

SEPTEMBER 18, 2020

PUBLIC NOTICE

Permit Application Number SAJ-2008-02073(SP-MRE)

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: City of Palm Coast
160 Lake Avenue
Palm Coast, Florida 32164

WATERWAY AND LOCATION: The project would affect waters of the United States, including wetlands, associated with the Intracoastal Waterway and an unnamed tributary to the Intracoastal Waterway. The project site is located at the City of Palm Coast Waterfront Park, 150 Waterfront Park Drive (Flagler County Property Appraiser – Parcel Identification Number 09-11-31-0000-00010-0011), in Section 9, Township 11 South, Range 31 East, Palm Coast, Flagler County, Florida.

APPROXIMATE CENTRAL COORDINATES: Latitude 29.559764°
Longitude -81.177398°

PROJECT PURPOSE:

Basic: The basic project purpose is access to navigable waters.

Overall: The overall project purpose is the establishment of access to navigable waters contiguous to the City of Palm Coast Waterfront Park, Flagler County, Florida.

EXISTING CONDITIONS: The project area encompasses non-vegetated open water tidal habitat and vegetated tidal habitat associated with the Intracoastal Waterway and an unnamed tributary to the Intracoastal waterway. The shoreline areas within the project area are stabilized with riprap. A vegetative survey of the project area identified a small area supporting smooth cordgrass (*Spartina alterniflora*) and a white mangrove (*Laguncularia racemosa*) along the northwest shoreline of the unnamed tributary. Sediments have accumulated within the waterways.

PROPOSED WORK: The applicant seeks authorization to excavate accumulated sediments within the project area, stabilize portions of the shoreline within the proposed work area, install a concrete boat ramp, and install a floating dock anchored to the shoreline (for loading/unloading and kayak launch/retrieval). The work includes the discharge of 11.6 cubic yards of clean fill material and the excavation of approximately 4,297 cubic yards of sediments. The work proposed would affect 0.05 acre of wetlands and 0.78 acre of other waters of the United States (navigable waters).

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 indicates that the work proposed is the minimum necessary to establish access to navigable waters encompassed by the project site; and, establish public amenities associated with that access. The applicant redesigned the project to avoid smooth cordgrass and a white mangrove identified during a vegetative survey of the proposed work area.

COMPENSATORY MITIGATION – The applicant has provided the following explanation why compensatory mitigation should not be required: The work proposed would eliminate approximately 0.05 acre (i.e., less than 0.1 acre) of tidal mud flats but avoids aquatic vegetation (smooth cordgrass and mangrove) within the project area. The applicant expressed an opinion that any loss of wetland functions and services associated with the work proposed would be negligible; and, as such, compensatory mitigation is not warranted.

CULTURAL RESOURCES: The Corps compiled a Resource at Risk (RAR) report, indicated that a Cultural Resource Assessment Survey (CRAS) may be required. However, the work proposed would affect a previously excavated area. In consideration of the information evaluated, the Corps has determined the permit area has been extensively modified by previous work and there is little likelihood a historic property may be affected. However, 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:

Florida Scrub Jay (*Aphelocoma coerulescens*): The project site is approximately 3 miles from the nearest identified nest or cluster location for Florida Scrub Jay; and, within the consultation area identified by the Corps and the FWS for this species. Therefore, this species may utilize the project site. There is no designated critical habitat for the Florida Scrub Jay listed in the federal register (52 FR 20715-20719). However, information from the FWS indicates that the Florida Scrub Jay has extremely specific habitat requirements. It is endemic to peninsular Florida's ancient dune ecosystem or scrubs, which occur on well drained to excessively well drained sandy soils. Relict oak-dominated scrub, or xeric oak scrub, is essential habitat to the Florida Scrub Jay. Optimal habitat incorporates four species of stunted, low growing oaks [sand live oak (*Quercus geminata*), Chapman oak (*Quercus chapmanii*), myrtle oak (*Quercus myrtifolia*), and scrub oak (*Quercus inopina*)] that are 1-3 meters high, interspersed with 10 to 50 percent non-vegetated sandy openings, with a sand pine (*Pinus clausa*) canopy of less than 20 percent. Therefore, Florida Scrub Jay habitat is absent from the project site. It is likely that this species only opportunistically forages within forested areas in the vicinity of the project site, which the project would not preclude. The nearest identified Florida Scrub Jay colony is approximately 3 miles northeast of the project site; and, considerable natural foraging habitat is located between the project site and that colony. In consideration of the lack of appropriate habitat at the site, the local abundance of foraging habitat, and the distance to the nearest colony, the Corps determined that the project would have *no effect* upon this species.

Manatee (*Trichechus manatus*): The Corps reviewed the project utilizing *The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida, April 2013*. Use of this key resulted in the sequence A-B-C-G-H-I-J-K-N-O-P1-may affect, but is not likely to adversely affect. The Corps partially based this determination on the implementation of the *Standard Manatee Conditions for In-Water Work, 2011*. The U.S.

Fish and Wildlife Service (FWS) previously indicated that they concur with determinations of *may affect, not likely to adversely affect* based on the key for manatee; and, that no additional consultation is necessary.

Eastern Indigo Snake (*Drymarchon corais couperi*): Eastern Indigo Snake frequents several habitat types, including pine flatwoods, scrubby flatwoods, high pine, dry prairie, tropical hardwood hammocks, edges of freshwater marshes, agricultural fields, coastal dunes, and human-altered habitats. Therefore, this species could utilize the area encompassed by the ESA scope of analysis for this project. Gopher tortoise (*Gopherus polyphemus*) burrows are commonly utilized as refuge from winter cold and/or desiccating conditions in xeric habitats; and, hollowed root channels, hollow logs, or burrows of rodents, armadillo (*Dasypus novemcinctus*), or land crabs (*Cardisoma guanhumi*) provide shelter in wetter habitats. The site does not support gopher tortoise burrows nor xeric habitat; and, the majority of the work would occur in shoreline wetlands or open water. In consideration of the potential presence of eastern indigo snake habitat, the Corps utilized *The Eastern Indigo Snake Programmatic Effect Determination Key, August 2013*. Use of this key resulted in the sequence A-B-C-*may affect, but is not likely to adversely affect*, as the applicant has agreed to implement the *Standard Protection Measures for the Eastern Indigo Snake, August 12, 2013*. The FWS has indicated that they concur with determinations of *may affect, not likely to adversely affect* based on the key for eastern indigo snakes; and, that no additional consultation is necessary.

The RAR did not indicate that the site is utilized by, or contains habitat critical to, any other federally listed threatened or endangered species. The Corps also reviewed geospatial data and other available information. The Corps has not received or discovered any information that the project site is utilized by, or contains habitat critical to, any other federally listed threatened or endangered 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 would impact approximately 0.78 acre of estuarine sub-tidal habitat. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries associated with the Intracoastal Waterway. 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 Corps has not verified the proposed extent of wetlands encompassed by the project site.

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 Jacksonville Permits Section, 701 San Marco Boulevard, Jacksonville, Florida, 32207 or by electronic mail to the project manager, Mark Evans, at mark.r.evans@usace.army.mil within 21 days from the date of this notice.

Please note, due to office staffing precautions associated with CoVid-19, electronic mail correspondence is preferred.

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, Mark R. Evans, in writing at the Jacksonville Permits Section, Post Office Box 4970, Jacksonville, Florida 32232; by electronic mail at mark.r.evans@usace.army.mil; by facsimile transmission at (904)232-1940; or, by telephone at (904)232-2028. **Please note, due to office staffing precautions associated with CoVid-19, electronic mail correspondence is preferred.**

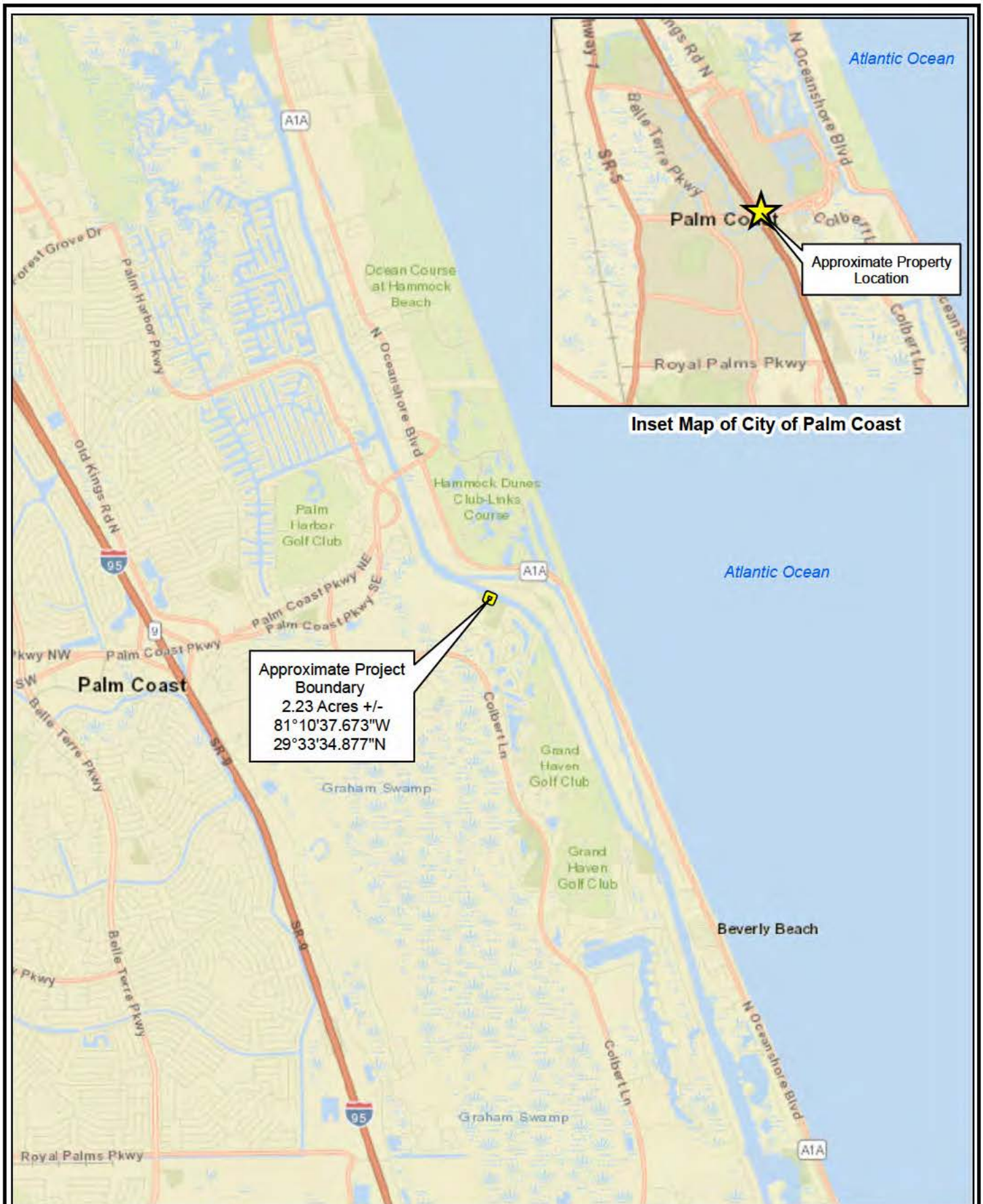
IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information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



Scale: 1" = 1 MILE
 Date: 6/30/2020
 Photo Date: N/A
 Project No. P61263.2
 Biologist: EL GIS: MGO



LOCATION MAP

WATERFRONT PARK
 SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST
 CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

FIGURE
1



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Scale: 1" = 2000'
 Date: 6/30/2020
 Photo Date: N/A
 Project No. P61263.2
 Biologist: EL GIS: MGO



USGS MAP - BEVERLY BEACH
 WATERFRONT PARK
 SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST
 CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

FIGURE
2



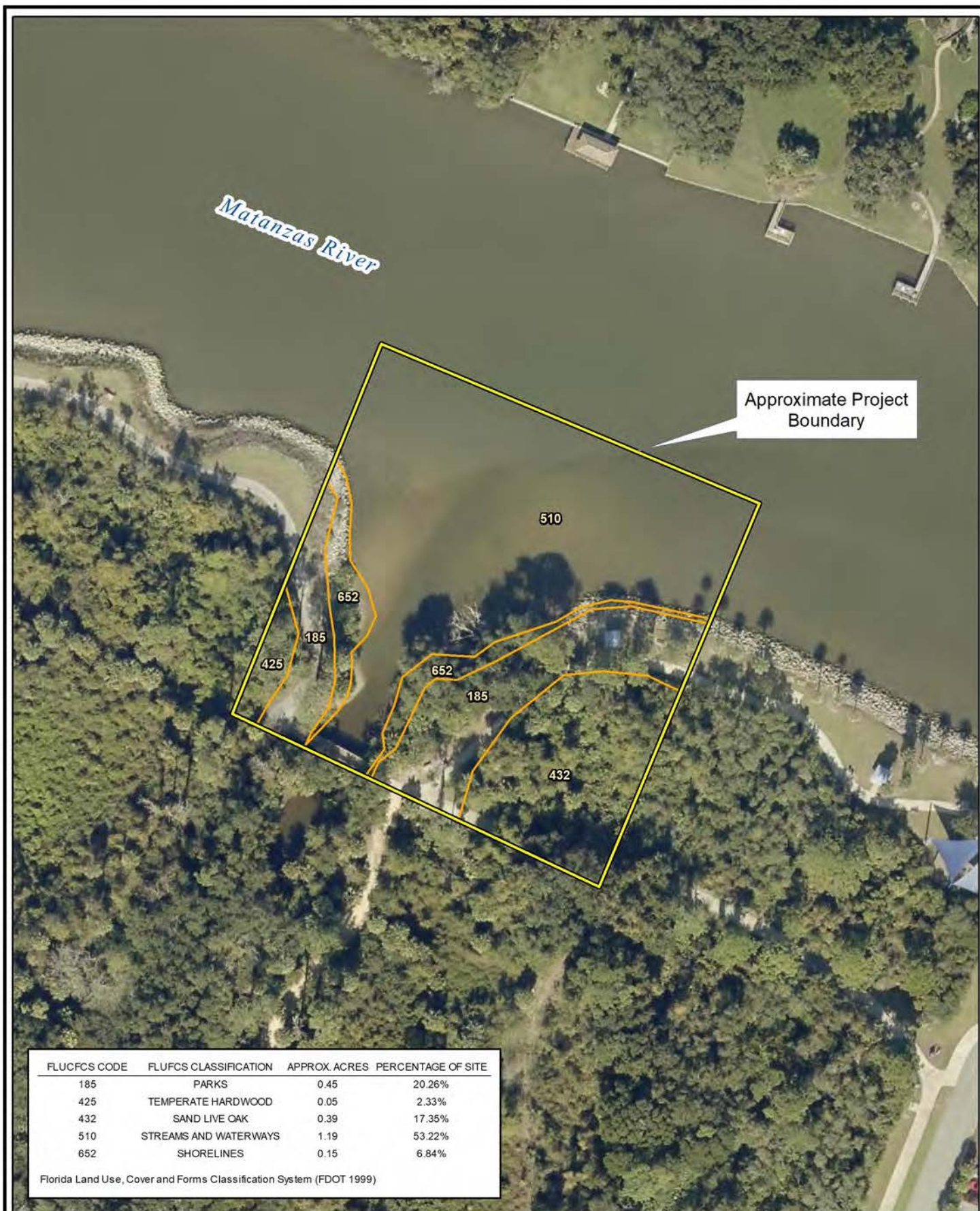
Scale: 1" = 200'
 Date: 6/30/2020
 Photo Date: 2019
 Project No. P61263.2
 Biologist: EL GIS: MGO



SOILS MAP

WATERFRONT PARK
 SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST
 CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

FIGURE
3



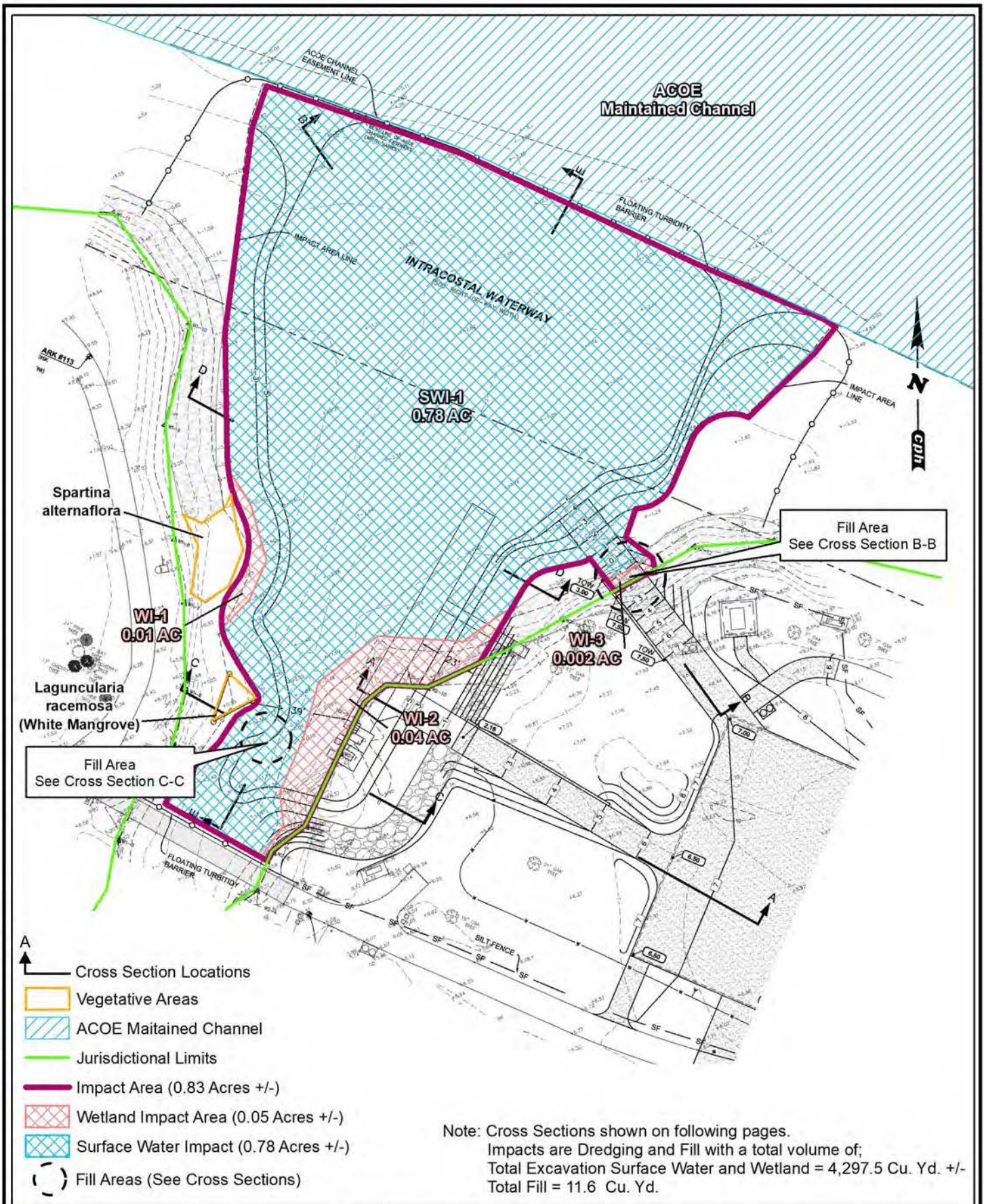
Scale: 1" = 100'
 Date: 7/8/2020
 Photo Date: 2019
 Project No. P61263.2
 Biologist: EL GIS: MGO



PRELIMINARY VEGETATION & LAND USE MAP

WATERFRONT PARK
 SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST
 CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

FIGURE
4



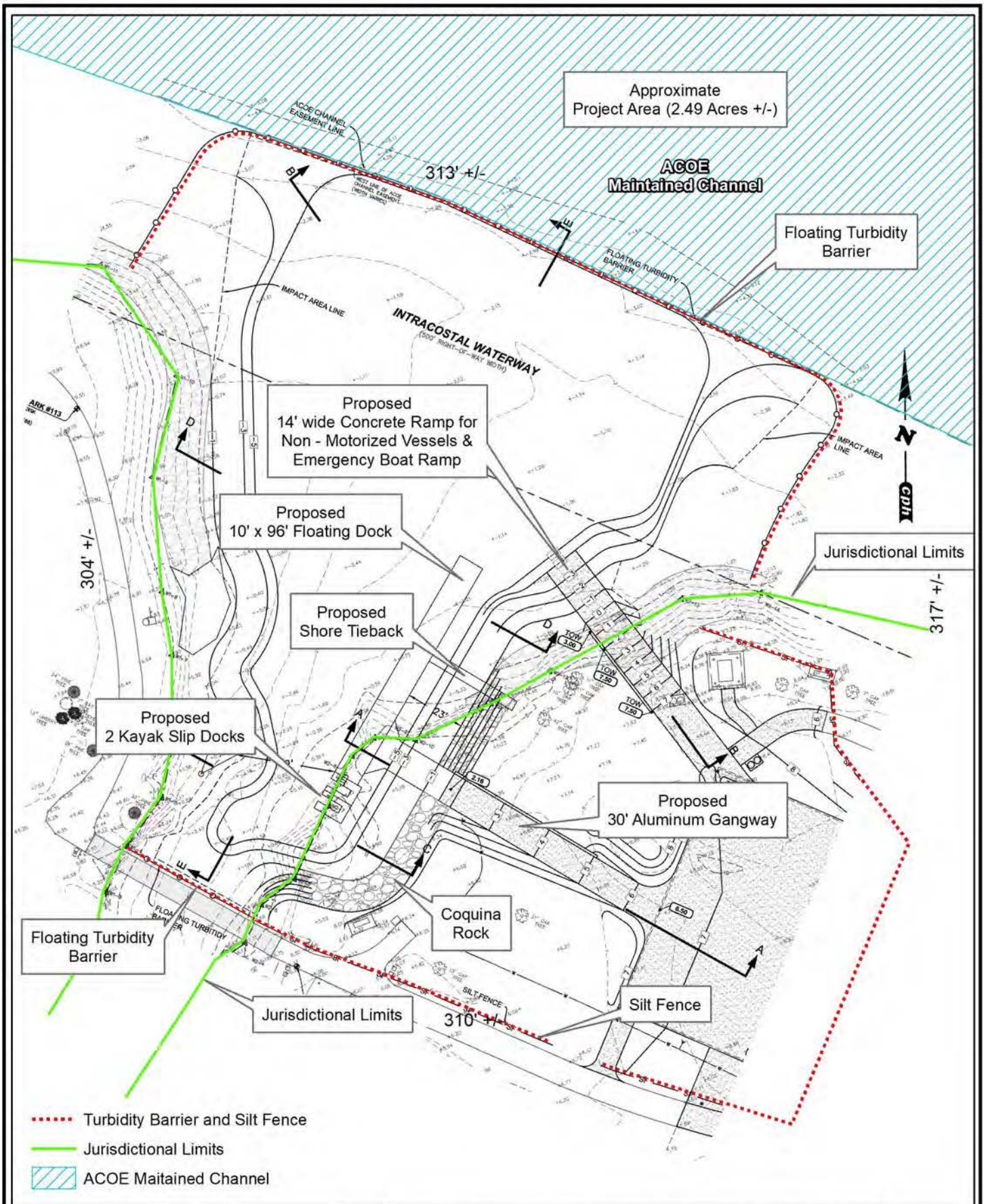
Scale: 1" = 50'
 Date: 9/3/2020
 Photo Date: N/A
 Project No. P61263.2
 Biologist: AED GIS: DM



PLAN VIEW OF CROSS SECTIONS LOCATIONS

WATERFRONT PARK
 SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST
 CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

EXHIBIT
1



Scale: 1" = 50'

Date: 9/3/2020

Photo Date: N/A

Project No. P61263.2

Biologist: AED GIS: DM



PROPOSED IMPROVEMENTS MAP

WATERFRONT PARK

SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST

CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

EXHIBIT

2

10

9

8

7

6

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4

3

2

1

0

-1

-2

-3

-4

-5

-6

Edge of Water

Jurisdictional Limits Line

EXISTING GRADE

65' PATIO
5%6" PERVIOUS
CONCRETE

12" #57 STONE

20:1

4" CONCRETE

WETLAND LINE

30' NGWAY

5'

PROPOSED GRADE

12:1

2:1

16'

6" DOCK

6:1

2:1

MHW -0.39
(WATER DEPTH=5.39')

MLW -0.65
(WATER DEPTH=4.15')

-0.34

MEAN HIGH WATER LEVEL

MEAN LOW WATER LEVEL

SW-1

W-2

Excavation (Cut) Total Volumes
shown only on Exhibit 1.

SW-1 = 0.78 Acre Impact

W-2 = 0.04 Acre Impact

SECTION A-A



Scale: NTS

Date: 9/3/2020

Photo Date: N/A

Project No. P61263.2

Biologist: AED

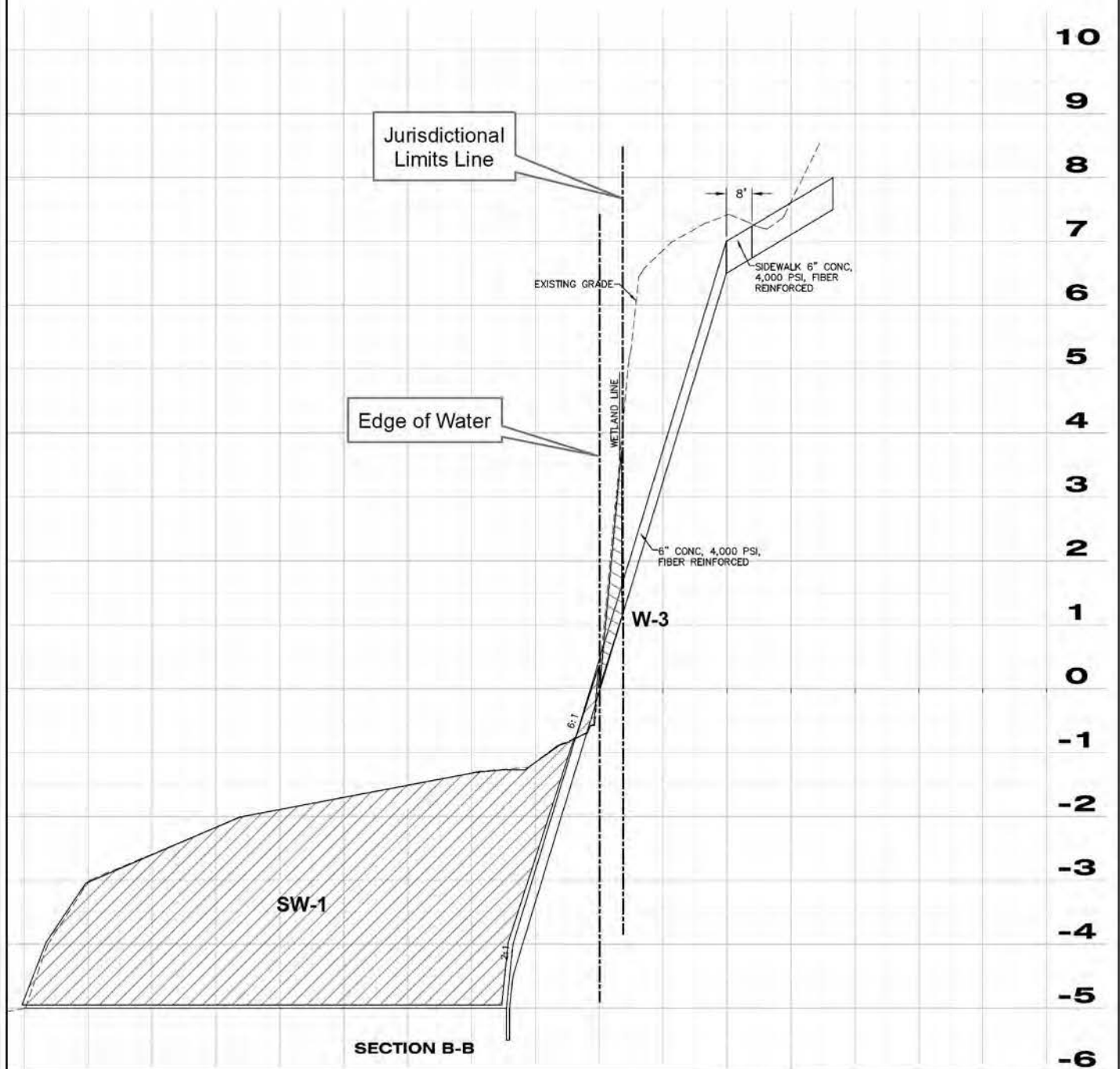
GIS: DM





CROSS SECTION A-A

WATERFRONT PARK
SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST
CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

EXHIBIT
3



 Excavation (Cut) Total Volumes shown only on Exhibit 1.
 Fill Total Volumes shown only on Exhibit 1.
 W-3 = 0.002 Acre Impact
 SW-1 = 0.78 Acre Impact



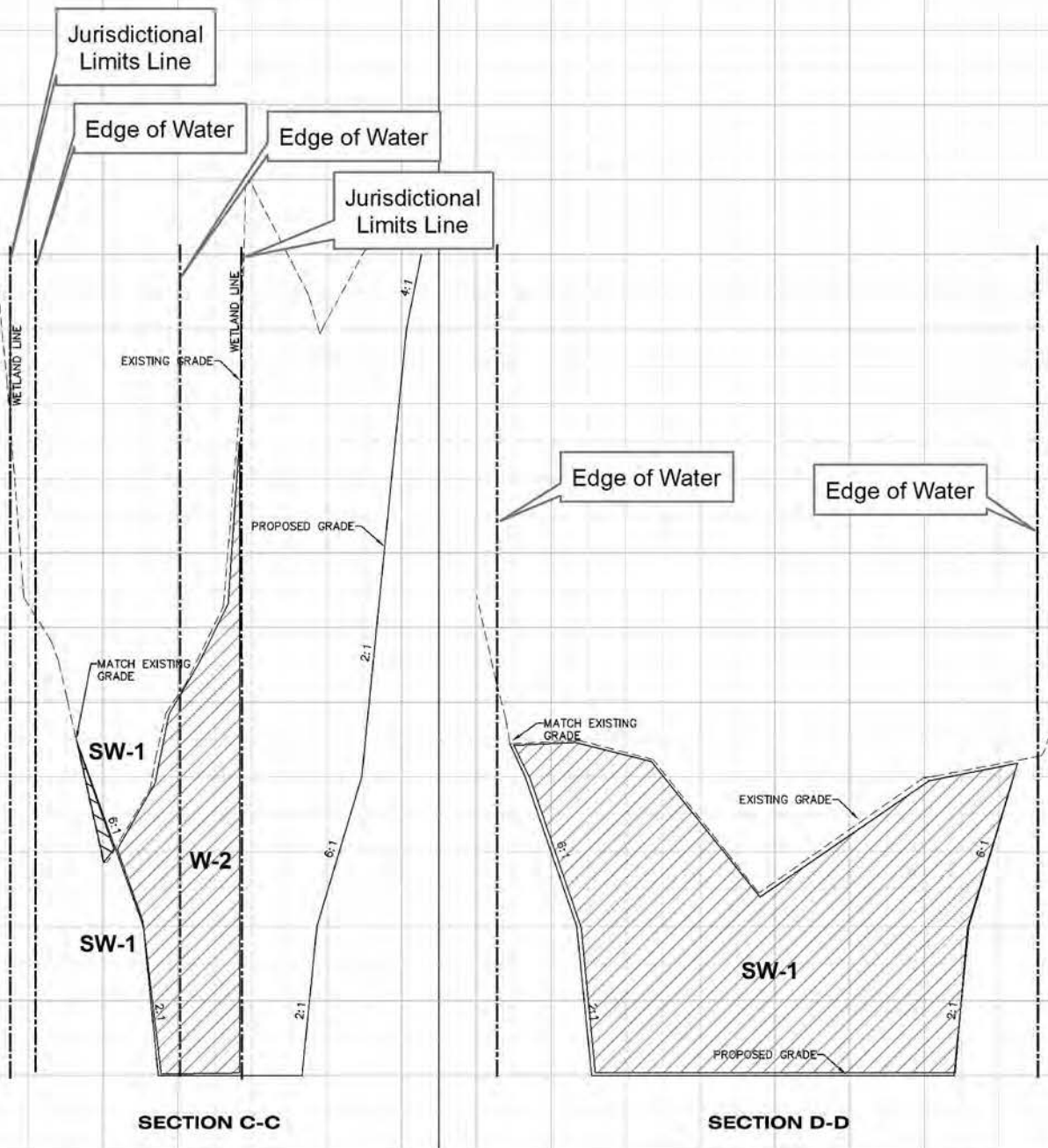
Scale: NTS
 Date: 9/3/2020
 Photo Date: N/A
 Project No. P61263.2
 Biologist: AED GIS: DM





CROSS SECTION B-B
 WATERFRONT PARK
 SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST
 CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

EXHIBIT
4

10
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-1
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-4
-5
-6



-  Excavation (Cut) Total Volumes shown only on Exhibit 1.
-  Fill Total Volumes shown only on Exhibit 1.
- SW-1 = 0.78 Acre Impact
- W-2 = 0.04 Acre Impact

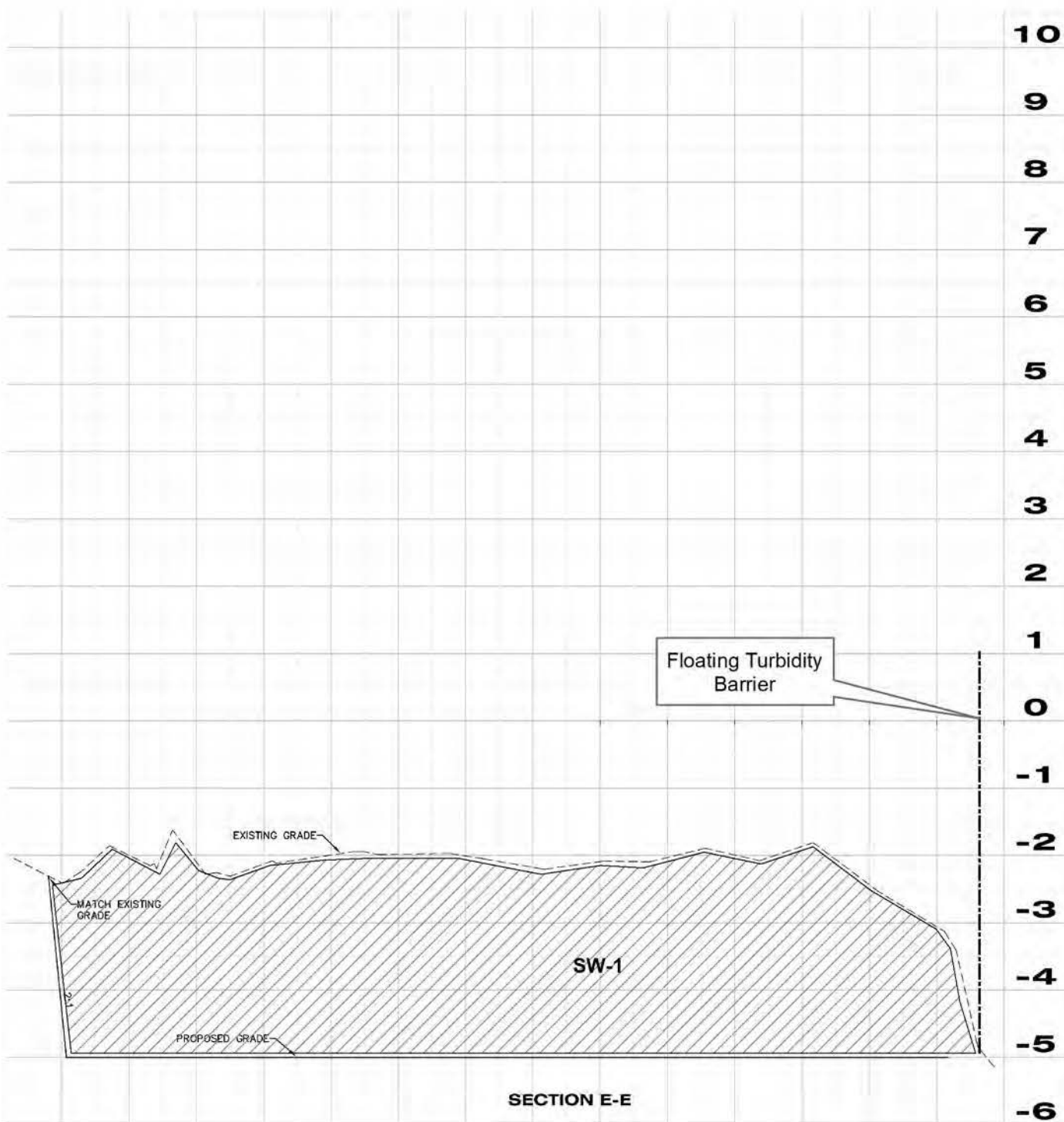


Scale: NTS
Date: 9/3/2020
Photo Date: N/A
Project No. P61263.2
Biologist: AED GIS: DM



CROSS SECTIONS C-C & D-D
WATERFRONT PARK
SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST
CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

**EXHIBIT
5**



Scale: NTS
 Date: 9/3/2020
 Photo Date: N/A
 Project No. P61263.2
 Biologist: AED GIS: DM



CROSS SECTION E-E
 WATERFRONT PARK
 SECTION 9, TOWNSHIP 11 SOUTH, RANGE 31 EAST
 CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA

EXHIBIT
6