



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

March 7, 2019

Regulatory Division
South Permits Branch
Palm Beach Gardens Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2018-03580(SP-VEK)

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:

APPLICANT: Michael Nunziata
13th Floor Holdings
848 Brickell Avenue PH 1
Miami, FL 33131

WATERWAY AND LOCATION: The project would affect waters of the United States associated with onsite non-wetland surface waters of a golf course. The project site is located on Parcel # 00-42-46-11-06-007-0000 in Section 10, Township 46 South, Range 42 East, Delray Beach, Palm Beach County, Florida. The site is bordered by El Clair Ranch Road to the west, Lake Ida Road to the south, Lake Worth Drainage District (LWDD) canal L-30 to the north and LWDD canal E-3 east and bisected by LWDD canal L-31 that has been re-routed through the site.

Directions to the site are as follows: From I-95 South, take exit 56 (Woolbright Road). Proceed west on Woolbright Road for three miles, turn south (left) on Military Trail, and proceed two and a half miles south on Military Trail until Via Delray Boulevard. Turn west (right) and proceed 8/10th of a mile onto Via Delray Boulevard. The project area will be both on the north and south (right and left) hand side.

APPROXIMATE CENTRAL COORDINATES: Latitude 26.476500°
Longitude -80.134500°

PROJECT PURPOSE:

Basic: Residential development

Overall: Construct a development to provide residential housing in southeastern Palm Beach County.

EXISTING CONDITIONS: The approximately 119 acre project site has been actively utilized as a golf course since the 1970s, with 11.5 acres of non-wetland water features

present as water hazards and golf course ponds. The site is regularly mowed and maintained, and is surrounded by residential development, mixed use development, water management canals and ponds, and roadways.

PROPOSED WORK: The applicant seeks authorization to impact 11.5 acres of non-wetland surface waters for the construction of a residential development with associated parking, amenities, and a surface water management system.

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:

There are no wetlands or other natural habitats on site. The 11.5 +/- acres of non-wetland waters were created in the late 1970s (more than 40 years ago) when the golf course and the surrounding residential housing were developed. The proposed surface water management system will incorporate portions of the existing lakes while filling others.

The geometric layout and man-made origin of the existing ponds (Non-Wetland Waters of the U.S.) are the result of historic and ongoing golf course operations on the property. Due to their continuous nature, avoidance of non-wetland waters is not practicable.

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

There are no wetlands on the site. Impacts are proposed to 11.5 +/- acres of Non-Wetland Waters of the U.S. The proposed surface water management system will result in a total of 25.97 +/- acres of lakes to remain on the site post development condition, thus providing in-kind replacement and doubling the acreage of Non-Wetland Waters of the U.S.

CULTURAL RESOURCES:

The Corps has determined the permit area has been extensively modified by previous work and there is little likelihood a historic property may be affected. The Corps will initiate consultation with the State Historic Preservation Office and, if applicable, those federally recognized tribes with concerns in Florida and the Permit Area, and the Advisory Council on Historic Preservation as applicable pursuant to 33 CFR 325, Appendix C and Section 106 of the National Historic Preservation Act, by separate letter.

ENDANGERED SPECIES:

The 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 corais couperi*).

Wood stork: Potential effects to the threatened Wood stork were assessed using the Programmatic Concurrence Key dated May 18, 2010. Use of this key produced the sequential determination of A-B-C-E-MANLAA. The project site is within two Wood stork core foraging areas and supports marginally Suitable Foraging Habitat (SFH) in the form of the 11.5 acres of on-site ponds and water hazards. The ponds are interconnected and drain to the LWDD canal system via Canal L-31 and are considered permanently inundated waters. The proposed impacts to 11.5+/- acres of ponds will be replaced in kind, type for type, by the proposed 25.97 +/- acres of lakes of the surface water management system. There are no wetlands on site. As the project proposes no impact to wetlands, no individual foraging prey base analysis is provided. Therefore, the Corps has determined the project May Affect, but is Not Likely to Adversely Affect the Wood Stork. By letter dated 18 May 2010, the USFWS stated that for proposed activities analyzed with the May 2010 version of The Wood Stork Effect Determination Key that reach a no effect or MANLAA determination, the FWS concurs with the Corps determination and requirements of Section 7 of ESA are fulfilled. Therefore, no further consultation with USFWS is required.

Eastern indigo snake: As the project site is located in an area where the Eastern indigo snake may occur, potential effects to the species were assessed using the Programmatic Effect Determination Key provided by the USFWS South Florida Ecological Services Office (Revised July 2017). Use of this key produced a sequential determination of A-B-C-D-E-MANLAA. This determination is based on the lack of suitable habitat for the Eastern indigo snake as defined by the effect determination key, as the project site is composed of mowed, maintained golf course uplands that lack suitable vegetation or refugia, and contain 11.5 acres of open water ponds and water hazards. This determination will also require that the applicant utilizes Standard Protection Measures for the Eastern Indigo Snake (2013) during all construction activities. Therefore, the Corps has determined the project May Affect, but is Not Likely to Adversely Affect the Eastern indigo snake. By letter dated 1 August 2017, the USFWS stated that for proposed activities analyzed with the July 2017 version of the Eastern Indigo Snake Programmatic Effect Determination Key that reach a MANLAA, the USFWS concurs with this determination and no further consultation is necessary for the effects of the proposed action.

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. Due to the project's location in freshwater artificial surface waters, the proposed action would not have an impact on EFH or Federally managed fisheries in the South Atlantic Region. 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 potential authorization of the work proposed should be submitted in writing to the attention of Virginia King, Palm Beach Gardens Permits Section, 4400 PGA Boulevard, Suite 500, Palm Beach Gardens, Florida 33410 within **21** 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, Virginia King, in writing at the Palm Beach Gardens Permits Section, 4400 PGA Boulevard, Suite 500, Palm Beach Gardens, FL 33410; by electronic mail at Virginia.E.King@usace.army.mil or by telephone at (561) 472-3515.

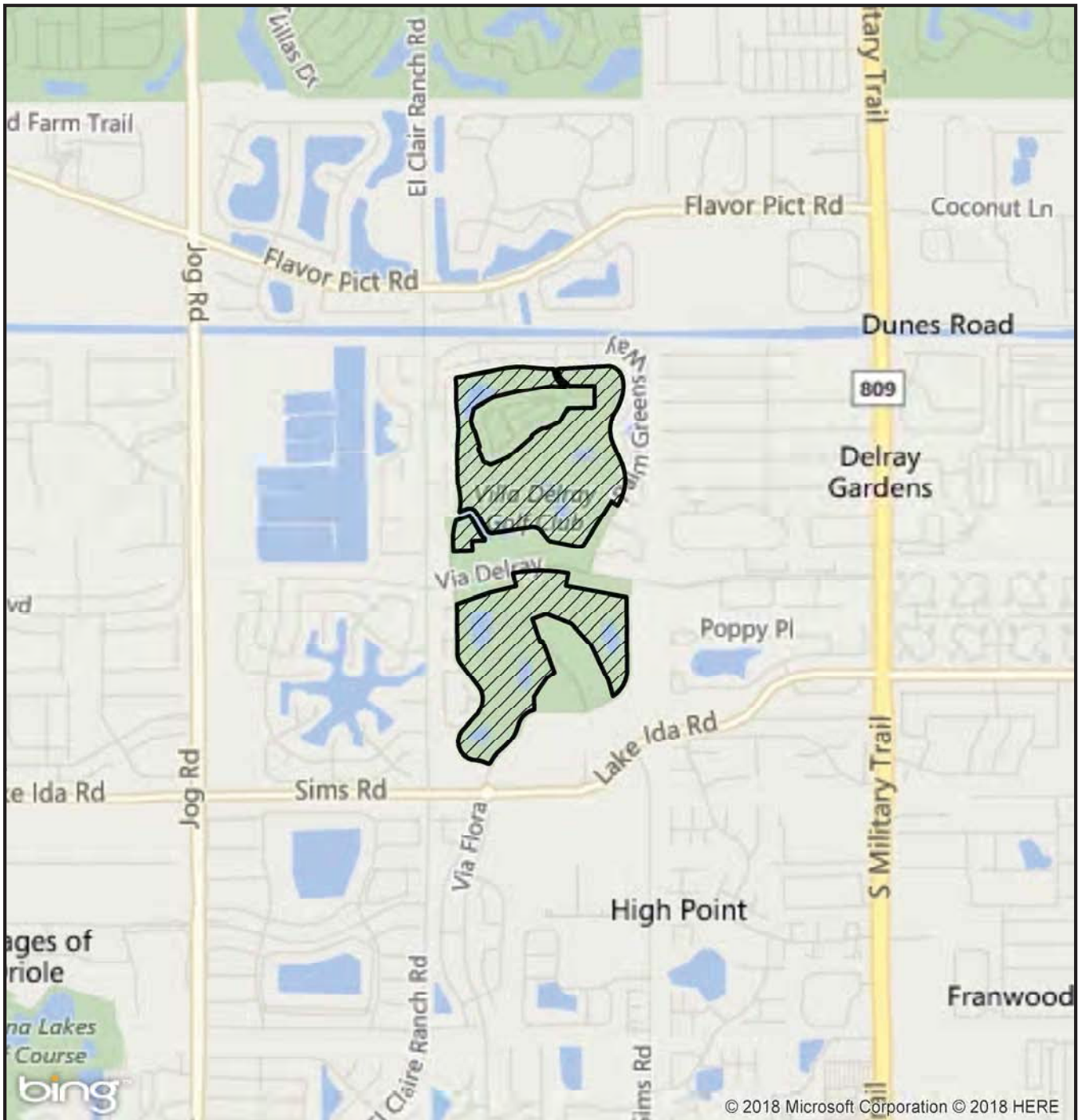
IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information 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.



LEGEND

 - SITE (118.9+/- AC)

0 2,000 Feet



DELRAY TRAILS AT VILLA DELRAY PUD LOCATION MAP

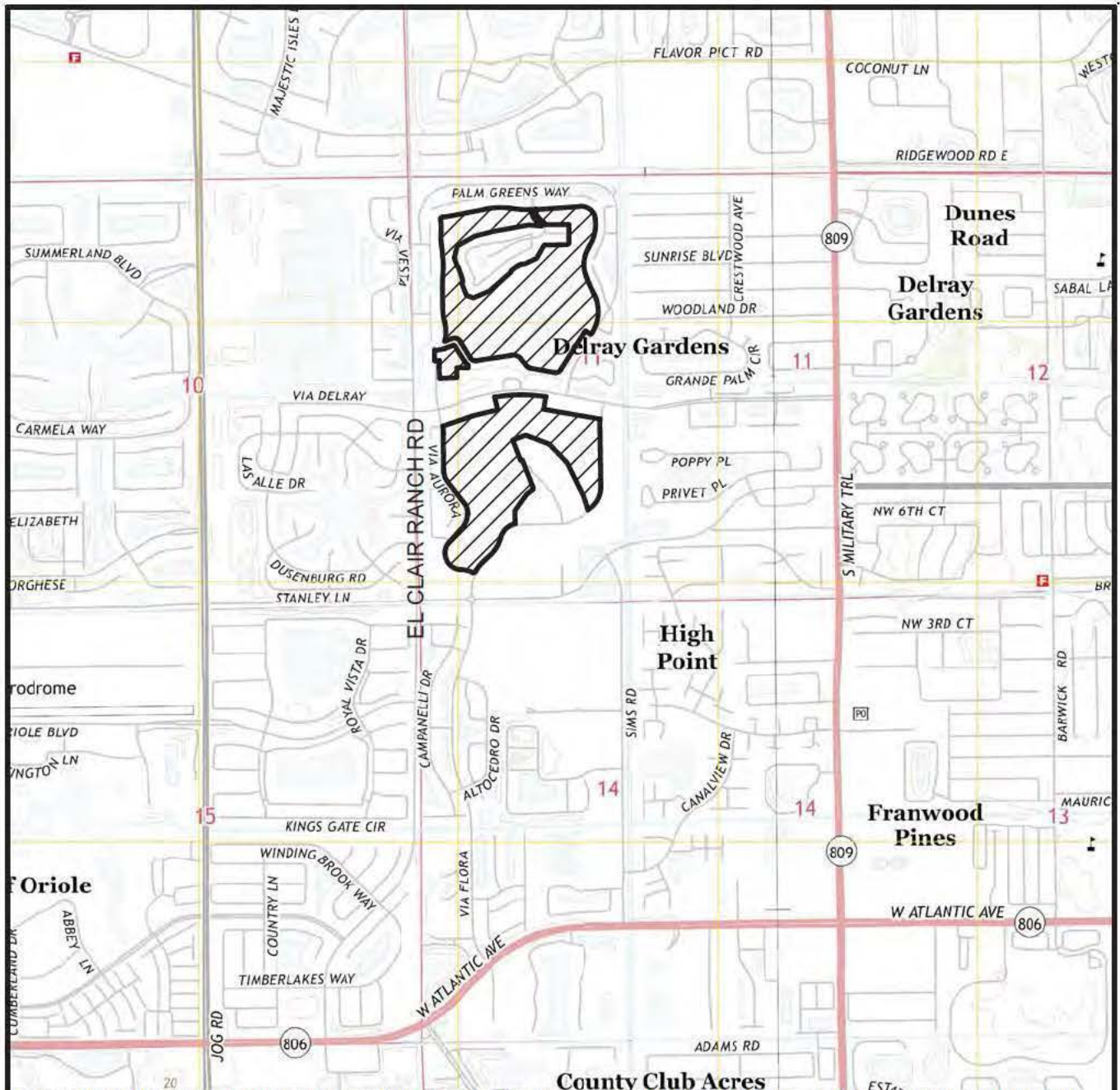


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FIGURE

1



USGS QUAD MAP "UNIVERSITY PARK, SECTIONS 11, TOWNSHIP 46 SOUTH, RANGE 42 EAST, DELRAY BEACH, PALM BEACH COUNTY, FLORIDA, LATITUDE 26°28'40" LONGITUDE -80°08'04"

LEGEND

 - SITE (118.9±AC)

0 2000
SCALE IN FEET

DELRAY TRAILS AT VILLA DELRAY PUD QUAD



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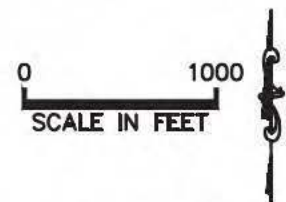
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FIGURE

2



PALM BEACH COUNTY AERIALS DATED 2017



DELRAY TRAILS AT VILLA DELRAY PUD AERIAL



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FIGURE

3



PALM BEACH COUNTY AERIALS DATED 2017

DELRAY TRAILS AT VILLA DELRAY PUD NON-WETLAND WATERS OF THE U.S.



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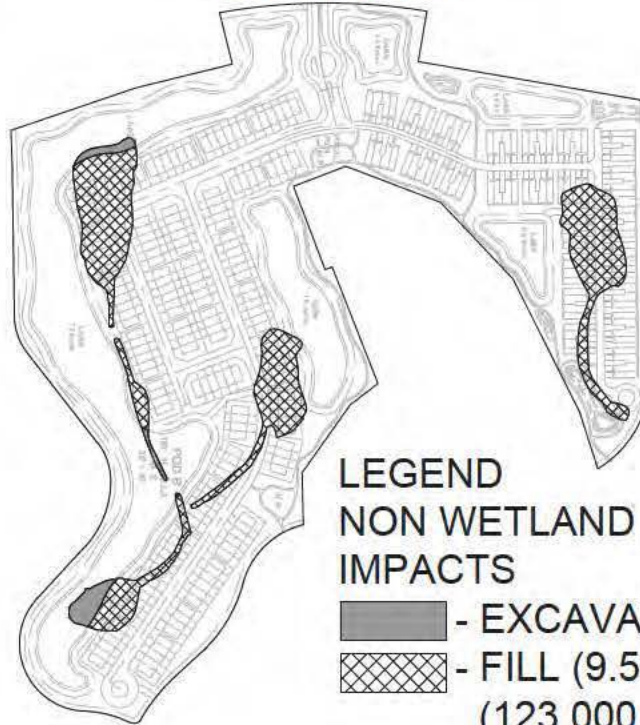
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FIGURE

4



VIA DELRAY



0 600
SCALE IN FEET



LEGEND

NON WETLAND WATERS OF THE U.S.
IMPACTS

 - EXCAVATE (2.0±AC)

 - FILL (9.5± AC)

(123,000 CUBIC YARDS OF FILL)

DELRAY TRAILS AT VILLA DELRAY PUD PROPOSED ACTIVITY



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FIGURE

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