



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207

South Atlantic Division  
Regulatory Technical Regional  
Execution Center

## ***PUBLIC NOTICE***

Permit Application No. SAJ-2024-01172(SP-CNF)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) 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) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) as described below.

If you are interested in receiving additional project drawings associated with this public notice, please send an e-mail to the project manager by electronic mail at [catrina.n.frey@usace.army.mil](mailto:catrina.n.frey@usace.army.mil).

APPLICANT: David Kienzle  
1000 Jackson Street  
Toledo OH 43626

WATERWAY AND LOCATION: The project would affect aquatic resources associated with the Caloosahatchee River. The project site is located at 15500 Cook Road Fort Meyers FL 33908 (Folio: 35-45-23-00-00003.0000).

Directions to the site are as follows: Take McGregor Boulevard South, turn right onto Iona Road and follow around to a right turn onto Cook Road. Site is at end of Cook Road on the left.

APPROXIMATE CENTRAL COORDINATES: Latitude 26.515852°  
Longitude -81.972487°

### **PROJECT PURPOSE:**

Basic: The basic project purpose is for a single-family residential development with water access.

Overall: The overall project purpose for single family residential development with water access in Lee County.

**EXISTING CONDITIONS:** The project consists of a 4.55 acre vacant residential lot which consists of Mangrove Wetlands, Exotic Wetland Hardwoods, Upland forest and a boat basin.

**PROPOSED WORK:** The applicant seeks authorization to improve water access with residential housing by placement of 1.52 acre of fill within a 4.55 acre lot for the development of 8 residential housing with associated infrastructure. Additionally, installation of an approximately 561 square foot dock for water access.

**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 site plan has been designed to avoid impacts to the mangrove wetland onsite. Impacts are limited to the lower quality areas which are located landward of the existing seawall and consist of a mowed lawn which has been maintained continuously since the 1950s.

**COMPENSATORY MITIGATION –** The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

Mitigation for unavoidable impacts to the jurisdictional wetlands onsite will be offset through the purchase of herbaceous saltwater credits from the Little Pine Island Mitigation Bank.

#### **CULTURAL RESOURCES:**

The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, those federally recognized tribes with concerns in Florida and the Permit Area, and other interested parties.

#### **ENDANGERED SPECIES:**

The Corps has determined the proposed project May affect the Smalltooth Sawfish (*Pristis pectinate*) species and/or its designated critical habitat. The corps will request informal consultation with the National Marine Fisheries Service pursuant to Section 7 of the Endangered Species Act by separate letter.

The Corps has determined the proposed project may affect, but is not likely to adversely affect (NLAA) ESA-listed species and/or its designated critical habitat listed in Table 1.

The Corps will request U.S. Fish and Wildlife/National Marine Fisheries Service concurrence with this determination pursuant to Section 7 of the Endangered Species Act.

**Table 1:** The Corps propose a NLAA determination for the following ESA-listed species and/or critical habitat potentially present in the action area.

| <b>Species Common Name and/or Critical Habitat Name</b>   | <b>Scientific Name</b>   | <b>Federal Status</b>   |
|---|--|---|
| Swimming sea turtles (Green sea turtle, Kemp's Ridley sea turtle, and Loggerhead sea turtle), Giant Manta Ray | <i>Lepidochelys kempii</i> ,<br><i>Caretta caretta</i> ,<br><i>Chelonia mydas</i> ,<br><i>Mobula birostris</i> | Threatened/Endangered<br><br><u>Covered by JaxBO programmatic</u>                 |
| Eastern Indigo Snake  | <i>Drymarchon couperi</i>  | Threatened<br><br><u>Programmatic Determination Key:</u><br>A>B>C>D>E             |
| Florida Bonneted Bat  | <i>Eumops floridanus</i>   | Endangered<br><br><u>Lack of potential cavities, but survey will be requested</u> |
| West Indian Manatee   | <i>Trichechus manatus</i>  | Threatened<br><br><u>Programmatic Determination:</u><br>A>B>C>G>H>I>N>O>P1        |
| Wood Stork  | <i>Mycteria americana</i>  | Threatened<br><br><u>Programmatic Determination:</u><br>A>B                       |

The Corps has determined the project would have no effect on the following ESA-listed species within range of the project because there is no suitable habitat: Green sea turtle (*Chelonia mydas*), Threatened; Gulf sturgeon (*Acipenser oxyrinchus (=oxyrhynechus) desotoi*), Threatened; Kemp's ridley sea turtle (*Lepidochelys kempii*), Endangered; Loggerhead sea turtle (*Caretta caretta*), Threatened; Aboriginal Prickly-apple (*Harrisia (=Cereus) aboriginum (=gracilis)*), Endangered; Beautiful pawpaw (*Deeringothamnus pulchellus*), Endangered; American alligator (*Alligator mississippiensis*), Similarity of Appearance, (Threatened); American crocodile (*Crocodylus acutus*), Threatened; Florida panther (*Puma (=Felis) concolor coryi*), Endangered [Florida Panther Effect Dkey: A>B>No Effect]; Puma (=mountain lion) (*Puma (=Felis) concolor (all subsp. except coryi)*), Similarity of Appearance (Threatened); Miami Blue Butterfly (*Cyclargus*

*thomasi bethunebakeri*), Endangered; Crested caracara (*Caracara plancus audubonii*), Threatened.

This notice serves as request to U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

**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. The proposal would impact approximately 0.47 acres of water bottoms utilized by various life stages of shark and coastal migratory pelagics. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the Caloosahatchee River. 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.

**NAVIGATION:** The proposed fill and dock is not located in the vicinity of a federal navigation channel.

**SECTION 408:** The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

**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.

**COMMENTS** regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Technical Regional Execution Center, 4400 PGA Blvd, Suite 500, Palm Beach Gardens FL 33410 within 30 days from the date of this notice.

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.

**QUESTIONS** concerning this application should be directed to the project manager, Catrina Frey, in writing at the Technical Regional Execution Center, 4400 PGA BLVD, Suit 500, Palm Beach Gardens, FL 33410; by electronic mail at [catrina.n.frey@usace.army.mil](mailto:catrina.n.frey@usace.army.mil); or by telephone at (305)484-7406.

**IMPACT ON NATURAL RESOURCES:** Coordination with U.S. 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.

**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 or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972.

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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

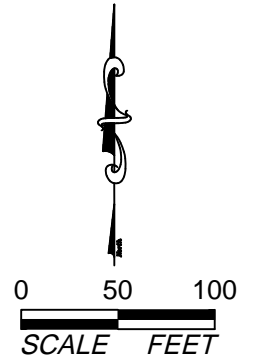
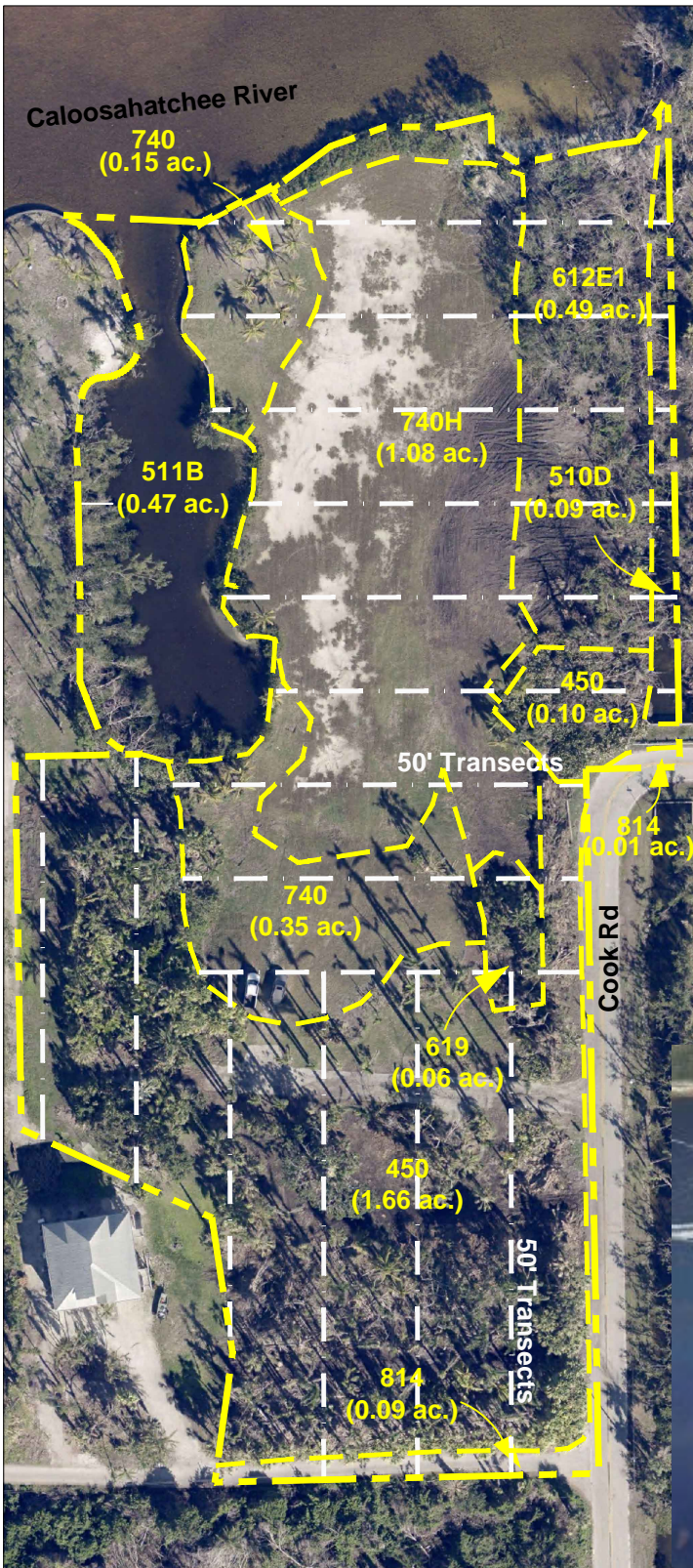
**WATER QUALITY CERTIFICATION:** Water Quality Certification may be required from the Florida Department of Environmental Protection (FDEP).

**COASTAL ZONE MANAGEMENT CONSISTENCY:** Coastal Zone Consistency Concurrence is required from FDEP. In Florida, the State approval constitutes compliance with the 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.

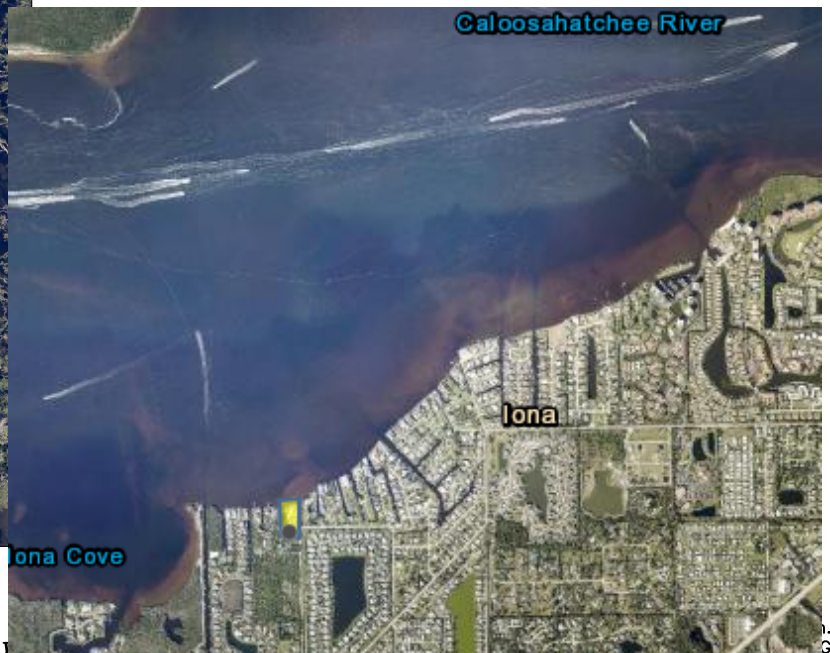


# Palm Cove Subdivision



SECTION: 35  
TOWNSHIP: 45 S  
RANGE: 23 E

| FLUCCS | Description                                 | Acreage  |
|--------|---|----------|
| 450    | Mixed Exotic Upland Forest                  | 1.76 ac. |
| 510D   | Ditches                                     | 0.09 ac. |
| 511B   | Boat Basin                                  | 0.47 ac. |
| 612E1  | Mangrove Swamps Invaded by Exotics (10-25%) | 0.49 ac. |
| 619    | Exotic Wetland Hardwoods                    | 0.06 ac. |
| 740    | Disturbed Land                              | 0.50 ac. |
| 740H   | Hydric Disturbed Land                       | 1.08 ac. |
| 814    | Roads and Highways                          | 0.10 ac. |
| Total  |   | 4.55 ac. |

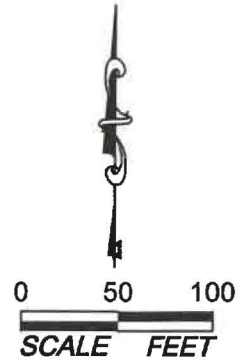
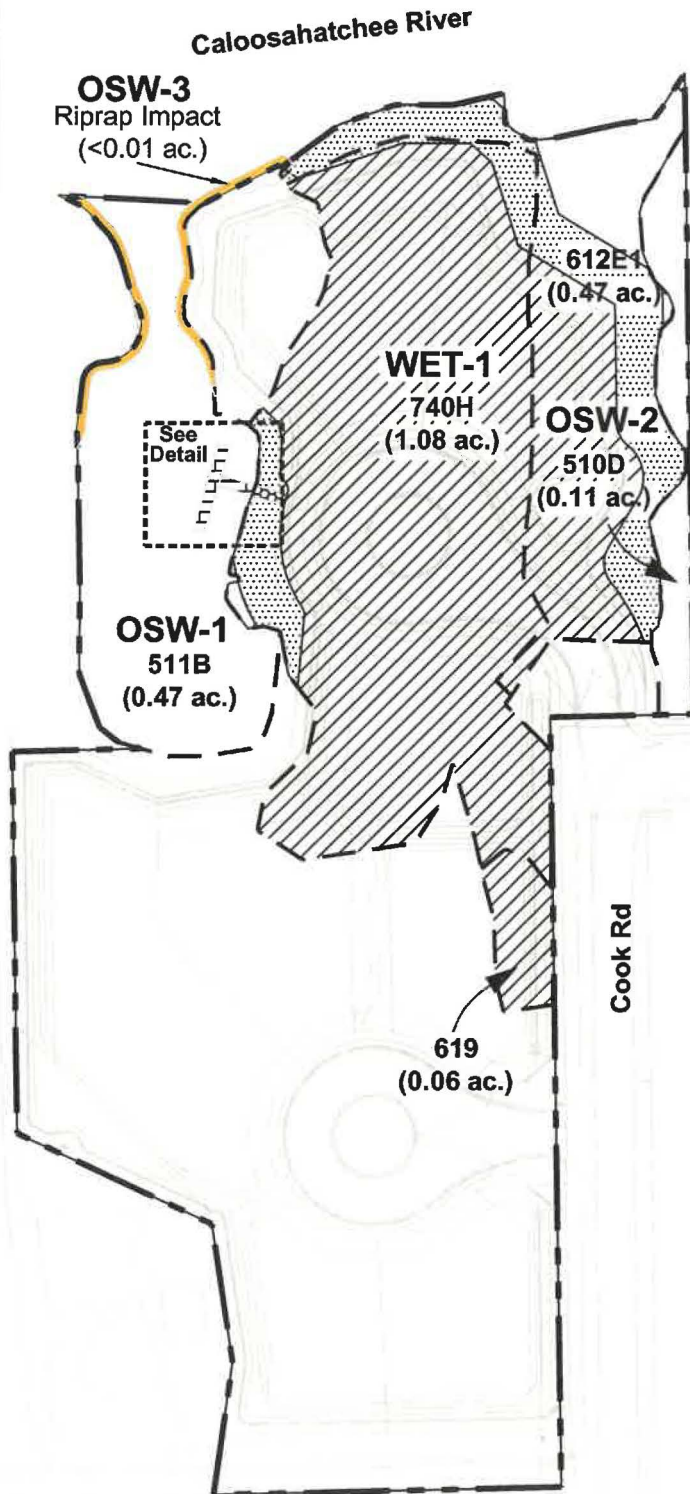


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Figure 1. Protected Species Assessment Map



# Palm Cove Subdivision



SECTION: 35  
TOWNSHIP: 45 S  
RANGE: 23 E

| FLUCCS | Description                                 | Acreage  |
|--------|---|----------|
| 510D   | Ditches                                     | 0.11 ac. |
| 511B   | Boat Basin                                  | 0.47 ac. |
| 612E1  | Mangrove Swamps Invaded by Exotics (10-25%) | 0.47 ac. |
| 619    | Exotic Wetland Hardwoods                    | 0.06 ac. |
| 740H   | Hydric Disturbed Land                       | 1.08 ac. |
| Total  |   | 2.19 ac. |

|  |                                      |
|--|--------------------------------------|
|  | Direct Wetland Impacts (1.27 ac.)    |
|  | Secondary Wetland Impacts (0.26 ac.) |
|  | Wetland Shading Impacts (102 SF)     |
|  | OSW Shading Impacts (0.01 ac.)       |
|  | OSW Fill Impacts (0.02 ac.)          |

## Notes:

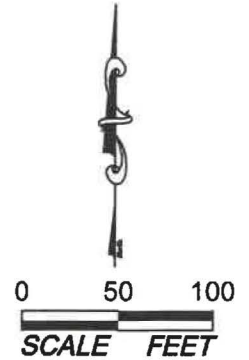
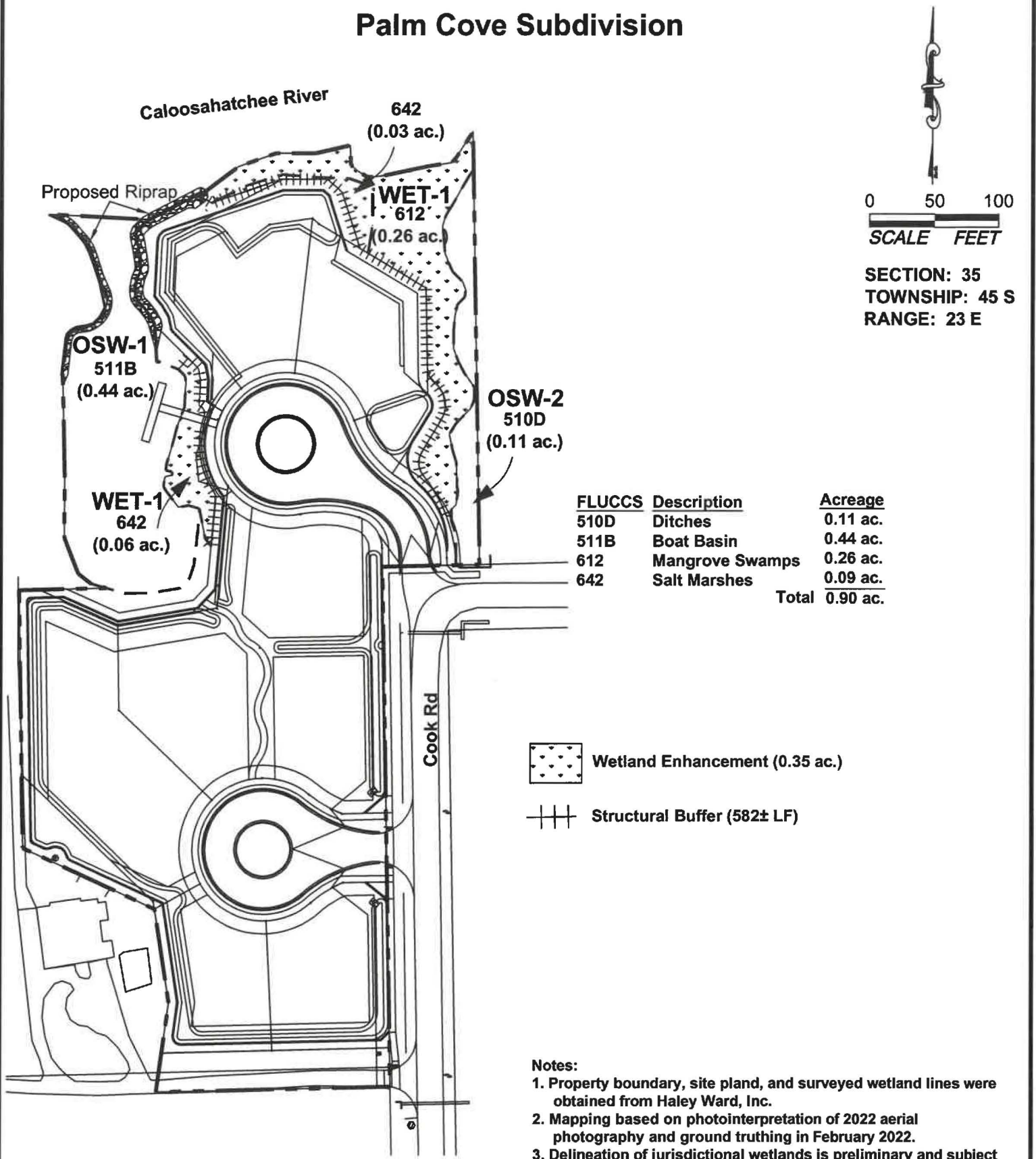
1. Property boundary, site plan, MHW line, and surveyed wetland lines were obtained from Haley Ward, Inc.
2. Mapping based on photointerpretation of 2022 aerial photography and ground truthing in February 2022.
3. Delineation of jurisdictional wetlands is preliminary and subject to field review/approval by applicable regulatory agencies.

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November 01, 2024 7:54:03 a.m.  
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**Wetland and  
OSW Impact Map**

# Palm Cove Subdivision



SECTION: 35  
TOWNSHIP: 45 S  
RANGE: 23 E

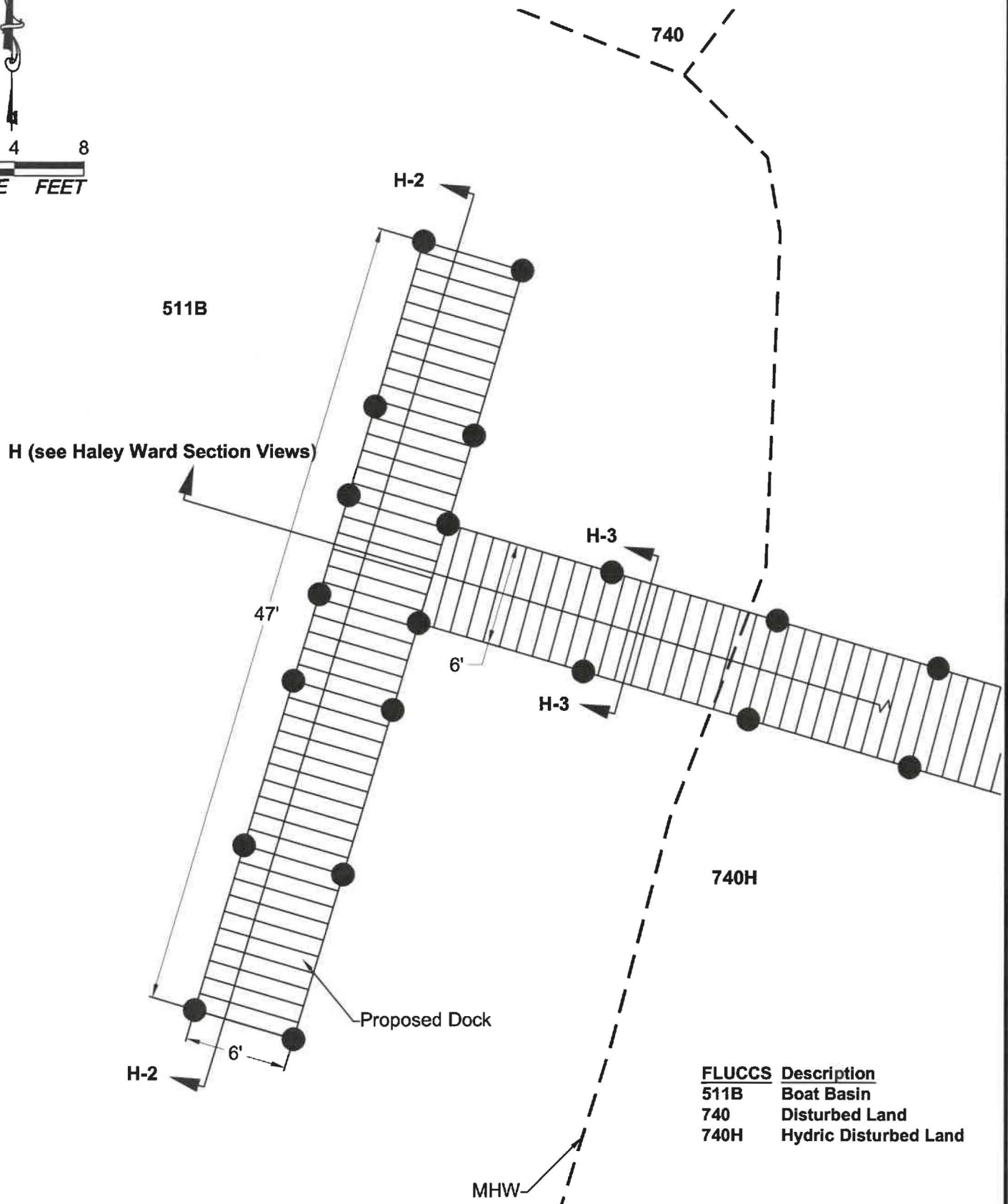
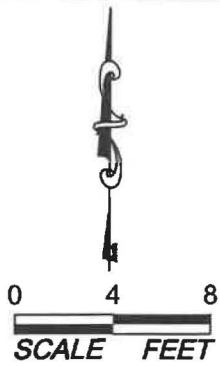
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August 22, 2024 9:58:59 a.m.  
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Proposed Conditions Map



# Palm Cove Subdivision



| FLUCCS | Description           |
|--------|-----------------------|
| 511B   | Boat Basin            |
| 740    | Disturbed Land        |
| 740H   | Hydric Disturbed Land |

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November 01, 2024 7:54:03 a.m.  
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Canoe and Kayak Launch Detail



**ATWELL**

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