



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

February 14, 2025

Regulatory Division
West Permits Branch
Fort Myers Section

PUBLIC NOTICE

Permit Application No. SAJ-1995-03885 (SP-JPF)

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) and 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 or a copy of the previous public notice described below, please send an e-mail to the project manager by electronic mail at john.p.fellows@usace.army.mil.

APPLICANT: City of Cape Coral
1015 Cultural Park Boulevard
Cape Coral, FL 33990

WATERWAY AND LOCATION: The project would affect waters of the United States associated with the Cape Coral Yacht Club (CCYC) marina basin, adjacent canals, and the Caloosahatchee River. The project site is located at 5819 Driftwood Parkway, Cape Coral, Lee County, Florida.

Directions to the site are as follows: From Interstate 75, take Colonial Boulevard west over the Midpoint Bridge to Del Prado Boulevard, take Del Prado south two miles to Coronado Parkway, take Coronado south 2.5 miles to Lucerno Parkway, take Lucerno east 0.4 mile to Driftwood Parkway, take Driftwood 0.4 mile south to project site.

APPROXIMATE CENTRAL COORDINATES: Latitude 26.543305
Longitude -81.950951

PROJECT PURPOSE:

Basic: renovate an existing public waterfront facility

Overall: renovate an existing facility to provide improved and updated public access to recreational activities such as boating, swimming, and tennis courts, and other amenities such as an existing restaurant

EXISTING CONDITIONS: The CCYC is a public facility which prior to Hurricane Ian in September 2022 had amenities including a beach, 117-slip marina with a fuel dock, boat ramp, and fishing pier, as well as upland facilities including a ballroom, community center, restaurant, tennis, shuffleboard and racquetball courts, and a playground area. Currently, only the beach is open to the public.

The applicant states that there are no mangroves, seagrasses, oyster reefs, or other aquatic resources within the project footprint, including the areas waterward of the existing boat ramp and seawalls.

On October 24, 2023, the Corps provided a 'No Permit Required' letter to the City for the placement of sand above the Mean High Water line at the beach.

PROPOSED WORK: The applicant proposes to renovate and expand the CCYC. The Corps public notice (PN) published on April 13, 2022, provides a full description and drawings of the project as proposed at that time. The purpose of this PN is to inform the public of additional activities not included in that previous one. Specifically:

- a. the completion of repairs to the fuel dock as proposed in the prior PN, which involved the replacement of deck boards with no in-water work;
- b. the placement of 464 square feet of large rocks along the shoreline between the former fishing pier and restaurant, above the Mean High Water line and below the High Tide Line; and
- c. the transfer of a total of 51 boat slips from the City properties at 3918 Pine Island Road NW, 3922 Pine Island Road NW, and 3926 Pine Island Road NW, Matlacha to the CCYC to meet the requirements of the Lee County Manatee Protection Plan, with a total of 27 slips remaining at those parcels

The applicant has indicated that there are no other changes from the project described in the original public notice, and they are not requesting any other activities as part of this current application.

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:

Best management practices will be followed throughout construction activities. Turbidity curtains will be employed for in-water work and silt screens for upland based improvements.

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

The applicant has provided the following explanation why compensatory mitigation should not be required:

The applicant states that there are no mangroves, marsh vegetation, seagrasses, oyster beds, hardbottom, or other wetland or aquatic habitats present in the project footprint. Therefore, there is no loss of aquatic resource function associated with this project.

CULTURAL RESOURCES:

The Florida State Historic Preservation Office (SHPO) provided a letter dated September 19, 2022, stating that the project as proposed in the previous PN will have no effect on historic and cultural resources.

The Corps has evaluated the additional activities for effects to historic properties as required under Section 106 of the National Historic Preservation Act and has followed the guidelines of 33 CFR Part 325, Appendix C. Due to extensive modification by previous impacts (including the dredging of the canals and marina basin), and the creation of the adjacent upland areas in modern times (including the placement of spoil from the previous dredging activities), the Corps has determined that the additional activities would have No Potential to Cause Effects to Historic Properties.

ENDANGERED SPECIES:

The project is within the consultation areas for the Florida scrub jay, Florida bonneted bat, American crocodile, and the West Indian manatee, within the core foraging area of at least one wood stork nesting colony, within designated critical habitat for the West Indian manatee and the smalltooth sawfish, and partly within a sawfish limited exclusion zone.

Bonneted bat, scrub jay: Based on the existing site conditions and the types of activities proposed, the Corps has determined that the project would have no effect on the Florida scrub jay, the Florida bonneted bat, or the American crocodile. No further consultation is necessary for these species. This is the same determination that the Corps made in the previous PN for the jay and bat, and an updated determination (from 'not likely to adversely affect' to 'no effect') for the crocodile.

Wood stork: The Corps considered the 6060 square-foot area waterward of the existing boat ramp to be suitable wood stork foraging habitat. Use of the May 2010 effect determination key for the wood stork resulted in an effect determination of 'may affect, not likely to adversely affect, no further consultation required' (A-B) and gave programmatic concurrence for the wood stork. This is the same determination that the Corps made in the previous PN.

Species under the purview of the NOAA National Marine Fisheries Protected Resources Division (PRD): The Corps received a Biological Opinion dated March 10, 2023, for the

original project's proposed activities. As none of the additional proposed actions includes in-water work, no additional consultation is required.

Manatee: The Corps originally made a 'may effect' determination for the manatee and requested initiation of formal consultation for the manatee from the U.S. Fish and Wildlife Service (FWS). Since that time, the applicant has provided documentation, verified by the Florida Fish and Wildlife Conservation Commission, that the project is consistent with the Lee County Manatee Protection Plan. The Corps has provided a revised determination to the FWS of 'may affect, not likely to adversely affect', and requested concurrence.

ESSENTIAL FISH HABITAT (EFH): In an email dated April 14, 2022, the NOAA National Marine Fisheries Service, Southeast Region, Habitat Conservation Division (HCD) stated that any adverse effects that might occur on marine and anadromous fishery resources would be minimal, and that HCD did not have EFH conservation recommendations.

For the additional activities, 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 464 square feet of unvegetated estuarine habitat utilized by various life stages of recreationally and commercially important species. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries. 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: Based on GIS mapping, the closest waterward edge of the proposed project (as originally proposed and as currently proposed) is approximately 1900 feet away from the near bottom edge of the Intracoastal Waterway Federal 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 been verified by Corps personnel.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing within 15 days from the date of this notice. Comments should be submitted via the Regulatory Request System public notice module at <https://rrs.usace.army.mil/rrs/public-notices>. Alternatively, you may submit written comments through the Tampa Permits Section, 10117 Princess Palm Avenue, Suite 120, Tampa, Florida, 33610-8302.

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, John Fellows, in writing at the Tampa Permits Section, 10117 Princess Palm Avenue, Suite 120, Tampa, Florida, 33610-8302; by electronic mail at john.p.fellows@usace.army.mil; or, by telephone at (813) 538-3932.

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.

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 the 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.

LOCATION MAPS

Cape Coral Yacht Club



VICINITY MAP

Cape Coral Yacht Club

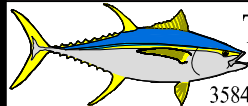
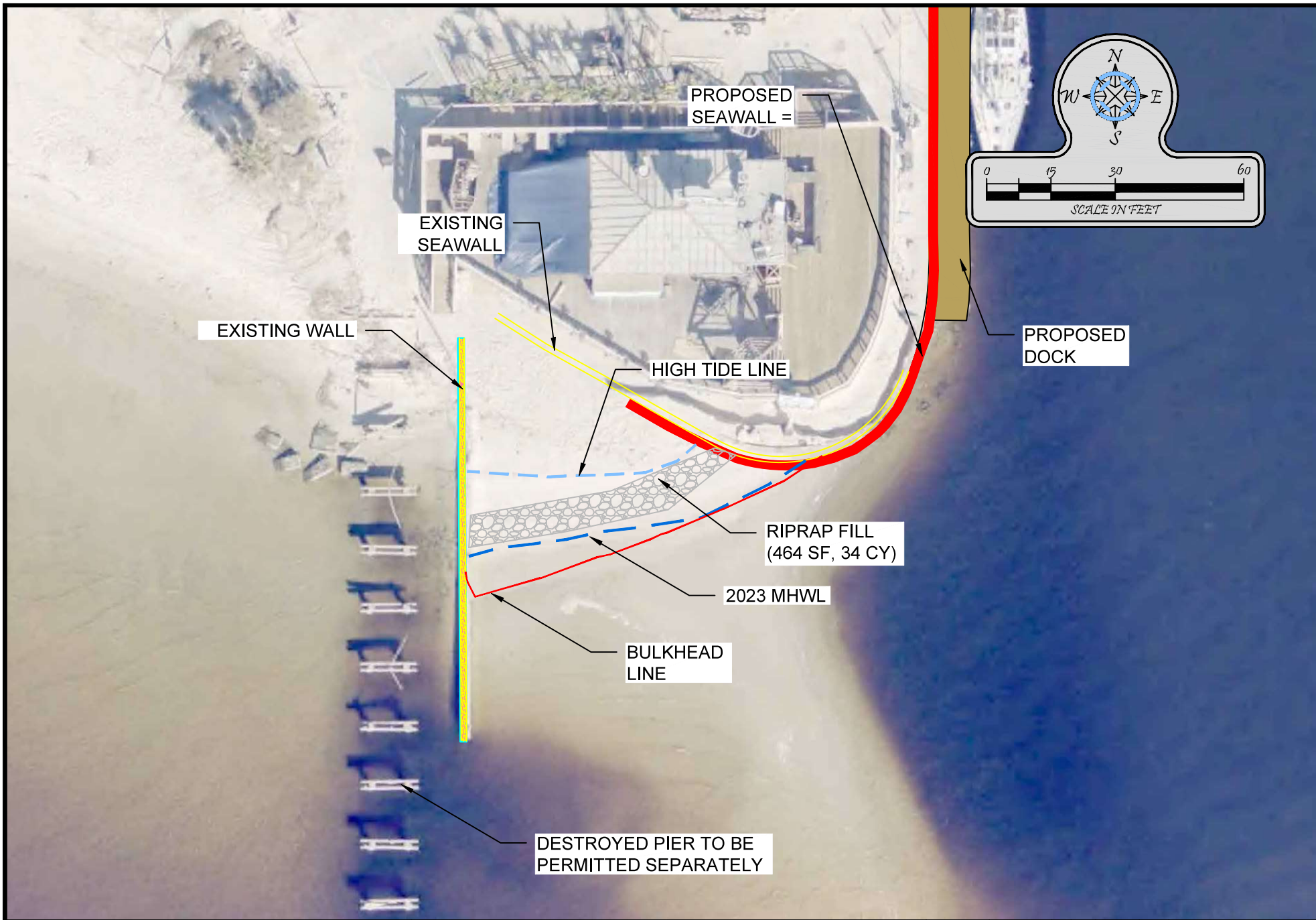


COUNTY AERIAL



LOCATION OF DONOR PARCELS
FOR SLIP TRANSFER

P:\19132.01 cape coral yacht club\CAO\PERMIT-19132.01-ACOE.dwg WETLAND FILL FOR BOATHOUSE BEACH 5/9/2024



Turrell, Hall & Associates, Inc.
Marine & Environmental Consulting

3584 Exchange Ave. Naples, FL 34104-3732

Email: tuna@thanaples.com Phone: (239) 643-0166 Fax: (239) 643-6632

CAPE CORAL YACHT CLUB WETLAND FILL FOR BOATHOUSE BEACH

THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.

DESIGNED:	TH	REV	REV BY	DATE	CHK BY	CHANGED
DRAWN BY:	RMJ	1.	RMJ	05-01-24	TH	REVISED LABELS
CREATED:	02-19-24	2.	-	-	-	-
JOB NO.:	19132.01	3.	-	-	-	-
SHEET NO.:	21 OF 21	4.	-	-	-	-
		5.	-	-	-	-
SECTION- 19		TOWNSHIP- 45 S		RANGE- 24 E		



STRAP	Folio	Owner Name	Site Address	Last Trans. Date	Last Trans. Amt	Just Value	Taxable Value
13-44-22-L3-01000.0150	10013225	CITY OF CAPE CORAL	3926 PINE ISLAND RD NW, MATLACHA	4-2012	\$ 13,080,100	\$ 545,180	\$ 0

Parcel 13-44-22-L3-01000.0150 – 37 slips transferred



STRAP	Folio	Owner Name	Site Address	Last Trans. Date	Last Trans. Amt	Just Value	Taxable Value
13-44-22-L3-01000.0170	10013226	CITY OF CAPE CORAL	3922 PINE ISLAND RD NW, MATLACHA	4-2012	\$ 13,080,100	\$ 845,047	\$ 0

Parcel 13-44-22-L3-01000.0170 – 4 slips transferred



STRAP	Folio	Owner Name	Site Address	Last Trans. Date	Last Trans. Amt	Just Value	Taxable Value
13-44-22-L3-01000.0190	10013227	CITY OF CAPE CORAL	3918 PINE ISLAND RD NW, MATLACHA	4-2012	\$ 13,080,100	\$ 768,131	\$ 0

Parcel 13-44-22-L3-01000.0190 – 10 slips transferred