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Buried ordnance has residents wondering if their yards hold hidden danger

By S. Heather Duncan TELEGRAPH STAFF WRITER

When Jackie Clark bought land in Twiggs County in 1979, she says, the owner didn't tell her there might be artillery explosives under her house.

Although she later heard an infantry training camp had once been located nearby, she still didn't think the metal objects she found in her yard were anything but lawn-mower parts.

Clark learned five years ago that they were pieces of mortar shells left from Camp Wheeler, where military training occurred in World War II. She obtained a 1949 map showing the Army had put deed restrictions on much of the land that is now her neighborhood, forbidding any digging because so much live ordnance remained.

But somehow those restrictions expired or were removed. An entire neighborhood was built there without new owners being informed that there might be danger.

It's still happening today. More roads and houses are being built behind Redbud Drive, where Clark lives, and in Apple Valley Estates and Wheeler's Landing off Chestney Road in Bibb County.

These are all areas the U.S. Army Corps of Engineers has identified as "high risk" because a recent survey found mortars, rockets, and/or grenades there, either live or in fragments.

No one has been injured since a boy was killed and other boys were injured by a grenade in the 1940s.

But corps officials say some items are only a few inches beneath the soil and could explode if disturbed by activities such as driving an all-terrain vehicle over them.

Developers say they are not telling buyers there could be explosives on the land, because they did not know any live ordnance had been found.

Clark said selling the land without notifying buyers is "so deplorable I think it borders on a crime. The way I was brought up, if you lied by omission, you lied just the same."

The person she bought her land from has since died, but she remains concerned for others.

The corps points out that Camp Wheeler's location was never secret. The Army conducted three ordnance removal operations in the 1940s, monitored through the 1960s and conducted a smaller survey in the early 1990s.

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A 1987 law made the corps responsible for cleaning up former defense sites contaminated by the military. This led to a six-month survey last fall by contractor EOD Technology.

It identified five areas of the former Camp Wheeler likely to still contain live ordnance. Three are mostly wooded. The other two, both residential, are the top priority ordnance cleanup sites in Georgia, said David Roulo, project manager for the corps in Savannah. They await federal funding.

Clark's Twiggs County neighborhood of Dogwood Road and Redbud Drive is the only residential area where EOD Technology found live ordnance, said Billy Birdwell, communications director for the corps. But fragments of mortars and evidence of small arms fire were found around residential areas on Bibb County's Chestney Road, Apple Valley Road and Crabapple Place, he said, leading the corps to believe unexploded ordnance could be present.

Residents like Clark want to know how previous homeowners and developers avoided informing buyers about the former firing ranges, and what can be done to prevent that from happening to future buyers.

Although Georgia law does not require property sellers to divulge defects that couldn't be uncovered by a reasonable inspection, civil lawsuits have tended to hold the seller liable for not revealing problems with the property, said Macon real estate attorney Wayne Crowley.

Liability is generally greater for sales of residential property than for undeveloped property, he said.

"They never should have let the land be used for residential purposes," said Twiggs County Sheriff Darren Mitchum. He is raising his three children on land next to his parents' home on Dogwood Road, where eight months ago EOD Technology found four live mortars about 30 yards from the back door.

"I don't think anybody would have bought a house here knowing the ground was full of old ordnance," he said.

CURRENT DEVELOPMENT

In Twiggs County, developer A.V. Elliott plans to add 20 more homes in the Marion Estates subdivision, and houses and roads are being built on his land next to the Redbud/Dogwood neighborhood. He said he has not told buyers about the ordnance because he didn't realize any of it was still capable of exploding.

"I have dug ponds and pushed up trees and graded roads in there, and I think it's a moot question," he said. "If it does pose an immediate and present danger, it should be removed regardless of how the land is used."

But corps officials say it's unlikely Congress will allocate enough money to remove ordnance from the wooded areas, so the corps proposes to clear it only from roads and neighborhoods, at a cost of \$3.6 million.

"Our priority is keeping people safe that are there right now, as opposed to people who may live there in a few years," Birdwell said.

Robin Hawn, public relations specialist for EOD Technology, said private landowners can also hire a company to clear their land instead.

And the government could still decide to remove more ordnance later, said Chris Cochrane, technical project manager with the corps' Huntsville, Ala., center. The corps proposes to revisit the issue at least every five years.

Elliott said the government should buy the land back if it doesn't remove ordnance from undeveloped property. He plans to develop much of his wooded land soon.

"Rural land that close to Macon is worth \$15,000 to \$20,000 an acre," he said.

Corps officials said last week that no buybacks are planned.

The corps sent letters to residents of the Dogwood/Redbud neighborhood about the live ordnance found there and warned people against digging. Because only fragments were found in Apple Valley and Wheeler's Landing, those residents were not contacted directly or warned against digging, Birdwell said.

Chuck Sparks, who lives on Dogwood, said at a public meeting last week that he turned up grenades, mortars and what appeared to be burned and buried medical equipment including needles three years ago when he graded land for a subcontractor on Apple Valley subdivision.

He said he was told to rebury the items, which he said could still be in people's yards.

Corps documents about Camp Wheeler say no chemical agents were ever used or thrown away there. However, a corps report about nearby Herbert Smart Field said chemicals from the former air field are suspected to have been buried at Camp Wheeler. Birdwell said no evidence has proven that.

Bonnie Frith, developer of the roads in Apple Valley and all of Wheeler's Landing, said no dangerous items were found during their development, even when 20-foot-deep sewers were dug. A total of more than 600 houses are planned in the two developments.

"We found some hospital masks and stuff like that, but no grenades or anything of that nature," she said. "If (contractors) had found a grenade, it was their responsibility to let me know. ... If I found something dangerous there, I would be all over the Army in a heartbeat."

Stith Short with B-Kay Builders, a contractor adding houses in Apple Valley, said he hasn't heard of any ordnance being found.

Warees Muhammad moved to Wheeler's Landing in May, and a new road is now being cut behind his house. Although the subdivision sign features World War II soldiers carrying machine guns, Muhammad said the developer never mentioned there was an ordnance survey going on. He said the developer should be required to tell buyers if explosives could be present, and expressed concern that his new house could lose value as a result.

Frith said she has not told buyers about the ordnance survey. When the corps never notified her about the survey results, she assumed nothing was found, she said.

BUYING AND SELLING

In the decades following the closure of Camp Wheeler, the government reimbursed some landowners for diminished kaolin value resulting from the ordnance. Most of the nine settlements were for \$600 or \$1,500, although several ranged from \$10,000 to \$22,000, corps records show. Ordnance will not be removed from those areas.

Because the former Camp Wheeler land is now all private property, the government can't require private owners to allow ordnance to be removed or to post signs about the dangers.

The Army's only control over the land's use was to place restrictions on deeds when property was returned to private ownership, Birdwell said. This happened in the five areas where EOD Technology recently found the most ordnance. The areas that became residential were restricted from any digging, and parts of the other three units were restricted from any use at all.

Residents say these restrictions have not shown up in title searches.

Crowley, the real estate attorney with Bush, Crowley, Leverett & Leggett, offered a possible explanation under Georgia law: Until about 1990, any deed restrictions related to the use of land expired 20 years after zoning was adopted in the county.

This could apply in Bibb County, which adopted zoning in 1955. But the first zoning in Twiggs County was adopted in 1995.

If the Army put a disclosure in the title - essentially saying, "This land was a former military firing range" or something similar - that should still show up in property records, Crowley said.

He said his firm usually completes at least a 50-year title search on behalf of clients purchasing property. But some buyers request a more limited search covering a shorter period, Crowley said.

He suggested that buyers who bought title insurance might be eligible for reimbursement if they later learn their title search was not conducted properly. Such insurance, which covers up to the cost of the purchase, pays for a loss due to undiscovered title problems.

Birdwell said it would now be up to local governments to decide any zoning changes or deed restrictions limiting the use of the land or notifying buyers of its contamination.

Glenn Barton, Twiggs County administrator, is researching ways to create a notification system for buyers, checking to see what counties elsewhere have done.

Twiggs County zoning official Michael Land said he would informally alert anyone who comes to his office about land the corps has designated a high-risk area. "I feel we have a moral obligation to make people aware of this," he said.

Vernon Ryle, executive director of the Macon-Bibb County Planning & Zoning Commission, also realized the problem last week and said he's not sure how it can be addressed. Special zoning might not help much, because most property sales don't go through the zoning office. And usually only a property owner can put restrictions on a deed.

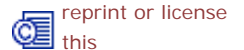
"The only thing I know we could do is put a warning on a subdivision plat," he said. "It's going to be a difficult problem."

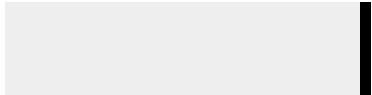
Jackie Clark suggested that developers could be required to search for ordnance before being granted a land disturbance permit. These permits are issued by Bibb County. Because Twiggs County does not have this issuing authority, the state Environmental Protection Division is responsible for such permits in Twiggs.

Bibb County engineer Ken Sheets said extra requirements can be added for land disturbance permits in certain areas if the county commission desires.

Bibb County Commission Vice Chairman Sam Hart, who lives near Chestney Road, said the commission probably needs to consider an ordinance forbidding land disturbance in areas where explosives are likely to be present.

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