

**To:** Roger Clark, AICP  
Planning and Zoning Director, City of Venice

**From:** Amanda Warner, AICP  
Professional Planner, Wade Trim

**Date:** October 21, 2022

**Subject:** Village at Laurel and Jacaranda (Environmental Review)

On July 28, 2022, Wade Trim was engaged by the City of Venice to provide environmental review of the proposed Village at Laurel and Jacaranda project. Subsequently, on August 26, 2022, Wade Trim contracted with subconsultant Earth Resources Consulting Scientists to review the accuracy of the Village at Laurel and Jacaranda Environmental Narrative prepared by Kimley Horn (KHA report) dated June 2022.

To facilitate the environmental review, the City of Venice provided the KHA report, the Site Development Plans for the Village at Laurel and Jacaranda, and the City of Venice Comprehensive Plan 2017-2027 Open Space Element.

On September 8, 2022, Earth Resources Consulting Scientists conducted a site visit of the subject property proposed for future development of the Village at Laurel and Jacaranda project. The purpose of the site visit was to conduct field inspection/ground-truthing activities to verify the presence of significant environmental/ecological constraints identified in KHA report.

The Village at Laurel and Jacaranda project is proposed for commercial development by Neal Communities, Inc. The subject property is a 10.4-acre parcel located in the City of Venice at the intersection of Laurel Road and Jacaranda. As currently proposed, the project will impact the on-site wetland and a permitted stormwater management pond.

Earth Resources Consulting Scientists concluded that the characterization of the existing wetland conditions and the preliminary Uniform Mitigation Assessment Method (UMAM) scores for the wetland are generally accurate. However, additional wetland impacts associated with off-site drainage and road improvements were not accounted for in the KHA report, and the potential for several listed species were not included in the KHA report.

Our evaluation is based on the findings of the Memorandum of Village at Laurel and Jacaranda Environmental Document Review prepared by Earth Resources Consulting Scientists dated September 28, 2022.

### ***Conservation Open Spaces***

#### **Strategy OS 1.2.2 - Environmental Impact Mitigation**

The City shall utilize the Land Development Code and review processes to ensure that development projects evaluate potential environmental impacts and provide mitigation for negative impacts.

Development shall not adversely impact any threatened or endangered species or species of special concern without appropriate permitting and/or mitigation.

*Evaluation: The KHA report does not account for the additional wetland impacts associated with off-site drainage and road improvements and does not account for all potential listed species that could be impacted by the project. The KHA report is not compliant with Strategy OS 1.2.2 – Environmental Impact Mitigation because it does not evaluate all potential environmental impacts of the project.*

### ***Wetlands***

#### **Intent OS 1.3 - Wetlands**

The City shall implement strategies to protect its wetlands, wetland buffers, and aquifer recharge areas.

#### **Strategy OS 1.3.1 - Wetland and Aquifer Recharge Areas Protection**

The City shall protect its groundwater sources, particularly in wetland and aquifer recharge areas, through its Land Development Code and review processes by:

1. Establishing site plan requirements to ensure developments evaluate natural drainage features, man-made drainage structures, and impact to wetland and aquifer recharge areas.
2. Requiring development to first avoid impact to wetlands and aquifer recharge areas.
3. Requiring development to minimize impact and then mitigate for impacts to wetlands and aquifer recharge areas when impacts to wetlands and aquifer recharge areas are unavoidable.
4. Limiting activities/uses that are known to adversely impact such areas.
5. Restoring/mitigating wetlands in connection with new development.
6. Maintaining the natural flow of water within and through contiguous wetlands and water bodies.
7. Maintaining existing vegetation to serve as buffers to protect the function and values of the wetlands from the adverse impacts of adjacent development.
8. Requiring any wetland mitigation be based upon the most current state-approved methodology.
9. Prohibiting the dredging, filling, or disturbing of wetlands and wetland habitats in any manner that diminishes their natural functions, unless appropriate mitigation practices are established in coordination with and approved by local, regional, state, and federal agencies.
10. Coordinating with Sarasota County, Federal, and State review agencies on wetland designation, mitigation policies, and regulations.

*Evaluation: The KHA report does not account for the additional wetland impacts associated with off-site drainage and road improvements. The KHA report is not compliant with Strategy OS 1.3.1 - Wetland and Aquifer Recharge Areas Protection (2, 3, 4, and 5) because it does not consider all wetland impacts and is not first avoiding, minimizing, or mitigating for all impacts or otherwise limiting activities of adverse impact or restoring wetlands in connection with the new development. Moreover, the KHA report does not document maintenance of natural flow to contiguous wetlands or water bodies, or maintenance of existing vegetation as buffers (6 and 7). Although the KHA report is based on the most current state-approved methodology and mitigation practices (8, 9, and 10), the KHA report does not consider the additional wetland impacts associated with off-site drainage and road improvements associated with the project.*

### **Strategy OS 1.3.2 - Wetland Encroachments**

The City shall require development to identify and delineate wetland boundaries with final wetland delineations to be reviewed and approved by the applicable federal and state review agencies.

Wetlands of 20 acres or more shall require structures to be located outside of wetlands and wetland buffers except as provided below. Such exceptions are applicable only when the land use designation on the property permits the development of a land use activity listed below; site characteristics are such that wetland impacts cannot be avoided; the impacts are limited to the minimum necessary to allow the permitted use of the property; and the site development or use complies with federal and state review agencies for permitting and mitigation:

1. Residential lots of record existing on or before the adoption of the Comprehensive Plan which do not contain sufficient uplands to permit development of a residence without encroaching into wetlands may be developed with one residential dwelling.
2. Resource-based recreational facilities such as trails, boardwalks, piers, and boat ramps.
3. Private water-related facilities, such as boathouses, docks and bulkheads.
4. Essential public services, access roads and appurtenant structures.

*Evaluation: The KHA report does not account for the additional wetland impacts associated with off-site drainage and road improvements. The KHA report is not compliant with Strategy OS 1.3.2 - Wetland Encroachments because the KHA report does not identify and delineate all wetland boundaries associated with the project. The requirement for structures to be located outside of wetlands and wetland buffers is not applicable because the total acreage of onsite wetlands is less than 20 acres.*

### ***Native Habitats, Conservation Lands, and Natural Resources***

#### **Strategy OS 1.4.2 - Protection of Native Habitats and Natural Resources**

The City shall protect significant native habitats through its Land Development Code and review process including the following:

1. Preserve existing native vegetation and natural areas including threatened native habitats
2. Encourage development forms that provide protection of significant native habitats such as clustered development and alternative roadway designs (i.e., reduced rights-of-way).
3. Development shall first avoid impact to significant native habitats.
4. Mitigate adverse impacts whenever areas of native habitats are involved in the development of property.
5. Require development to first impact lower quality habitats and resources before impacts to higher quality habitats and resources are considered and used.
6. Native habitat shall be used whenever possible to fulfill open space requirements.
7. Protect environmentally sensitive/significant areas (i.e., floodplain, watersheds, water recharge areas, etc.).

*Evaluation: The KHA report does not account for all potential listed species that could be impacted by the project. The KHA report is not compliant with Strategy OS 1.4.2 - Protection of Native Habitats*

*and Natural Resources because it does not document preservation or protection of significant native habitat through design and does not avoid impact to significant native habitats (1, 2, 3, and 7). The KHA report does not account for all potential listed species and/or their habitat that could be present on site; therefore, it is not clear whether habitat associated with those listed species will be mitigated (4). The KHA report does not demonstrate that lower quality habitats and resources were considered for impact before higher quality habitats and resources (5).*

### **Strategy OS 1.4.3 - Endangered or Threatened Species**

The City shall protect threatened or endangered native species by requiring that proposed new development and redevelopment (where applicable) be examined for location of Listed Species. The City through its Land Development Code and review processes, will:

1. Coordinate with Sarasota County, Federal, and State agencies for the identification and protection of endangered and threatened species.
2. Require applicants to consult with the appropriate agencies, to use recognized sampling techniques to identify listed species, and to provide documentation of such coordination and compliance prior to City approval to conduct any activities that could disturb listed species or their habitat.
  - a. If endangered or threatened species, or species of special concern are found, such species' habitat shall be identified on the proposed site plan and a plan for mitigation shall be discussed in the site plan narrative.
  - b. Such information shall be addressed through the project staff report.
3. Coordinate with Sarasota County Environmental Protection Programs including, but not limited to, those regarding preservation and or permitting requirements.
4. Promote connectivity and minimize habitat fragmentation.

*Evaluation: The KHA report does not account for all potential listed species and/or their habitat that could be present on-site. The KHA report is not compliant with Strategy OS 1.4.3 - Endangered or Threatened Species because it does not account for all potential listed species that could be impacted by the project or identify the habitat of those species (2a). Moreover, the KHA report does not document that habitat fragmentation will be minimized (4).*

Our evaluation based on the findings of the Memorandum of Village at Laurel and Jacaranda Environmental Document Review prepared by Earth Resources Consulting Scientists dated September 28, 2022, finds that the KHA report dated June 2022 is not compliant with multiple strategies of the City of Venice Comprehensive Plan 2017-2027 Open Space Element.

AW:kmk

VEN2001.01M (003)

projectwise\Documents\Projects\V\Ven2021\01m\Docs\Correspondence\WadeTrim\_EnvReview\_Memo\_21102022.docx



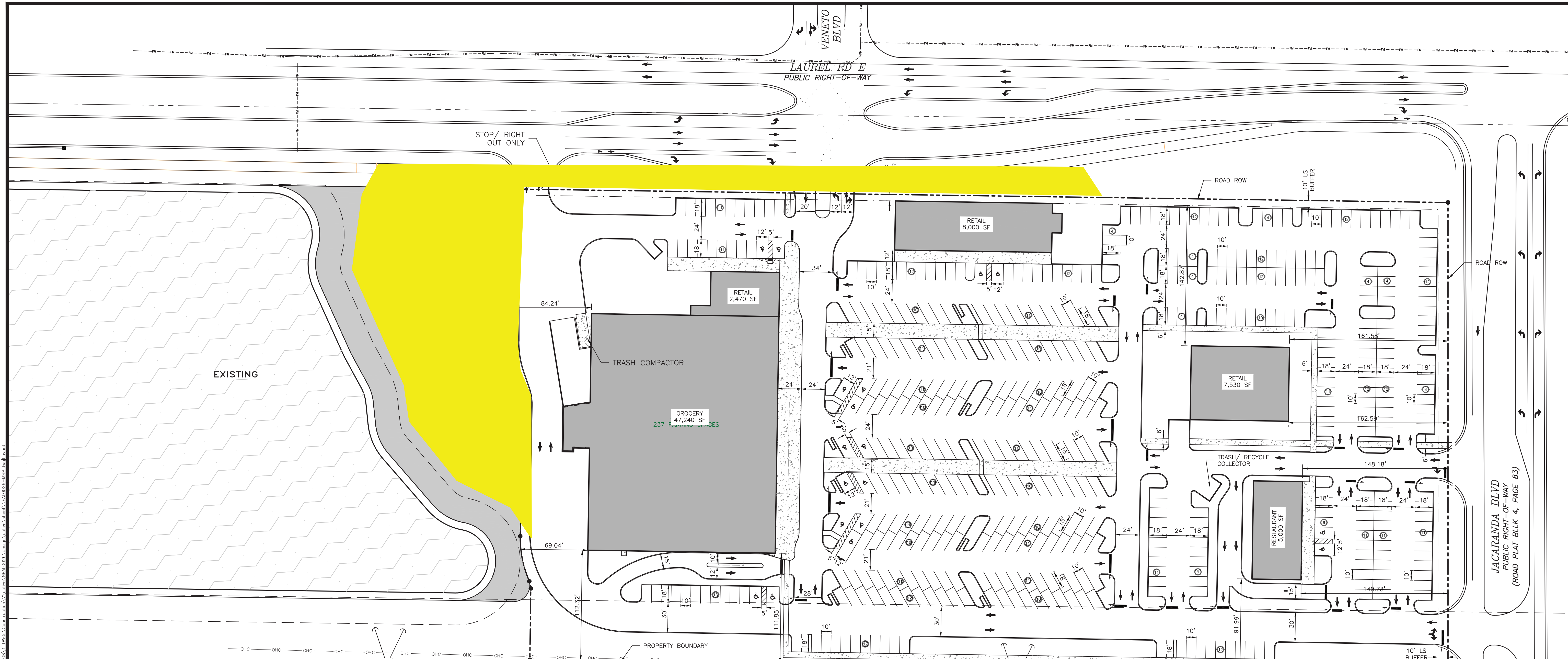
**Memorandum Attachment**

**Off-Site Impacts**

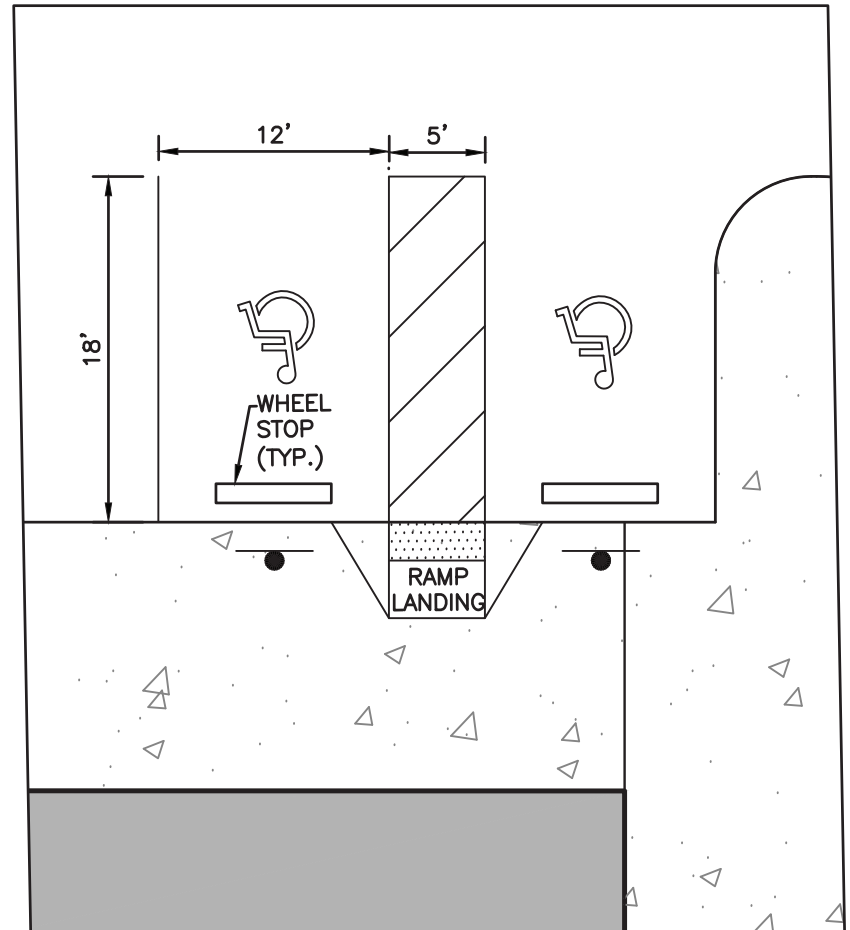
(Supplemental Markups by Earth Resources)



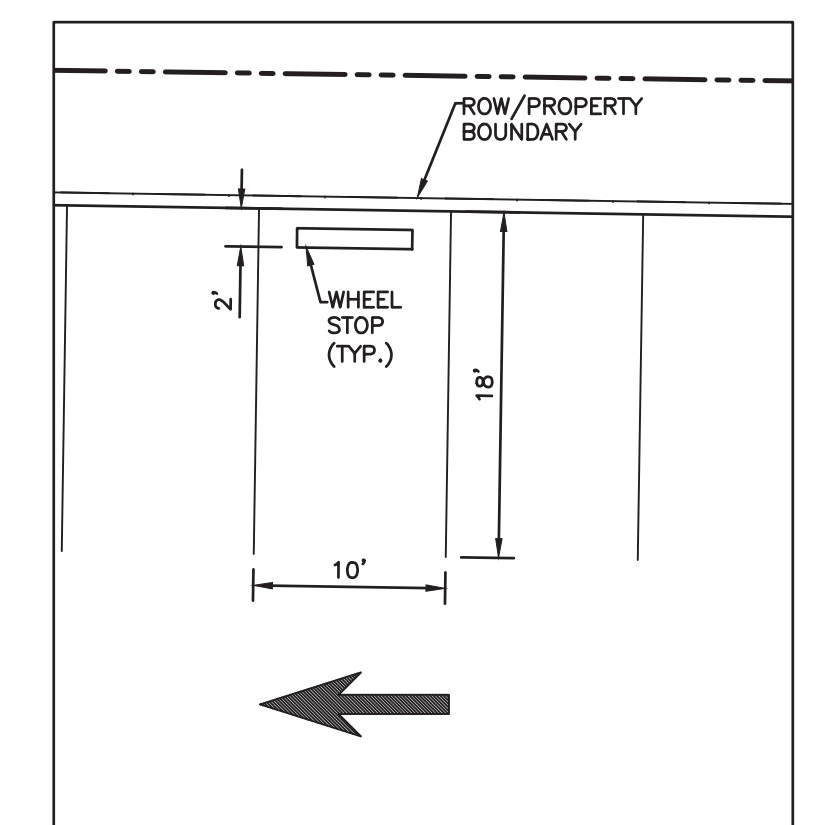




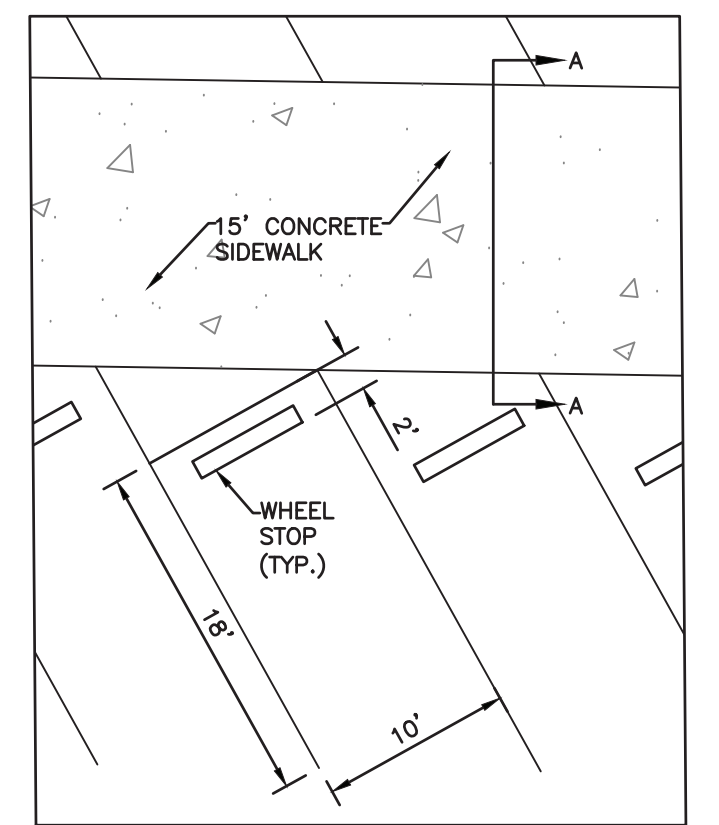
ADA PARKING SIGN  
N.T.S.



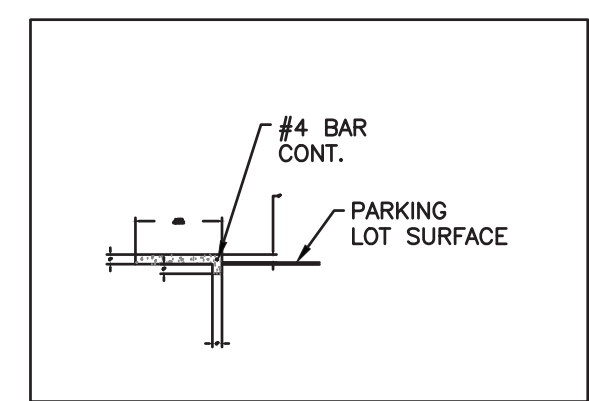
ADA PARKING SPACE DETAIL  
SCALE: 1"=10'



PERIMETER PARKING SPACE DETAIL  
SCALE: 1"=10'



INTERNAL PARKING SPACE DETAIL  
SCALE: 1"=10'



SECTION A-A DETAIL  
SCALE: 1"=5'

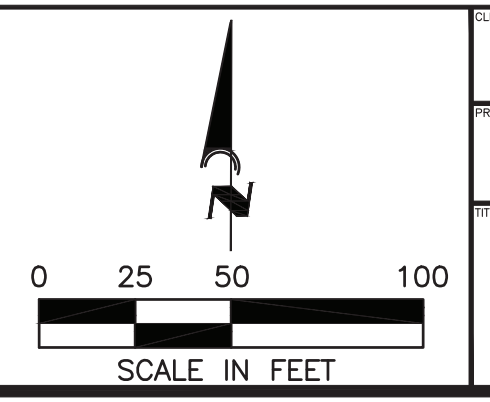
**PARKING NOTES:**

- IF AN ADJACENT LANDSCAPE AREA IS A MINIMUM OF 3.5 FEET PER ABUTTING PARKING SPACE AND PROTECTED BY CONCRETE CURBING OR WHEEL STOP, 2 FEET OF THE REQUIRED DEPTH MAY ENCROACH INTO THE LANDSCAPE AREA. IF THE REQUIRED DEPTH ENCROACHES INTO THE LANDSCAPE AREA, THE WHEELSTOP MUST BE PLACED AT THE EDGE OF PAVEMENT.
- ACCESSIBLE PARKING SPACES AND ACCESS AISLES SHALL BE CONSTRUCTED WITH SURFACE SLOPES NOT TO EXCEED 1:50 (2%) IN ALL DIRECTIONS AND THE GROUND SURFACE SHALL BE STABLE FIRM AND SLOPE RESISTANT. NO COLORS OTHER THAN WHITE AND BLUE SHALL BE USED FOR PARKING SPACE PAVEMENT MARKINGS.
- NO COLORS OTHER THAN WHITE AND BLUE SHALL BE USED FOR PARKING SPACE PAVEMENT MARKINGS.
- ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF PAVEMENT MARKINGS.

REV. No.	REV. DATE	REVISION DESCRIPTION	BY

CALL BEFORE YOU DIG!  
"SUNSHINE STATE ONE-CALL CENTER"  
1-800-432-4770  
THE CONTRACTOR SHALL NOTIFY "SUNSHINE STATE ONE-CALL CENTER" AND ALL OTHER UTILITIES FOR LOCATION OF EXISTING FACILITIES PRIOR TO BEGINNING CONSTRUCTION.  
ISSUE DATE: 06/07/2022  
ISSUE DESCRIPTION: PERMITTING  
DRAWN BY: DSL

Civil Engineering | Land Surveying  
**AM ENGINEERING, LLC.**  
8340 Consumer Court Sarasota, FL 34240  
Phone: (941) 377-9178 | www.amengll.com  
CA #33105 | LB #4334



NEAL COMMUNITIES  
THE VILLAGE  
AT LAUREL AND JACARANDA  
MASTER SITE PLAN

HORIZONTAL SCALE:	1"=50'
VERTICAL SCALE:	N/A
NAV D DATE:	NAVD 1988
PROJECT NUMBER:	NEAL0026
SHEET NUMBER:	3

PROJECT ENGINEER:  
D. SHAWN LEINS, P.E.  
DATE: \_\_\_\_\_  
FLORIDA P.E. No. 41078



# Memo

To: Brad Cornelius, AICP, CFM, CPM, Vice President

From: Nancy Scott, Principal Scientist

Date: September 28, 2022

Re: Village at Laurel and Jacaranda  
City of Venice Environmental Document Review

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## INTRODUCTION

Wade Trim is contracted with the City of Venice to provide traffic review and environmental review services for development applications. The above referenced project as currently proposed will result in wetland impacts and is facing public opposition. The City has requested Wade Trim's assistance with a review of the environmental document prepared by the developer's consultant to ensure the accuracy of the information.

Earth Resources was hired by Wade Trim to review the Environmental Narrative Report submitted to the City and prepared by Kimley-Horn Associates (KHA, June 2022) in support of a rezoning/PUD application for accuracy and to assist Wade Trim with determining conformance with the City's Open Space Element of the Comprehensive Plan (2017-2027).

## PROJECT BACKGROUND

Neal Communities, Inc is proposing a commercial development known as The Village at Laurel and Jacaranda on a 10.4-acre parcel located in the City of Venice at the intersection of Laurel Road and Jacaranda. As currently proposed, the project will impact the on-site wetland and a permitted stormwater management pond. The applicant proposes to provide mitigation utilizing marsh credits from the Myakka Mitigation Bank.

## SCOPE OF WORK

Our general scope of services includes the following tasks; review of existing plans and reports provided by Wade Trim, a review of the Southwest Florida Water Management District (SWFWMD) Environmental Resource Permit (ERP) database to retrieve and review permits issued for the subject parcel, conduct a site visit to assess the current conditions and prepare a letter report summarizing the findings. Wade Trim provided a site plan and an Environmental Narrative Report (KHA report) submitted to the City in support of the rezoning/PUD application.

## RESULTS

In addition to data review, a site visit was conducted by Earth Resources biologists on September 8, 2022, to inspect the property and habitats to determine the accuracy of the KHA report. Field inspection/ground-truthing activities were conducted to verify the presence of significant environmental/ecological constraints identified in KHA report. Earth Resources biologists walked the project area to document current site conditions, describe the



habitat types and determine the current and/or potential presence of listed or protected species. A formal wildlife survey was not conducted as part of this evaluation.

**Wetlands and Surface Waters**

It is our opinion that the information pertaining to the overall characterization of the existing wetland conditions and the preliminary Uniform Mitigation Assessment Method (UMAM) scores for the wetland are generally accurate. However, the site plan provided by Wade Trim appears to show wetland impacts associated with off-site drainage and road improvements that were not accounted for in the KHA report.

The SWFWMD approved wetland survey (**Attachment A**) indicates the total acreage of the on-site wetland (WL-G) is 8.79 acres. According to the KHA report, the total area of WL-G within the project limits is 6.6 acres. The site plan indicates the entire 8.79 acres will be impacted. The UMAM calculations were revised using the updated acreage and resulted in an increase of Functional Loss Units from 3.96 to 5.27. Be advised that UMAM scores require approval from both SWFWMD and the Florida Department of Environmental Protection (FDEP).

**Listed Species**

An updated Florida Natural Areas Inventory (FNAI) report was obtained and reviewed (Attachment B) and is consistent with the FNAI report included in the KHA report. No additional listed species were reported.

Additionally, the U.S. Fish and Wildlife Service (FWS) Information for Planning and Consultation (iPaC) portal was researched. The FWS's iPaC portal is an online service providing information on federally listed threatened and endangered species. The report indicated the potential for several listed species that were not included in the KHA report namely, the Florida bonneted bat, Florida panther, eastern black rail and Audubon’s crested caracara. **Table 1** below shows the federally protected species that have a potential to be found on the property according to the iPaC report (**Attachment C**) along with the probability of occurrence based on habitat availability and habitat quality.

*Table 1. Federally Listed Species Potentially Found Within Project Area*

Common Name	Scientific Name	Protection Status Federal (F)/State (S)	Suitable Habitat	Probability of Occurrence
Florida Bonneted Bat	<i>Eumops floridanus</i>	Threatened (F)	Sand pine and xeric oak scrub, scrubby flatwoods, and sandy deposits	Low
Eastern Black Rail	<i>Laterallus jamaicensis</i>	Threatened (F)	Marshes, coastal prairies, saltmarshes, and wetlands	Medium
Audubon’s Crested Caracara	<i>Polyborus plancus audubonii</i>	Threatened (F)	wet prairies with cabbage palms, wooded areas with saw palmetto, cypress, scrub oaks and pastures	Low
Wood Stork	<i>Mycteria americana</i>	Threatened (F)	Marshes, wetland, swamps, ditches and ponds	Medium
Eastern Indigo Snake	<i>Drymarchon corais couperi</i>	Threatened (F)	Pine flatwoods, hardwood forests, hammocks, areas surrounding cypress swamps	Low
Florida Panther	<i>Puma (=Felis) concolor coryi</i>	Endangered	mesic south Florida slash pine flatwoods includes palmetto prairie, scattered melaleuca, and cypress	Low

### **Regulatory Framework**

The following permits have been issued by SWFWMD for the subject parcel;

- ERP No. 43041590.006 (**Attachment D**) issued on October 18, 2018, for a project known as Cielo. The ERP authorized the construction of a 53.04-acre residential project including 0.05 acre of impacts to upland cut surface waters that are exempt from mitigation requirements.
- Petition for Formal Determination of Wetlands and Surface Water No. 42041590.00 (**Attachment E**) issued for a project known as Vica Parcel on February 19, 2014.

These permits confirm that the jurisdictional wetland boundaries depicted on the site plan have been approved by SWFWMD remain valid.

The State ERP regulations (62-330.301, F.A.C.) and Federal 404 rules require an applicant demonstrate elimination and reduction of wetland impacts (through site plan modifications) and provide justification of wetland impacts. The Federal 404 rules also require an alternative site analysis that demonstrates the preferred alternative is the Least Environmentally Damaging Practicable Alternative (LEDPA) (Section 404(b)(1)). These requirements can be difficult to demonstrate when a project site doesn't contain developable uplands.

The KHA report provides insight into the permittee's justification for wetland impacts.

1. Economic – the project is not economically feasible to develop without impacting the entirety of the wetland. The state and federal rules allow for the consideration of economic viability and value when demonstrating wetland impact justification. However, the State ERP rules indicate that “design alternatives need not provide the highest and best use of the property to be determined practicable”.
2. Wetland Quality - the KHA report states that *“given the location of the wetland, which is adjacent to a major intersection, and the historical activities that have impacted the hydrology and allowed for the establishment of invasive species, it is anticipated that the functions of the wetland will continue to degrade in the future. The functions currently provided by this wetland on a regional level will be maintained in perpetuity through the long-term preservation and management of the Myakka Mitigation Bank”*. However, the ERP and Federal 404 rules do not consider existing or future wetland quality as justification for wetland impacts.

### **SUMMARY**

The information pertaining to the overall characterization of the existing wetland conditions and the preliminary Uniform Mitigation Assessment Method (UMAM) scores for the wetland are generally accurate. However, the site plan appears to show additional wetland impacts associated with off-site drainage and road improvements that were not accounted for in the KHA report. The iPAC report indicates the potential for several listed species that were not included in the KHA report namely, the Florida bonneted bat, Florida panther, eastern black rail and Audubon's crested caracara. Prior to issuance of the ERP and Federal 404 permits, the applicant will have to demonstrate wetland impact justification and avoidance and minimization of wetland impacts.

### **REFERENCES**

Florida Audubon Eagle Nest Locator. <https://cbop.audubon.org/conservation/about-eaglewatch-program>

Wunderlin, R. P., B. F. Hansen, A. R. Franck, and F. B. Essig. 2019. Atlas of Florida Plants (<http://florida.plantatlas.usf.edu/>). [S. M. Landry and K. N. Campbell (application development), USF Water Institute.] Institute for Systematic Botany, University of South Florida, Tampa.

Village at Laurel and Jacaranda

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Florida Natural Area Inventory Biodiversity Matrix Data Viewer

<https://www.fnai.org/BiodiversityMatrix/index.html>

US Fish and Wildlife Service Information for Planning and Consultation Website

<https://ecos.fws.gov/ipac/location/5TLNRFIDZJG4LGHGIGCOT6EV34/resources>

U.S. Fish and Wildlife Service (USFWS). Species Profile for the Wood Stork (*Mycteria americana*) U.S. Fish and Wildlife Service (USFWS). <https://www.fws.gov/northflorida/Species-Accounts/Wood-stork-2005.htm>

ATTACHMENT A

SWFWMD APPROVED WETLAND SURVEY (VICA PARCEL)



Vica SHWL and NP Elevations: Petition for Formal Determination of Wetlands and Other Surface Waters – Application No. 690359

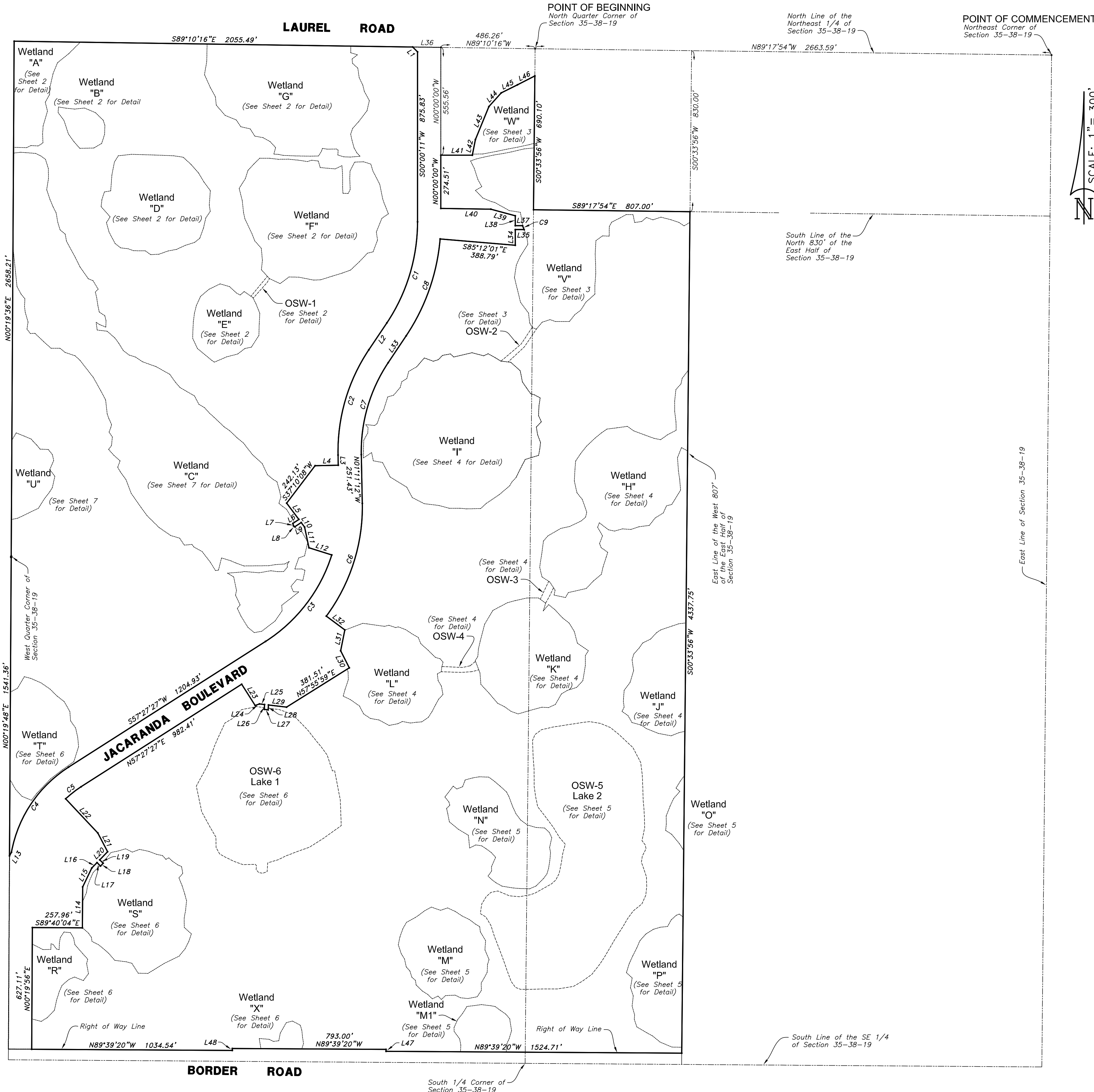
Wetland ID #	SHWL Elevation	NP Elevation	Notes
A	12.6'		NP is below existing grade.
B	14.0'	13.0'	
C (North End)	12.7'		SHWL set in ditched portion of wetland. NP below existing grade b/c of ditch.
C (South End)	12.5'	11.6'	
D	14.2'	13.2'	
E	13.8'	12.5'	SHWL is averaged from wetland edge elevations.
F	14.1'	12.8'	
G	14.0'	12.8'	
H	14.1'	12.8'	
I	14.2'	13.3'	SHWL is averaged from wetland edge elevations.
J	13.9'	12.4'	
K	14.0'	12.9'	K and L are connected by a ditch.
L	14.0'	12.9'	K and L are connected by a ditch.
M	13.1'	11.4'	SHWL is averaged from wetland edge elevations.
M1	13.1'	11.4'	SHWL is averaged from wetland edge elevations.
N	13.6'	11.9'	SHWL is averaged from wetland edge elevations.
O	13.5'		SHWL is averaged from wetland edge elevations. No NP set b/c bulk of wetland is offsite.
P	13.2'	12.2'	
Wetland "Q" ID was not used			
R	13.8'	12.2'	
S	13.8'	12.0'	
T	14.2'	13.2'	
U	14.0'	12.6'	
V	14.2'	13.3'	
W	14.4'	13.4'	
X	11.0'		SHWL is averaged from wetland edge elevations. No NP set b/c wetland is small, and severed by Border Road. No zonation.

**FOR**

Southwest Florida  
Water Management District

JAN 31 2014

Received  
TAMPA RSB  
690359



SCALE: 1" = 300'

**DESCRIPTION: (As Furnished)**  
 All of the West one-half of Section 35, Township 38 South, Range 19 East; and  
 ALSO: The West 807 feet of the East one-half of Section 35, Township 38 South, Range 19 East, LESS therefrom the North 830 feet thereof;

LESS, however, from each parcel any road right-of-way for Border Road (including those lands conveyed to the County in Deed recorded in O.R. Book 2404, Page 2678, Public Records of Sarasota County) and for Laurel Road.

ALSO, less and except, a Parcel of Land lying in Section 35, Township 38 South, Range 19 East, Sarasota County, Florida described as follows:

COMMENCE at the Northeast Corner of Section 35, Township 38 South, Range 19 East; Thence N.89°17'54"W, along the North line of Section 35, a distance of 2663.59 feet to the North 1/4 Corner of said Section 35 for a POINT OF BEGINNING; thence S.00°33'56"W, along the West line of the Northeast 1/4 of said Section 35, a distance of 139.90 feet; thence leaving said West line of Section 35, S.62°52'34"W, a distance of 100.94 feet; thence S.63°29'01"W, a distance of 93.59 feet; thence S.42°00'05"W, a distance of 94.62 feet; thence S.22°15'48"W, a distance of 183.78 feet; thence S.11°10'11"W, a distance of 81.98 feet; thence West, a distance of 162.42 feet; thence North, a distance of 555.56 feet to the North Line of said Section 35; thence S.89°10'16"E, along the North line of said Section 35, a distance of 486.26 feet to the POINT OF BEGINNING.

ALSO LESS, that portion of the above described lands conveyed to the City of Venice in that certain Warranty Deed recorded January 17, 2013, in Official Records Instrument #2013007710, Public Records of Sarasota County, Florida.

Parcel contains 367.8257 Acres, more or less.

- NOTES:**
- This is not a boundary survey. All boundary information has been taken from a Boundary Survey provided by Britt Surveying Inc., Dated July 28, 2003, revised September 04, 2003, updated October 7, 2013.
  - This plat represents a Specific Purpose Survey, the purpose of this survey is to show the location of jurisdictional wetlands.
  - Bearings and distances shown hereon refer to Grid, Florida State Plane Coordinate System, West Zone, Based on Sarasota County GPS Control Monuments: "LORAN" and "SAR 011". Bearing between monuments = S.65°15'08"W.
  - Elevations shown in tables on Sheet 8 are based on elevations established on Topographic Survey by Britt Surveying, Inc. dated May 24, 2005, Job #03-07-36 and refer to Published Sarasota County Bench Mark #414, Elevation=9.13' NAVD 29. In October 2013, a comparison of the elevations shown hereon and elevations derived from a bench run between National Geodetic Surveys (NGS) bench marks, NGS Bench Mark N699, published elevation=13.37' NAVD 88 and NGS Bench Mark 35 35 22, published elevation=11.88' NAVD 88, the elevations shown hereon were determined to be 0.46 feet higher than the NGS bench marks, after conversion to NAVD 29 using corpcsm6.
  - Sarasota County Datum-Bench Mark #414: 0.00'  
 NGS Datum-converted to NAVD 29 using corpcsm6: -0.46'  
 NGS Datum published elevation in NAVD 88: -1.57'
  - Mr. Blake Meinecke, SWFWMD Senior Environmental Scientist, verified Vica Parcel wetlands, OSW's, and SHWL/NP biological indicators delineated and established by Mr. Alec Hoffner and Mr. Brett Solomon from E CO Consultants, Inc. on January 8, 2014.

BOUNDARY LINE TABLE					
LINE	BEARING	DISTANCE	LINE		
L1	S44°34'42"E	35.61	L25	S8°16'56"E	26.57
L2	S33°48'47"W	166.78	L26	S03°58'07"W	25.03
L3	S01°11'12"E	52.24	L27	S83°16'56"E	20.02
L4	S88°48'48"W	119.61	L28	N03°58'07"E	25.03
L5	S36°47'24"E	104.70	L29	S83°16'56"E	94.74
L6	S56°10'10"W	36.93	L30	N26°48'43"W	98.54
L7	S13°48'51"E	13.67	L31	N11°16'02"E	108.71
L8	S54°14'57"E	7.64	L32	N53°21'13"W	119.17
L9	N65°10'10"E	39.88	L33	N33°48'47"E	166.78
L10	S36°47'24"E	28.75	L34	N00°00'11"E	80.72
L11	S11°47'20"E	108.67	L35	S89°59'49"E	45.74
L12	S72°32'15"E	123.31	L36	S89°10'16"E	145.01
L13	S28°29'08"W	20.96	L37	N89°59'49"W	37.59
L14	N00°19'56"E	211.07	L38	N00°00'11"E	51.03
L15	N25°54'05"E	108.15	L39	N74°41'57"W	130.35
L16	N43°56'32"E	38.97	L40	N89°10'25"W	297.99
L17	S45°17'01"E	25.00	L41	N90°00'00"E	162.42
L18	N43°56'32"E	20.00	L42	N11°10'11"E	81.98
L19	N45°17'01"W	25.00	L43	N22°15'48"E	183.78
L20	N43°56'32"E	58.19	L44	N42°00'05"E	94.62
L21	N27°32'26"W	108.86	L45	N63°29'01"E	93.59
L22	N43°15'10"W	241.91	L46	N62°52'34"E	100.94
L23	S32°32'33"E	129.55	L47	N00°20'40"E	10.00
L24	N70°40'40"E	23.48	L48	S00°20'40"W	10.00

BOUNDARY CURVE TABLE					
CURVE	RADIUS	ARC	CHORD	CHORD BEARING	DELTA
C1	935.99	552.32	544.34	N16°54'29"E	33°48'36"
C2	940.99	574.81	565.91	S16°18'47"W	34°59'59"
C3	820.99	573.09	561.52	N37°27'36"E	39°59'42"
C4	659.99	543.85	528.60	S33°51'02"W	47°12'49"
C5	539.99	100.94	100.79	S52°08'09"W	104°2'36"
C6	940.99	621.34	610.11	N7°43'47"E	37°49'58"
C7	820.99	501.51	493.75	S16°18'47"W	34°59'59"
C8	1055.99	534.72	529.03	N19°18'23"E	29°00'47"
C9	130.00	21.62	21.60	N22°10'13"W	8°15'24"

**VICA PARCEL**  
 SECTION 35, TOWNSHIP 38 SOUTH, RANGE 19 EAST  
 SARASOTA COUNTY, FLORIDA

**A SPECIFIC PURPOSE SURVEY**  
 SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT (SWFWMD) WETLAND AND JURISDICTIONAL LIMITS, FLAGGED BY ECO CONSULTANTS, INC.

PERMITTED DRAWINGS-SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT (SWFWMD)  
 for construction of wetland jurisdictional limits  
 in wetland when construction begins



**BRITT SURVEYING, INC.**  
 LAND SURVEYORS AND MAPPERS  
 CERTIFICATE OF AUTHORIZATION NO. LB 6638  
 606 Cypress Avenue Venice Florida 34285  
 Telephone: (941) 493-1396 Fax: (941) 484-5766  
 Email: bs@brittsurveying.com

**CERTIFICATE OF SURVEYOR**  
 I, THE UNDERSIGNED REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS PLAT IS A TRUE REPRESENTATION OF THE LANDS DESCRIBED AND SHOWN HEREON ACCORDING TO A SURVEY MADE UNDER MY DIRECTION AND SUPERVISION AND THAT THE SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA (CHAPTER 54-17, FLORIDA ADMINISTRATIVE CODE OF STANDARDS FOR SURVEYING (CHAPTER 54-17, FLORIDA STATUTES))  
 November 27, 2013  
 DATE OF SURVEY

**CERTIFIED TO:**  
 NEAL COMMUNITIES  
 555 FIELD BOOK, 557 PAGE(S), 54 & 55  
 JOB NUMBER: 13-09-12D

**SHEET**  
 1 OF 9

REVISED: 2/12/2014 - REVISED NOTE #5 DATE





N00°19'36"E 2658.21'

**Wetland "A"**  
106475 SQ. FT.  
2.4443 ACRES

**Wetland "B"**  
35868 SQ. FT.  
0.8234 ACRES

**Wetland "D"**  
231110 SQ. FT.  
5.3056 ACRES

**Wetland "C"**

**Wetland "E"**  
109870 SQ. FT.  
2.5223 ACRES

**OSW-1**  
2282 SQ. FT.  
0.0524 ACRES  
Swale Top of Bank

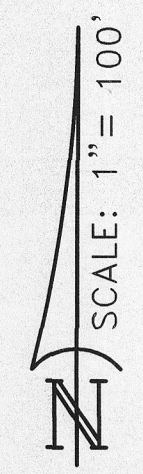
**Wetland "F"**  
372291 SQ. FT.  
8.5466 ACRES

**NOTE:**  
See Sheet 8 for Tables of Flagged Points with Coordinates and Elevations.  
See Sheet 9 for Line Tables for Wetland Boundary Dimensions.

LINE	BEARING	ARC	DISTANCE
L1	S44°34'42"E	35.61'	
L34	N00°00'11"E	80.72'	
L35	S89°59'49"E	45.74'	
L37	N89°59'49"W	37.59'	
L38	N00°00'11"E	51.63'	
L42	N11°10'11"E	81.98'	
L44	N42°00'05"E	94.62'	
L45	N63°29'01"E	93.59'	
L46	N62°52'34"E	100.94'	

CURVE	RADIUS	ARC	CHORD	CHORD BEARING	DELTA
C1	835.99'	522.32'	544.34'	N16°54'29"E	33°48'36"
C2	940.99'	274.81'	165.91'	S16°18'47"W	34°59'59"
C7	820.99'	501.51'	493.76'	S16°18'47"W	34°59'59"
C8	1055.98'	534.72'	529.03'	N19°18'23"E	29°00'47"
C9	150.00'	21.62'	21.60'	N22°10'13"W	8°15'24"

- LEGEND:**
- = 5/8" Iron Rod & Cap  
LB #6638 Set, Unless Otherwise Noted
  - + 592 = Wetland Flag Marker and Point Number ID
  - L20 = Line Table Dimension (See Sheet 9)
  - △ = Seasonal High Water Marker  
Elevation and Descriptor
  - SWW 1/4 = Seasonal High Water Marker



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**VICA PARCEL**  
SECTION 35, TOWNSHIP 38 SOUTH, RANGE 19 EAST SARASOTA COUNTY, FLORIDA  
**A SPECIFIC PURPOSE SURVEY**  
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FLORIDA WATER MANAGEMENT DISTRICT (SWFWMD) WETLAND AND

DATE: 11/27/2013

**SHEET**  
2 OF 9

Southwest Florida  
Water Management District  
JAN 31 2014  
Received  
TAMPA RSB



ATTACHMENT B

FNAI REPORT



1018 Thomasville Road  
Suite 200-C  
Tallahassee, FL 32303  
850-224-8207  
850-681-9364 fax  
www.fnai.org

## Florida Natural Areas Inventory

### Biodiversity Matrix Query Results

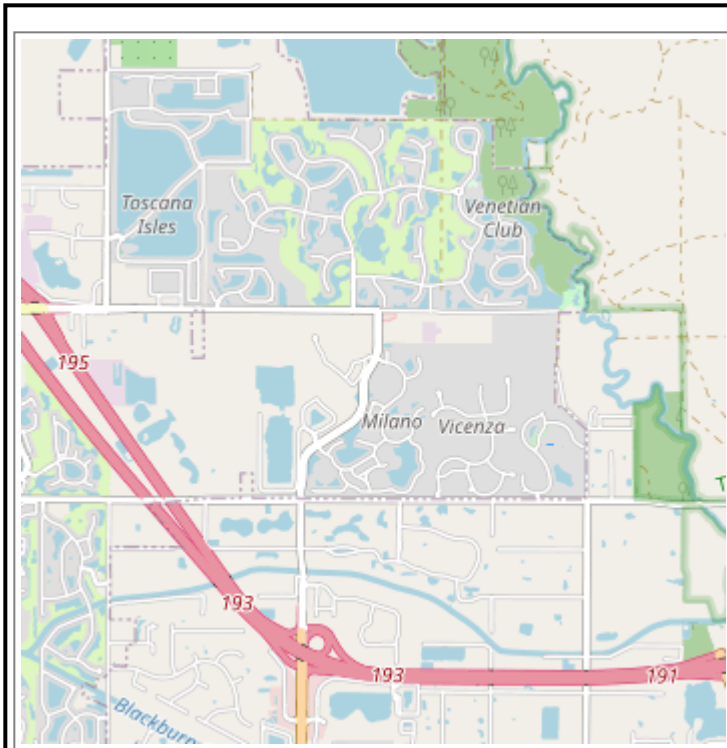
#### UNOFFICIAL REPORT

Created 9/8/2022

(Contact the FNAI Data Services Coordinator at 850.224.8207 or  
kbrinegar@fnai.fsu.edu for information on an official Standard Data Report)

NOTE: The Biodiversity Matrix includes only rare species and natural communities tracked by FNAI.

#### Report for 1 Matrix Unit: 27083



#### Descriptions

**DOCUMENTED** - There is a documented occurrence in the FNAI database of the species or community within this Matrix Unit.

**DOCUMENTED-HISTORIC** - There is a documented occurrence in the FNAI database of the species or community within this Matrix Unit; however the occurrence has not been observed/reported within the last twenty years.

**LIKELY** - The species or community is *known* to occur in this vicinity, and is considered likely within this Matrix Unit because:

1. documented occurrence overlaps this and adjacent Matrix Units, but the documentation isn't precise enough to indicate which of those Units the species or community is actually located in; *or*
2. there is a documented occurrence in the vicinity and there is suitable habitat for that species or community within this Matrix Unit.

**POTENTIAL** - This Matrix Unit lies within the known or predicted range of the species or community based on expert knowledge and environmental variables such as climate, soils, topography, and landcover.

#### Matrix Unit ID: 27083

##### 1 Documented Element Found

Scientific and Common Names	Global Rank	State Rank	Federal Status	State Listing
<a href="#">Haliaeetus leucocephalus</a> Bald Eagle	G5	S3	N	N

##### 0 Documented-Historic Elements Found

##### 3 Likely Elements Found

Scientific and Common Names	Global Rank	State Rank	Federal Status	State Listing
<a href="#">Drymarchon couperi</a> Eastern Indigo Snake	G3	S2?	T	FT
<a href="#">Mesic flatwoods</a>	G4	S4	N	N
<a href="#">Mycteria americana</a>	G4	S2	T	FT

Wood Stork

**Matrix Unit ID: 27083****17 Potential** Elements for Matrix Unit 27083

<b>Scientific and Common Names</b>	<b>Global Rank</b>	<b>State Rank</b>	<b>Federal Status</b>	<b>State Listing</b>
<i>Antigone canadensis pratensis</i> Florida Sandhill Crane	G5T2	S2	N	ST
<a href="#"><i>Athene cunicularia floridana</i></a> Florida Burrowing Owl	G4T3	S3	N	ST
<a href="#"><i>Calopogon multiflorus</i></a> many-flowered grass-pink	G2G3	S2S3	N	T
<a href="#"><i>Centrosema arenicola</i></a> sand butterfly pea	G2Q	S2	N	E
<i>Flatwoods/prairie lake</i>	G4	S3	N	N
<a href="#"><i>Gopherus polyphemus</i></a> Gopher Tortoise	G3	S3	C	ST
<a href="#"><i>Lechea cernua</i></a> nodding pinweed	G3	S3	N	T
<i>Lithobates capito</i> Gopher Frog	G2G3	S3	N	N
<i>Lythrum flagellare</i> lowland loosestrife	G3	S3	N	E
<a href="#"><i>Matelea floridana</i></a> Florida spiny-pod	G2	S2	N	E
<i>Mustela frenata peninsulæ</i> Florida Long-tailed Weasel	G5T3?	S3?	N	N
<a href="#"><i>Nemastylis floridana</i></a> celestial lily	G2	S2	N	E
<a href="#"><i>Nolina atopocarpa</i></a> Florida beargrass	G3	S3	N	T
<i>Phyllophaga elongata</i> Elongate June Beetle	G3	S3	N	N
<a href="#"><i>Rhynchospora megaplumosa</i></a> large-plumed beaksedge	G2	S2	N	E
<i>Sciurus niger niger</i> Southeastern Fox Squirrel	G5T5	S3	N	N
<a href="#"><i>Zephyranthes simpsonii</i></a> redmargin zephyrlily	G2G3	S2S3	N	T

**Disclaimer**

The data maintained by the Florida Natural Areas Inventory represent the single most comprehensive source of information available on the locations of rare species and other significant ecological resources statewide. However, the data are not always based on comprehensive or site-specific field surveys. Therefore, this information should not be regarded as a final statement on the biological resources of the site being considered, nor should it be substituted for on-site surveys. FNAI shall not be held liable for the accuracy and completeness of these data, or opinions or conclusions drawn from these data. FNAI is not inviting reliance on these data. Inventory data are designed for the purposes of conservation planning and scientific research and are not intended for use as the primary criteria for regulatory decisions.

**Unofficial Report**

These results are considered unofficial. FNAI offers a [Standard Data Request](#) option for those needing certifiable data.

ATTACHMENT C  
FWS IPAC RESOURCES LIST

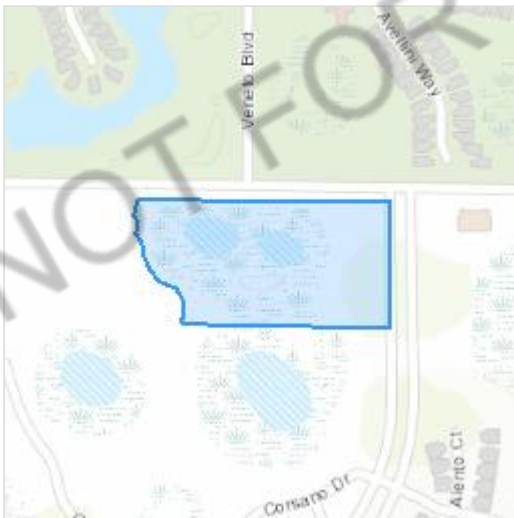
# IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

## Location

Sarasota County, Florida



## Local office

Florida Ecological Services Field Office

✉ [fw4flesregs@fws.gov](mailto:fw4flesregs@fws.gov)



# Endangered species

**This resource list is for informational purposes only and does not constitute an analysis of project level impacts.**

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species<sup>1</sup> and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries<sup>2</sup>).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

- 
1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information. IPaC only shows species that are regulated by USFWS (see FAQ).

2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

## Mammals

NAME	STATUS
<p>Florida Bonneted Bat <i>Eumops floridanus</i> Wherever found There is <b>proposed</b> critical habitat for this species. The location of the critical habitat is not available. <a href="https://ecos.fws.gov/ecp/species/8630">https://ecos.fws.gov/ecp/species/8630</a></p>	Endangered
<p>Florida Panther <i>Puma (=Felis) concolor coryi</i> Wherever found No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/1763">https://ecos.fws.gov/ecp/species/1763</a></p>	Endangered
<p>Puma (=mountain Lion) <i>Puma (=Felis) concolor</i> (all subsp. except <i>coryi</i>) No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/6049">https://ecos.fws.gov/ecp/species/6049</a></p>	SAT

## Birds

NAME	STATUS
<p>Audubon's Crested Caracara <i>Polyborus plancus audubonii</i> No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/8250">https://ecos.fws.gov/ecp/species/8250</a></p>	Threatened
<p>Eastern Black Rail <i>Laterallus jamaicensis ssp. jamaicensis</i> Wherever found No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/10477">https://ecos.fws.gov/ecp/species/10477</a></p>	Threatened
<p>Wood Stork <i>Mycteria americana</i> No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/8477">https://ecos.fws.gov/ecp/species/8477</a></p>	Threatened

## Reptiles

NAME	STATUS
<p><b>American Alligator</b> <i>Alligator mississippiensis</i> Wherever found No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/776">https://ecos.fws.gov/ecp/species/776</a></p>	SAT
<p><b>Eastern Indigo Snake</b> <i>Drymarchon couperi</i> Wherever found No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/646">https://ecos.fws.gov/ecp/species/646</a></p>	Threatened
<p><b>Green Sea Turtle</b> <i>Chelonia mydas</i> There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. <a href="https://ecos.fws.gov/ecp/species/6199">https://ecos.fws.gov/ecp/species/6199</a></p>	Threatened
<p><b>Loggerhead Sea Turtle</b> <i>Caretta caretta</i> There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. <a href="https://ecos.fws.gov/ecp/species/1110">https://ecos.fws.gov/ecp/species/1110</a></p>	Threatened

## Fishes

NAME	STATUS
<p><b>Gulf Sturgeon</b> <i>Acipenser oxyrinchus (=oxyrhnchus) desotoi</i> Wherever found There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available. <a href="https://ecos.fws.gov/ecp/species/651">https://ecos.fws.gov/ecp/species/651</a></p>	Threatened

## Insects

NAME	STATUS
<p><b>Miami Blue Butterfly</b> <i>Cyclargus (=Hemiargus) thomasi bethunebakeri</i> Wherever found No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/3797">https://ecos.fws.gov/ecp/species/3797</a></p>	Endangered

**Monarch Butterfly** *Danaus plexippus*

Candidate

Wherever found

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/9743>

## Flowering Plants

NAME

STATUS

**Aboriginal Prickly-apple** *Harrisia (=Cereus) aboriginum*  
(=*gracilis*)

Endangered

There is **final** critical habitat for this species. The location of the critical habitat is not available.<https://ecos.fws.gov/ecp/species/2833>**Florida Bonamia** *Bonamia grandiflora*

Threatened

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/2230>**Pygmy Fringe-tree** *Chionanthus pygmaeus*

Endangered

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/1084>

## Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

There are no critical habitats at this location.

## Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act<sup>1</sup> and the Bald and Golden Eagle Protection Act<sup>2</sup>.

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

1. The [Migratory Birds Treaty Act](#) of 1918.

2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Birds of Conservation Concern <https://www.fws.gov/program/migratory-birds/species>
- Measures for avoiding and minimizing impacts to birds  
<https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds  
<https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern \(BCC\) list](#) or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
American Kestrel <i>Falco sparverius paulus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA <a href="https://ecos.fws.gov/ecp/species/9587">https://ecos.fws.gov/ecp/species/9587</a>	Breeds Apr 1 to Aug 31
Bachman's Sparrow <i>Aimophila aestivalis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/6177">https://ecos.fws.gov/ecp/species/6177</a>	Breeds May 1 to Sep 30

<b>Bald Eagle</b> <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. <a href="https://ecos.fws.gov/ecp/species/1626">https://ecos.fws.gov/ecp/species/1626</a>	Breeds Sep 1 to Jul 31
<b>Black Skimmer</b> <i>Rynchops niger</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/5234">https://ecos.fws.gov/ecp/species/5234</a>	Breeds May 20 to Sep 15
<b>Chimney Swift</b> <i>Chaetura pelagica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Mar 15 to Aug 25
<b>Great Blue Heron</b> <i>Ardea herodias occidentalis</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds Jan 1 to Dec 31
<b>King Rail</b> <i>Rallus elegans</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/8936">https://ecos.fws.gov/ecp/species/8936</a>	Breeds May 1 to Sep 5
<b>Lesser Yellowlegs</b> <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/9679">https://ecos.fws.gov/ecp/species/9679</a>	Breeds elsewhere
<b>Magnificent Frigatebird</b> <i>Fregata magnificens</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds Oct 1 to Apr 30
<b>Prairie Warbler</b> <i>Dendroica discolor</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 1 to Jul 31
<b>Red-headed Woodpecker</b> <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10

<p><b>Reddish Egret</b> <i>Egretta rufescens</i></p> <p>This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p> <p><a href="https://ecos.fws.gov/ecp/species/7617">https://ecos.fws.gov/ecp/species/7617</a></p>	Breeds Mar 1 to Sep 15
<p><b>Ruddy Turnstone</b> <i>Arenaria interpres morinella</i></p> <p>This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA</p>	Breeds elsewhere
<p><b>Short-billed Dowitcher</b> <i>Limnodromus griseus</i></p> <p>This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p> <p><a href="https://ecos.fws.gov/ecp/species/9480">https://ecos.fws.gov/ecp/species/9480</a></p>	Breeds elsewhere
<p><b>Swallow-tailed Kite</b> <i>Elanoides forficatus</i></p> <p>This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p> <p><a href="https://ecos.fws.gov/ecp/species/8938">https://ecos.fws.gov/ecp/species/8938</a></p>	Breeds Mar 10 to Jun 30
<p><b>Willet</b> <i>Tringa semipalmata</i></p> <p>This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds Apr 20 to Aug 5

## Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

### Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events



for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.

- To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is  $0.25/0.25 = 1$ ; at week 20 it is  $0.05/0.25 = 0.2$ .
- The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

### Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

### Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

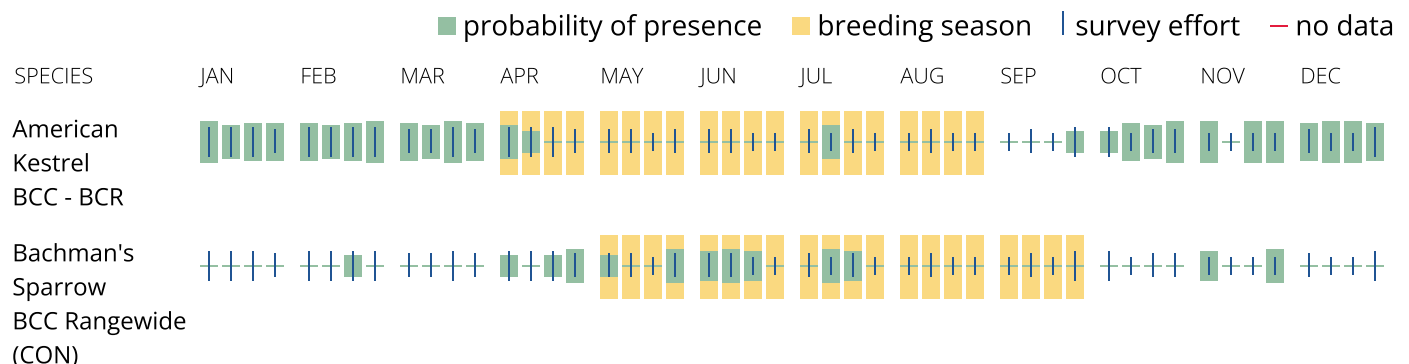
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

### No Data (-)

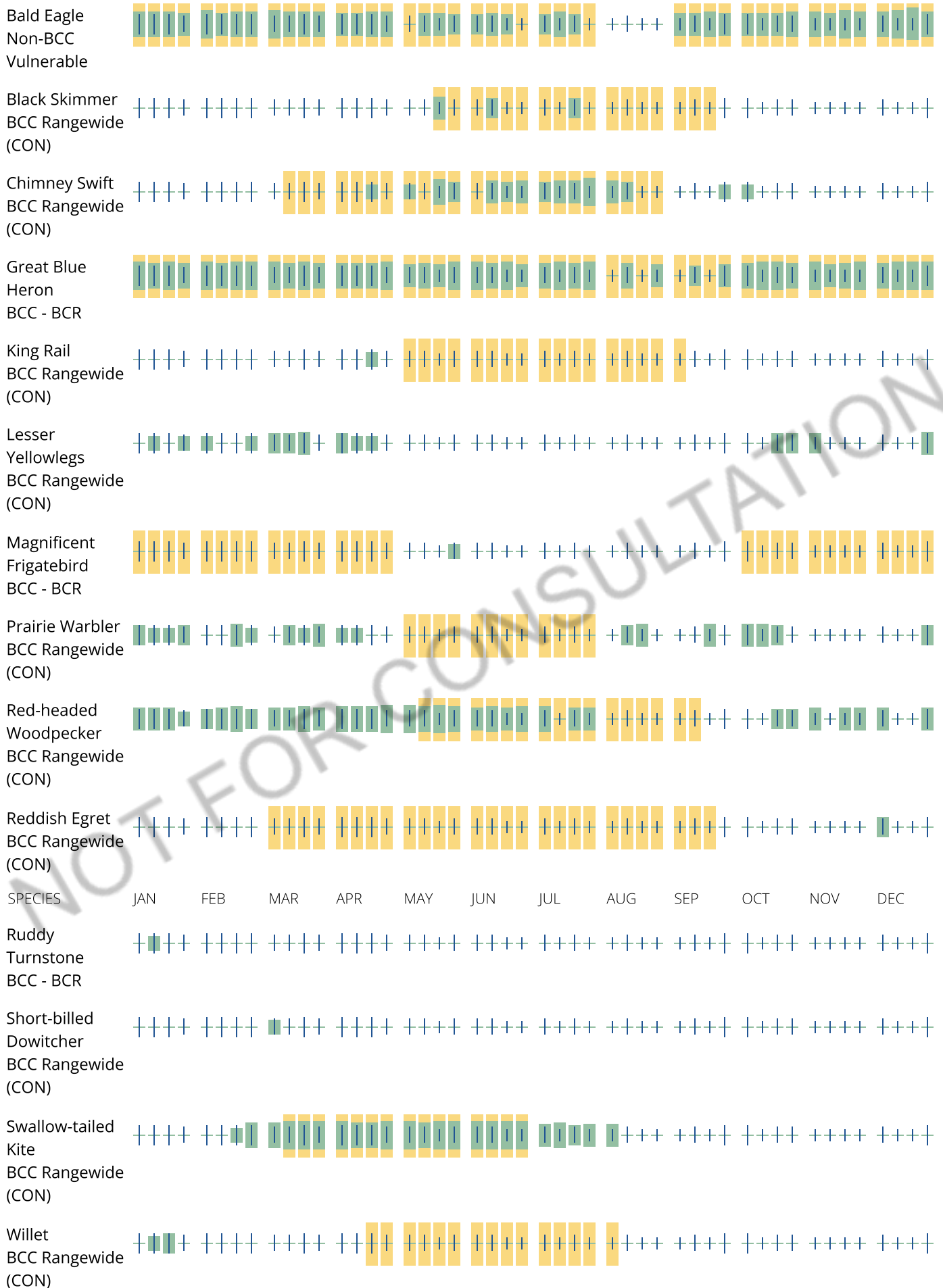
A week is marked as having no data if there were no survey events for that week.

### Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.







## **Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.**

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

## **What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?**

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

## **What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?**

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

## **How do I know if a bird is breeding, wintering or migrating in my area?**

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may query your location using the [RAIL Tool](#) and look at the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

## **What are the levels of concern for migratory birds?**

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

### Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

### What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

### Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn

more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

## Coastal Barrier Resources System

Projects within the [John H. Chafee Coastal Barrier Resources System](#) (CBRS) may be subject to the restrictions on federal expenditures and financial assistance and the consultation requirements of the Coastal Barrier Resources Act (CBRA) (16 U.S.C. 3501 et seq.). For more information, please contact the local [Ecological Services Field Office](#) or visit the [CBRA Consultations website](#). The CBRA website provides tools such as a flow chart to help determine whether consultation is required and a template to facilitate the consultation process.

There are no known coastal barriers at this location.

### Data limitations

The CBRS boundaries used in IPaC are representations of the controlling boundaries, which are depicted on the [official CBRS maps](#). The boundaries depicted in this layer are not to be considered authoritative for in/out determinations close to a CBRS boundary (i.e., within the "CBRS Buffer Zone" that appears as a hatched area on either side of the boundary). For projects that are very close to a CBRS boundary but do not clearly intersect a unit, you may contact the Service for an official determination by following the instructions here: <https://www.fws.gov/service/coastal-barrier-resources-system-property-documentation>

### Data exclusions

CBRS units extend seaward out to either the 20- or 30-foot bathymetric contour (depending on the location of the unit). The true seaward extent of the units is not shown in the CBRS data, therefore projects in the offshore areas of units (e.g., dredging, breakwaters, offshore wind energy or oil and gas projects) may be subject to CBRA even if they do not intersect the CBRS data. For additional information, please contact [CBRA@fws.gov](mailto:CBRA@fws.gov).

## Facilities

### National Wildlife Refuge lands

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

There are no refuge lands at this location.

## Fish hatcheries

There are no fish hatcheries at this location.

## Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

### Wetland information is not available at this time

This can happen when the National Wetlands Inventory (NWI) map service is unavailable, or for very large projects that intersect many wetland areas. Try again, or visit the [NWI map](#) to view wetlands at this location.

#### Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

#### Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and

nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

### Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

NOT FOR CONSULTATION

ATTACHMENT D  
ERP No. 43041590.006  
CIELO DEVELOPMENT



# Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899  
(352) 796-7211 or 1-800-423-1476 (FL only)  
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)  
On the Internet at: [WaterMatters.org](http://WaterMatters.org)

An Equal  
Opportunity  
Employer

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

**Sarasota Service Office**  
6750 Fruitville Road  
Sarasota, Florida 34240-9711  
(941) 377-3722 or  
1-800-320-3503 (FL only)

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

October 12, 2018

Neal Communities of Southwest Florida, LLC  
Attn: James Schier  
5800 Lakewood Ranch Blvd. N.  
Sarasota, FL 34240

Subject: **Notice of Agency Action - Approval  
ERP Individual Construction**

Project Name: Cielo  
App ID/Permit No: 768530 / 43041590.006  
County: Sarasota  
Sec/Twp/Rge: S35/T38S/R19E, S34/T38S/R19E

Dear Permittee(s):

The Southwest Florida Water Management District (District) is in receipt of your application for the Environmental Resource Permit. Based upon a review of the information you submitted, the application is approved.

Please refer to the attached Notice of Rights to determine any legal rights you may have concerning the District's agency action on the permit application described in this letter.

If approved construction plans are part of the permit, construction must be in accordance with these plans. These drawings are available for viewing or downloading through the District's Application and Permit Search Tools located at [www.WaterMatters.org/permits](http://www.WaterMatters.org/permits).

The District's action in this matter only becomes closed to future legal challenges from members of the public if such persons have been properly notified of the District's action and no person objects to the District's action within the prescribed period of time following the notification. The District does not publish notices of agency action. If you wish to limit the time within which a person who does not receive actual written notice from the District may request an administrative hearing regarding this action, you are strongly encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Publishing notice of agency action will close the window for filing a petition for hearing. Legal requirements and instructions for publishing notices of agency action, as well as a noticing form that can be used, are available from the District's website at [www.WaterMatters.org/permits/noticing](http://www.WaterMatters.org/permits/noticing). If you publish notice of agency action, a copy of the affidavit of publication provided by the newspaper should be sent to the District's Tampa Service Office for retention in this permit's File of Record.



If you have any questions or concerns regarding your permit or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

David Kramer, P.E.  
Manager  
Environmental Resource Permit Bureau  
Regulation Division

Enclosures:   Approved Permit w/Conditions Attached  
                  [As-Built Certification and Request for Conversion to Operation Phase](#)  
                  Notice of Authorization to Commence Construction  
                  Notice of Rights

cc:             Florida Fish and Wildlife Conservation Commission  
                  Alec Hoffner  
                  Travis Fledderman, P.E., Stantec Consulting Services, Inc.

**SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
INDIVIDUAL CONSTRUCTION  
PERMIT NO. 43041590.006**

**EXPIRATION DATE:**           **October 12, 2023**

**PERMIT ISSUE DATE:**   **October 12, 2018**

This permit is issued under the provisions of Chapter 373, Florida Statutes, (F.S.), and the Rules contained in Chapter 62-330, Florida Administrative Code, (F.A.C.). The permit authorizes the Permittee to proceed with the construction of a surface water management system in accordance with the information outlined herein and shown by the application, approved drawings, plans, specifications, and other documents, attached hereto and kept on file at the Southwest Florida Water Management District (District). Unless otherwise stated by permit specific condition, permit issuance constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341. All construction, operation and maintenance of the surface water management system authorized by this permit shall occur in compliance with Florida Statutes and Administrative Code and the conditions of this permit.

**PROJECT NAME:**               Cielo

**GRANTED TO:**                 Neal Communities of Southwest Florida, LLC  
Attn: James Schier  
5800 Lakewood Ranch Blvd. N.  
Sarasota, FL 34240

**OTHER PERMITTEES:**         N/A

**ABSTRACT:** This permit is for the construction of a stormwater management system to serve an 53.04-acre residential project, including lots, roadways, and infrastructure. Seven wet detention ponds will provide water quality treatment and attenuation of the 25-year, 24-hour peak discharge rate for the post-development conditions to the 25-year, 24-hour peak discharge rate for the pre-development conditions. A volume of 7.31 acre-feet of fill will be placed within existing floodplain storage. Storage modeling for multiple storm events was performed to demonstrate no increase in peak stages will occur on offsite properties. The project is located on Laurel Road, north of Border Road, in Sarasota County.

**OP. & MAIN. ENTITY:**         Cielo Neighborhood Association, Inc.

**OTHER OP. & MAIN. ENTITY:**   N/A

**COUNTY:**                       Sarasota

**SEC/TWP/RGE:**                 S35/T38S/R19E, S34/T38S/R19E

**TOTAL ACRES OWNED  
OR UNDER CONTROL:**         302.17

**PROJECT SIZE:**               53.04 Acres

**LAND USE:**                    Residential

**DATE APPLICATION FILED:**     July 13, 2018

**AMENDED DATE:**              N/A

**I. Water Quantity/Quality**

POND No.	Area Acres @ Top of Bank	Treatment Type
LL4	2.17	MAN-MADE WET DETENTION
LL5A	0.69	MAN-MADE WET DETENTION
LL5B	0.34	MAN-MADE WET DETENTION
LL6	1.91	MAN-MADE WET DETENTION
LL7	5.76	MAN-MADE WET DETENTION
LL8	2.28	MAN-MADE WET DETENTION
LL9	1.67	MAN-MADE WET DETENTION
	<b>Total: 14.82</b>	

Water Quality/Quantity Comment: The site discharges to Curry Creek (Freshwater portion), WBID 2009C. This waterbody is listed as impaired for nutrients. Therefore, water quality certification is waived as a condition of this permit. Due to the agricultural nature of the existing site, presumptive criteria is sufficient in meeting the water quality requirements for the project. The wet detention ponds provide permanent pool volume below the control elevation. Runoff from the western portion of the project is directed to Pond LL8. Pond LL8 is equalized with Ponds LL1 and LL2, which were authorized under ERP No. 43041590.005, entitled Aria. A cross-drainage agreement was furnished documenting the shared-use and maintenance rights for these ponds. The plans reference the National Geodetic Vertical Datum of 1929 (NGVD 29). In order to convert to NAVD 88, subtract 1.15 foot.

A mixing zone is not required.

A variance is not required.

**II. 100-Year Floodplain**

Encroachment (Acre-Feet of fill)	Compensation (Acre-Feet of excavation)	Compensation Type	Encroachment Result* (feet)
7.31	0.00	Storage Modeling	N/A

Floodplain Comment: There is FEMA-identified floodplain onsite. Site-specific ICPR modeling was performed for the existing conditions to establish 100-year flood elevations. The total volume of fill to be placed below the floodplain elevations was tabulated as 7.31 acre-feet. The proposed conditions modeling for multiple storm events shows no increases in peak stage will occur on offsite property. The modeling references the Cow Pen Slough Watershed Model to the north and the Curry Creek/Hatchett Creek Watershed Model to the south.

\*Depth of change in flood stage (level) over existing receiving water stage resulting from floodplain encroachment caused by a project that claims Minimal Impact type of compensation.

**III. Environmental Considerations**

**Wetland/Other Surface Water Information**

Wetland/Other Surface Water Name	Total Acres	Not Impacted Acres	Permanent Impacts		Temporary Impacts	
			Acres	Functional Loss*	Acres	Functional Loss*
Wetland A-LL	3.11	3.11	0.00	0.00	0.00	0.00
Wetland D-LL	0.99	0.99	0.00	0.00	0.00	0.00
Wetland A-VW	4.95	4.95	0.00	0.00	0.00	0.00
Wetland B-VW	0.82	0.82	0.00	0.00	0.00	0.00
Wetland C-VW	13.20	13.20	0.00	0.00	0.00	0.00
Wetland D-VW	5.31	5.29	0.00	0.00	0.02	0.00
Wetland E-VW	2.39	2.39	0.00	0.00	0.00	0.00
Wetland F-VW	8.55	8.55	0.00	0.00	0.00	0.00
Wetland G-VW	8.77	8.72	0.00	0.00	0.05	0.00
OSW 1-VW	0.05	0.00	0.05	0.00	0.00	0.00
<b>Total:</b>	<b>48.14</b>	<b>48.02</b>	<b>0.05</b>	<b>0.00</b>	<b>0.07</b>	<b>0.00</b>

\* For impacts that do not require mitigation, their functional loss is not included.

Wetland/Other Surface Water Comments:

There are 48.09 acres of freshwater marsh (FLUCCS 641) and 0.05 acre of other surface water ditches (FLUCCS 510) located within the project area for this permit. There will be 0.07 acre of temporary dredging impacts to freshwater marsh and 0.05 acre of permanent filling impacts to other surface water ditches associated with the construction activities authorized in this permit.

The approved wetland buffer plantings, as shown on sheet 51 of the construction plans, are required in order to provide the District with reasonable assurance that the project will not have adverse secondary impacts to the adjacent wetlands, as described in Subsection 10.2.7 of the Applicant's Handbook Volume I.

**Mitigation Information**

Mitigation Comments:

Wetland mitigation is not required for the 0.05 acre of permanent filling impacts to other surface water ditches pursuant to Subsection 10.2.2.2 of the Environmental Resource Applicant's Handbook Volume I. Under this subsection, wetland mitigation is not required for impacts to upland cut drainage ditches that do not provide significant habitat for threatened or endangered species and were not constructed to divert natural stream flow.

Re-vegetation of the temporarily impacted wetland areas is to occur in accordance with the specific conditions of this permit.

## Specific Conditions

1. If the ownership of the project area covered by the subject permit is divided, with someone other than the Permittee becoming the owner of part of the project area, this permit may be terminated, unless the terms of the permit are modified by the District or the permit is transferred pursuant to Rule 40D-1.6105, F.A.C. In such situations, each land owner shall obtain a permit (which may be a modification of this permit) for the land owned by that person. This condition shall not apply to the division and sale of lots or units in residential subdivisions or condominiums.
2. The Permittee shall retain the design professional registered or licensed in Florida, to conduct on-site observations of construction and assist with the as-built certification requirements of this project. The Permittee shall inform the District in writing of the name, address and phone number of the design professional so employed. This information shall be submitted prior to construction.
3. **WETLAND TEMPORARY IMPACT AREA SUCCESS CRITERIA**

These areas will be considered successful and will be released from monitoring and reporting requirements when the following criteria are met continuously for a period of at least one year without intervention in the form of irrigation or the addition or removal of vegetation.

  - a. The area can reasonably be expected to develop into a Freshwater Marsh as determined by the Florida Land Use and Cover and Forms Classification System (third edition; January 1999).
  - b. Topography, water depth and water level fluctuation in the mitigation area are characteristic of the wetlands/surface water type specified in criterion "a."
  - c. Species composition of recruiting wetland vegetation is indicative of the wetland type specified in criterion "a."
  - d. Coverage by nuisance or exotic species does not exceed 5 percent at any area within the monitoring area.
  - e. The area can be determined to be a wetland or other surface water according to Chapter 62-340, F.A.C.

The area may be released from monitoring and reporting requirements and be deemed successful at any time during the monitoring period if the Permittee demonstrates that the conditions in the area have adequately replaced the wetland and surface water functions affected by the regulated activity and that the site conditions are sustainable.
4. The Permittee shall monitor and maintain the areas until the criteria set forth in the Wetland Temporary Impact Area Success Criteria Condition(s) above are met. The Permittee shall perform corrective actions identified by the District if the District identifies a deficiency.
5. The Permittee shall undertake required maintenance activities within the Wetland Temporary Impact areas as needed at any time between construction and termination of monitoring, with the exception of the final year. Maintenance shall include the manual removal of all nuisance and exotic species, with sufficient frequency that their combined coverage at no time exceeds the Wetland Temporary Impact Area Success Criteria Condition(s) above. Herbicides shall not be used without the prior written approval of the District.
6. The permittee, prior to beneficial use of the site must submit an as-built survey certified by a registered surveyor or professional engineer showing dimensions, grades, ground elevations,

water surface elevations, and species composition, numbers and densities. Upon District inspection and approval, the monitoring program shall be initiated with the date of the District field inspection being the construction completion date. Monitoring events shall occur between March 1 and November 30 of each year. An Annual Monitoring Report shall be submitted upon the anniversary date of District approval to initiate monitoring.

Annual reports shall provide documentation that a sufficient number of maintenance inspection /activities were conducted to maintain the areas in compliance according to the Wetland Temporary Impact Area Success Criteria Conditions above. Note that the performance of maintenance inspections and maintenance activities will normally need to be conducted more frequently than the collection of other monitoring data to maintain the areas in compliance with the Wetland Temporary Impact Area Success Criteria Conditions above.

Monitoring Data shall be collected semi-annually.

7. Termination of monitoring shall be coordinated with the District by:
  - a. notifying the District in writing when the criteria set forth in the Wetland Temporary Impact Area Success Criteria Condition(s) have been achieved;
  - b. submitting documentation, including the date, that all maintenance activities have been suspended including, but not limited to, irrigation and addition or removal of vegetation; and
  - c. submitting a monitoring report to the District one year following the written notification and suspension of maintenance activities.

Upon receipt of the monitoring report, the District will evaluate the sites to determine if the Success Criteria Conditions have been met and maintained. The District will notify the Permittee in writing of the evaluation results. The Permittee shall perform corrective actions for any portions of the areas that fail to maintain the criteria set forth in the Wetland Temporary Impact Area Success Criteria Conditions.

8. Following the District's determination that the areas have been successfully completed, the Permittee shall operate and maintain the wetland areas such that they remain in their current or intended condition for the life of the system. The Permittee must perform corrective actions for any portions where conditions no longer meet the criteria set forth in the Success Criteria Conditions.
9. Wetland buffers shall remain in an undisturbed condition except for approved drainage facility construction/maintenance. No owner of property within the subdivision may perform any work, construction, maintenance, clearing, filling or any other type of activities within the wetlands, wetland mitigation areas, wetland buffers, buffer compensation areas, and drainage easements described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District.
10. The following boundaries, as shown on the approved construction drawings, shall be clearly delineated on the site prior to initial clearing or grading activities:
  - a. wetland and surface water areas
  - b. wetland buffers
  - c. limits of approved surface water impacts

The delineation shall endure throughout the construction period and be readily discernible to construction and District personnel.

11. The following language shall be included as part of the deed restrictions for each lot:

"No owner of property within the subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and drainage easements described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District."
12. Rights-of-way and easement locations necessary to construct, operate and maintain all facilities, which constitute the permitted stormwater management system, and the locations and limits of all wetlands, wetland buffers, upland buffers for water quality treatment, 100-year floodplain areas and floodplain compensation areas, shall be shown on the final plat recorded in the County Public Records. Documentation of this plat recording shall be submitted to the District with the As-Built Certification and Request for Conversion to Operational Phase Form, and prior to beneficial occupancy or use of the site.
13. Copies of the following documents in final form, as appropriate for the project, shall be submitted to the Regulation Division:
  - a. homeowners, property owners, master association or condominium association articles of incorporation, and
  - b. declaration of protective covenants, deed restrictions or declaration of condominiumThe Permittee shall submit these documents with the submittal of the Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity form.
14. The following language shall be included as part of the deed restrictions for each lot:

"Each property owner within the subdivision at the time of construction of a building, residence, or structure shall comply with the construction plans for the stormwater management system approved and on file with the Southwest Florida Water Management District."
15. Certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341 is waived.
16. If limestone bedrock is encountered during construction of the stormwater management system, the District must be notified and construction in the affected area shall cease.
17. The Permittee shall notify the District of any sinkhole development in the stormwater management system within 48 hours of discovery and must submit a detailed sinkhole evaluation and repair plan for approval by the District within 30 days of discovery.
18. The Permitted Plan Set for this project includes the set received by the District on September 24, 2018.
19. If prehistoric or historic artifacts such as pottery or ceramics, stone or shell tools or metal implements, or any other physical remains that could be associated with Native American cultures or early colonial or American settlement are encountered at any time within the project area, the permittee shall cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The permittee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850) 245-6333, as well as the District. Project activities in the immediate vicinity shall not resume without authorization from the District after coordination with the Division of Historical Resources. In the event that unmarked human remains are encountered during permitted activities, all work that may disturb the unmarked human remains shall stop immediately and the proper authorities notified in accordance with

Section 872.05, Florida Statutes.

20. The operation and maintenance entity shall provide for the inspection of the permitted project after conversion of the permit to the operation and maintenance phase. For systems utilizing retention or wet detention, the inspections shall be performed five (5) years after operation is authorized and every five (5) years thereafter.

The operation and maintenance entity must maintain a record of each inspection, including the date of inspection, the name and contact information of the inspector, whether the system was functioning as designed and permitted, and make such record available upon request of the District.

Within 30 days of any failure of a stormwater management system or deviation from the permit, an inspection report shall be submitted using Form 62-330.311(1), "Operation and Maintenance Inspection Certification" describing the remedial actions taken to resolve the failure or deviation.

21. District staff must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must either have been submitted and approved with the permit application or submitted to the District as a permit prior to the dewatering event as a permit modification. A water use permit may be required prior to any use exceeding the thresholds in Chapter 40D-2, F.A.C.
22. Off-site discharges during construction and development shall be made only through the facilities authorized by this permit. Water discharged from the project shall be through structures having a mechanism suitable for regulating upstream stages. Stages may be subject to operating schedules satisfactory to the District.
23. The permittee shall complete construction of all aspects of the stormwater management system, including wetland compensation (grading, mulching, planting), water quality treatment features, and discharge control facilities prior to beneficial occupancy or use of the development being served by this system.
24. The following shall be properly abandoned and/or removed in accordance with the applicable regulations:
  - a. Any existing wells in the path of construction shall be properly plugged and abandoned by a licensed well contractor.
  - b. Any existing septic tanks on site shall be abandoned at the beginning of construction.
  - c. Any existing fuel storage tanks and fuel pumps shall be removed at the beginning of construction.
25. All stormwater management systems shall be operated to conserve water in order to maintain environmental quality and resource protection; to increase the efficiency of transport, application and use; to decrease waste; to minimize unnatural runoff from the property and to minimize dewatering of offsite property.
26. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the occupation of the site or operation of site infrastructure located within the area served by that portion or phase of the system. Each



phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to a local government or other responsible entity.

27. This permit is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the permit application. Any substantial deviation from the approved drawings, exhibits, specifications or permit conditions, including construction within the total land area but outside the approved project area(s), may constitute grounds for revocation or enforcement action by the District, unless a modification has been applied for and approved. Examples of substantial deviations include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.
28. The site may provide foraging habitat for the Florida sandhill crane and the freshwater emergent marsh and wet fields may provide nesting habitat for this species and they have been recorded in the project's vicinity. Florida Fish and Wildlife Conservation Commission (FWC) staff recommends that surveys for nesting sandhill cranes be conducted prior to construction activities and during the December through August breeding season. If there is evidence of nesting during this period, FWC staff recommends that the nest site be buffered by 400 feet to avoid disturbance by human activities. If nesting is discovered after construction has begun or if maintaining the recommended buffer is not possible, FWC recommends that the applicant contact FWC staff to discuss potential permitting needs. Basic guidance for conducting wildlife surveys may be found in the Sandhill Crane Species Conservation Measures and Permitting Guidelines (<http://www.myfwc.com/media/4105886/Final-Florida-SandhillCrane-Species-Guidelines-2016.pdf>). FWC staff would also like to note that Florida sandhill cranes do not nest in the same location every year, so if construction occurs over several years, it may be necessary to determine if nesting is occurring each year.
29. The potential exists for wading bird nesting activity in the freshwater marshes on the project site. FWC staff recommends that specific surveys be conducted for wading birds around the perimeter of the marshes prior to the commencement of any clearing, grading, or filling activities. Surveys should be conducted during their breeding season, which extends from March through August. Basic guidance for conducting wildlife surveys may be found in the Florida Wildlife Conservation Guide (FWCG) at <http://myfwc.com/conservation/value/fwcg/>. If there is evidence of nesting during this period, FWC staff recommends that any wading bird nest sites be buffered by 100 meters (328 feet) to avoid disturbance by human activities. If nesting is discovered after site activities have begun, if the removal or trimming of trees with active nests is unavoidable, or if maintaining the recommended buffer is not possible, FWC recommends that the applicant contact FWC staff to discuss potential permitting alternatives.
30. While the existing conditions onsite likely do not support least tern nesting activity, clearing associated with construction may create conditions conducive for beach-nesting bird nesting and there has been several historical rooftop nesting within five miles of the proposed project location. Cleared sites such as areas that have undergone surface scraping may attract ground nesting species such as least terns or other imperiled beachnesting birds (IBNB) during nesting season. IBNB nests have been documented on a variety of disturbed sites, including construction sites (FWC 2013). Least terns deposit their eggs in shallow depressions or scrapes in the substrate, possibly lined with pebbles, grasses, or coquina shells (FWC 2013). Egg laying usually begins in late April or early May and colonies may range in size from a few breeding pairs to many hundreds (FWC 2013). FWC staff recommends the following measures to reduce nesting potential during construction:
  - Conduct construction activities outside of the breeding season (generally April through August) if feasible, or
  - If the site is cleared during the breeding season, clear the site only when ready to build, and

- Avoid leaving cleared areas with little to no activity for an extended amount of time.

If nesting is observed, FWC recommends contacting FWC staff to discuss necessary nest buffers and potential permitting alternatives. For additional information, please refer to FWC's Breeding Bird Protocol for Florida's Seabirds and Shorebirds located at the following web address: <https://public.myfwc.com/crossdoi/shorebirds/PDFfiles/BreedingBirdProtocolForFloridasSeabirdsAndShorebirds.pdf>.

31. The approved wetland buffer plantings, as shown on Sheet 51 of the construction plans, are required to be planted in the temporary buffer encroachment areas shown on the permitted construction plans in order to provide the District with reasonable assurance that the project will not have adverse secondary impacts to the adjacent wetlands, as described in Subsection 10.2.7 of the Applicant's Handbook Volume I. The buffer plantings shall be completed prior to the transfer to operation of the facility. The buffer plantings shall meet a success criteria of 80 percent survival and shall be maintained such that they remain in their intended condition for the life of the system.
32. The Permittee shall commence and complete construction of all aspects of the permitted stormwater management system for ERP No. 43041590.005, entitled Aria, prior to, or concurrent with the construction of the stormwater management system for this project.
33. The stormwater management system to be constructed under this permit shall not be placed into operation prior to the stormwater management system to be constructed under ERP No. 43041590.005.

**GENERAL CONDITIONS**

1. The general conditions attached hereto as Exhibit "A" are hereby incorporated into this permit by reference and the Permittee shall comply with them.

**David Kramer, P.E.**

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Authorized Signature

## EXHIBIT A

### GENERAL CONDITIONS:

- 1 The following general conditions are binding on all individual permits issued under this chapter, except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate, project-specific conditions.
  - a. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C., or the permit may be revoked and the permittee may be subject to enforcement action.
  - b. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
  - c. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, which are both incorporated by reference in subparagraph 62-330.050(8)(b)5, F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
  - d. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice,"[effective date], incorporated by reference herein (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505> ), indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5),F.A.C. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction under this chapter and, in such a case, submittal of Form 62-330.350(1) is not required.
  - e. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
  - f. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
    1. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex - "Construction Completion and Inspection Certification for Activities Associated with a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
    2. For all other activities - "As-Built Certification and Request for Conversion to Operation Phase" [Form 62-330.310(1)].
    3. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
  - g. If the final operation and maintenance entity is a third party:

1. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.4 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
  2. Within 30 days of submittal of the as- built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity" [Form 62-330.310 (2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
- h. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
- i. This permit does not:
1. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
  2. Convey to the permittee or create in the permittee any interest in real property;
  3. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
  4. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
- j. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
- k. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
- l. The permittee shall notify the Agency in writing:
1. Immediately if any previously submitted information is discovered to be inaccurate; and
  2. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
- m. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
- n. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving

subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S. (2012).

- o. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
  - p. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
  - q. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
  - r. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.
2. In addition to those general conditions in subsection (1) above, the Agency shall impose any additional project-specific special conditions necessary to assure the permitted activities will not be harmful to the water resources, as set forth in Rules 62-330.301 and 62-330.302, F.A.C., Volumes I and II, as applicable, and the rules incorporated by reference in this chapter.

## Notice of Rights

### ADMINISTRATIVE HEARING

1. You or any person whose substantial interests are or may be affected by the District's intended or proposed action may request an administrative hearing on that action by filing a written petition in accordance with Sections 120.569 and 120.57, Florida Statutes (F.S.), Uniform Rules of Procedure Chapter 28-106, Florida Administrative Code (F.A.C.) and District Rule 40D-1.1010, F.A.C. Unless otherwise provided by law, a petition for administrative hearing must be filed with (received by) the District within 21 days of receipt of written notice of agency action. "Written notice" means either actual written notice, or newspaper publication of notice, that the District has taken or intends to take agency action. "Receipt of written notice" is deemed to be the fifth day after the date on which actual notice is deposited in the United States mail, if notice is mailed to you, or the date that actual notice is issued, if sent to you by electronic mail or delivered to you, or the date that notice is published in a newspaper, for those persons to whom the District does not provide actual notice.
2. Pursuant to Subsection 373.427(2)(c), F.S., for notices of intended or proposed agency action on a consolidated application for an environmental resource permit and use of state-owned submerged lands concurrently reviewed by the District, a petition for administrative hearing must be filed with (received by) the District within 14 days of receipt of written notice.
3. Pursuant to Rule 62-532.430, F.A.C., for notices of intent to deny a well construction permit, a petition for administrative hearing must be filed with (received by) the District within 30 days of receipt of written notice of intent to deny.
4. Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within 21 days of receipt or other period as required by law waives the right to request a hearing on such matters.
5. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding District intended or proposed action is not available prior to the filing of a petition for hearing.
6. A request or petition for administrative hearing must comply with the requirements set forth in Chapter 28-106, F.A.C. A request or petition for a hearing must: (1) explain how the substantial interests of each person requesting the hearing will be affected by the District's intended action or proposed action, (2) state all material facts disputed by the person requesting the hearing or state that there are no material facts in dispute, and (3) otherwise comply with Rules 28-106.201 and 28-106.301, F.A.C. Chapter 28-106, F.A.C. can be viewed at [www.flrules.org](http://www.flrules.org) or at the District's website at [www.WaterMatters.org/permits/rules](http://www.WaterMatters.org/permits/rules).
7. A petition for administrative hearing is deemed filed upon receipt of the complete petition by the District Agency Clerk at the District's Tampa Service Office during normal business hours, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding District holidays. Filings with the District Agency Clerk may be made by mail, hand-delivery or facsimile transfer (fax). The District does not accept petitions for administrative hearing by electronic mail. Mailed filings must be addressed to, and hand-delivered filings must be delivered to, the Agency Clerk, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759. Faxed filings must be transmitted to the District Agency Clerk at (813) 367-9776. Any petition not received during normal business hours shall be filed as of 8:00 a.m. on the next business day. The District's acceptance of faxed petitions for filing is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation, available for viewing at [www.WaterMatters.org/about](http://www.WaterMatters.org/about).

## **JUDICIAL REVIEW**

1. Pursuant to Sections 120.60(3) and 120.68, F.S., a party who is adversely affected by District action may seek judicial review of the District's action. Judicial review shall be sought in the Fifth District Court of Appeal or in the appellate district where a party resides or as otherwise provided by law.
2. All proceedings shall be instituted by filing an original notice of appeal with the District Agency Clerk within 30 days after the rendition of the order being appealed, and a copy of the notice of appeal, accompanied by any filing fees prescribed by law, with the clerk of the court, in accordance with Rules 9.110 and 9.190 of the Florida Rules of Appellate Procedure (Fla. R. App. P.). Pursuant to Fla. R. App. P. 9.020(h), an order is rendered when a signed written order is filed with the clerk of the lower tribunal.

ATTACHMENT E

PETITION FOR FORMAL DETERMINATION OF WETLANDS AND SURFACE WATERS

No. 42041590.00

VICA PARCEL





An Equal  
Opportunity  
Employer

# Southwest Florida Water Management District

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

**Sarasota Service Office**  
6750 Fruitville Road  
Sarasota, Florida 34240-9711  
(941) 377-3722 or  
1-800-320-3503 (FL only)

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

TDD only: 1-800-231-6103 (FL only)

On the Internet at [WaterMatters.org](http://WaterMatters.org)

February 20, 2014

Neal Communities of Southwest Florida, LLC  
Attn: James R. Schier  
5800 Lakewood Ranch Boulevard  
Sarasota, FL 34240

Subject: **Notice of Intended Agency Action Letter**  
Petition for Formal Determination of Wetlands and Other Surface Waters  
Petition No.: 690359/42041590.000  
Project Name: Vica Parcel  
County: SARASOTA  
Sec/Twp/Rge: S35/T38S/R19E, S34/T38S/R19E

Dear Permittee:

Your Petition for Formal Determination of Wetlands and Other Surface Waters has been approved, contingent upon no objection to the District's action being received by the District within the time frames described in the enclosed Notice of Rights.

This approval does not authorize any construction activities or constitute conceptual approval of any anticipated projects. Construction, alteration, operation, removal or abandonment of a surface water management system requires a permit from the District pursuant to 62-330.020, Florida Administrative Code, (F.A.C.), and Section 373.413, Florida Statutes, (F.S.), unless exempt pursuant to 62-330.051 or 62-330.0511, F.A.C., or 373.406, F.S.

The District's action in this matter only becomes closed to future legal challenges from members of the public if such persons have been properly notified of the District's action and no person objects to the District's action within the prescribed period of time following the notification. The District does not publish notices of intended agency action. If you wish to limit the time within which a person who does not receive actual written notice from the District may request an administrative hearing regarding this action, you are strongly encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Publishing notice of intended agency action will close the window for filing a petition for hearing. Legal requirements and instructions for publishing notice of agency action, as well as a noticing form that can be used is available from the District's website at [www.WaterMatters.org/permits/noticing](http://www.WaterMatters.org/permits/noticing). If you publish notice of intended agency action, a copy of the affidavit of publishing provided by the newspaper should be sent to the Regulation Division at the District Service Office that services this permit or other agency action, for retention in the File of Record for this agency action.

The information received by the District will be kept on file to support the District's determination regarding your application. This information is available for viewing or downloading through the District's Application and Permit Search Tools located at [www.WaterMatters.org/permits](http://www.WaterMatters.org/permits).

If you have questions concerning this approval, please contact Blake Meinecke at the Tampa Service Office, extension 2141.

Sincerely,

Michelle K. Hopkins, P.E.  
Bureau Chief  
Environmental Resource Permit Bureau  
Regulation Division

Enclosures:   Approved Formal Determination of Wetlands and Other Surface Waters  
                  Notice of Rights  
cc:             File of Record  
                  Brett Solomon

**SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
FORMAL DETERMINATION OF WETLANDS AND OTHER SURFACE WATERS  
No. 690359/42041590.000**

**EXPIRATION DATE:**

**February 20, 2019**

**FORMAL DETERMINATION ISSUED DATE**

**February 20, 2014**

This Formal Determination of Wetlands and Other Surface Waters No. 690359/42041590.000 is issued under the provisions of Section 373.421, Florida Statutes, (F.S.), and 62-330.201, Florida Administrative Code, (F.A.C.). This Formal Determination consists of the District's determination of the locations on the property of the landward extent (boundaries) of wetlands and other surface waters based on the documentation consisting of a certified survey submitted by the Petitioner. This Formal Determination does not authorize any construction activities or constitute conceptual approval of any anticipated projects. Construction, alteration, operation, removal or abandonment of a surface water management system requires a permit from the District pursuant to Rule 62-330.020, Florida Administrative Code, (F.A.C.), and Section 373.413, Florida Statutes, (F.S.), unless exempt pursuant to 62-330.051 or 62-330.0511, F.A.C., or 373.406, F.S. This Formal Determination does not in any way establish boundaries of sovereign submerged lands.

**PROJECT NAME:**

Vica Parcel

**GRANTED TO:**

Neal Communities of Southwest Florida, LLC  
Attn: James R. Schier  
5800 Lakewood Ranch Boulevard  
Sarasota, FL 34240

**ABSTRACT:**

The landward extent of wetlands and other surface waters was established by Mr. Brett Solomon, of ECO Consultants, Inc. These boundaries were identified by applying the rule criteria of Chapter 62-340, F.A.C. Agency Verification of the wetland and surface water boundaries was conducted with Mr. Solomon and Mr. Alec Hoffner, of ECO Consultants, Inc., during a site inspection on January 8, 2014, by District Environmental Scientist Blake M. Meinecke. A certified survey, dated November 27, 2013, signed and sealed by Randall E. Britt, Professional Land Surveyor, License #3979, State of Florida, which depicts the wetland and surface water boundaries, was received on January 31, 2014. A copy of the survey is appended as Attachment A. The 367.83 acre site contains 122.49 acres of wetlands and 27.30 acres of surface waters. The wetland seasonal high water levels within the wetlands that are depicted on the survey were inspected by District Environmental Scientist Blake M. Meinecke during a site visit on January 8, 2014. Please note that the seasonal high water elevations on the survey are not binding and may be revised during the review of any future construction Environmental Resource Permit Application.

**COUNTY:**

SARASOTA

**SEC/TWP/RGE:**

S35/T38S/R19E, S34/T38S/R19E

**PROJECT ACRES:**

367.83

**WETLAND AND OTHER  
SURFACE WATER ACRES:**

**149.79**

**CURRENT LAND USE:**

AGRICULTURE

**DATE PETITION FILED:**

December 12, 2013

Pursuant to Subsection 373.421 (4), F.S., the Governing Board may revoke the Formal Wetland Determination upon a finding that the Petitioner has submitted inaccurate information to the District.

The Formal Wetland Determination shall be binding for the stated duration provided physical conditions on the property do not change so as to alter the boundaries of wetlands and other surface waters during that period.

Documents depicting the landward extent (boundaries) of wetlands and other surface waters are hereby incorporated into this petition by reference and the Petitioner shall comply with them. These documents are available for viewing or downloading at [www.watermatters.org](http://www.watermatters.org).

**Michelle K. Hopkins, P.E.**

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Authorized Signature

## **Notice of Rights**

### **Administrative Hearing**

1. You or any person whose substantial interests are or may be affected by the District's intended or proposed action may request an administrative hearing on that action by filing a written petition in accordance with Sections 120.569 and 120.57, Florida Statutes (F.S.), Uniform Rules of Procedure Chapter 28-106, Florida Administrative Code (F.A.C.) and District Rule 40D-1.1010, F.A.C. Unless otherwise provided by law, a petition for administrative hearing must be filed with (received by) the District within 21 days of receipt of written notice of agency action. "Written notice" means either actual written notice, or newspaper publication of notice, that the District has taken or intends to take agency action. "Receipt of written notice" is deemed to be the fifth day after the date on which actual notice is deposited in the United States mail, if notice is mailed to you, or the date that actual notice is issued, if sent to you by electronic mail or delivered to you, or the date that notice is published in a newspaper, for those persons to whom the District does not provide actual notice.
2. Pursuant to Subsection 373.427(2)(c), F.S., for notices of intended or proposed agency action on a consolidated application for an environmental resource permit and use of sovereignty submerged lands concurrently reviewed by the District, a petition for administrative hearing must be filed with (received by) the District within 14 days of receipt of written notice.
3. Pursuant to Rule 62-532.430, F.A.C., for notices of intent to deny a well construction permit, a petition for administrative hearing must be filed with (received by) the District within 30 days of receipt of written notice of intent to deny.
4. Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within 21 days of receipt or other period as required by law waives the right to request a hearing on such matters.
5. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding District intended action is not available prior to the filing of a petition for hearing.
6. A request or petition for administrative hearing must comply with the requirements set forth in Chapter 28-106, F.A.C. A petition for a hearing must: (1) explain how the substantial interests of each person requesting the hearing will be affected by the District's intended action or proposed action, (2) state all material facts disputed by the person requesting the hearing or state that there are no material facts in dispute, and (3) otherwise comply with Rules 28-106.201 and 28-106.301, F.A.C. Chapter 28-106, F.A.C., can be viewed at [www.flrules.org](http://www.flrules.org) or at the District's website at [www.WaterMatters.org/permits/rules](http://www.WaterMatters.org/permits/rules).
7. A petition for administrative hearing is deemed filed upon receipt of the complete petition by the District Agency Clerk at the District's Tampa Service Office during normal business hours, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding District holidays. Filings with the District Agency Clerk may be made by mail, hand-delivery or facsimile transfer (fax). The District does not accept petitions for administrative hearing by electronic mail. Mailed filings must be addressed to, and hand-delivered filings must be delivered to, the Agency Clerk, Southwest Florida Water Management District, 7601 US Hwy 301, Tampa, FL 33637-6759. Faxed filings must be transmitted to the District Agency Clerk at (813) 987-6746. Any petition not received during normal business hours shall be filed as of 8:00 a.m. on the next business day. The District's acceptance of faxed petitions for filing is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation, available for viewing at [www.WaterMatters.org/about](http://www.WaterMatters.org/about).

## **Judicial Review**

1. Pursuant to Sections 120.60(3) and 120.68, F.S., a party who is adversely affected by District action may seek judicial review of the District's action. Judicial review shall be sought in the Fifth District Court of Appeal or in the appellate district where a party resides or as otherwise provided by law.
2. All proceedings shall be instituted by filing an original notice of appeal with the District Agency Clerk within 30 days after the rendition of the order being appealed, and a copy of the notice of appeal, accompanied by any filing fees prescribed by law, with the clerk of the court, in accordance with Rules 9.110 and 9.190 of the Florida Rules of Appellate Procedure (Fla. R. App. P.). Pursuant to Fla. R. App. P. 9.020(h), an order is rendered when a signed written order is filed with the clerk of the lower tribunal.