



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
4400 PGA BOULEVARD, SUITE 500  
PALM BEACH GARDENS, FLORIDA 33410

REPLY TO  
ATTENTION OF

March 6, 2019

Regulatory Division  
South Permits Branch  
Palm Beach Gardens Permits Section

## ***PUBLIC NOTICE***

Permit Application Number SAJ-2018-03209(SP-JKA)

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) as described below:

APPLICANT: Dena Markitell  
11418 Pink Oleander Lane  
Palm Beach Gardens, Florida 33418

WATERWAY AND LOCATION: The project would affect waters of the United States associated with freshwater, non-tidal wetlands. The project site is located within a 1.32 acre vacant lot (parcel id: 00-42-41-09-00-000-7240), at the east corner of the intersection of 163<sup>rd</sup> Court North and 77<sup>th</sup> Trail North, Section 09, Township 41 South, Range 42 East, Palm Beach Gardens, Palm Beach County, Florida.

Directions to the site are as follows: Take Interstate 95 to Donald Ross Road, exit 83, and travel west on Donald Ross Road, approximately one mile. At the traffic circle take the first exit onto 69<sup>th</sup> Drive North. Travel 1.6 miles north and turn left onto 155<sup>th</sup> Place North. Travel west approximately 0.6 miles and turn right onto 75<sup>th</sup> Avenue North. Travel 0.8 miles north and turn left onto 163<sup>rd</sup> Court North and travel 0.3 miles. Destination will be on the left.

APPROXIMATE CENTRAL COORDINATES: Latitude: 26.917170°  
Longitude: -80.155087°

### **PROJECT PURPOSE:**

Basic: Single Family Residential

Overall: To construct a home in a single family residential home in a low-density residential area within western Palm Beach County, Florida.

EXISTING CONDITIONS: There are two vacant parcels owned by the applicant on the east side of 77<sup>th</sup> Trail North (Parcel ID: 00-42-41-09-00-000-7240 and 00-42-41-09-00-000-7050). A preliminary jurisdictional determination dated January 10, 2019 confirmed that both of the buildable portions (non-roadway) were wetlands, totaling 2.18 acres. The wetland system consists of a freshwater herbaceous system, as the area has been

cleared twice and continuously mowed. The Corps conducted a site visit on January 3, 2019, which confirmed that the site had been cleared and vegetation and soils were altered. Despite the recorded disturbance, Corps observed a variety of facultative wet and obligate vegetation including but not limited to short leaf spike sedge (*Kyllinga brevifolia*), spikerush (*Eleocharis geniculata*), fragrant flatsedge (*Cyperus odoratus*), dollarweed (*Hydrocotyle sp.*), and sawgrass (*Cladium jamaicense*). The existing area surrounding the project area consists of low density single family homes.

**PROPOSED WORK:** The applicant seeks authorization to place fill within 1.15 acres of wetlands to construct a single family home and associated features.

**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 applicant proposes to only to build on the southern lot (fill of 1.15 ac wetlands) and avoid impacts the northern lot, approximately 1.03 acres of herbaceous wetlands. Due to the size of the house and proposed amenities, the applicant cannot reduce the size of the wetland impacts. Additionally, the applicant will be required to use erosion control devices to prevent sediments from leaving the project area during construction.

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

“The applicant proposes to offset the unavoidable impacts to wetlands by purchasing herbaceous wetland mitigation credits from a federally approved mitigation bank.”

**CULTURAL RESOURCES:** The Corps is not aware of any known historic properties within the permit area. By copy of this public notice, the Corps is providing information for review. Our final determination relative to historic resource impacts is subject to review by and coordination with the State Historic Preservation Officer and, if applicable, those federally recognized tribes with concerns in Florida and the Permit Area.

**ENDANGERED SPECIES:** The U.S. Army Corps of Engineers (Corps) has determined the proposed project may affect, but is not likely to adversely affect the wood stork (*Mycteria americana*) and the eastern indigo snake (*Drymarchon couperi*). The determinations are described below:

The Corps has determined that the proposed project is located within 18.6 miles of one wood stork nesting colony and suitable foraging habitat is located within the project footprint. The Corps utilized the South Florida Programmatic Concurrence Key for the Wood Stork dated May 18, 2010, and determined that the project may affect but is not likely to adversely affect the wood stork (path A-B-C-E) provided the loss of suitable foraging habitat will be replaced. No further consultation with the U.S. Fish and Wildlife

Service (FWS) is required for the wood stork pursuant to Section 7 of the Endangered Species Act. If it is determined that the wood stork foraging habitat would not be replaced, coordination with the FWS would be conducted by separate letter.

The Corps has determined that suitable gopher tortoise habitat and other snake refugia are present within and adjacent to the project area. Use of *The Corps of Engineers, Jacksonville District and the U.S. Fish and Wildlife's Indigo Snake Key* dated 1 August 2017, resulted in a path of A-B-C-D-E, not likely to adversely affect. A determination of "not likely to adversely affect" was made for the Indigo snake provided the permit includes the special conditions for the Eastern Indigo Snake Protection Measures during construction and the permit will be conditioned such that all gopher tortoise burrows, active or inactive, shall be evacuated via methods pursuant to FWC excavation guidance prior to site manipulation in the vicinity of the burrows. Additionally, holes, cavities, and snake refugia other than gopher tortoise burrows shall be inspected each morning before planned site manipulation of a particular area with work stopping if an indigo snake is discovered. With an outcome of "not likely to adversely affect (NLAA)" as outlined in the key, the requirements of Section 7 of the Endangered Species Act are fulfilled for the eastern indigo snake and no further action is required.

**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. No EFH is located within or areas affected by the project. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the South Atlantic Region.

**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.

**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 potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Palm Beach Gardens Permits Section, 4400 PGA Boulevard, 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, Jerilyn Ashworth, in writing at the Palm Beach Gardens Permits Section, 4400 PGA Boulevard, Suite 500, Palm Beach Gardens, FL 33410; by electronic mail at Jerilyn.Ashworth@usace.army.mil; by facsimile transmission at (561)626-6971; or, by telephone at (561)472-3508.

**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. 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 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.

**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 the Coastal Zone Management Plan.

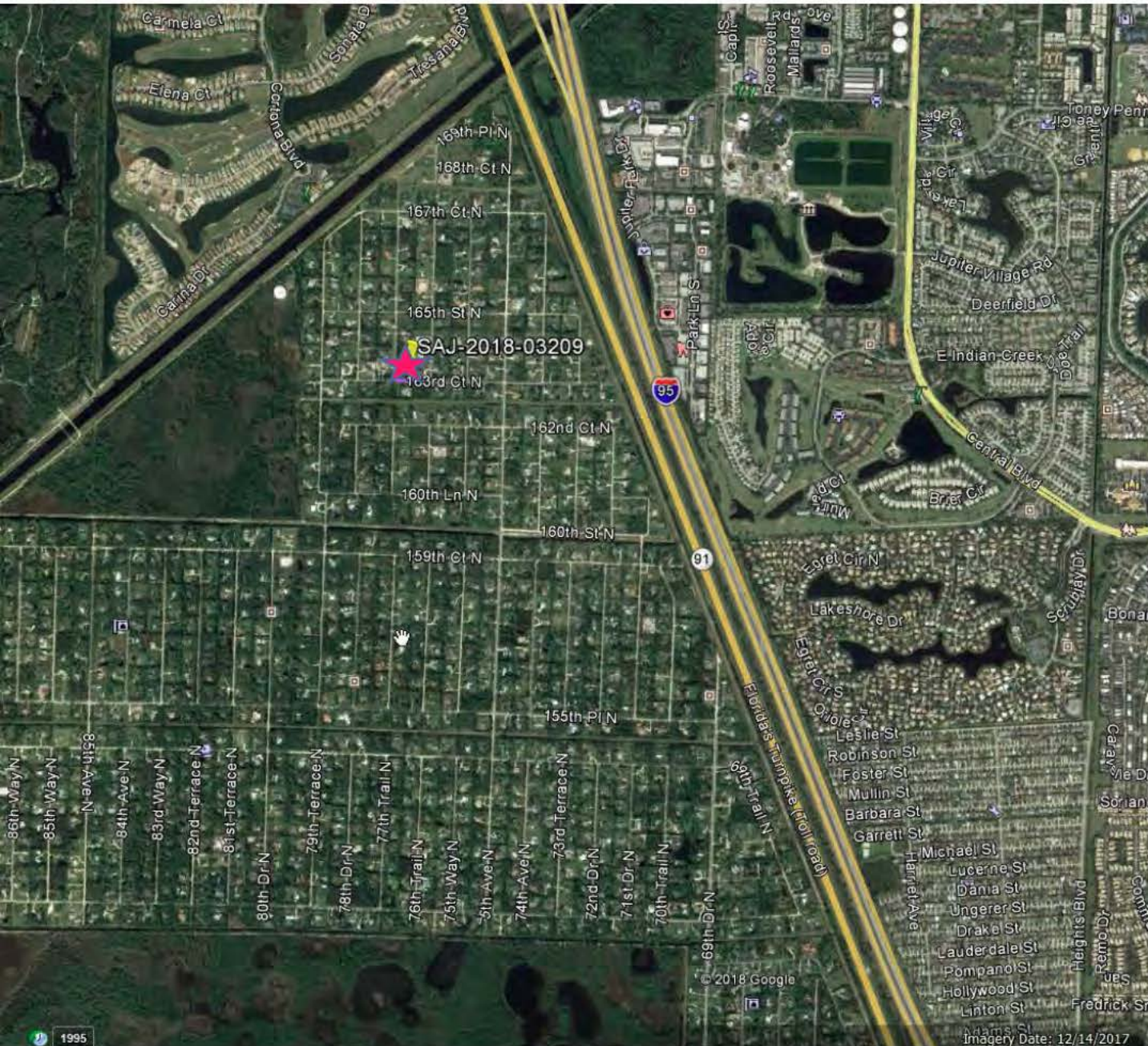
REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.



**Applicant: Dena Markitell**  
**Project Location Map**



Location: The project site is located within a 1.32 acre vacant lot (parcel id: 00-42-41-09-00-000-7240), at the east corner of the intersection of 163<sup>rd</sup> Court North and 77<sup>th</sup> Trail North, Section 09, Township 41 South, Range 42 East, Palm Beach Gardens, Palm Beach County, Florida.

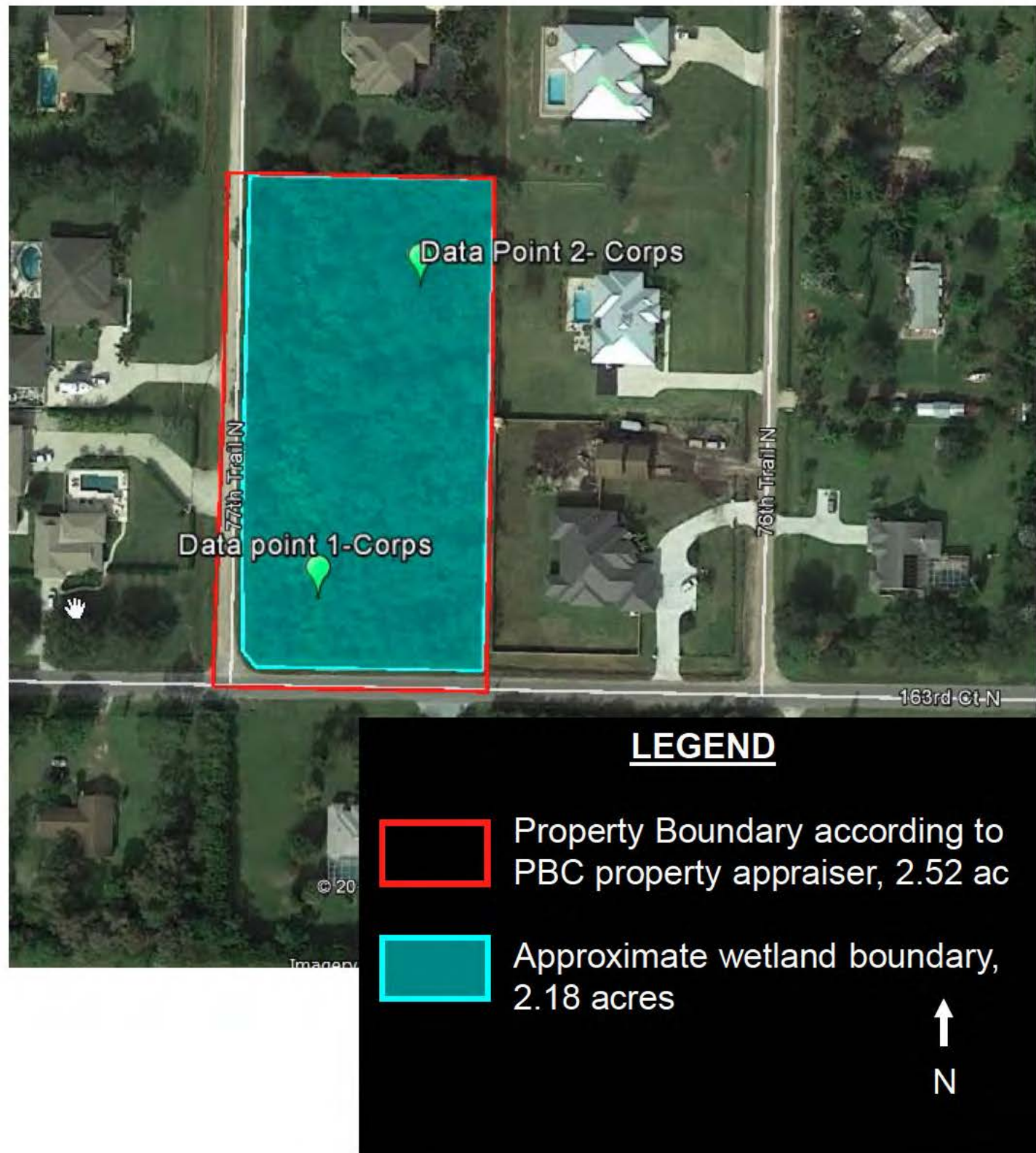




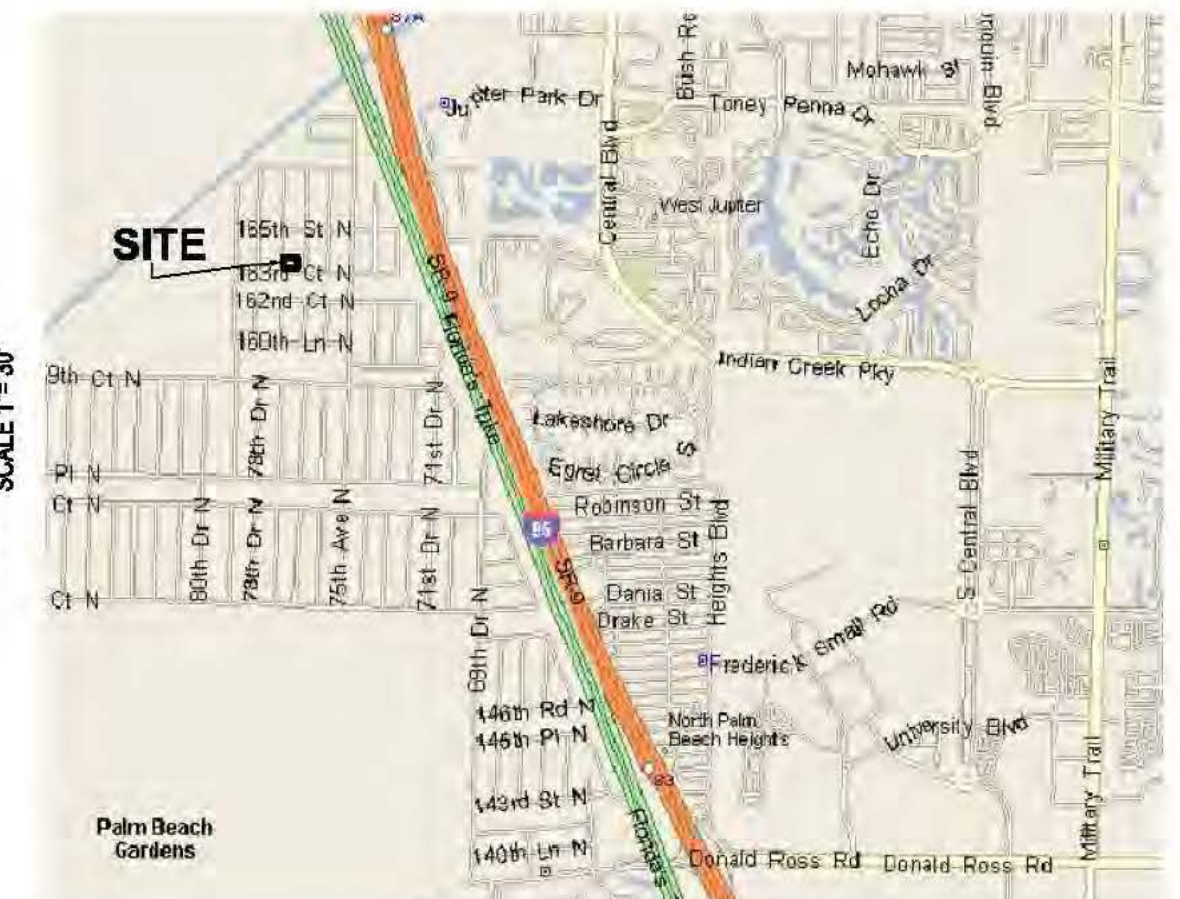
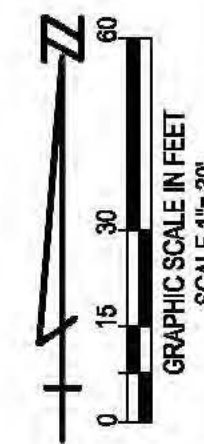
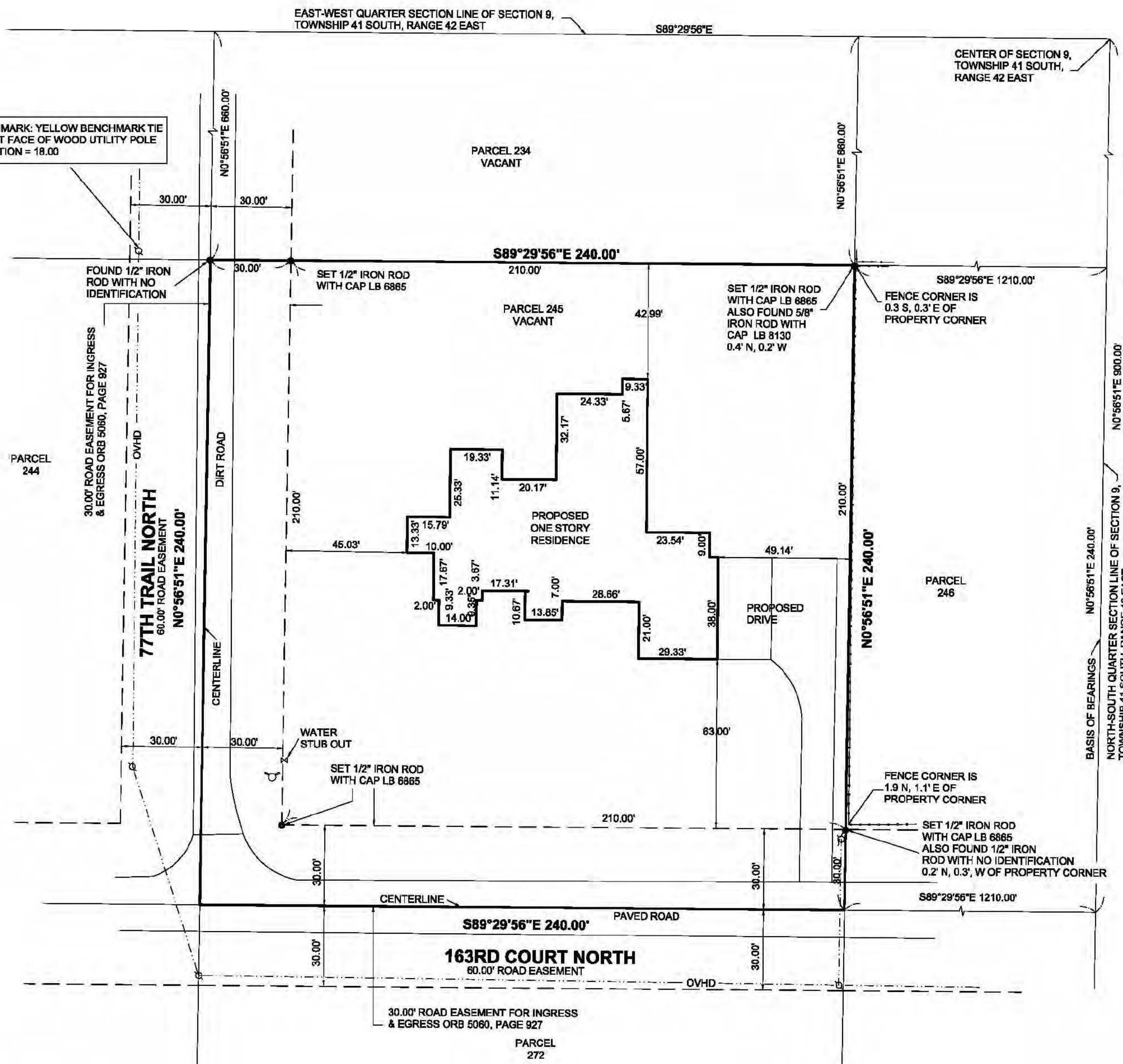
**SAJ-2018-03209**

**Applicant: Dena Markitell**

**Preliminary Jurisdictional Determination**







**LOCATION MAP**  
NOT TO SCALE

**LEGAL DESCRIPTION** (OFFICIAL RECORDS BOOK 26771, PAGE 1914)

PARCEL: P-245, A PARCEL OF LAND IN 9, TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

THE SOUTH 240 FEET OF THE NORTH 900 FEET OF THE WEST 240 FEET OF THE EAST 1450 FEET OF THE SOUTHWEST QUARTER OF SAID SECTION 9.

CONTAINING 57598 SQUARE FEET OR 1.32 ACRES, MORE OR LESS, (GROSS)  
CONTAINING 44098 SQUARE FEET OR 1.01 ACRES, MORE OR LESS, (NET)

**SURVEYOR'S NOTES**

- 1 - THE SURVEY DEPICTED HEREIN IS CLASSIFIED AS A BOUNDARY SURVEY.
- 2 - THE CONTROL SURVEY FOR THE SURVEY DEPICTED HEREON MEETS OR EXCEEDS A LINEAR CLOSURE OF 1 FOOT IN 7,500 FEET. THE EXPECTED USE OF SAID SURVEY IS FOR SUBURBAN RESIDENTIAL.
- 3 - UNDERGROUND APPARENT USE WAS NOT LOCATED BY THIS SURVEY.
- 4 - TIMOTHY M. SMITH LAND SURVEYING, INC., LICENSED BUSINESS NUMBER LB-6865.
- 5 - LEGAL DESCRIPTION SHOWN HEREON WAS PROVIDED BY THE CLIENT.
- 6 - NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY TIMOTHY M. SMITH LAND SURVEYING, INC..
- 7 - SURVEY MAP AND COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF PROFESSIONAL SURVEYOR AND MAPPER TIMOTHY M. SMITH, FLORIDA CERTIFICATE NO. LS 004676.
- 8 - ADDITIONS OR DELETIONS TO SURVEY MAP BY ANY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE SIGNING PARTY.
- 9 - ALL COMPUTED DATA OR PLOTTED FEATURES DEPICTED ON THIS SURVEY MAP ARE SUPPORTED BY ACCURATE SURVEY MEASUREMENTS MADE BY THE SURVEYOR.
- 10 - DIMENSIONS SHOWN HEREON ARE EXPRESSED IN UNITED STATES STANDARD FEET AND DECIMAL PARTS THEREOF.
- 10 - BEARINGS SHOWN HEREON ARE REFERENCED TO THE NORTH-SOUTH QUARTER SECTION LINE OF SECTION 9, TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, HAVING A BEARING OF NORTH 00°56'51" EAST.
- 11 - SUBJECT PROPERTY LIES IN ZONE AO AS SHOWN ON FLOOD INSURANCE MAP NUMBER 12099C0167F, EFFECTIVE DATE OCTOBER 05, 2017.
12. ELEVATIONS SHOWN HEREON ARE REFERENCED TO NORTH AMERICAN VERTICAL DATUM OF 1988 AND ARE BASED ON PALM BEACH COUNTY BENCHMARK "MIAMI" WITH A PUBLISHED ELEVATION OF 13.568.
13. DATE OF THE SALES MAP FOR SECTION 9, TOWNSHIP 41 SOUTH, RANGE 42 EAST IS AUGUST 1967.

**CERTIFIED TO:**



TIMOTHY M. SMITH, P.S.M.  
FLORIDA CERTIFICATE NO. 4676  
DATE OF SURVEY: 02/15/2019

**LEGEND**

- WOOD POWER POLE
- LB LICENSED BUSINESS
- OVHD OVERHEAD UTILITY LINES

**TIMOTHY M. SMITH  
LAND SURVEYING, INC.**  
4546 CAMBRIDGE STREET  
WEST PALM BEACH, FL 33415  
(561) 602-8160  
LB #6865



**BOUNDARY SURVEY**  
77TH TRAIL NORTH  
PALM BEACH GARDENS, FLORIDA

SCALE: 1"=30'  
DATE: FEBRUARY 2019  
DIRECTORY: TANC77TH  
FIELD BOOK: N/A  
DWG NO.: TANC77TH