



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
701 SAN MARCO BOULEVARD  
JACKSONVILLE, FLORIDA 32207-8915

**AUGUST 2, 2019**

Regulatory Division  
West Branch  
Tampa Permits Section

## ***PUBLIC NOTICE***

Permit Application No. SAJ-2004-10081 (SP-KRD)

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:**

Jason Sawyer  
Oak Stone, LLC  
2502 N. Rocky Point Drive  
Tampa, Florida 33607

**WATERWAY AND LOCATION:** The project would affect waters of the United States associated with the Peace River. The project site (Tax Parcel ID No. 29-39-23-0364-2000-0000) is located on the northeast side of Interstate 75 (I-75) and along County Road 769 (CR-769)/Kings Highway in Section 29, Township 39 South, Range 23 East, in Arcadia, DeSoto County, Florida.

Directions to the site are as follows: From I-75, exit north onto CR-769/Kings Highway for approximately 2.5 miles. The Project is along the west side of CR-769/Kings Highway between Agnes Street and Peace River Street in Arcadia, Florida.

**APPROXIMATE CENTRAL COORDINATES:** Latitude 27.055673  
Longitude -82.041975

**PROJECT PURPOSE:**

Basic: Permit re-authorization to construct a residential development.

Overall: Permit re-authorization to construct a single-family residential development to serve DeSoto County, Florida.

**EXISTING CONDITIONS:** The project site is approximately 640.85 acres, of which approximately 99.19 acres is wetlands and 29.09-acres is ditches and other surface waters. The project was or still is utilized for a cattle pasture. The wetland system is a freshwater non-tidal system consisting of wetland pasture, palustrine emergent wetland,

palustrine forested wetlands, and surface water ditches and ponds. The onsite vegetation consists of a combination of upland pasture, pine flatwoods, herbaceous and forested wetlands, pine flatwoods, freshwater marsh, and hardwoods. The existing area surrounding the project area consists of similar pastures and residential development.

**PROJECT HISTORY:** A previous DA permit was issued to US Homes for a similar project on the subject parcel, to be known as "Stoneybrook Oaks" on September 14, 2006. However, this permit expired on July 31, 2011 and the project never commenced. This DA permit authorized the fill of 1.56-acres of wetlands and 9.25-acres of other surface waters and required compensatory mitigation via the purchase of 1.65 herbaceous credits from the Boran Ranch Mitigation Bank, which the former Permittee purchased on September 5, 2007.

**PROPOSED WORK:** The applicant seeks authorization for the construction of a 640+/- acre residential development, to now be known as "Oak Stone". This request is for the re-authorization of a previous DA permit issued on September 14, 2006 for the construction of "Stoneybrook Oaks" residential development. The revised project will result in the discharge of fill and permanent loss of 1.98-acre of wetlands and 11.61-acres of ditches/other surface waters in association with a road crossing and necessary lot fills. The remaining 97.21-acres of wetlands 25.24-acres of upland will be avoided and preserved. The applicant has proposed to provide mitigation via the purchase of 1.13 freshwater herbaceous credits from the Peace River 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 applicant is proposing the preservation of greater than 98% of the on-site wetlands by avoiding impacts to 97.21-acres of the 99.19-acres of wetlands on the site. Additionally, the wetlands proposed for impact are primarily Hydric Improved Pasture (FLUCCS 211H) with relatively low ecological value and wetland function.

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

To offset the loss of function associated with the proposed wetland impacts, the applicant is proposing the purchase of 1.13 Freshwater Herbaceous credits from the Peace River Mitigation Bank.

**CULTURAL RESOURCES:** The Corps has determined the permit area to be the entire 640+/- acre parcel. 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. In the previous permit authorization, the Florida State Historic Preservation Office (SHPO) concluded via a letter dated September 30, 2005 that their review of the Florida Master Site File indicated that no significant archaeological or historical resources were recorded within the project area. Furthermore, because of the location and/or nature of the project, it was unlikely that any such sites would be affected.

#### ENDANGERED SPECIES:

*Name of ESA listed species potentially present which are managed by the U.S. Fish and Wildlife Service (USFWS):*

- Audubon's Crested Caracara (*Caracara cheriway*) – consultation area (CA)
- Eastern Indigo Snake (*Drymarchon corais couperi*) - CA
- Florida bonneted bat (*Eumops floridanus*) - CA
- Florida Grasshopper Sparrow (*Ammodramus savannarum floridanus*) -CA
- Florida Scrub Jay (*Aphelocoma coerulescens*) - CA
- Wood Stork (*Mycteria americana*)

*Name of ESA listed species potentially present which are managed by the National Marine Fisheries Service (NMFS):* N/A; the project is located within non-tidal inland habitats which are not accessible to NMFS managed species. Therefore, no further consultation will be required with NMFS.

*Designated Critical Habitat (DCH):* There is no DCH within or adjacent to the project area.

*Previous Biological Opinion (BO):* The USFWS provided a BO (Service Federal Activity Code: 41240-2006-FA-0519) on April 17, 2006 which concluded that the previous proposed project “may affect, but is not likely to adversely affect” (MANLAA) the Audubon's crested caracara and the wood stork. USFWS further stated that the on-site wetlands exhibit varying degrees of degradation due to exotic infestation. The proposed off-site mitigation and on-site wetland management appears to offset the 1.56 acres of wetlands and 9.25 acres of waters impacts proposed by this project. The Service did not object to the initiation of the project.

Effect determination(s), including no effect, for all known species/habitat, and basis for determination(s):

The Applicant stated that a Protected Species Assessment in accordance with Florida Fish and Wildlife Conservation Commission (FWC) guidelines was conducted on the subject parcel March 2019. Included with the assessment was a search of available online resources to reveal the previously documented presence of listed species which may be utilizing the subject property.

Audubon's Crested Caracara - The project lies within the consultation for Audubon's crested caracara. Based on available online information, the closest known sighting of the species was approximately 10 miles northwest of the subject parcel in 1992. No other confirmed sightings were documented within the vicinity of the parcel. The property contains habitats which are suitable for nesting and foraging by the species. Therefore, a nest surveys was conducted on the parcel in April 2019 in accordance with the USFWS April 20, 2004 Survey Protocol for Finding Caracara Nests. The survey protocol consisted of inspecting potential cabbage palms in relatively open areas that were suitable for nesting by the species. No nests or evidence of utilization by Audubon's crested caracara were observed during the surveys. Furthermore, during site inspections conducted from April 2017 through June 2019 for other protected species, totaling more than 400 hours of field time, no caracaras or evidence of utilization by the species was observed on-site. Based on the presence of suitable habitat, but lack of nesting sites on the subject parcel, coupled with the lack of observed utilization by the species, the Corps has determined that the proposed development may affect, but is not likely to adversely affect the Audubon's crested caracara. Furthermore, due to the existing April 17, 2006 BO (Service Federal Activity Code: 41240-2006-FA-0519) by which USFWS concurred with a similar MANLAA determination, the Corps will not re-initiate consultation with USFWS for this species.

Eastern Indigo Snake - The project is located with the consultation area for the Eastern Indigo Snake and contains habitats which may be suitable for utilization by the snake. In accordance with the USFWS South Florida Ecological Service's Office (SFESO) Eastern Indigo Snake Programmatic Effect Determination Key (1 August 2017), use of the key resulted in this determination: A>B>C>May Affect. However, the Applicant agreed to adhere to the Eastern Indigo snake standard protection measures and the Corps noted that the project area is over 4.7-miles away from the nearest known occurrence point and on the other side of the Peace River and a second occurrence point over 5.5-miles away on the other side of I-75. Therefore, the Corps has determined that the project will have no effect on the Eastern Indigo Snake and no further consultation will be conducted with USFWS for this species.

Florida Bonneted Bat (FBB) – The project lies within the consultation area of the Florida bonneted bat but is not located within the focal area as defined by the USFWS 2013 Florida Bonneted Bat Consultation Area and Focal Area Map. Use of the 2013 FBB guidelines key resulted in a “may affect” determination (2>c=May Affect) because the project is 5 acres or greater and does include more than 1-acre of FBB habitat types. While no formal surveys for FBB have been conducted, no evidence of roosting or foraging by the species has been observed during the more than 400 hours of field time accrued while conducting surveys for other listed on the parcel since 2017. Therefore, the Corps has determined that the project may affect, but is not likely to adversely affect the FBB. The Corps will request initiation of informal consultation with the USFWS pursuant to Section 7 of the Endangered Species Act by separate letter.

Florida Grasshopper Sparrow - The project is located within the consultation area of the Florida Grasshopper Sparrow and contains open grassland habitats which are suitable for utilization by the species. The Applicant provided a survey in accordance with the USFWS Florida Grasshopper Sparrow Survey Protocol was conducted on the parcel in April and May, 2019. No grasshopper sparrows or evidence of utilization by the species was observed during the survey. Based on the lack of evidence of utilization by the species, the Florida grasshopper sparrow is not anticipated to be utilizing the site and the Corps has determined that the proposed project will have no effect on the species and no further consultation will be conducted with USFWS for this species.

Florida Scrub Jay - The project is located within the consultation of the Florida scrub jay. Therefore, a formal 5 day Florida scrub jay survey in accordance with USFWS guidelines was conducted in March of 2019. No Florida scrub jays or evidence of utilization by the species was observed during the survey. Therefore, the Corps has determined that the project will have no effect on the Florida scrub jay and no further consultation with USFWS will be required for this species.

Wood Stork - The project lies within the core foraging area (CFA) of several wood stork colonies, contains habitats which may qualify as suitable foraging habitat (SFH), but is not within 0.47 mile of an active colony. The nearest known nesting colony (ID NO. 616165- Morganton) is located more than 3.5 miles from the proposed project site. The proposed project will impact 1.98 acres of potential SFH wetland habitat. A wood stork suitable foraging habitat analysis has been completed with a net gain of 4.58 kg of prey biomass associated with the proposed project. Use of the Wood Stork Programmatic Effect Determination Key (2010) resulted in the following sequential determination: A>B>C>E>NLAA (Not likely to adversely affect). Furthermore, due to the existing April 17, 2006 BO (Service Federal Activity Code: 41240-2006-FA-0519) by which USFWS concurred with a similar NLAA determination, the Corps will not re-initiate consultation with USFWS for this species.

**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 is located in non-tidal wetlands in DeSoto County and would not impact EFH. Our initial determination is that the proposed action would have no effect 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.

**NOTE:** This public notice is being issued based on information furnished by the applicant and the previous DA permit authorization. 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 re-verified, to date, 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 Tampa Permits Section, 10117 Princess Palm Avenue, Suite 120, Tampa, Florida 33610-8302 or preferably by email to [Katy.R.Damico@usace.army.mil](mailto:Katy.R.Damico@usace.army.mil) 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, Katy Damico, in writing by U.S. Mail at the Tampa Permits Section, 10117 Princess Palm Avenue, Suite 120, Tampa, Florida 33610-8302; by electronic mail at [Katy.R.Damico@usace.army.mil](mailto:Katy.R.Damico@usace.army.mil); or, by telephone at (813) 769-7076.

**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.

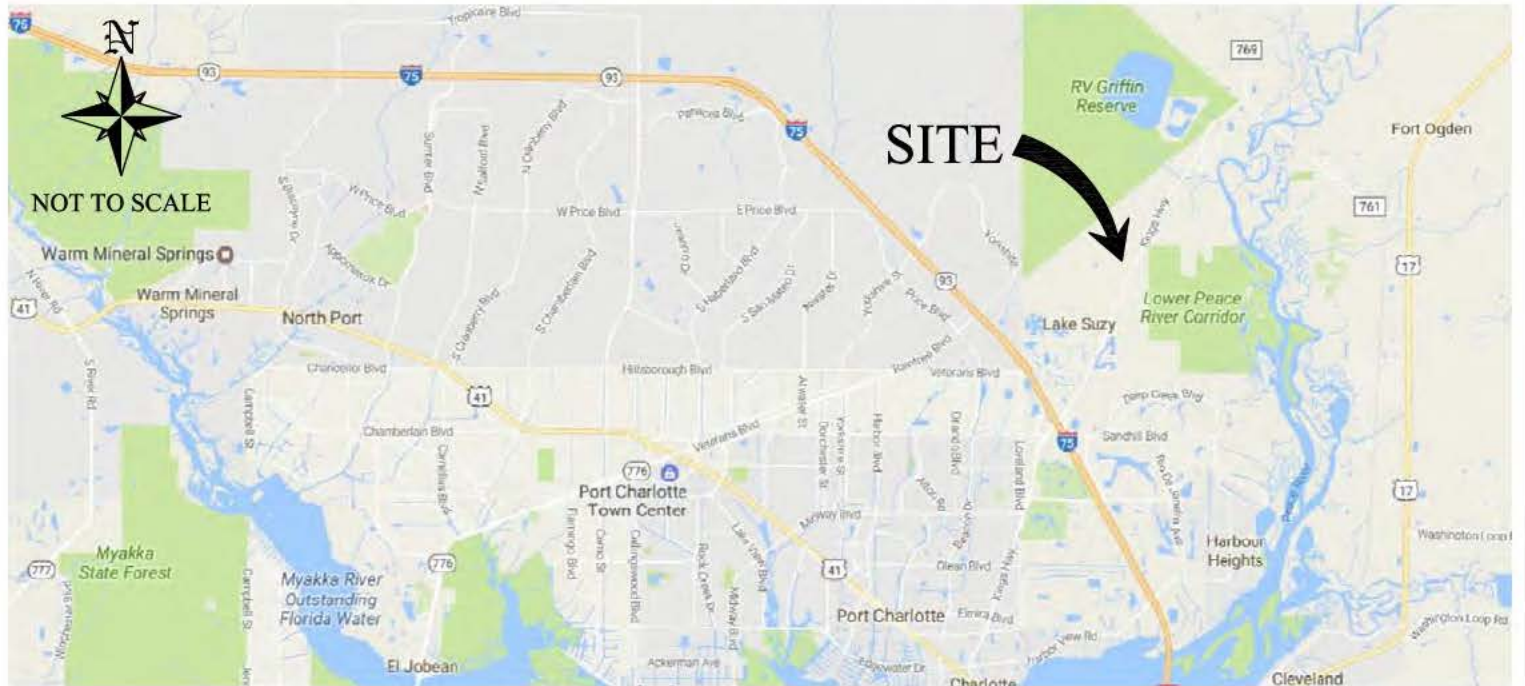
The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to 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.



# SECTION 29; TOWNSHIP 39S; RANGE 23E



DESOTO COUNTY, FLORIDA



LOCATION MAP

17-059 / MARCH 16, 2019

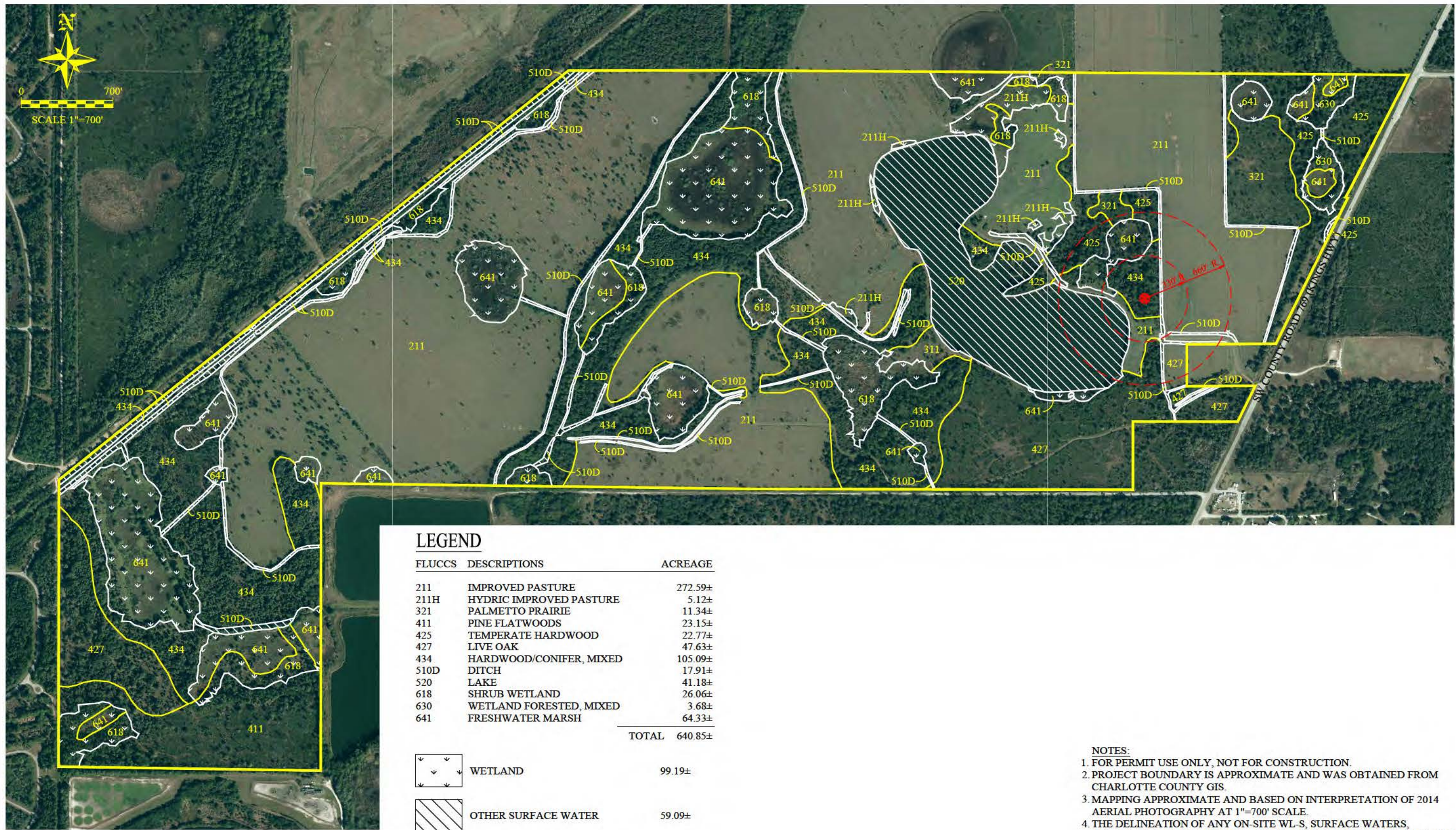
**OAKSTONE**

LOCATION MAP

US Army Corps of Engineers  
Tampa Permits Section  
Received by CESAJ-RD-WT/KRD  
Date: June 6, 2019

**Ivan Vincent & Associates**  
Environmental Consulting Services





LEGEND

| FLUCCS | DESCRIPTIONS            | ACREAGE |
|--------|-------------------------|---------|
| 211    | IMPROVED PASTURE        | 272.59± |
| 211H   | HYDRIC IMPROVED PASTURE | 5.12±   |
| 321    | PALMETTO PRAIRIE        | 11.34±  |
| 411    | PINE FLATWOODS          | 23.15±  |
| 425    | TEMPERATE HARDWOOD      | 22.77±  |
| 427    | LIVE OAK                | 47.63±  |
| 434    | HARDWOOD/CONIFER, MIXED | 105.09± |
| 510D   | DITCH                   | 17.91±  |
| 520    | LAKE                    | 41.18±  |
| 618    | SHRUB WETLAND           | 26.06±  |
| 630    | WETLAND FORESTED, MIXED | 3.68±   |
| 641    | FRESHWATER MARSH        | 64.33±  |
| TOTAL  |                         | 640.85± |

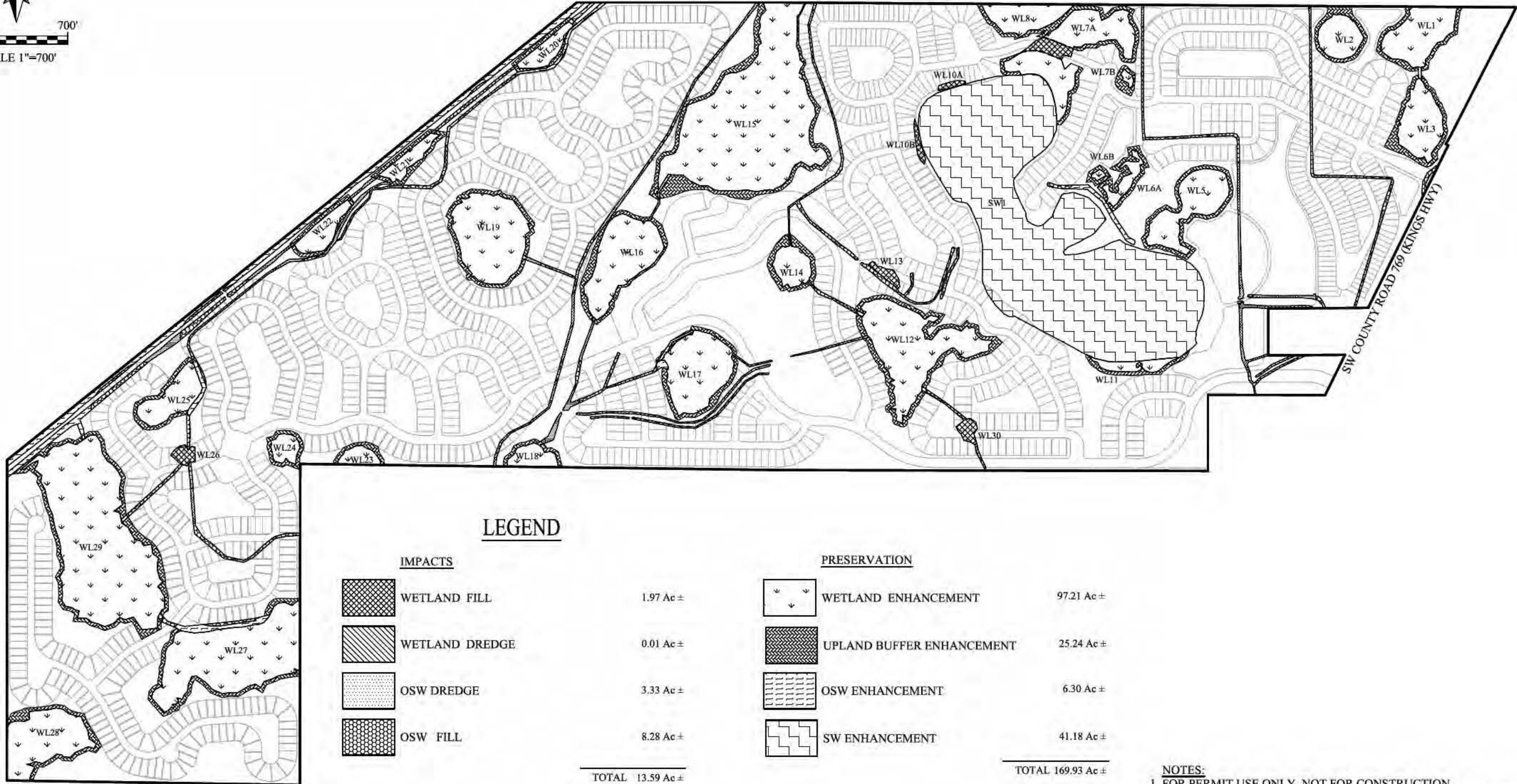
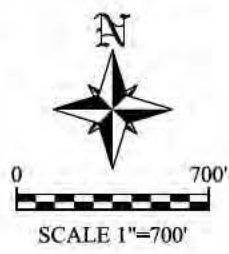
|  |                                 |        |
|--|---------------------------------|--------|
|  | WETLAND                         | 99.19± |
|  | OTHER SURFACE WATER             | 59.09± |
|  | EAGLE NEST APPROXIMATE LOCATION |        |

NOTES:









1. FOR PERMIT USE ONLY, NOT FOR CONSTRUCTION.
2. PROJECT BOUNDARY IS APPROXIMATE AND WAS OBTAINED FROM CHARLOTTE COUNTY GIS.
3. MAPPING APPROXIMATE AND BASED ON INTERPRETATION OF 2014 AERIAL PHOTOGRAPHY AT 1"=700' SCALE.
4. THE DELINEATION OF ANY ON-SITE WL-S, SURFACE WATERS, AND/OR OTHER SURFACE WATERS IS PRELIMINARY AND SUBJECT TO REVIEW/APPROVAL BY APPLICABLE REGULATORY AGENCIES.

17-059 / MARCH 15, 2019






**LEGEND**

| IMPACTS   |                | PRESERVATION  |                           |
|---|----------------|---|---------------------------|
|  | WETLAND FILL   |  | WETLAND ENHANCEMENT       |
|  | WETLAND DREDGE |  | UPLAND BUFFER ENHANCEMENT |
|  | OSW DREDGE     |  | OSW ENHANCEMENT           |
|  | OSW FILL       |  | SW ENHANCEMENT            |
| TOTAL   |                | TOTAL   |                           |
| 13.59 Ac ±  |                | 169.93 Ac ±   |                           |

|   |                   |           |
|---|-------------------|-----------|
|  | SECONDARY IMPACTS | 0.29 Ac ± |
|---|-------------------|-----------|

- NOTES:**
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  - 3. MAPPING APPROXIMATE AND BASED ON INTERPRETATION OF 2017 AERIAL PHOTOGRAPHY AT 1"=700' SCALE.
  - 4. THE DELINEATION OF ANY ON-SITE WL-S, SURFACE WATERS, AND/OR OTHER SURFACE WATERS IS PRELIMINARY AND SUBJECT TO REVIEW/APPROVAL BY APPLICABLE REGULATORY AGENCIES.

17-059 / MAY 13, 2019

**OAKSTONE**  
IMPACT / PRESERVE MAP

