



This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): JUNE 7, 2019

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Jacksonville District, Tampa Permits Section (CESAJ-RD-WT)
SAJ-2019-01621 SSD Land Holdings LLC - Border Road Property

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: FL County/parish/borough: Sarasota City: Venice
Center coordinates of site (lat/long in degree decimal format): Lat. 27.120699° N, Long. -82.388208° W
Universal Transverse Mercator: 17

Name of nearest waterbody: Curry Creek

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:

Name of watershed or Hydrologic Unit Code (HUC): HUC8-03100201 / HUC12-031002010202 (Venice Inlet Frontal)

[X] Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

[ ] Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

[X] Office (Desk) Determination. Date: JUNE 4, 2019

[X] Field Determination. Date(s): MAY 23, 2019

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There Are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

[ ] Waters subject to the ebb and flow of the tide.

[ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There Are "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply): 1

- [ ] TNWs, including territorial seas
[ ] Wetlands adjacent to TNWs
[ ] Relatively permanent waters2 (RPWs) that flow directly or indirectly into TNWs
[ ] Non-RPWs that flow directly or indirectly into TNWs
[X] Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
[ ] Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
[ ] Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
[ ] Impoundments of jurisdictional waters
[ ] Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: N/A linear feet: N/A width (ft) and/or N/A acres.

Wetlands: 1.57 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known): N/A.

2. Non-regulated waters/wetlands (check if applicable):3

[X] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: The Corps reviewed historic aerials from 1995-2019, historic USGS topographic maps from 1944-1987, the National Wetlands Inventory (NWI), the National Hydrography Dataset (NHD), and performed a field inspection on May 23, 2019 in order to make the following determinations of non-jurisdiction:

1 Boxes checked below shall be supported by completing the appropriate sections in Section III below.

2 For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

3 Supporting documentation is presented in Section III.F.

1. There are three (3) palustrine open water areas that were previous borrow pits which show up on topographic quads between 1973-1987. These borrow pits are mapped as "Other Surface Waters (OSW)" on the wetland delineation maps (Enclosure 1) and include OSW-A (7.25-acre), OSW-B (7.73-acres), and OSW-E (a 0.33-acre portion of a borrow pit/stormwater pond that runs off-site). These borrow pits have been determined to be non-jurisdictional pursuant to the 1986 Preamble which states that the Corps does not consider the following to be a "waters of the United States": Water filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States (see 33 CFR 328.3(a)).
2. A 1.69-acre stormwater pond was dug from uplands as part of the expansion of Border Road in 2004 (SAJ-2003-04374) and is mapped as OSW-X on the delineation maps (Enclosure 1). This stormwater pond has been determined to be non-jurisdictional pursuant to the 1986 Preamble which states that the Corps does not consider the following to be a "waters of the United States": Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
3. Finally, OSW-A and OSW-B each have adjacent wetlands (Wetland A at 1.90-acres and Wetland B at 2.06-acres) which have been determined to be isolated non-jurisdictional wetlands. These wetlands meet the definition of waters of the United States (see 33 CFR 328.3(a)), but as there is no surface connections to any adjacent wetlands and/or other waters of the US pursuant to the January 2001 Supreme Court decision in Solid Waste Agency of Northern Cook County (SWANCC) v. Army Corps of Engineers.

### SECTION III: CWA ANALYSIS

#### A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: N/A.

Summarize rationale supporting determination: N/A.

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": N/A.

#### B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: 3500+ acres

Drainage area: 3500+ acres

Average annual rainfall: 4.06 inches

Average annual snowfall: 0.0 inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through 2 tributaries before entering TNW.

Project waters are 2-5 river miles from TNW.

Project waters are 1 (or less) river miles from RPW.

Project waters are 2-5 aerial (straight) miles from TNW.

Project waters are 1 (or less) aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: N/A.

Identify flow route to TNW<sup>5</sup>: Wetland C is connected via a culvert under Border Road to a roadside ditch which drains approximately 0.25-miles west to the N. Clermont Road/Border Road intersection, where the drainage ditch (NWI

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

mapped PUBHx) turns south for 0.44-miles and flows under I-75 where it connects directly to Curry Creek (RPW; NWI=R2UBH) through a PFO wetland/ditch system. Curry Creek flows westward and becomes tidal less than 0.25-miles east of the S. Albee Farm Road overpass. Curry Creek is partially tidal and connects directly to Roberts Bay (TNW) and the Gulf of Mexico

Tributary stream order, if known: N/A.

(b) General Tributary Characteristics (check all that apply):

Tributary is:  Natural  
 Artificial (man-made). Explain:  
 Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):

Average width: <5 feet  
Average depth: <5 feet  
Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):

Silts  Sands  Concrete  
 Cobbles  Gravel  Muck  
 Bedrock  Vegetation. Type/% cover:  
 Other. Explain: Roadside ditch/swale.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Tributary is a roadside ditch maintained by Sarasota County.

Presence of run/riffle/pool complexes. Explain: N/A.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Seasonal flow**

Estimate average number of flow events in review area/year: **6-10**

Describe flow regime: Seasonal flow based on rainfall amount in and around Border Road.

Other information on duration and volume:

Surface flow is: **Confined.** Characteristics:

Subsurface flow: **No.** Explain findings:

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks  
 OHWM<sup>6</sup> (check all indicators that apply):  
 clear, natural line impressed on the bank  the presence of litter and debris  
 changes in the character of soil  destruction of terrestrial vegetation  
 shelving  the presence of wrack line  
 vegetation matted down, bent, or absent  sediment sorting  
 leaf litter disturbed or washed away  scour  
 sediment deposition  multiple observed or predicted flow events  
 water staining  abrupt change in plant community  
 other (list):  
 Discontinuous OHWM.<sup>7</sup> Explain: Roadside ditch with culverted connections to Curry Creek.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

High Tide Line indicated by:  Mean High Water Mark indicated by:  
 oil or scum line along shore objects  survey to available datum;  
 fine shell or debris deposits (foreshore)  physical markings;  
 physical markings/characteristics  vegetation lines/changes in vegetation types.  
 tidal gauges  
 other (list):

(iii) **Chemical Characteristics:**

<sup>6</sup>A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

<sup>7</sup>Ibid.

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: Water color was not evaluated because Wetland C is a compensatory mitigation area, so it is assumed jurisdictional and is connected to Curry Creek via artificial tributaries (i.e. roadside ditches). A chemical analysis was not warranted.

Identify specific pollutants, if known: Unknown; assume typical road runoff pollutants.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: 1.57 acres

Wetland type. Explain: PSS; Wetland-C (1.57-acres) was created in 2006 as compensatory mitigation for the expansion of Border Road (DA Permit No. SAJ-2003-04374). The wetland area, which was expanded with the mitigation, was/is connected via culverts under Border Road to the Border Road damage system located north of the road which eventually turns south and connects to Curry Creek.

Wetland quality. Explain: Created.

Project wetlands cross or serve as state boundaries. Explain: N/A.

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain:

Surface flow is: **Confined**

Characteristics: Surface flow to and from Wetland C is via a culvert connection and roadside ditch which varies with stormwater runoff from Border Road and adjacent ditches flowing west.

Subsurface flow: **No**. Explain findings:

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: Wetland-C (1.57-acres) was created in 2006 as compensatory mitigation for the expansion of Border Road (DA Permit No. SAJ-2003-04374). The wetland area, which was expanded with the mitigation, was/is connected via culverts under Border Road to the Border Road damage system located north of the road which eventually turns south and connects to Curry Creek.

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **2-5** river miles from TNW.

Project waters are **2-5** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters**.

Estimate approximate location of wetland as within the **500-year or greater** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: N/A.

Identify specific pollutants, if known: N/A.

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

- Riparian buffer. Characteristics (type, average width):
- Vegetation type/percent cover. Explain:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately ( ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
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Summarize overall biological, chemical and physical functions being performed:

### C. SIGNIFICANT NEXUS DETERMINATION

**A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.**

**Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:**

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

**Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:**

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

### D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:  
 TNWs: linear feet width (ft), Or, acres.  
 Wetlands adjacent to TNWs: acres.
2. **RPWs that flow directly or indirectly into TNWs.**  
 Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:  
 Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: Wetland-C (1.57-acres) was created in 2006 as compensatory mitigation for the expansion of Border Road (DA Permit No. SAJ-2003-04374). The original wetland area, which was expanded with the mitigation, was/is connected via culverts under Border Road to the Border Road drainage system located north of the road which eventually turns south and connects to Curry Creek.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).  
 Other non-wetland waters: 3700+ LF acres.

Identify type(s) of waters: **Roadside ditches (PUBHx) directly connected to Curry Creek.**

**3. Non-RPWs<sup>8</sup> that flow directly or indirectly into TNWs.**

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet width (ft).  
 Other non-wetland waters: acres.

Identify type(s) of waters: .

**4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.  
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

- Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: Wetland-C (1.57-acres) was created in 2006 as compensatory mitigation for the expansion of Border Road (DA Permit No. SAJ-2003-04374). The original wetland area, which was expanded with the mitigation, was/is connected via culverts under Border Road to the Border Road drainage system located north of the road which eventually turns south and connects to Curry Creek.

Provide acreage estimates for jurisdictional wetlands in the review area: **1.57** acres.

**5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

**6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

**7. Impoundments of jurisdictional waters.<sup>9</sup>**

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from "waters of the U.S.," or  
 Demonstrate that water meets the criteria for one of the categories presented above (1-6), or  
 Demonstrate that water is isolated with a nexus to commerce (see E below).

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):<sup>10</sup>**

- which are or could be used by interstate or foreign travelers for recreational or other purposes.

<sup>8</sup>See Footnote # 3.

<sup>9</sup>To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup>Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: .
- Other factors. Explain: .

**Identify water body and summarize rationale supporting determination:**

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.  
Identify type(s) of waters: .
- Wetlands: acres.

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above): **1986 Preamble determination waters are non-jurisdictional 15.31-acres of open water borrow pits and 1.69-acre stormwater pond dug from uplands for Border Road storm water runoff treatments (SAJ-2003-04374).**

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: 3.96 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

**SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: .
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24K Venice; Historic Quads 1944-1987.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Google Earth Aerial Image History 1995-2019.  
or  Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: SAJ-2003-00154; NWP-14 verified 12/4/2003.
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .

Other information (please specify): SAJ-2003-00154 Mitigation Area, see below; 1986 Preamble.

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** The property contains three wetlands, three borrow pit areas, and one storm water treatment pond. The two wetlands adjacent to the borrow pits and three borrow areas are determined to be non-jurisdictional isolated waters. The stormwater treatment pond was dug from uplands and is a non-jurisdictional water. The remaining 1.57-acre wetland (Wetland C) along the north end of the property was created in 2006 as compensatory mitigation for impacts associated with a Nationwide Permit 14 verified on 4 December 2003 for the expansion of Border Road. This wetland connects via culverts under Border Road to the Border Road drainage system located north of the road, flows west to N. Clermont Road then south where it connects directly to Curry Creek although via culverted drainage pathways. Therefore, the Corps has determined that this wetland is jurisdictional since it is a mitigation area and is connected to an RPW (i.e. Curry Creek) which directly connects to a TNW (i.e. tidal portions of Curry Creek and Roberts Bay and ultimately the Gulf of Mexico).

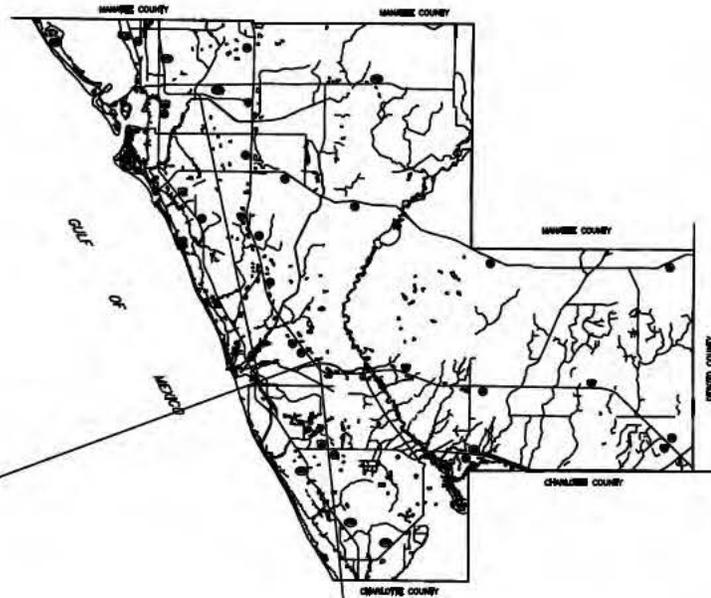
SECTION: 3  
TOWNSHIP: 39 S  
RANGE: 19 E  
LATITUDE: 27° 7' 13.8"  
LONGITUDE: 82° 23' 18.2"

# Border Road

US Army Corps of Engineers  
Tampa Permits Section  
Received by CESAJ-RD-WT  
Date: April 9, 2019



## SARASOTA COUNTY



**Project Location**

**PERMIT USE ONLY,  
NOT FOR CONSTRUCTION**

March 27, 2019 2:25:27 p.m.  
Drawing: DRHOR376LOCATION.DWG

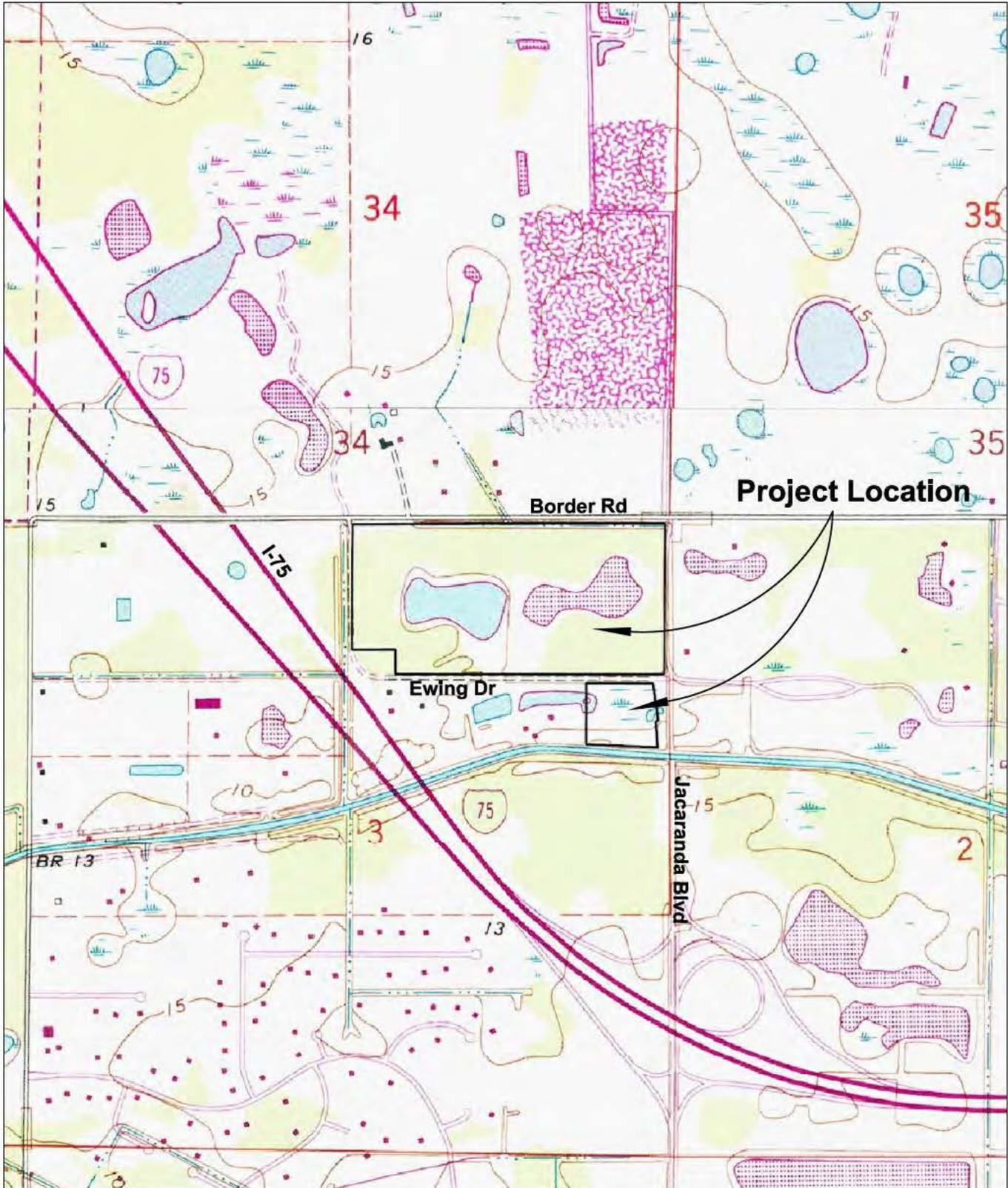
**Location Map**

**DEXBENDER**  
ENVIRONMENTAL CONSULTING  
FORT MYERS 239-334-3680

SECTION: 3  
TOWNSHIP: 39 S  
RANGE: 19 E  
LATITUDE: 27° 7' 13.8"  
LONGITUDE: 82° 23' 18.2"

# Border Road

US Army Corps of Engineers  
Tampa Permits Section  
Received by CESAJ-RD-WT  
Date: April 9, 2019



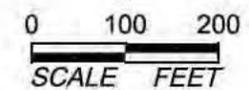
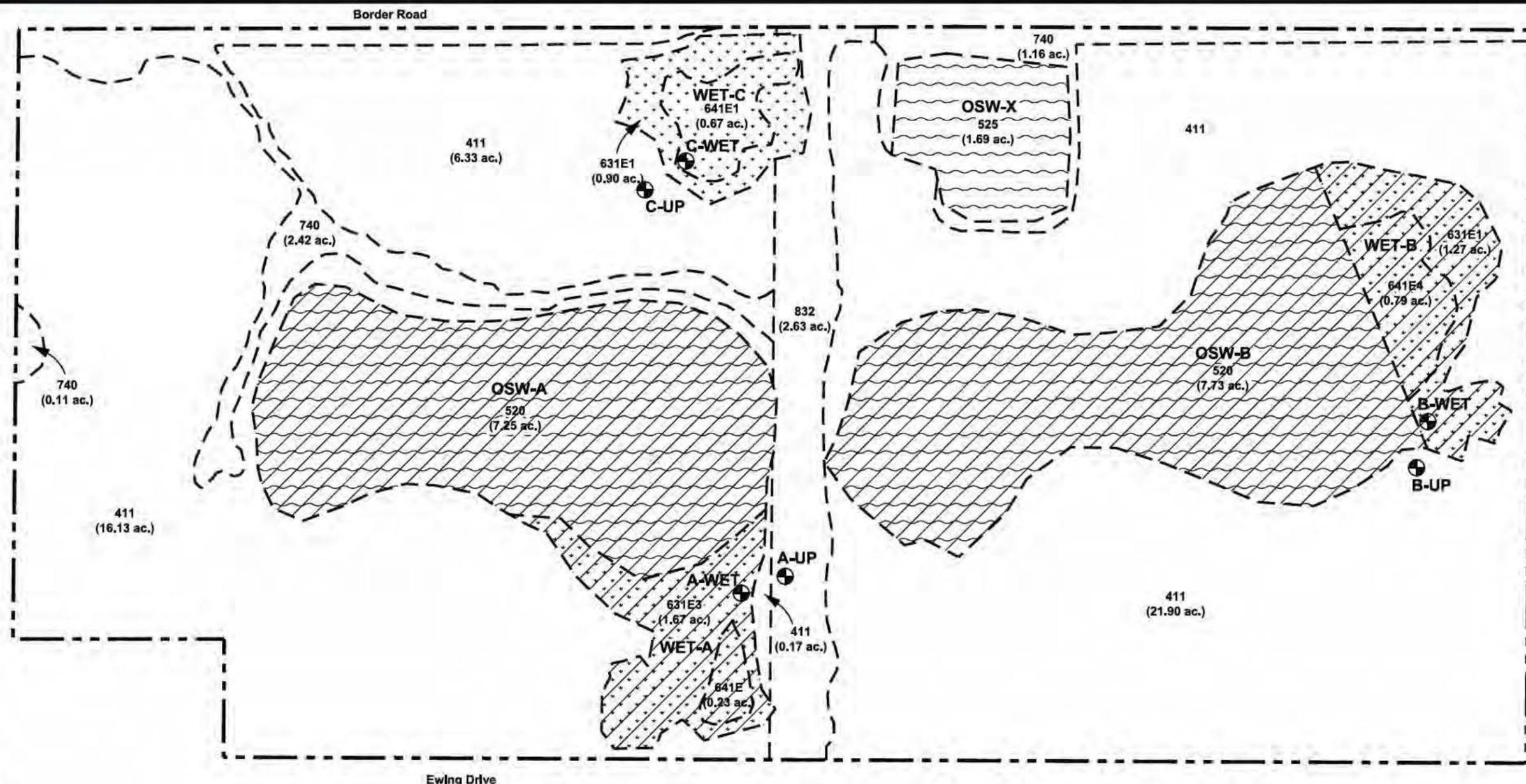
**Project Location**

*PERMIT USE ONLY, NOT FOR CONSTRUCTION*

March 27, 2019 2:25:27 p.m.  
Drawing: DRHOR376LOCATION.DWG

**USGS Quadrangle Map**

**DEXBENDER**  
ENVIRONMENTAL CONSULTING  
FORT MYERS 239-334-3680

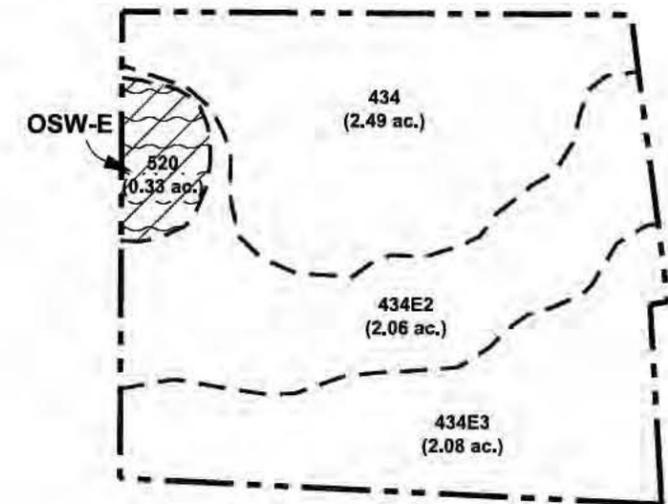


SECTION: 3  
TOWNSHIP: 39 S  
RANGE: 19 E

B-UP  
COE Data Point (typ.)(6)

- Jurisdictional Wetlands (1.57 ac.)
- Jurisdictional Other Surface Waters (1.69 ac.)
- Isolated Non COE Jurisdictional Wetlands (3.96 ac.)
- Isolated Non COE Jurisdictional Other Surface Waters (15.31 ac.)

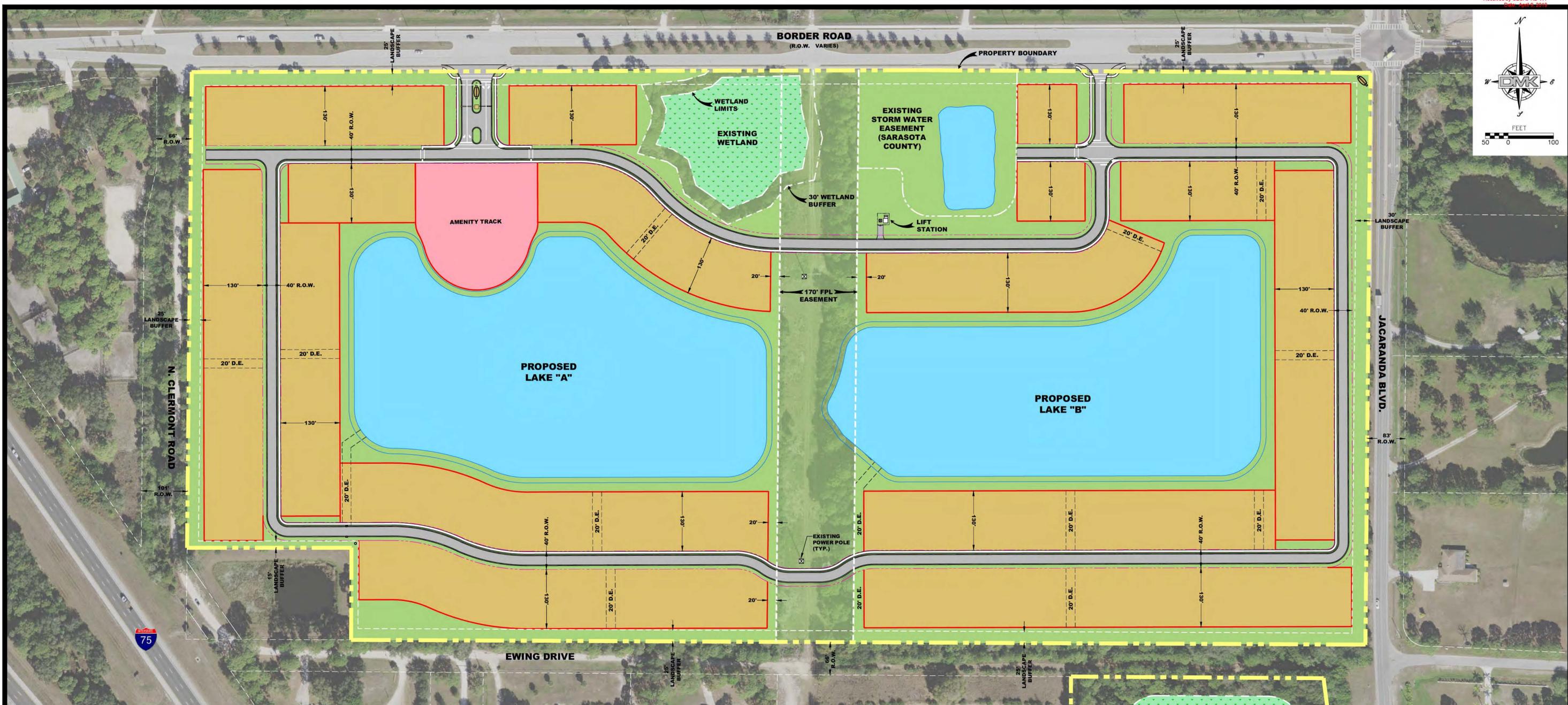
FLUCCS	Description	Acreage
411	Pine Flatwoods	44.53 ac.
434	Hardwood - Coniferous Mixed	2.49 ac.
434E2	Hardwood - Coniferous Mixed Invaded by Exotics (26-50%)	2.06 ac.
434E3	Hardwood - Coniferous Mixed Invaded by Exotics (51-75%)	2.08 ac.
520	Lakes	15.31 ac.
525	Stormwater Pond	1.69 ac.
631E1	Wetland Shrub Invaded by Exotics (10-25%)	2.17 ac.
631E3	Wetland Shrub Invaded by Exotics (51-75%)	1.67 ac.
641E	Freshwater Marshes Invaded by Exotics (5-9%)	0.23 ac.
641E1	Freshwater Marshes Invaded by Exotics (10-25%)	0.67 ac.
641E4	Freshwater Marshes Invaded by Exotics (76-90%)	0.79 ac.
740	Disturbed Land	3.69 ac.
832	Electrical Power Transmission Lines	2.63 ac.
<b>Total</b>		<b>80.01 ac.</b>



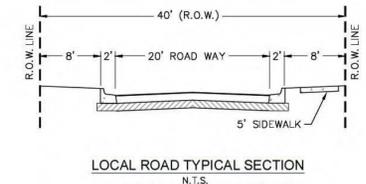
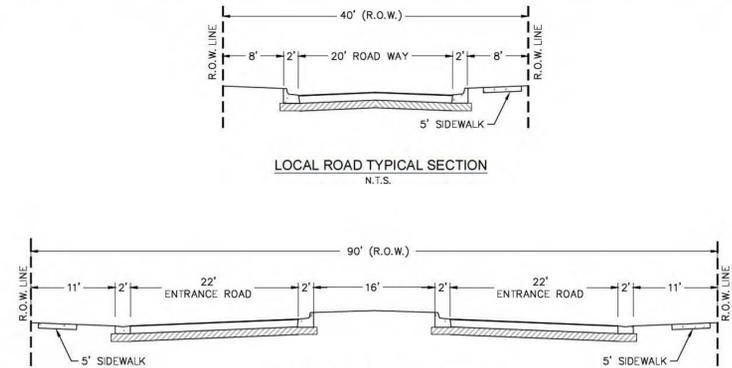
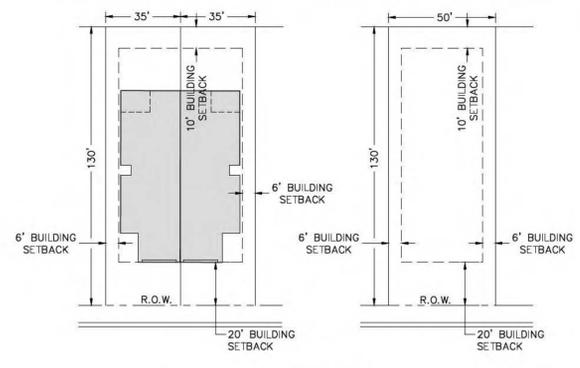
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NOT FOR CONSTRUCTION

March 28, 2019 11:14:34 a.m.  
Drawing: DRHOR376PLAN.DWG

Notes:  
1. Property, lake, and wetland boundaries obtained from DMK Associates.  
2. Mapping based on photointerpretation of 2017 aerial photography and ground truthing in February 2019.  
3. Delineation of jurisdictional wetlands reviewed and approved by SWFWMD - April 2017 (Formal Determination No. 729181/42042985.000)



**SITE DATA**  
 PARCEL ACREAGE: 80.00 AC.  
 PARCEL ID#: 0399-01-0001 & 0399-09-0001  
 EXISTING ZONING: OUE (OPEN USE ESTATE)  
 PROPOSED ZONING: PUD  
 LOT AREA: 28.45 AC.  
 STORM WATER AREA: 12.83 AC.  
 OPEN SPACE AREA: 32.77 AC.  
 WETLAND AREA: 5.53 AC.  
 WETLAND IMPACTED AREA: 3.96 AC.  
 FPL EASEMENT AREA: 4.90 AC.  
 AMENITY TRACK: 1.49 AC.  
 TOTAL UNITS: 212



DATE	REVISION	BY

**DMK ASSOCIATES**  
 ENGINEERS ■ SURVEYORS  
 421 Commercial Court, Suite C Venice, Florida 34292  
 Phone (941)412-1293, Fax (941)412-1043  
 Certificate of Authorization No. 3943

DATE	CKD. BY	DATE
10/29/18	TER	04/04/19
DRAWN DRA	TER	04/04/19
DESIGN DRA	TER	04/04/19
SCALE @ 24"x36"	DMK NO.	18-0296

D.R. HORTON, INC.  
 10541 SIX MILE CYPRESS PARKWAY  
 FORT MYERS, FLORIDA 33966  
 PH. 239-225-2800  
 FAX: 239-225-2601

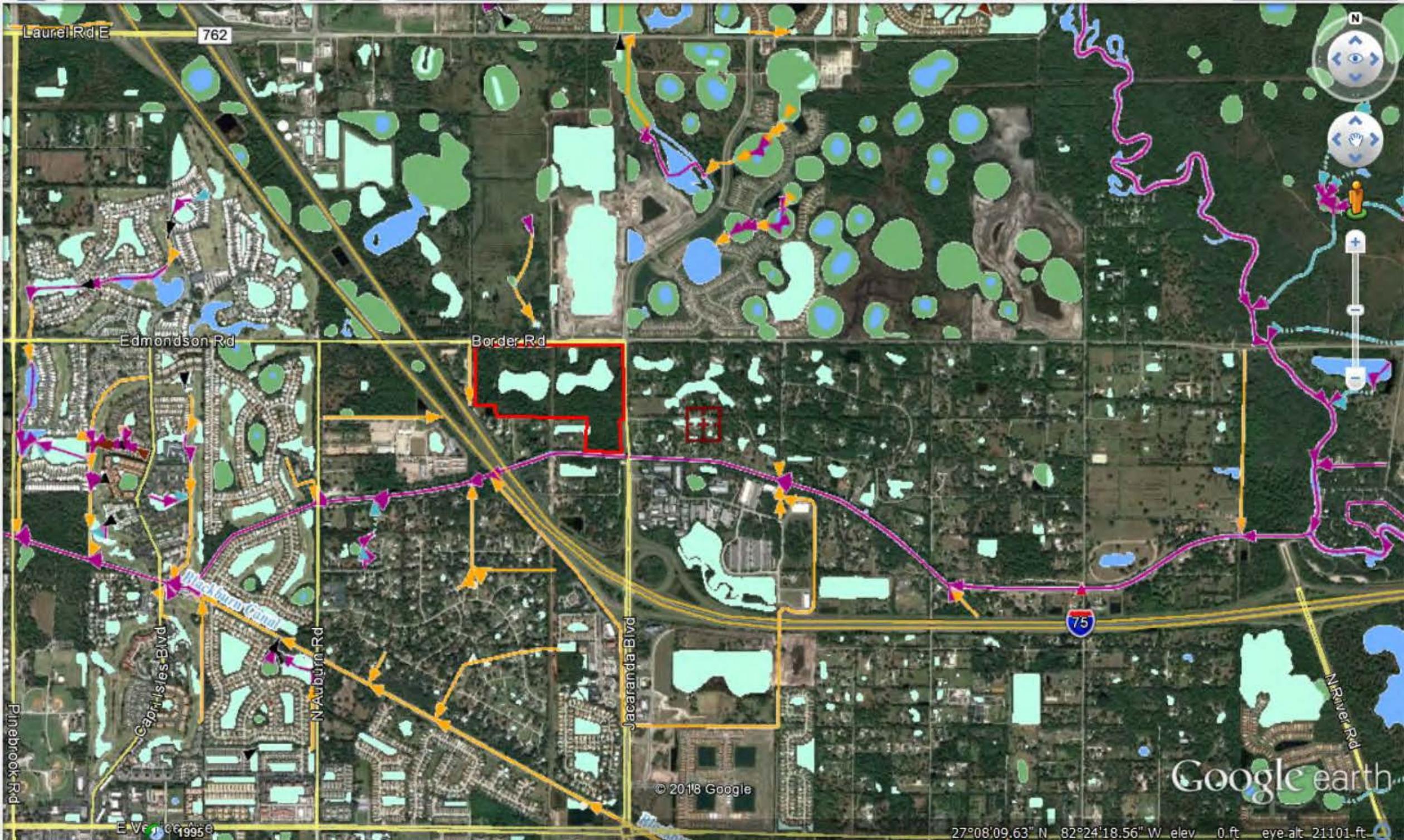


1/2019



Google earth

27°07'31.21" N 82°23'11.88" W elev 0 ft eye alt 10520 ft



Google earth

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27°08'09.63" N 82°24'18.56" W elev 0.ft eye at 21101.ft