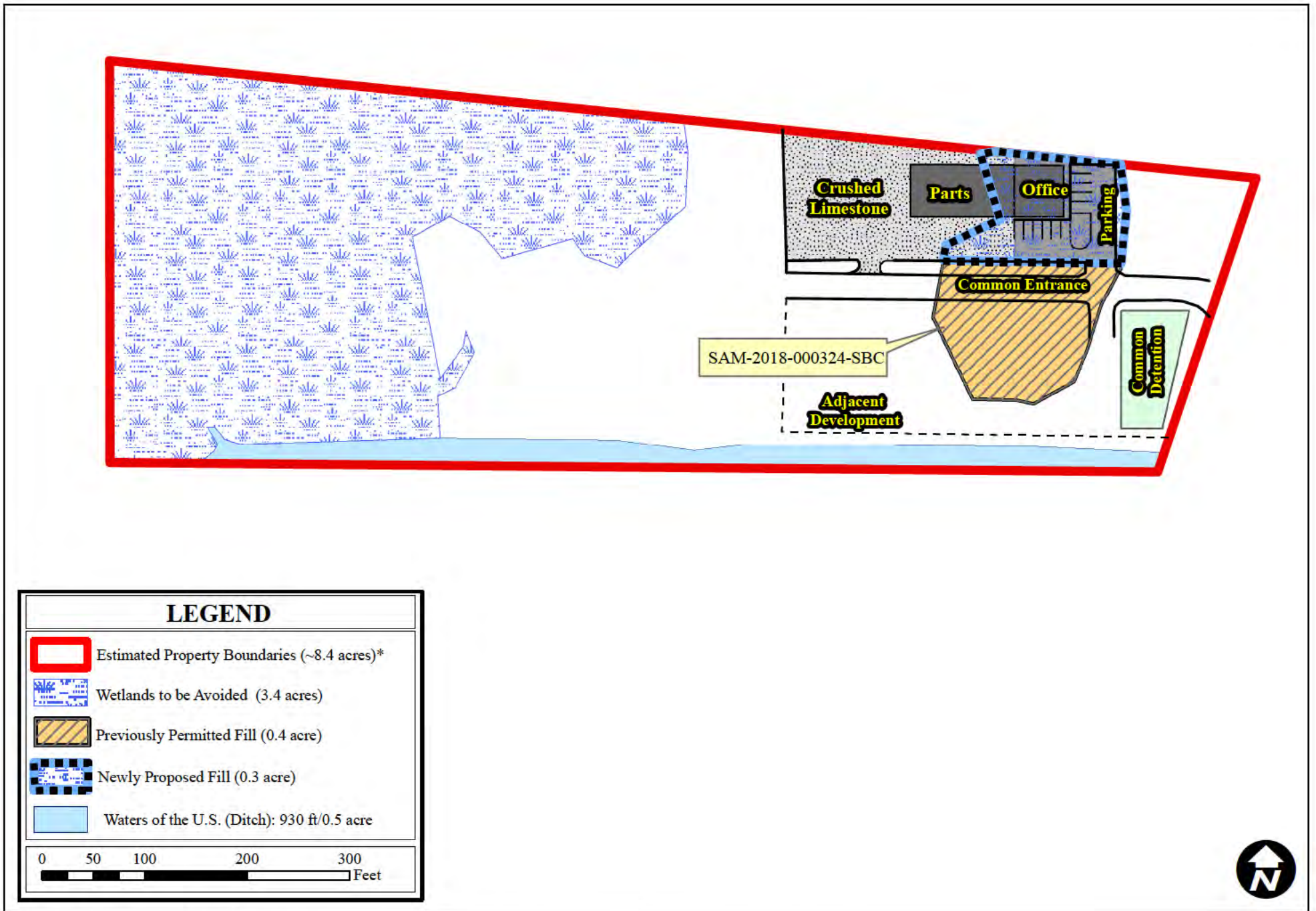


Figure 3: Proposed Site Plan
(March 7, 2019)



Figure 2: Wetland Map