



REPLY TO
ATTENTION OF

Regulatory Division
North Permits Branch
Cocoa Permits Section

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
COCOA PERMIT SECTION
400 HIGH POINT DRIVE
COCOA, FLORIDA 32926

April 30, 2020

PUBLIC NOTICE

Permit Application Number SAJ-2004-01549 (SP-JCP)

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: CD83 Contractors Business Park Orlando, LTD
Mr. Craig Govan
610 N. Wymore Road, Suite 200
Maitland, Florida 32751

WATERWAY AND LOCATION: The 41.57 ± acre *CD83 Contractors Business Park* project would affect waters of the United States associated with the Wekiva River Basin, which is part of the Middle St. Johns River Watershed (HUC 030801011404). The project site is located in the City of Orlando, approximately 0.40 miles west of the Princeton/John Young Parkway intersection and on the north side of W. Princeton Avenue, within Section 16, Township 22 South, Range 29 East, Orange County, Florida

Directions to the site are as follows: From SR 408, exit onto N. John Young Parkway. Continue north approximately 2.3 miles and take a left onto West Princeton Avenue; proceed approximately 0.4 mile. The site is on the north side of West Princeton Avenue immediately west of the Walmart Supercenter

APPROXIMATE CENTRAL COORDINATES: Latitude 28.571345°
Longitude -81.421273°

PROJECT PURPOSE:
Basic: Industrial/retail construction.

Overall: Construct retail/commercial and light industrial development, in Orlando Urban Area, Orange County, Florida.

PROJECT HISTORY:
Portions of the current project were previously authorized under SAJ-2004-01549 in 2005. The Corps permit authorized 17.15 acres of wetland impacts for a commercial/industrial development. The compensatory mitigation plan included the purchase of 1.28 federal credits from Wekiva River Mitigation Bank and the enhancement of 115 acres of wetlands at the Lower Wekiva River State Preserve. To

date, only 8.90 acres of the previously authorized wetland impacts were completed prior to the permit expiration. The remaining 8.25 acres are now proposed for re-authorization under this application.

EXISTING CONDITIONS: The project site currently supports eight land use types/vegetative communities. These land use types/vegetative communities were identified utilizing the Florida Land Use, Cover and Forms Classification System, Level III (FLUCCS, FDOT, 1999). The undeveloped areas authorized for fill under the original permit historically supported cypress and sweet bay communities but are currently dominated by shrubs (FLUCCS 618 Willow and Elderberry, 7.59 acres). The area along the northeast project boundary is currently being utilized for stockpiled fill material. The remaining project site contains a large wetland system consisting primarily of cypress (FLUCCS 621 Cypress, 28.31 acres). The southern half of this wetland is infested with old world climbing fern, an invasive species. Historical ditching, berm construction, and a nearby canal have severely diminished wetland hydroperiods in the entire area of the Princeton/John Young Parkway intersection, as evidenced by areas of soil subsidence and encroachment by upland groundcover species.

PROPOSED WORK: The applicant seeks authorization to fill 22.85 acres of waters of the United States (WOTUS) for construction of the *CD83 Contractors Business Park* which includes stormwater management features and roadways. Of the 22.85 acres of proposed wetland impacts, 8.25 acres were previously authorized under the original permit, 14.6 acres are proposed as additional impacts.

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 has avoided and minimized losses of jurisdictional WOTUS to the greatest extent possible, considering the project site is located in the Packing District/Mercy Drive Qualified Opportunity Zone. Such zones were created under the federal 2017 Tax Cuts and Jobs Act and specific zone designations were identified in April 2018. The zones are designed to spur economic development and job creation in distressed communities throughout the country. Consistent with the federal initiative for job creation in economically depressed communities such as Pine Hills, the City of Orlando designated an Urban Activity Center (AC-2) zoning district over much of the site. This zoning district was not in place when the Corps originally authorized SAJ-2004-1549 in 2005.

A 2017 site plan (dated August 23, 2017) proposed additional roadways and lots, with some forested wetlands likely converted to herbaceous and re-graded for compensating storage. This plan would have impacted almost 36 acres of WOTUS (W-1), resulting from the development of two additional lots (Lots 3 & 4), two additional roadways (Tract E and F), ponds and compensating storage. In the current site plan, the applicant avoided & minimized impacts by revising the footprint to remove the development of Lots 3 & 4 and the two additional roadways (Tract E and F) and thus reducing the

impacts to 22.85 acres. This is a total reduction of 13.76 acres of impacts to jurisdictional WOTUS from the 36 acres of impacts proposed in the 2017 plan. In addition, of the 22.85 acres of proposed impacts, 8.25 acres were previously authorized and mitigated under USACE Permit #SAJ-2004-01549 (SP-TSB). The remaining 14.60 acres of impacts were unavoidable due to their location on the site and the current site plan. Wetland function in these wetlands is compromised by hydrologic alterations and old world climbing fern.”

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 provided by the proposed wetland impacts, the applicant proposes to purchase 8.17 palustrine forested federal wetland credits from Colbert Cameron Mitigation Bank; a federally approved mitigation bank whose service area includes the project site. Also included is the previously completed compensatory mitigation, including the purchase of 1.28 federal credits from Wekiva River Mitigation Bank and the enhancement of 115 acres at the Lower Wekiva River State Preserve.”

CULTURAL RESOURCES: In 2005, a review by the Division of Historical Resources in accordance with Chapter 1A-46 Florida Administrative Code concluded that no cultural resources were within the project area. 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 the 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 wood stork (*Mycteria americana*) and the Eastern indigo snake (*Drymarchon corais couperi*).

Wood stork

The proposed activity is within the Core Foraging Area (CFA) of a wood stork rookery; the project supports marginally Suitable Foraging Habitat (SFH) for wood stork. Based on the Effect Determination Key for the Wood Stork in Central and North Peninsular Florida (dated September 2008), the Corps’ determination sequence was A>B>C>D>E = “may affect but is not likely to adversely affect”. The determination is supported by SFH compensation provided within the service area of a mitigation bank, and provides an amount of habitat and foraging function equivalent to that of impacted SFH; and is not contrary to the Service’s “Habitat Management Guidelines for the Wood Stork in the Southeast Region”. No further consultation is required.

Eastern Indigo Snake

Based on the Eastern Indigo Snake Effect Determination Key (dated January 25, 2010; August 13, 2013 Addendum), the Corps determination sequence resulted in A>B>C D= “may affect”. This determination is based on the project not being located in open water,

the applicant adhering to the "Standard Protection Measures for the Eastern Indigo Snake" (dated August 12, 2013) and the presence of more than 25 active and inactive gopher tortoise burrows, holes, and refugia within the work area where a snake could be buried or trapped and injured during project activities. Indigo snakes have been documented within 1 mile of the south end of the site on the Micco Scrub Sanctuary. The Corps will initiate consultation with the USFWS pursuant to Section 7 of the Endangered Species Act.

The project site lies within the Consultation Area for the Florida scrub jay and Everglade snail kite. Suitable habitat does not occur on the project site, or in the surrounding vicinity, for these species. The Corps has determined the proposed project would have no effect on these species, or any other listed threatened or endangered species or designated critical habitat.

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 have no impact on EFH. 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 the District Engineer through the Cocoa Permits Section, 400 High Point Drive, Suite 600, Cocoa, Florida 32926 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 Chief of the Cocoa Permits Section, John Palmer, in writing at the Cocoa Permits Section, 400 High Point Drive, Suite 600, Cocoa, Florida, 32926, by electronic mail at John.Palmer@usace.army.mil, by fax at (321) 504-3803, or by telephone at (321) 504-3771 extension 12.

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.

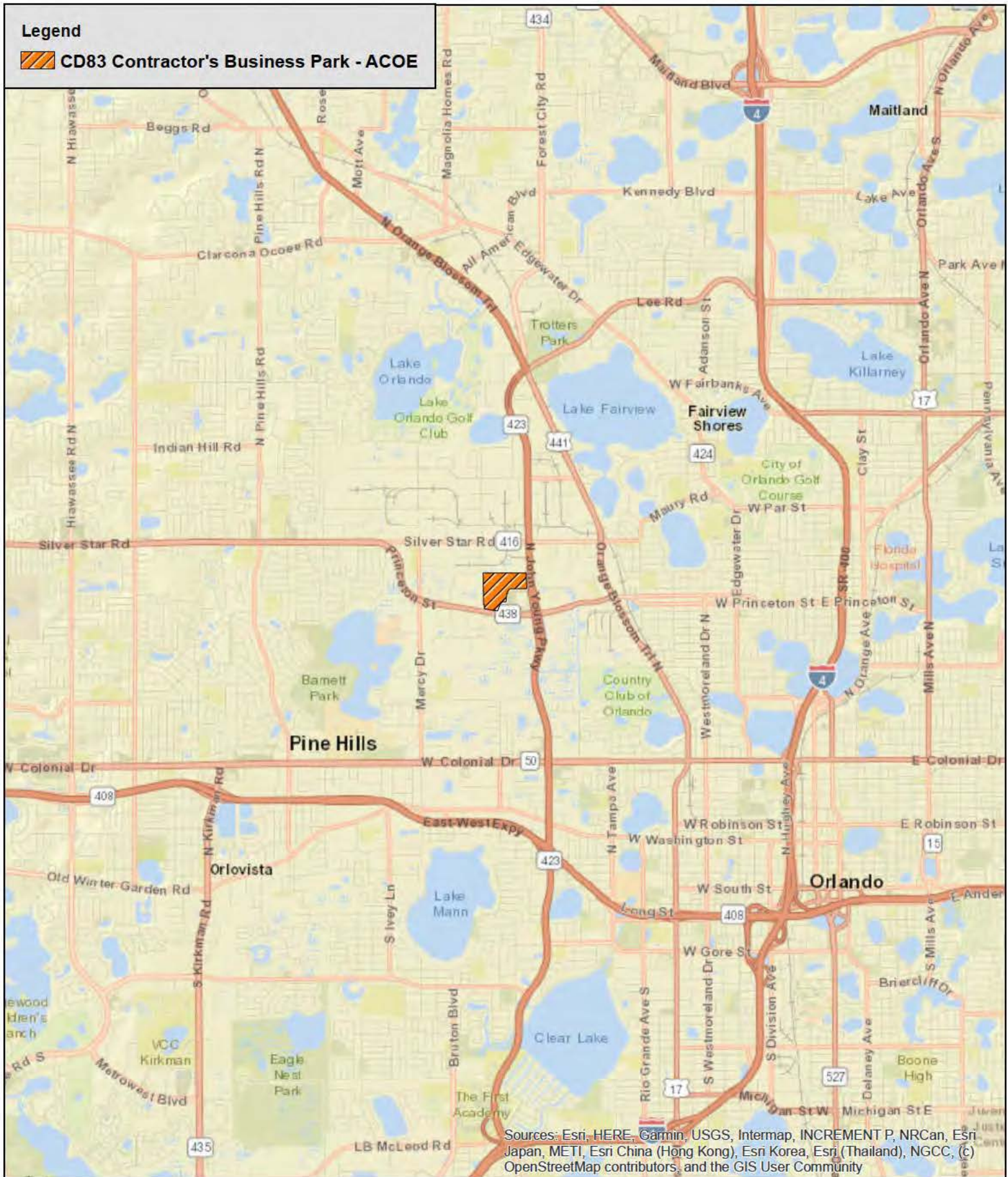
The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue,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

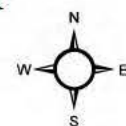
REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

Legend

 **CD83 Contractor's Business Park - ACOE**



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

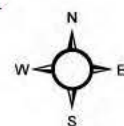


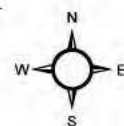
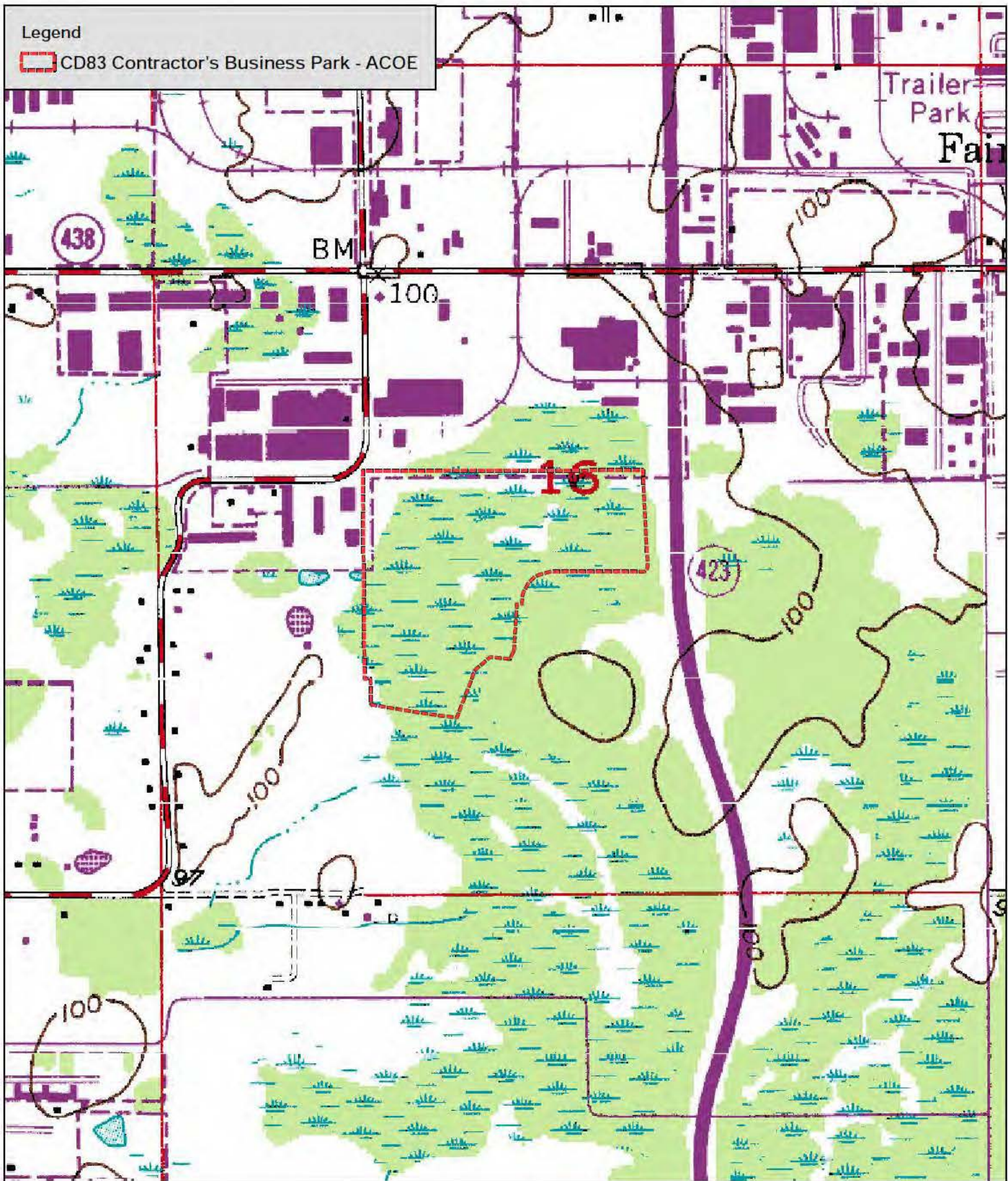
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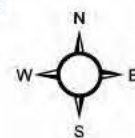
 CD83 Contractor's Business Park - ACOE (\pm 44.56 Ac.)

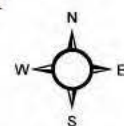
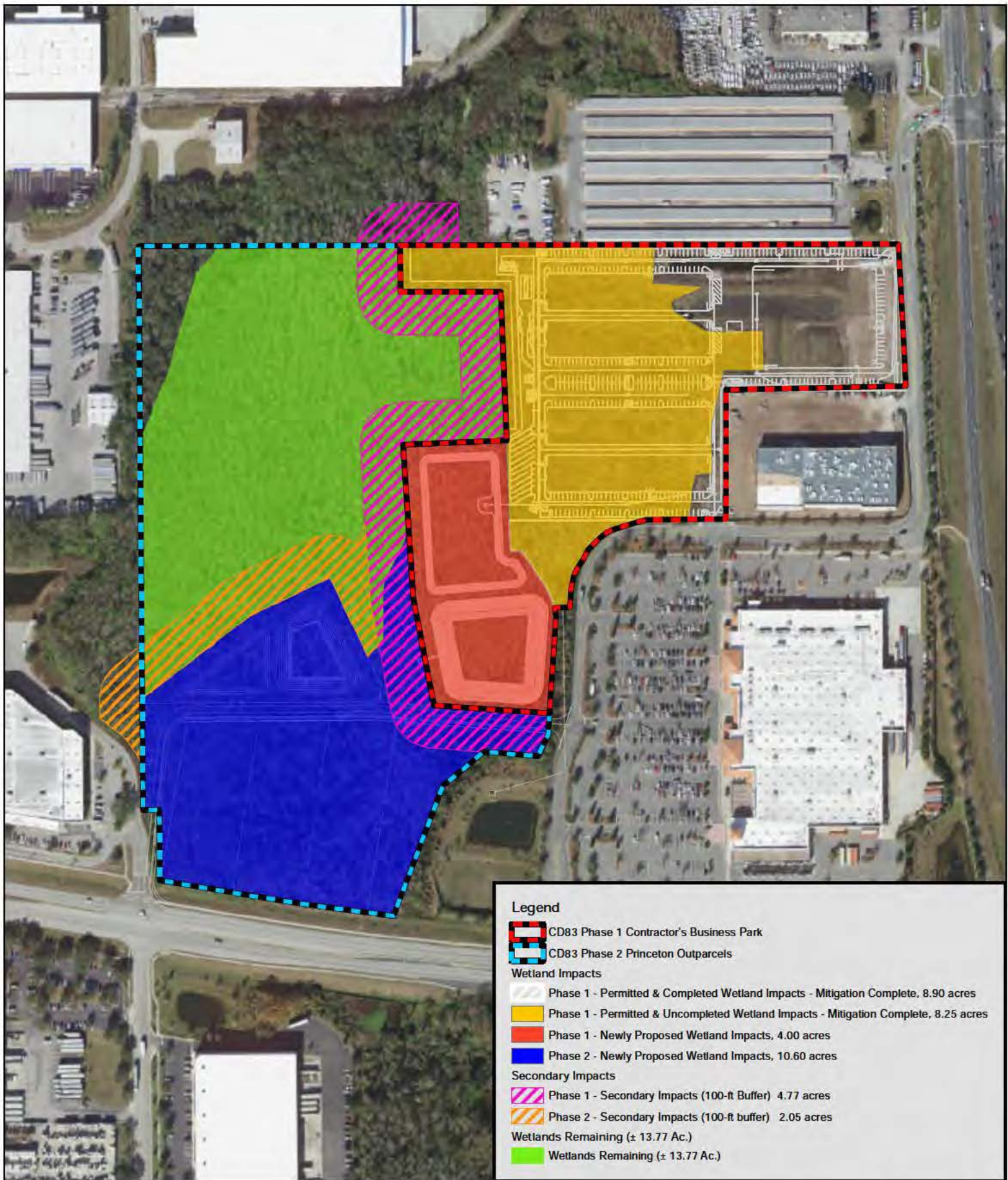


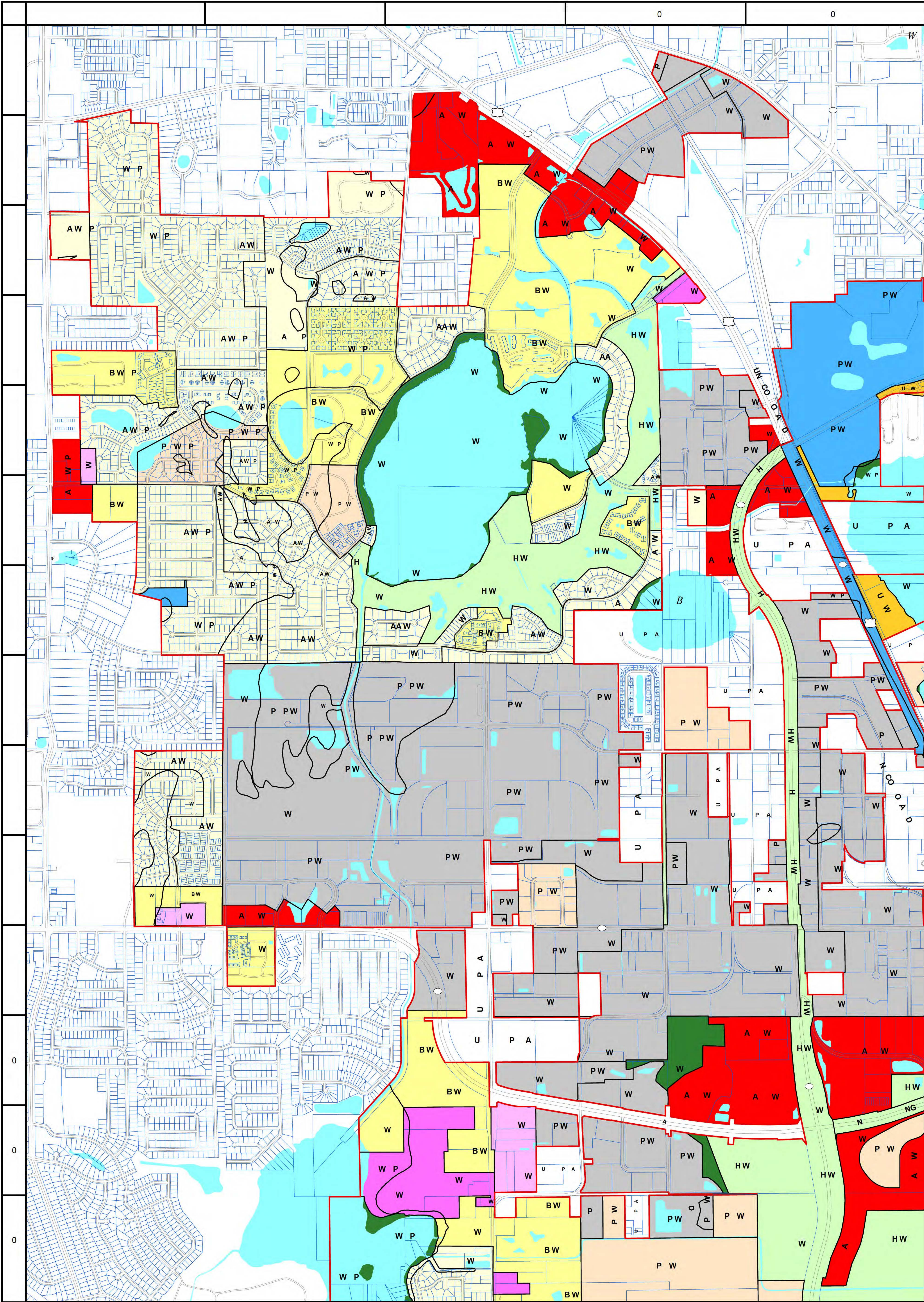
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community











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