



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

May 14, 2019

Regulatory Division  
West Branch  
Tampa Permits Section

## ***PUBLIC NOTICE***

Permit Application No. SAJ-2005-03867(SP-CMW)

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: AV Homes Inc.  
2420 S. Lakemont Ave. Suite 450  
Orlando, Florida 32809

WATERWAY AND LOCATION: The project would affect waters of the United States associated with the London Creek and Marion Creek basins. The project site is located in Solivita, on the south side of Cypress Parkway, in Sections 14 and 15, Township 27 South, Range 28 East, Poinciana, Polk County, Florida.

Directions to the site are as follows: From Interstate 4, exit at SR 532. Continue east on SR 532 until SR 17. Turn north on SR 17 and take that to Poinciana Boulevard. Proceed south to Pleasant Hill Road and turn right (south). Pleasant Hill Road will turn into Cypress Parkway. The project site is located 3 miles west of the intersection on the south side of Cypress Parkway.

APPROXIMATE CENTRAL COORDINATES: Latitude 28.140114°  
Longitude -81.491370°

### **PROJECT PURPOSE:**

Basic: Housing

Overall: Complete/Revise construction of Solivita Phase 5 (a residential development) in Polk County, Florida

EXISTING CONDITIONS: The 278 acre site has largely been cleared in the past for development. Remaining wetlands on site include 44.78 acres of wetlands, of which 31.12 acres which are part of the previously permitted compensatory mitigation.

PROJECT HISTORY: The Solivita Phase 5 development was previously permitted in 2006. The permit included impacts to 5.24 acres of wetlands and provided mitigation in

the form of 33.64 acres of wetland preservation. The work was completed however the mitigation was not. The permit expired in 2011. In 2017 the Permittee was found to be in non-compliance with the existing permit conditions. In 2018 the Permittee was issued an after-the-fact permit for impacts to 9.63 acres of onsite wetland mitigation areas. The Permittee was required to create 4.62 acres of wetlands and restore 3.59 acres of wetlands. This permit is valid until July 23, 2023.

**PROPOSED WORK:** The applicant seeks authorization to revise the previous permit (2018) to include placement of fill in wetland mitigation areas (3.59 acres) for additional residential development and associated infrastructure. The proposed work would require the release of a portion of existing conservation easements. These impacts would be offset by buying mitigation credits from a Federal mitigation bank.

**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 permitted areas offer limited ecological benefit through the restoration of small isolated wetlands within a residential development. The wetlands lack connectivity to larger undisturbed natural areas within the project area and thereby reduce the value for wildlife. It is our position the creation and restoration areas incur a higher risk and their success can be hindered by many factors during the construction and establishment process such as poor soils, inaccurate grading, shifts in seasonal weather patterns, and ground and surface water changes associated with the land development. The mitigation areas also must be maintained with a rigorous maintenance schedule to prevent nuisance and exotic vegetation from hampering the establishment of the newly planted areas. To compensate for the loss of 8.21 acres of onsite mitigation, the applicant has proposed a 1:1 ratio of mitigation credits. The 1:1 ratio is a higher than both the historic wetland value as well as the ultimate value of the restoration/creation areas.

**COMPENSATORY MITIGATION** – The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant has proposed to exchange the existing mitigation areas for mitigation bank credits (1:1 ratio - 8.21 credits for 8.21 acres).

#### **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 those federally recognized tribes with concerns in Florida and the Permit Area.

#### **ENDANGERED SPECIES:**

The Corps has determined the proposed project may affect, but is not likely to adversely affect the Eastern Indigo Snake. This determination was made using the 2017 Effect Determination Key for the Eastern Indigo Snake (sequential determination is A>B>C>D>E=NLAA). Pursuant to the key, no further consultation with the U.S. Fish and Wildlife Service is necessary.

The Corps has determined the proposed project may affect, but is not likely to adversely affect the Wood Stork. This determination was made using the 2010 Wood Stork Key for South Florida (sequential determination is A>B>C>D=NLAA). Pursuant to the key, no further consultation with the U.S. Fish and Wildlife Service is necessary.

The Corps has determined the proposal would have no effect on the Florida Scrub Jay, Red Cockaded Woodpecker, Everglades Snail Kite, Sand Skink and Blue-Tailed Mole Skink as appropriate habitat does not exist on the site.

**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 gulf of Mexico. 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.

**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 Tampa Permits Section, 10117 Princess Palm Ave., Suite 120, Tampa, Florida 33610 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, Candice Wheelahan, in writing at the Tampa Permits Section, 10117 Princess Palm Ave., Suite 120, Tampa, Florida 33610; by electronic mail at [Candice.M.Wheelahan@usace.army.mil](mailto:Candice.M.Wheelahan@usace.army.mil); by facsimile transmission at (813)769-7060; or, by telephone at (813)769-7069.

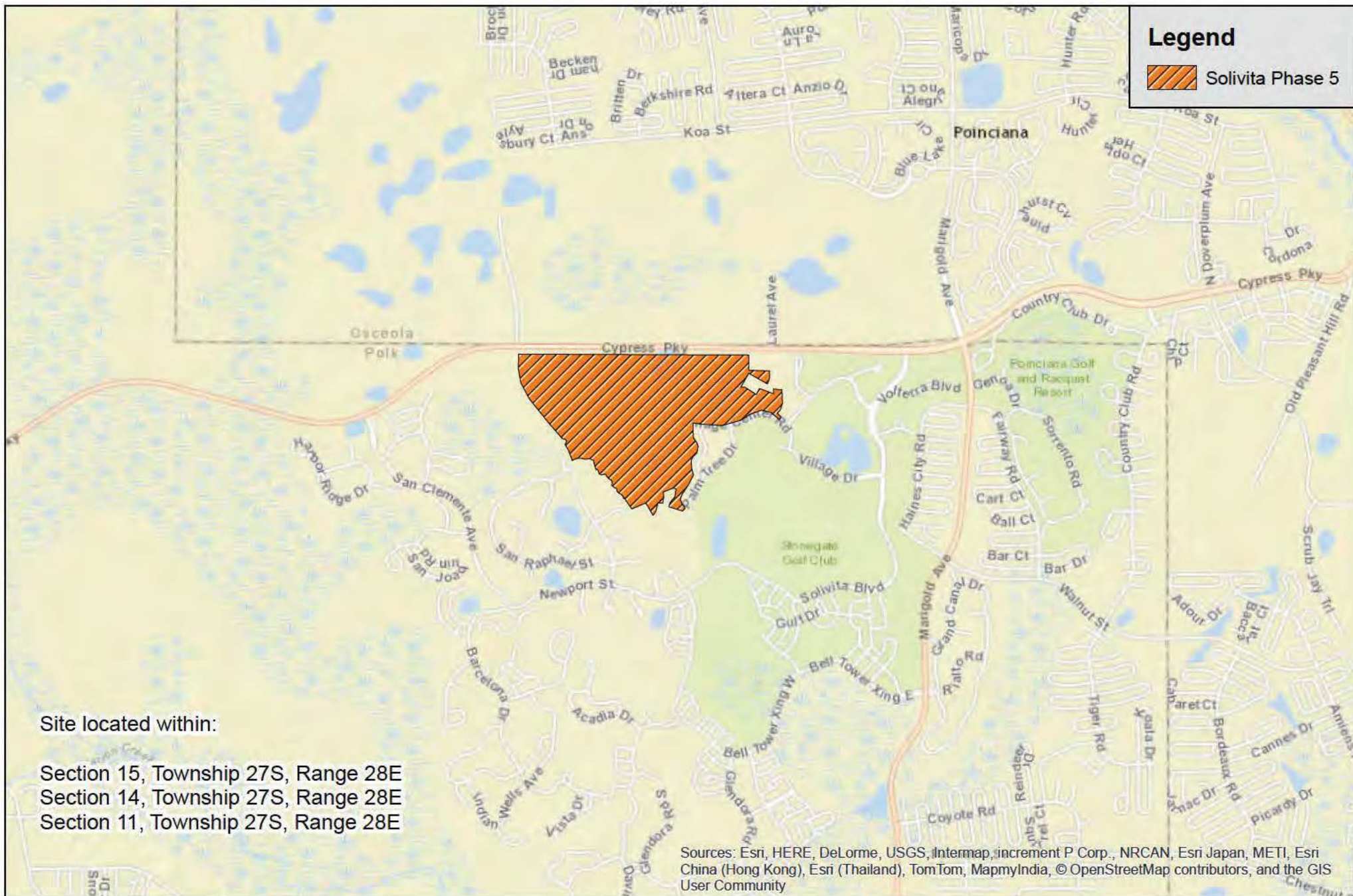
**IMPACT ON NATURAL RESOURCES:** Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information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





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