



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
10117 PRINCESS PALM AVENUE, SUITE 120
TAMPA, FLORIDA 33610-8300

Regulatory Division
Tampa Permits Section

DEC 16 2008

PUBLIC NOTICE

Permit Application No. SAJ-2008-4437 (IP-ACR)

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) as described below:

APPLICANT: David H. Baldauf
ADB-Buffalo Associates, LLC
8441 Cooper Creek Boulevard
University Park, Florida 34201

WATERWAY & LOCATION: The proposed project is situated within the freshwater forested and herbaceous wetlands of the Manatee River Watershed. The project is located at the Northeast Intersection of US-301 and Erie Road in Section 2, Township 34 South, Range 18 East, Manatee County, Florida.

Directions to the site are as follows: From Interstate 75 take exit 224/ US-301 toward Ellenton. Turn left at US-301 and head west for approximately 2 miles. Project site is located at the Northeast side of the US-301 and Erie Road Intersection.

LATITUDE & LONGITUDE: Latitude: 27.544557 North
Longitude: -82.475272 West

PROJECT PURPOSE:

Basic: Construct a commercial development.

Overall: Construct a 370,000 square foot commercial development with associated stormwater management system and infrastructure to serve Eastern Manatee County.

PROPOSED WORK: The applicant proposes to permanently fill 0.81 acre of wetlands and 0.44 acre of other surface water's (OSW's) to construct a commercial development referred to as "Creekside Oaks." Project plans include the construction of a 370,000 square foot commercial development to include internal roadways, a parking lot system and a surface water management system. The proposed surface water management system consists of the creation of one (1) stormwater pond to treat and attenuate runoff.

Avoidance and Minimization Information: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The specific property was chosen because of its availability and proximity to major transportation routes and the high visibility offered by its proximity to US 301. The project has been designed to utilize the available pasture habitat on the site. Given the location of the subject wetlands the avoidance of these wetlands was not compatible with the project purpose. The viability of the project is inherent on site access and visibility from US 301 and Erie Road. Wetlands along the margins of the property boundary have been avoided and will be enhanced through the proposed mitigation, minimizing the overall environmental affect of the project. The wetlands that have been proposed for impact have been heavily grazed and affected by the alteration of natural sheet flow patterns of the site.

Compensatory Mitigation: The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: To compensate for the proposed 0.81 acre of wetland impacts, the applicant has proposed to enhance and preserve 1.54 acres of wetlands and preserve 4.99 acres of uplands on-site.

EXISTING CONDITIONS: The project site is a 51.29 acre project site consisting of 2.85 acres of wetland and OSW habitat and 48.44 acres of upland habitat. The on-site wetlands and OSW are associated with the following Florida Land Use, Cover, and Forms Classification System (FLUCCS) codes and vegetative communities: 0.44 acre of ditch (510) created through upland soils, containing smartweed (*Polygonum punctatum*), soft rush (*Juncus effusus*), dogfennel (*Eupatorium capillifolium*) and pennywort (*Hydrocotyle* sp.). The site contains a 0.33 acre wetland hardwood forest (610) dominated by laurel oak (*Quercus laurifolia*), cabbage palm (*Sabal palmetto*) and buttonbush (*Cephalanthus occidentalis*). The project site contains 1.53 acres of freshwater marsh (641) dominated by soft rush (*Juncus effusus*), smartweed (*Polygonum punctatum*), Brazilian pepper (*Schinus terebinthifolius*) and torpedo grass (*Panicum repens*). The on-site upland habitat contains a 0.66 acre governmental lift station, a 40.37 acre Improved pasture (211) containing pasture grass and bahia grass (*Paspalum notatum*), a 6.95 acre hardwood hammock (425) dominated by live oak (*Quercus virginiana*) and encroaching Brazilian pepper (*Schinus terebinthifolius*).

ENDANGERED SPECIES: Portions of the project area provide suitable foraging habitat (SFH) for the federally endangered wood stork (*Mycteria americana*). No wood storks have been observed on the site during species surveys or other site visits conducted by the applicant. Based on the information provided, the U.S. Army Corps of Engineers (Corps) has determined that the proposed project "may affect, but is not likely to adversely affect" (NLAA) the wood stork. As outlined in the FWS approved *Wood Stork Effect Determination Key for Central and North Peninsular Florida*, September 2008, the restoration or creation proposed provides an amount of habitat and foraging function equivalent to that of the impacted SFH, is not contrary to the Service's *Habitat Management Guidelines for the Wood Stork in the Southeast Region* and is in accordance with the Clean Water Act 404(b)(1) (CWA) guidelines. In accordance with the FWS Key, with an outcome of "NLAA," the requirements of section 7 of the CWA are fulfilled and no further action is required.

The U.S. Army Corps of Engineers (Corps) has determined the proposed project may affect, but is not likely to adversely affect" (NLAA) the eastern indigo snake (*Drymarchon corais couperi*) or its designated critical habitat. This determination is based on the applicant's compliance with the *Standard Protection Measures for the Indigo Snake*.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the project site. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

Comments regarding the application should be submitted in writing to the District Engineer at the above address within 21 days from the date of this notice.

If you have any questions concerning this application, you may contact Ms. Angela C. Riddle at the letterhead address, by electronic mail at Angela.C.Riddle@usace.army.mil, by fax at 813-769-7061, or by telephone at 813-769-7069.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

IMPACT ON NATURAL RESOURCES: Preliminary review of this application indicates that an Environmental Impact Statement will not be required. Coordination with US Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area. By means of this notice, we are soliciting comments on the potential effects of the project on threatened or endangered species or their habitat.

IMPACT ON CULTURAL RESOURCES: Review of the latest published version of the National Register of Historic Places indicates that no registered properties, or properties listed as eligible for inclusion therein, are located at the site of the proposed work. Presently, unknown archaeological, scientific, prehistorical, or historical data may be lost or destroyed by the work to be accomplished.

EVALUATION: 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 benefits, 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act of the criteria established under authority of Section 102(a) of the Marine, Protection, Research, and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The US Army Corps of Engineers (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 of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make or deny 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.

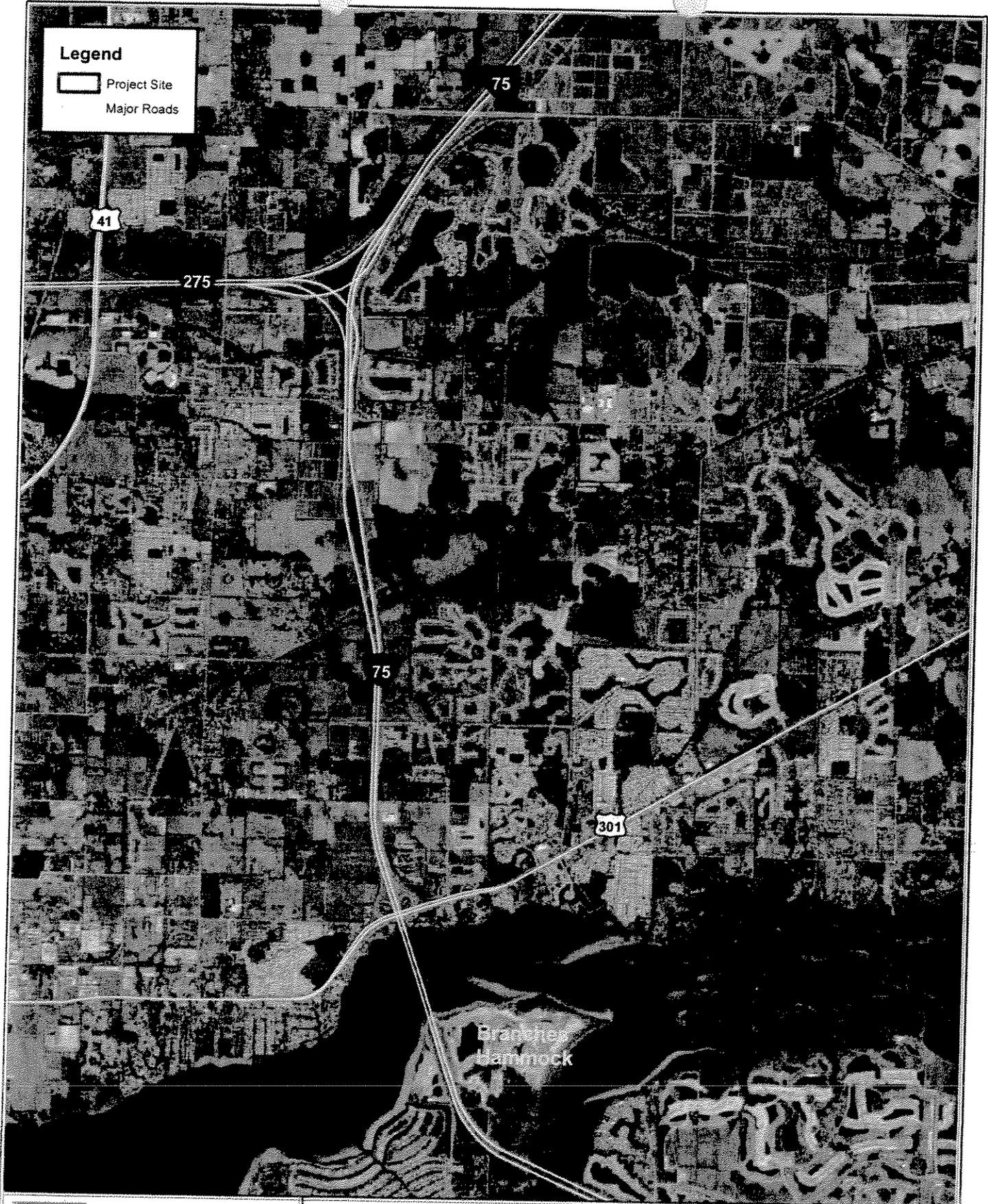
COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with approved Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.


David S. Hobbie
Regulatory Division

Legend

-  Project Site
-  Major Roads



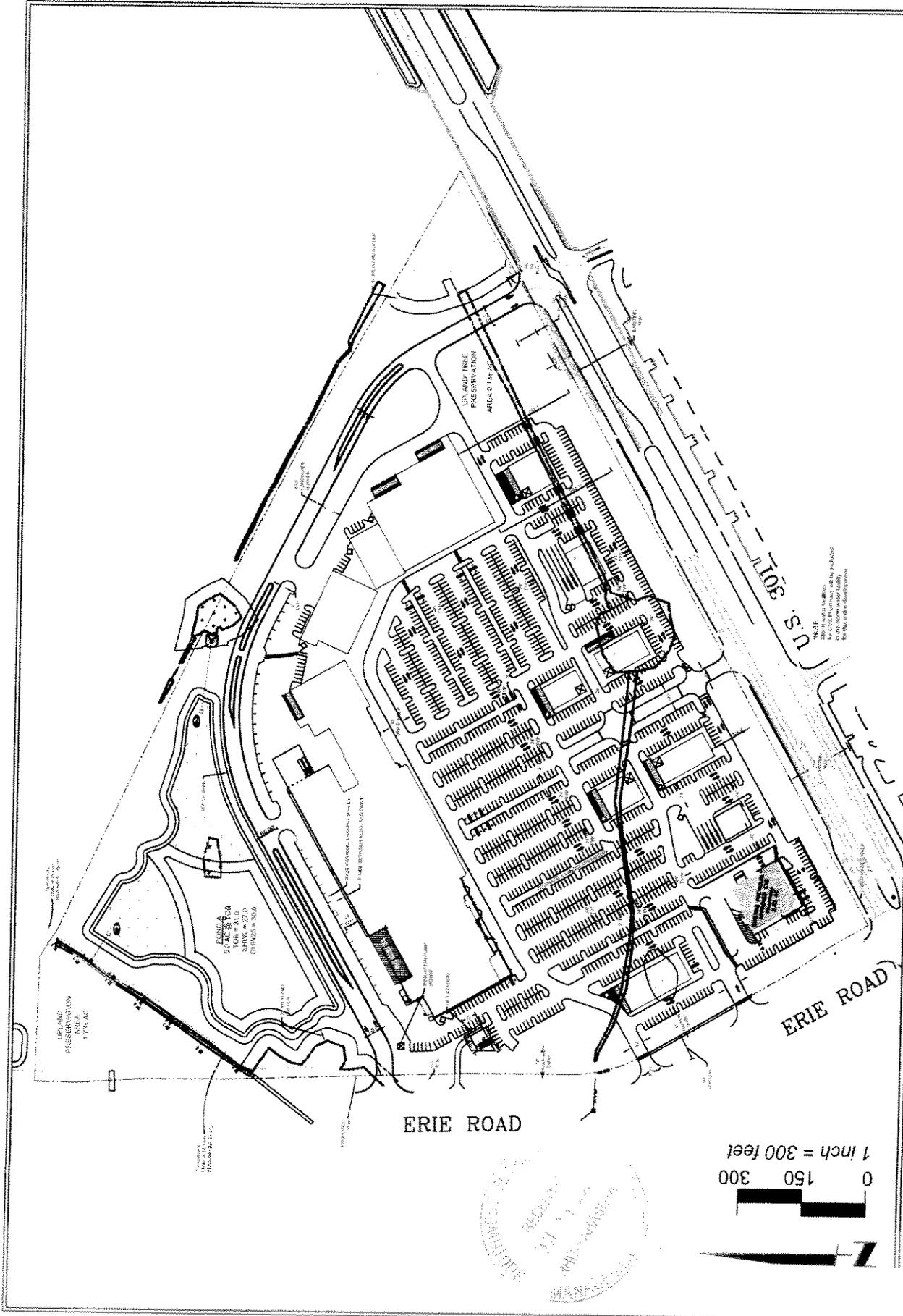
Water Resource Associates, Inc.
 Engineering - Planning - Environmental Science
 4260 W. Linebaugh Ave.
 Phone: 813-265-3130
 Fax: 813-265-0610
 www.wraconsultants.com

PROJECT: Benderson - Creekside Oaks - Manatee County, FL

ORIGINAL DATE: 10-19-08



**FIGURE 1
VICINITY MAP**



WRA PROJECT #: 0614	DESIGNED BY: CRC
ORIGINAL DATE: 10-19-08	DRAWN BY: CRC
REVISED DATE: na	APPROVED BY: RGS
FILE: SJ-0613_Site Plan.dwg	SHEET
SCALE: 1 in = 300 ft	1 of 1

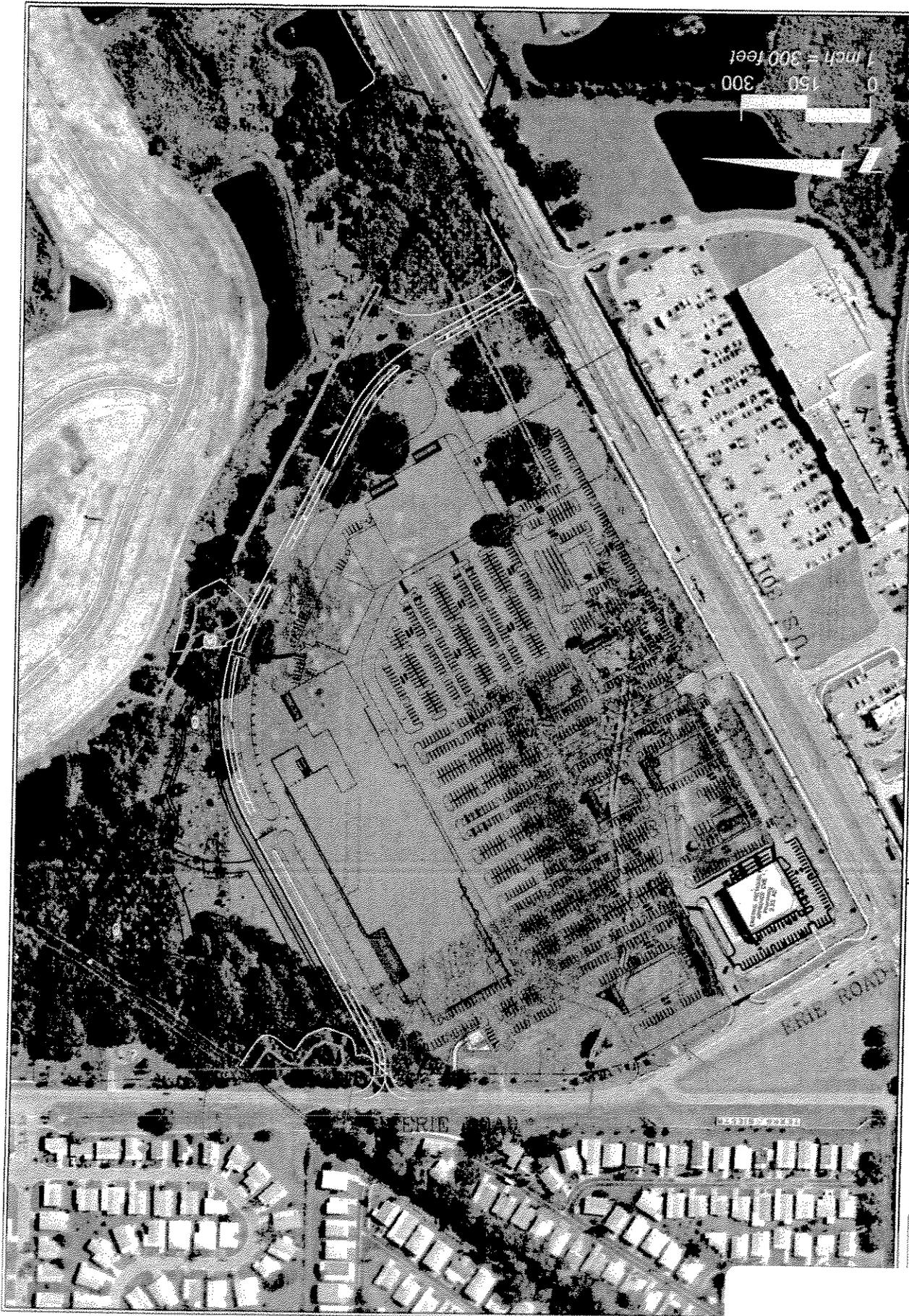
PROJECT: 0614 - Creekside Oaks - Manatee County, FL

FIGURE 8

General Site Plan

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 Tampa, Florida 33624
 Phone: 813.265.3130 Fax: 813.265.6610
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PROJECT: 0614 - Creekside Oaks - Manatee County, FL

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FIGURE 9
Site Plan w/ Aerial

DESIGNED BY: CRC	WRA PROJECT #: 0614
DRAWN BY: CRC	ORIGINAL DATE: 10-19-08
APPROVED BY: RGS	REVISED DATE: na
SHEET	FILE: 61-0614_Site Plan.dwg
1 of 1	SCALE: 1 in = 300 ft