



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
4400 PGA BOULEVARD, SUITE 500
PALM BEACH GARDENS, FLORIDA 33410

January 24, 2019

Regulatory Division
South Permits Branch
Palm Beach Gardens Permits Section

PUBLIC NOTICE

Permit Application Number SAJ-2006-03262(SP-JKA)

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: Boynton Beach Associates XXII LLLP (Amstoy PUD)
Attention: Anthony LoFurno
1600 Sawgrass Corporate Parkway, Suite 400
Sunrise, FL 33323

WATERWAY AND LOCATION: The project would affect waters of the United States associated with 25.7 acres of various jurisdictional waters including 9.3 acres of agricultural ditches and 12.8 acres of lateral irrigation swales, which includes 2.57 acres of herbaceous wetlands. The project site is bounded by Boynton Beach Boulevard to the South, Lyons Road to the east, the Lake Worth Drainage District (LWDD) Boynton Canal to the north, and to the west by the LWDD's E-1 Canal, Section 19, Township 45 South, Range 42 East, Boynton Beach, Palm Beach County, Florida.

Directions to the site are as follows: From Interstate 95 in Palm Beach County, proceed west on Boynton Beach Boulevard/SR804 for approximately 6.7 miles to Lyons Road. Proceed north on Lyons Road to the project site west of Lyons Road.

APPROXIMATE CENTRAL COORDINATES: Latitude: 26.5337°
Longitude: -80.1926°

PROJECT PURPOSE:

Basic: Residential development

Overall: Provide residential development in southwest Palm Beach County, Florida.

PROJECT HISTORY: A Department of the Army permit (SAJ-2006-03262) was issued for the subject property on June 10, 2013 for the construction of a charter school and residential development. The permit covered a project area of 266.1 acres and authorized impacts to 25.7 +/- acres of WOTUS including 3.6 acres of ponds, 9.3 acres of ditches, and 12.8 acres of lateral irrigation swales within which 2.57 acres were considered herbaceous wetlands that occurred discontinuously within the 12.8 acres of

irrigation swales. To date 20.1 acres of the initial 266.1 acres have been developed for the construction of the charter school and associated infrastructure. Construction included the placement of fill within 1.71 acres of non-wetland waters and 0.19 acres of herbaceous wetlands (total 1.9 acres).

EXISTING CONDITIONS: The existing Amstoy property (project) totals 246 acres. The property is actively being farmed with row crops and the majority of the land cover is comprised of row crop fields, a farm building, disturbed upland areas, and an extensive agricultural canal, ditch, and swale system that supports the row crop farm. There are 21.42 acres of non-wetland waters and 2.38 acres of herbaceous wetlands located on site. The existing area surrounding the project area consists of additional residential and agricultural areas.

PROPOSED WORK: The applicant is requesting to place fill within 21.42 acres of non-wetland waters and 2.38 acres of herbaceous wetlands to construct a residential development within a 246 acre site.

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:

“Several project site plan alternatives were considered for this project. However, upon further site analysis and review of mitigation criteria in 33 CFR 332, it was determined that avoidance of the poor quality man-made agricultural ditches on this property was neither practical nor ecologically feasible. If portions of the ditches were preserved, they would remain isolated, fragmented and surrounded by development upon completion of the project. Additionally, because the water levels are maintained by pumping, hydrology would be lost when the development is constructed. Because of the lack of habitat connectivity, and lack of compatibility with adjacent land uses, the applicant cannot provide assurances for successful on-site preservation of waters that would meet the mitigation criteria set forth in 33 CFR 332. The pond, ditches, and lateral irrigation swales that exist on site are man-made systems that span the entire site and cannot be practicably avoided. Therefore, the 23.8 acres of pond, ditches, and lateral irrigation swales on site that still exist to date are proposed to be impacted.

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

“The applicant has purchased 0.75 federal freshwater emergent credits from Loxahatchee Mitigation Bank to offset adverse effects associated with filling 2.57 acres of wetlands. As all the previously authorized wetland waters of the U.S. impacts have been fully mitigated no additional compensatory mitigation is proposed. The pond, ditches, and lateral irrigation swales are non-wetland waters of the U.S. that will be replaced in kind by the proposed created lakes that will be a part of the surface water management system.”

CULTURAL RESOURCES: The permit area has been previously surveyed (DHR survey # 14578). The Corps finds the survey report appropriate and sufficient in accordance with Chapters 1a-46, Florida Administrative Code and with Federal regulation 36 CFR 800: Protection of Historic Properties. No historic properties are located within the permit area. Based upon the results of the survey report, the Corps has determined that the project will have no effect on historic properties. 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 proposal may affect the Eastern indigo snake (*Drymarchon couperi*). Use of The Corps of Engineers, Jacksonville District and the U.S. Fish and Wildlife's Indigo Snake Key dated 1 August 2017 resulted in a path of A-B-C, for a may affect since the project area is greater than 25 acres. The Corps will request initiation of formal consultation with the Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act by separate letter.

The Corps has determined the proposed project may affect, but is not likely to adversely affect the wood stork (*Mycteria Americana*). The action area is located within 18.6 miles of three wood stork nesting colonies. Suitable foraging habitat (SFH) may be located within littoral zones of the non-wetland waters where water depth is between 2-15 inches deep and within the 2.57 acres of herbaceous wetlands located on site. The impacts to 2.57 acres of lateral irrigation swales that were considered herbaceous wetlands and that are SFH have been fully mitigated by the purchase of 0.75 credits from the Loxahatchee Mitigation Bank. The proposed project also entails the creation of at least 51.7 acres of surface water management lakes that will compensate for the loss of the remaining 23.13 acres of interconnected open water ditches and ponds. A Wood Stork Forage Biomass Analysis has been prepared and projects a net gain of 127 kg of forage biomass as a result of the construction of 51.7 acres of lakes. The wood stork foraging biomass analysis demonstrates that there will be no net loss of wood stork forage biomass. Use of The Corps of Engineers, Jacksonville District and the U.S. Fish and Wildlife's Wood Stork Key dated 18 May 2010, resulted in a path of A-B-C-E, not likely to adversely affect, since the project provides SFH compensation in accordance with the Clean Water Act 404(b)(1) guidelines and it is not contrary to the habitat management guidelines. With an outcome of "not likely to adversely affect (NLAA)" as outlined in the key the requirements of Section 7 of the Endangered Species Act are fulfilled for the wood stork and no further action is required.

The Corps has determined the proposal would have no effect on any 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. No EFH is located within or areas affected by the project. Our initial determination is that the proposed action would not have a

substantial adverse impact on EFH or Federally managed fisheries in the South Atlantic Region.

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 Palm Beach Gardens Permits Section, 4400 PGA Boulevard, Suite 500, Palm Beach Gardens, FL 33410 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, Jerilyn Ashworth, in writing at the Palm Beach Gardens Permits Section, 4400 PGA Boulevard, Suite 500, Palm Beach Gardens, Florida 33410; by electronic mail at Jerilyn.Ashworth@usace.army.mil; by facsimile transmission at (561)626-6971; or, by telephone at (561)472-3508.

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.

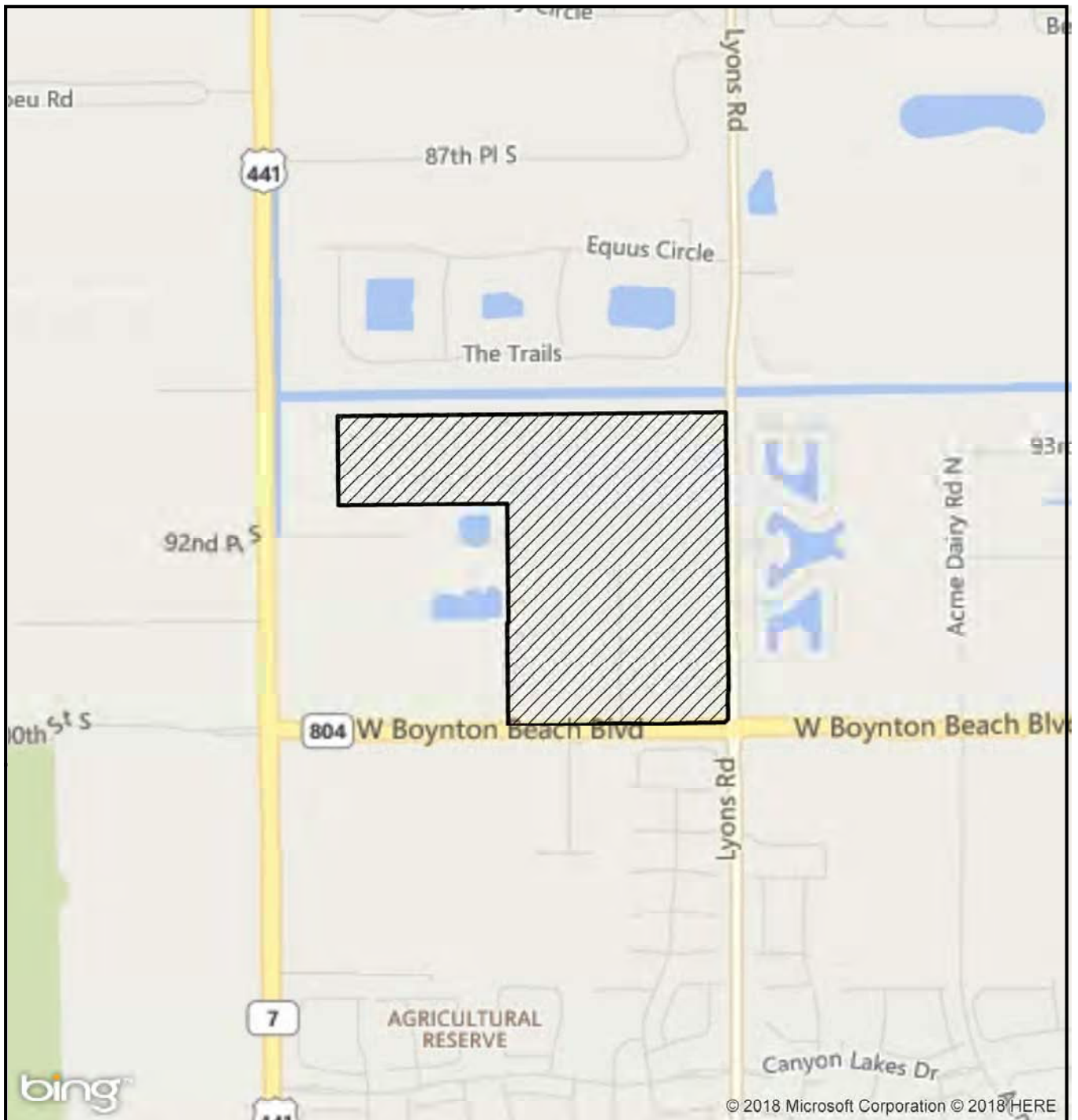
EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, 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.



LEGEND

 - SITE (266.1+/- AC)

0 2,000 Feet



AMESTOY PUD LOCATION MAP

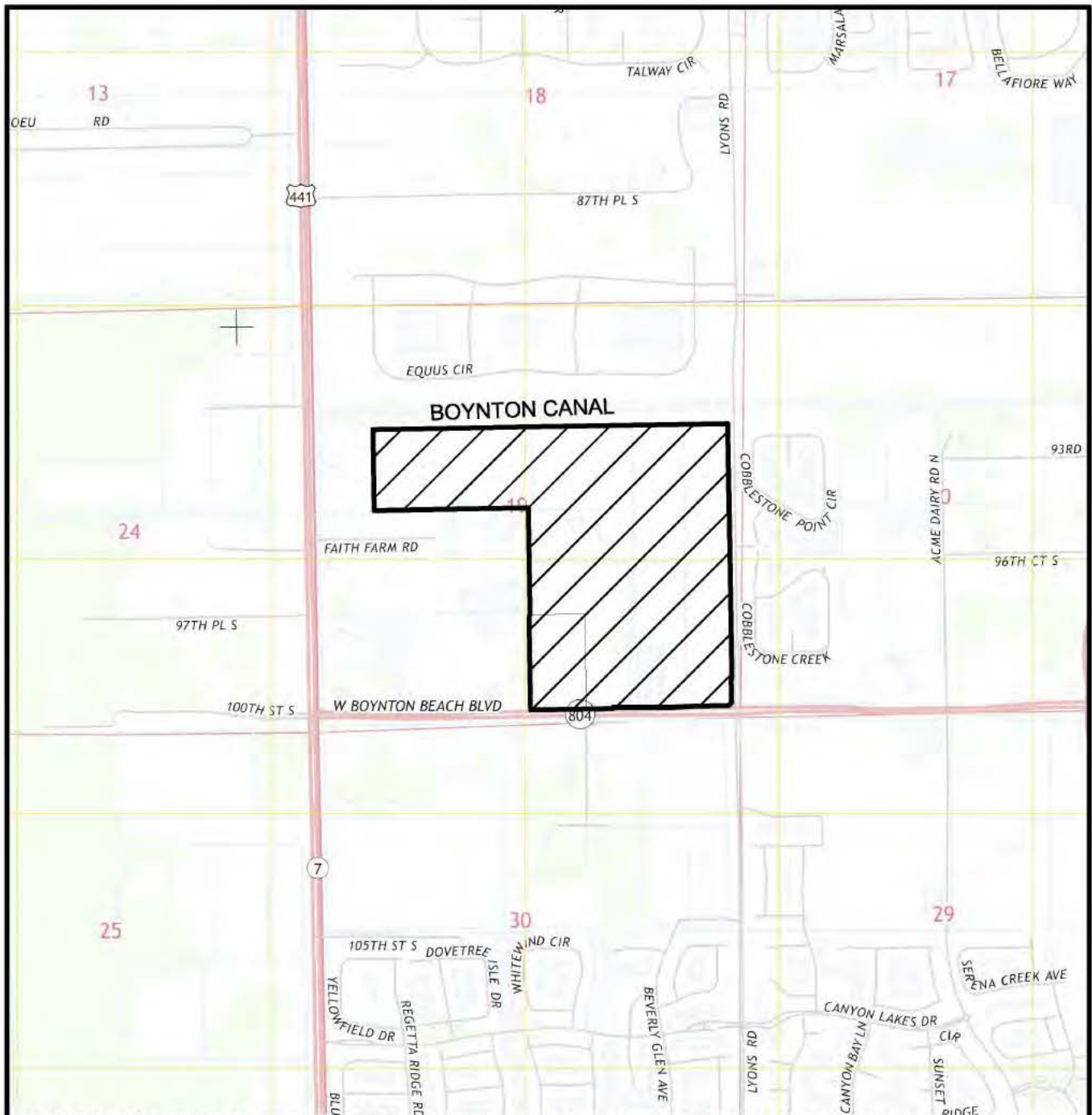


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FIGURE

1



USGS QUAD MAP "GREENACRES CITY", SECTION 19, TOWNSHIP 45 SOUTH, RANGE 42 EAST, BOYNTON BEACH, PALM BEACH COUNTY, FLORIDA, LATITUDE 26°32'01" LONGITUDE -80°11'35"

LEGEND



- SITE (266.1 AC)

AMESTOY PUD

QUAD

0 2000
SCALE IN FEET



AMESTOY CORPS EXT.dwg QUAD



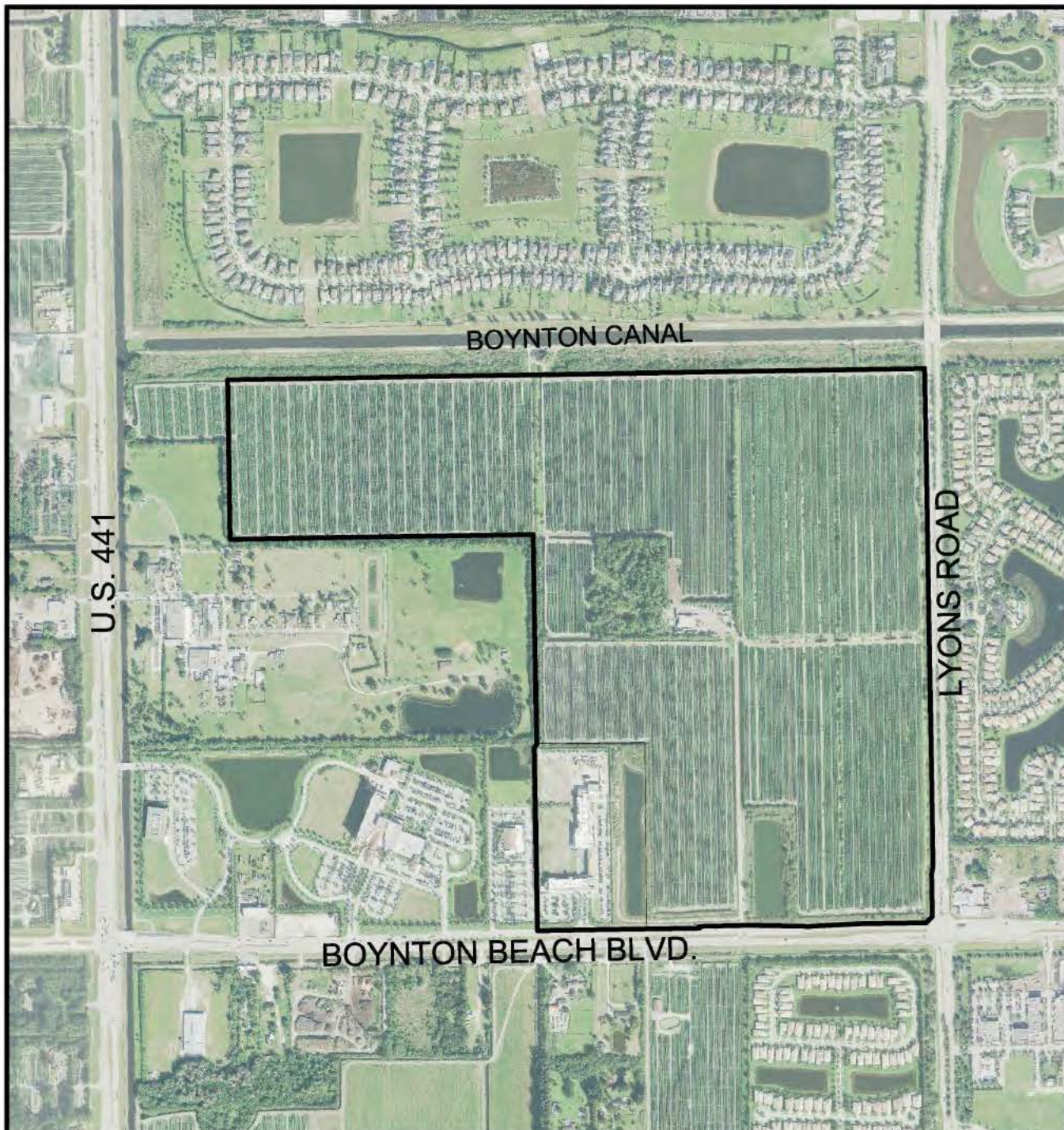
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FIGURE

2



PALM BEACH COUNTY AERIALS DATED 2017

0 1000
SCALE IN FEET

AMESTOY PUD AERIAL MAP

AMESTOY CORPS EXT.dwg AERIAL



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FIGURE

3



PALM BEACH COUNTY AERIALS DATED 2017

CONDITIONS AS OF 01-2018

LEGEND

- WATERS OF THE US
- EXCAVATE (0.4± AC)
- WATERS OF THE US
- FILL (1.5± AC)
- TOTAL DITCH IMPACT (1.9± AC)

0 200
SCALE IN FEET

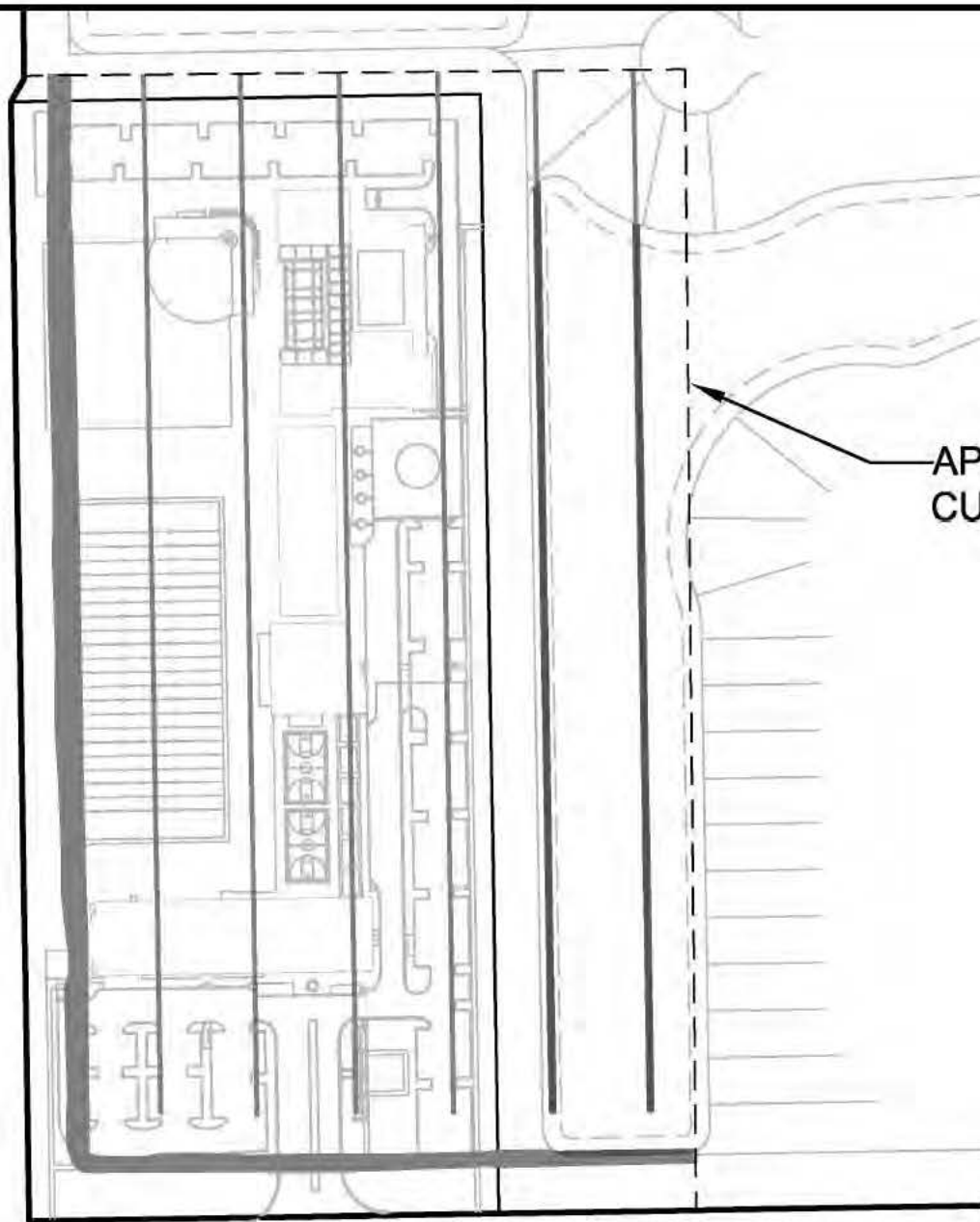


AMESTOY PUD CURRENT WATERS OF THE US IMPACTS	
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JAN 2018 FIGURE	

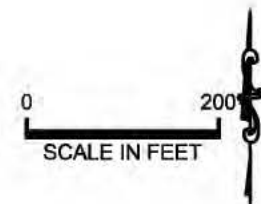
CONDITIONS
AS OF 01-2018

LEGEND

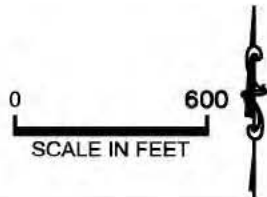
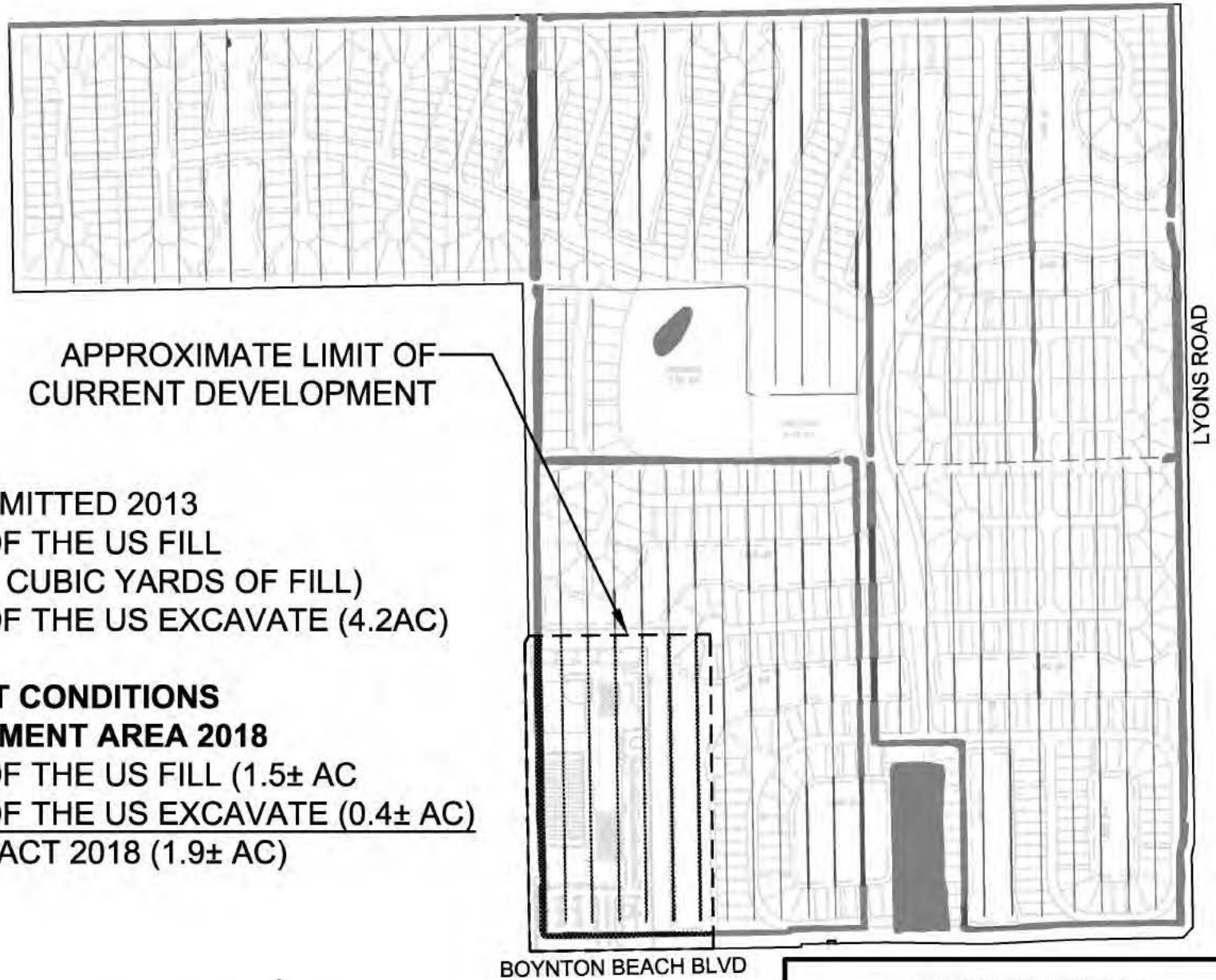
- WATERS OF THE US EXCAVATE (0.4± AC)
- WATERS OF THE US FILL (1.5± AC)
- TOTAL DITCH IMPACT (1.9± AC)**



APPROXIMATE LIMIT OF
CURRENT DEVELOPMENT



AMESTOY PUD CURRENT WATERS OF THE US IMPACTS	
EW CONSULTANTS, INC. <small>1000 SE MONTENEY COMMONS BLVD., SUITE 208 STUART, FL 34996 772-287-8771 FAX 772-287-2868 WWW.EWCONSULTANTS.COM</small>	<div style="text-align: right; font-weight: bold; font-size: small;">JAN 2018 FIGURE</div>



AMESTOY PUD WATERS OF THE US IMPACTS



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FIGURE**