



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
1520 ROYAL PALM SQUARE BLVD. SUITE 310
FORT MYERS, FL 33919

REPLY TO

April 9, 2020

Regulatory Division
West Permits Branch
Fort Myers Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2005-09104 (SP-MMB)

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: Aqui Esta Drive Punta Gorda US Inc
Gables International Plaza
2655 Le Jeune Road, Suite 905
Coral Gables, Florida 33134

WATERWAY AND LOCATION: The project would affect waters of the United States, including wetlands, associated with Upper and Lower Alligator Creek (HUC 12: 031001030101) and the Charlotte Harbor Watershed. The project site is an undeveloped parcel, located east of Bal Harbor Boulevard and south of Aqui Esta Drive, in Section 13, Township 41 South, Range 22 East, Punta Gorda, Charlotte County, Florida.

Directions to the site are as follows: From I-75 take exit for Jones Loop Road (CR 765) and head west; make a right on US 41; make a left on Aqui Esta Drive; project site will be approximately 1 mile on the south side of Aqui Esta Drive.

APPROXIMATE CENTRAL COORDINATES: Latitude 26.90969°
Longitude -82.05625°

PROJECT PURPOSE:

Basic: Residential development

Overall: To construct a residential development and water-related amenities in southern Charlotte County, Florida.

EXISTING CONDITIONS: The project site is approximately 105.55 acres (ac) and is bordered by a tidal canal system that provides recreational boat access to Charlotte Harbor along a portion of the north, south and west property lines. On-site habitats include a 43.84 ac tidally influenced system consisting of disturbed mangrove swamps (FLUCCS 612) and saltwater marsh (FLUCCS 642E1), as well as three

small non-tidal wetland systems totaling 1.80 ac of hydric disturbed land, invaded by exotics (FLUCCS 740HE2). The remainder of the site contains 59.91 ac of disturbed uplands (FLUCCS 740E2), Australian pine (FLUCCS 437), and a borrow area (FLUCCS 742). The existing area surrounding the project site consists of single-family residences to the north, south, and west, and a mobile home planned development located along the east property line.

PROPOSED WORK: The proposed project will result in the discharge of 35,526 cubic yards of fill into 7.35 ac of waters of the United States (WOTUS), which includes 2.99 ac of disturbed mangrove swamp and saltwater marsh, 1.42 ac of hydric disturbed freshwater wetlands, and 1.78 ac of other WOTUS; dredging of 0.98 ac of WOTUS (0.38 ac of hydric disturbed freshwater marsh and 0.60 ac of other WOTUS); 0.25 ac of secondary impacts to wetlands from the construction of the residences; and the removal of 0.18 ac of disturbed mangrove wetland vegetation. The project is known as *Aqui Esta* and consists of the following:

- (1) 462 multi-family residences with associated infrastructure and surface water management and treatment system;
- (2) observation deck (150 square feet);
- (3) marginal dock which accommodates 25 slips (6,515 square feet) and 17 dock access piers (1,785 square feet);
- (4) dredging of 16,600 cubic yards of uplands to create a marina basin with docking structures which accommodates 24 slips (1,920 square feet);
- (5) boat ramp (1,035 square feet) with associated staging dock (650 square feet) and 7 associated trailer parking spaces (7 temporary slips);
- (6) 982 linear feet of concrete seawall along the marina basin, boat ramp; and proposed intertidal shelf
- (7) 931 cy of riprap along the toe of the seawall within the marina basin (12,750 square feet)

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 original site plan that was reviewed by the Corps between 2005 and 2008 included a proposal for 211 residential lots, private single-family docks, an extensive perimeter dock along the south property limits, and a public boat ramp within the southeastern corner of the subject property. This proposal would have resulted in the direct permanent impacts to 11.95 ac of wetlands and 3.04 ac of other WOTUS. The current proposal reduces the direct impacts to wetlands by 48%.”

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

The applicant is proposing:

- 1) The purchase of 1.23 saltwater forested and 0.86 freshwater herbaceous credits at the Little Pine Island Mitigation Bank; and,
- 2) On-site wetland preservation, creation and enhancement as shown on the attached permit sketches [39.45 ac of preserved and enhanced wetlands and 1.16 ac of wetland creation (tidal shelf)].

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 (*Drymarchon corais couperi*), red-cockaded woodpecker (*Picoides borealis*), wood stork (*Mycteria americana*), Florida scrub jay (*Aphelocoma coerulescens*), Florida bonneted bat (*Eumops floridanus*), West Indian manatee (*Trichechus manatus*), smalltooth sawfish (*Pristis pectinata*), and/or their designated critical habitats. The Corps will request U.S. Fish and Wildlife Service and National Marine Fisheries Service concurrence with this determination, pursuant to Section 7 of the Endangered Species Act.

The Corps has determined that the proposal would have **no effect** on the American crocodile (*Crocodylus acutus*) or any other Federally listed species, and/or its designated critical habitat. No further consultation with the Service is required for these 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 project site does not contain EFH; therefore, the Corps has determined that the proposed project would have no effect to EFH.

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 the District Engineer through the Fort Myers Permits Section, 1520 Royal Palm Square Blvd. Suite 310, Fort Myers, FL 33919 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, Michelle L. Bartley, in writing at the Fort Myers Permits Section, 1520 Royal Palm Square Blvd. Suite 310, Fort Myers, FL 33919; by electronic mail at Michelle.L.Bartley@usace.army.mil; or, by telephone at (239) 334-1975 ext. 0006.

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, aesthetics, 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.



CHARLOTTE COUNTY, FLORIDA



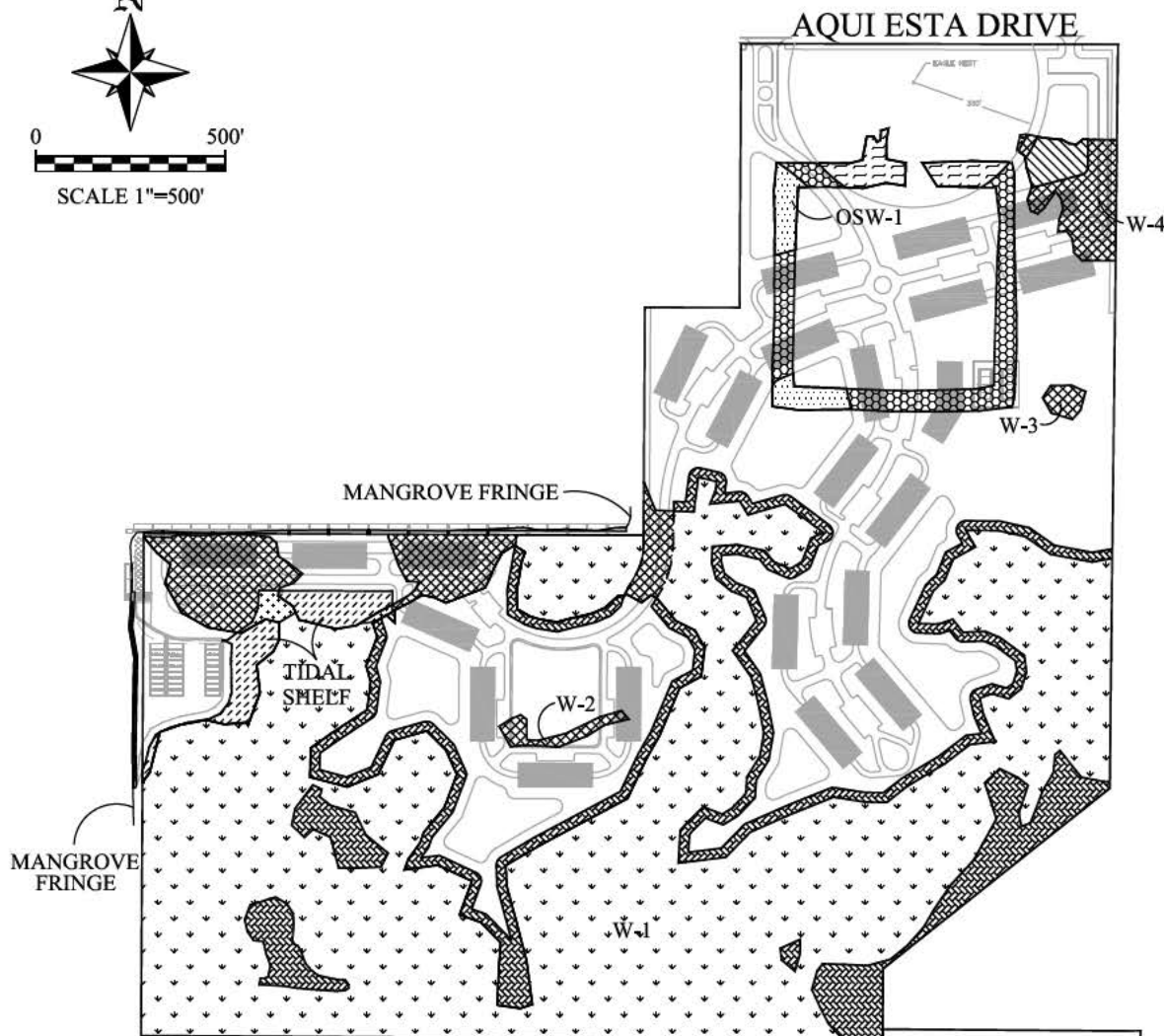
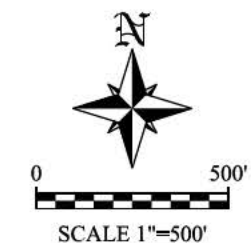
LOCATION MAP

11-010 / JULY 1, 2011

AQUI ESTA LOCATION MAP

I V A
Ian Vincent & Associates
Environmental Consulting Services

SECTION 13, TOWNSHIP 41S, RANGE 22E



LEGEND

IMPACTS

	WETLAND FILL	4.40 Ac ±
	WETLAND DREDGE	0.38 Ac ±
	OSW DREDGE	0.60 Ac ±
	OSW FILL	1.78 Ac ±
	OTHER IMPACTS: MANGROVE FRINGE REMOVAL AND/OR TRIMMING	0.18 Ac ±
TOTAL		7.34 Ac ±

----- SECONDARY IMPACTS 0.25 Ac ±

	TEMPORARY WETLAND IMPACT	0.19Ac ±
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PRESERVATION

	WETLAND ENHANCEMENT	40.82 Ac ±
	OSW ENHANCEMENT	0.66 Ac ±
	UPLAND BUFFER ENHANCEMENT	8.16 Ac ±
TOTAL		49.64 Ac ±

NOTES:

1. FOR PERMIT USE ONLY, NOT FOR CONSTRUCTION.
2. PROPERTY BOUNDARY IS APPROXIMATE AND OBTAINED FROM BANKS ENGINEERING INC.
3. DELINEATION OF JURISDICTIONAL WETLANDS AND SURFACE WATERS WAS REVIEWED/APPROVED BY THE SWFWMD THROUGH PERMIT NO. 43024078.001 AND THE USACE THROUGH A FORMAL JURISDICTIONAL DETERMINATION CONDUCTED DURING REVIEW OF PERMIT APPLICATION SAJ-2005-9104.

15-029 / APRIL 15, 2019

AQUI ESTA
IMPACT / PRESERVE MAP

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