



US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM-2021-234

NOTICE DATE:
August 12, 2021

Attn: Postmaster,
Please Post Until

EXPIRATION
DATE:
September 11, 2021

Public Notice U.S. Army Corps of Engineers

AUTHORITY: Pursuant to 33 CFR 325, as published in the Federal Register dated November 13, 1986, this notice announces an application submitted for a Department of the Army permit under Section 404 of the Clean Water Act.

APPLICANT:

Dave Ellis
Arlington Properties, Inc.
2 North 20th Street, Suite 700
Birmingham, Alabama 35203
Ph: (205) 397-6884

Agent:

Matt Reed
BDY Environmental
2978 Shelby Street
Nashville, Tennessee 37204
Ph: (270) 792-8176

PURPOSE: The purpose of the project is to construct a multi-family residential complex on a 14.5-acre parcel of property in Shelby County, Tennessee.

LOCATION: The project site is located north of Mayfield Road North, east of Forest Hill Irene Road and south of Bill Morris Parkway in Shelby County, Tennessee at Latitude 35.0257° and Longitude -89.7584° as shown on the Germantown, Tennessee 1:24,000 USGS topographic quadrangle (Figure 1).

DESCRIPTION OF WORK: The applicant is requesting permit authorization to permanently fill 2.8 acres of wetland as part of construction of a multi-family residential complex. Site development activities include the construction of seven residential buildings with a total of 270 units, two carriage houses, five amenity areas, stormwater detention systems, roadway/utility infrastructure, surface parking, garage parking, and tandem parking. Site plans and wetland/stream locations are shown on Figure 2.

AVOIDANCE/MINIMIZATION: The project will avoid direct impacts to 0.63-acre of wetland out of a total of 3.43 acres of wetland that has been recently delineated on the property. The project will also avoid stream impacts by maintaining riparian buffers along 1,433 linear feet of the two streams that have been identified on the property. Avoidance being taken by the applicant to wetlands and streams are shown on Figure 3. According to the applicant, 8-10 alternative sites were evaluated for feasibility of the proposed project. The applicant concluded none of the evaluated sites were feasible to achieve the project's purpose. The Memphis District will review the applicant's alternatives evaluation for compliance with Section 404 (b)(1) Guidelines.

MITIGATION: The applicant is proposing compensatory mitigation for the proposed permanent impacts to 2.8 acres of wetland. The applicant is proposing to purchase 7.0 wetland credits from the Rossville Farms Wetland Mitigation Bank in Fayette County, Tennessee. The Memphis District will evaluate the proposed plans

against the project impacts prior to making a formal decision on mitigation.

WATER QUALITY CERTIFICATION: The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying agency. In accordance with Certification Rule part 121.6, once the applicant submits a certification request the Corps of Engineers will determine the reasonable period of time for the certifying agency to act upon the certification and provide written notification.

ENDANGERED SPECIES: The Indiana bat and northern long-eared bat are listed as endangered or threatened by U.S. Fish and Wildlife Service (USFWS) in Shelby County. Based on review of the TN SLOPES agreement currently being developed between USACE and USFWS, the effect determination for both bat species is “may affect, not likely to adversely affect”. USACE will complete any further consultation with USFWS as required.

CULTURAL RESOURCES: In compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, the Memphis District is soliciting comments from federal, state, and local agencies, federally-recognized Indian Tribes, the public, and other interested parties in order to identify and evaluate potential impacts of the proposed action on historic properties.

FLOODPLAIN: In accordance with 44 CFR Part 60 (Floodplain Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. Floodplain administrators should review the proposed public notice and notify this office of any floodplain development permit requirements.

PUBLIC INTEREST REVIEW: The purpose of this public notice is to advise all interested parties of the activities for which a permit is sought and to solicit comments and information necessary to evaluate the probable impact on the public interest.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the project, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project 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, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; federal, state and local agencies and officials; federally recognized 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 of Engineers 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.

PUBLIC HEARING: 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 a public hearing shall state, with particularity, the reason for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision. If a public hearing is held, it will be for the purpose of obtaining additional information that we could not otherwise obtain through a public notice process; not to inform the public about the specific details of the project in greater detail than what is found in this notice. This is not a Corps of Engineers project. We are not a proponent nor are we an opponent of the project. We are merely the permitting authority of Section 404 and Section 10 permits required by our office.

COMMENTS OR REQUEST FOR ADDITIONAL INFORMATION: Send comments to the Corps of Engineers, Memphis District. Comments may be sent via mail or email to the following:

U.S. Army Corps of Engineers – Memphis District
ATTN: Mitch Elcan
167 North Main Street, Room B-202
Memphis, Tennessee 38103-1894
E-mail: james.m.elcan@usace.army.mil
phone: (901) 544-0737
fax: (901) 544-0211

The Corps of Engineers may provide copies of all comments, (including name & address of those providing comments) to the applicant for consideration and response prior to a decision. Comments must be received by the expiration date listed on page one of this notice.

For Final Individual Permits actions in the Memphis District, go to the following link: <https://permits.ops.usace.army.mil/orm-public>. Using the Filter by District drop down box, select MVM-Memphis District, then select the year and month (information will populate in the table below). All pending individual permits can be located by selecting the “**Pending IP**” tab above. All of the environmental documents and statements of findings supporting issuance or denial of the permit decisions are available upon written request and where applicable, upon the payment of administrative fees. They are also available at the Memphis District, Regulatory Division office for examination.

Gregg W. Williams
Chief
Regulatory Division

Attachments

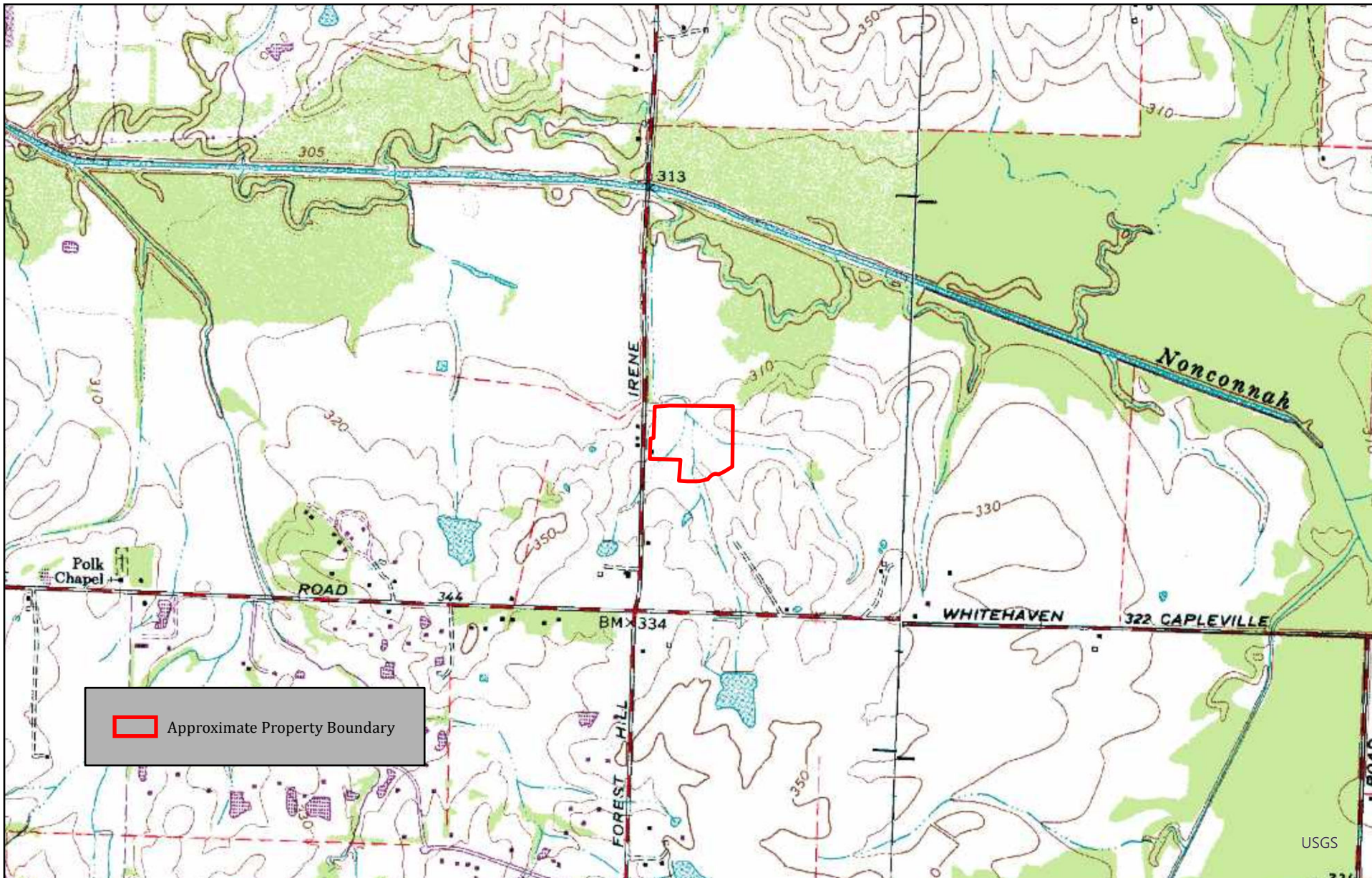
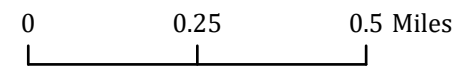


Figure 1. Site Location
Proposed Arlington Properties
4508 Forest Hill-Irene Road Site
Shelby County, Tennessee

BDY NATURAL SCIENCES CONSULTANTS
 2607 Westwood Drive, Nashville, Tennessee | 615.460.9797 | www.bdyinc.com

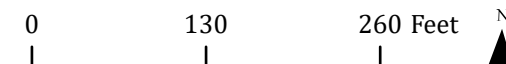


Date: 7/21/2021
 NAD 1983 2011 StatePlane Tennessee FIPS 4100 Ft US
 89.75793°W 35.0258°N
 Prepared for: Arlington
 Prepared by: MDR
 Sources: USGS Topo

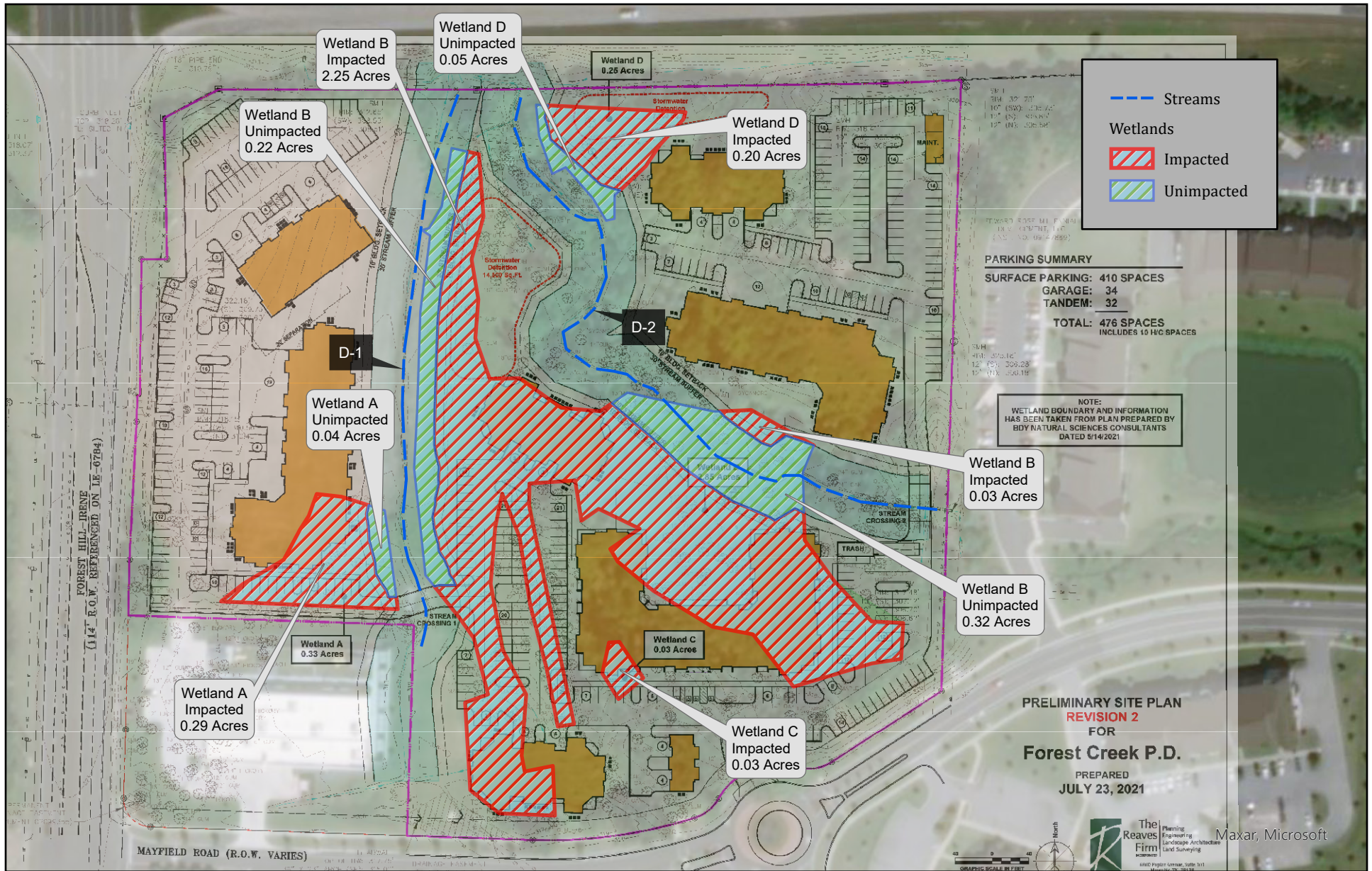




Figure 2. Water Resources
Proposed Arlington Properties
4508 Forest Hill-Irene Road Site
Shelby County, Tennessee

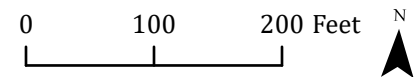


Date: 7/26/2021
 NAD 1983 2011 StatePlane Tennessee FIPS 4100 Ft US
 89.75793°W 35.02576°N
 Prepared for: Arlington
 Prepared by: MDR
 Sources: TN Imagery; TN Lidar 2' Contours; BDY Site Visit 5/14/21



**Figure 3. Impact Map
Proposed Arlington Properties
4508 Forest Hill-Irene Road Site
Shelby County, Tennessee**

BDY NATURAL SCIENCES CONSULTANTS
2607 Westwood Drive, Nashville, Tennessee | 615.460.9797 | www.bdy-inc.com



Date: 7/29/2021
NAD 1983 2011 StatePlane Tennessee FIPS 4100 Ft Us
89.75736°W 35.02585°N
Prepared for: Arlington Properties
Prepared by: MDR
Sources: TN Imagery; Arlington Site Plan