

## Interoffice Memorandum

**DATE:** April 23, 2025

**TO:** Mayor Jerry L. Demings and County Commissioners

**THROUGH:** N/A

**FROM:** Tanya Wilson, AICP, Director, Planning, Environmental, and Development Services Department

**CONTACT:** Renée H. Parker, LEP, Manager, Environmental Protection Officer

**PHONE:** (407) 836-1420

**DIVISION:** Environmental Protection Division

### **ACTION REQUESTED:**

Acceptance of the findings and recommendation of the Environmental Protection Division staff and denial of Conservation Area Impact Permit CAI-23-05-022 for Shingle Creek Co-Owners, LLC. District 1. (Environmental Protection Division)

**PROJECT:** Request for Conservation Area Impact Permit for Shingle Creek Co-Owners, LLC (CAI-23-05-022) for the Tuscana PD

**PURPOSE:** The applicant, Shingle Creek Co-Owners, LLC, is requesting a Conservation Area Impact Permit Application to authorize impacts to 22.444 acres of wetlands (22.363 acres Class I and 0.081 acre Class III) for the construction of the Tuscana PD which includes hotel and commercial buildings, multi-family buildings, and associated infrastructure, pursuant to Chapter 15, Article X, Conservation Area Ordinance (adopted 1987). The development will also result in 28.035 acres of secondary wetland impacts. The development site is located in southwest Orange County just north of the Orange/Osceola County line between South International Drive and State Road 417 in Orlando, Florida 32821, in District 1. The development site is approximately 227.48 acres in size and consists of hundreds of small parcels.

### **Environmental Considerations**

On April 25, 2023, EPD issued Conservation Area Determination (CAD) No. CAD-22-01-009. The CAD included a larger area, 273.036 acres, than the area included in the current CAI Permit Application. The CAD determined that within the current 227.48-acre development area, there are 59.69 acres of wetlands (56.61 acres of Class I wetlands and 0.081 acre of Class III wetlands) and approximately 170.8 acres of uplands.

Wetlands cover approximately 25 percent of the site. The wetland systems are predominantly mixed forested wetlands, hydric pine flatwoods, and cypress systems consisting of appropriate, healthy vegetation of moderately high functionality and quality.

The development is within the Shingle Creek Hydrologic Basin. It has numerous unique natural resources and contains important, regionally significant ecosystems that provide habitat for wildlife, including:

- According to mapping conducted by the Florida Fish and Wildlife Conservation Commission and Florida Natural Areas Inventory in support of the State Wildlife Action Plan (SWAP), the watershed contains occurrences of rare uplands, including mesic hammock, xeric hammock, scrub, and scrubby flatwoods, which are ranked as Rare/Vulnerable, Imperiled, or Critically Imperiled according to FNAI. The area also includes vulnerable wetland types, including wet prairie (ranked as 'Imperiled' by FNAI) and basin swamp (ranked as 'Rare/Vulnerable'). Distribution of these habitat types is notable in the lower part of the watershed in and around the South Florida Water Management District (SFWMD) Shingle Creek Management Area.
- The Shingle Creek Basin is listed as an impaired waterbody (macrophytes) and is an environmentally sensitive area as the headwaters of the Florida Everglades. Shingle Creek (WBID 3169A) was placed on the Verified Impaired List by the Florida Department of Environmental Protection (FDEP) in 2021 for nutrients (macrophytes) and is part of the Lake Okeechobee Basin Management Action Plan (BMAP). Shingle Creek contributes 60 percent of Lake Tohopekaliga's inflow.
- Acoustic monitoring in the Shingle Creek Management Area has recently revealed that at least three rare or imperiled bats species are present. The Florida bonneted bat, a federally-endangered species, has been recently recorded in the habitats along the Shingle Creek wetlands. Additionally, tricolored bat, a federal proposed-endangered species, is common. Finally, the regionally-rare Rafinesque's big-eared bat was also documented, giving the Shingle Creek watershed in Orange County the significance of serving as the southernmost limit of that species' range. The roosting locations of these bats are not known, and the federal guidance for roosting occurrence around verified acoustic recordings is 1.5 miles. Therefore, it is possible that special-status bats are roosting throughout both public and private properties, especially around the southern part of the watershed where suitable habitat is present near Shingle Creek. Without first consulting with applicable resource agencies, developments that clear forests (uplands and wetlands) risk impacting populations of these imperiled species.
- Since the watershed in Orange County is outside of the current U.S. Fish and Wildlife Service's consultation area for the Florida bonneted bat, consideration of that species might not be triggered for federal reviewers through the Endangered Species Act,

Section 7 process for developments in the area. The occurrence of Florida bonneted bat in this area is relatively new information that is still largely unknown in the permitting/regulatory community.

- Black bears are routinely recorded throughout the watershed, both within the SFWMD property and throughout nearby private properties. The area likely serves as a notable part of the foraging range for this species in Orange County.
- The area is home to several bald eagle nest locations, including three known locations within the vicinity of the development site (Nest IDs: OR014, OR956, and OR109). Nest #OR956 and #OR109 were active for the current year nesting season. Nest #OR014, the closest to the development project, appears to have been inactive this nesting season according to aerial drone reconnaissance conducted by the applicant team.
- Red-cockaded woodpeckers (federally listed threatened) have been translocated to Disney Wilderness Preserve just to the south, where they are currently surviving and breeding. The pine flatwoods habitat in the lower part of the watershed provide reasonable opportunity for future survival and range expansion of this population, should they remain intact.
- Plants within, and within the vicinity of, the Shingle Creek Management Area include numerous listed, commonly exploited, and endemic species. Examples documented during plant surveys of the area include netted pawpaw, pineland chaffhead, butterfly orchid, Florida scrub frostweed, southern pine lily, longleaf camphorweed, yellow bachelor's button, hooded pitcherplant, and giant air plant. Based on the upland and wetland habitats present in the area, numerous others may also occur.

Overall, approximately 64 wildlife species of concern occur in the watershed. Of these 64 species, three species are listed as federally endangered (FE) and 21 are listed as either federally (FT) or state threatened (ST). According to Florida's SWAP, 53 of these species have been identified as Species of Greatest Conservation Need (SGCN). In addition, there are 14 Birds of Conservation Concern (BCC) known to occur within the watershed that are protected under the Federal Migratory Bird Treaty Act. Five of the species of concern fall under other conservation status' including candidate species, species currently under review for potential listing, those proposed as endangered, and those protected by the Bald and Golden Eagle Protection Act or Bear Conservation Rule.

There is an associated Land Use Plan (LUP) for the development, LUP-22-01-002, currently under review, to rezone 227.48 acres from A-2 (Farmland Rural District) to PD (Planned Development) in order to construct 653,400 square feet of commercial uses, 1,231 hotel rooms, and 4,814 multi-family dwelling units. A community meeting was held

for the LUP on September 25, 2023. At their April 2, 2025 meeting, the Development Review Committee (DRC) voted 3 to 2 to recommend denial of the LUP.

The CAI application was received on May 1, 2023, prior to the effective date of the updated wetland code (Chapter 15, Article X) of June 1, 2024, and is therefore being reviewed under the prior version of Article X, adopted in 1987. The original site plan provided with the CAI Permit Application proposed 56.34 acres of Class I wetland impacts. As stated above, the current site plan proposes to impact 22.444 acres of wetlands (22.363 acres Class I and 0.08-acre Class III), which equates to 39.59 percent of all the wetlands within the current development footprint.

During the application review process, additional documentation and discussion were needed to clarify the applicant's proposal. Accordingly, EPD has issued seven Request for Additional Information (RAI) letters to the applicant's agent, Bio-Tech Consulting, Inc. EPD also held two in-person meetings with Bio-Tech Consulting, Inc., on January 8, 2024 and July 12, 2024, to discuss the development, the RAIs, and alternative plans that staff may possibly support, such as a roadway into the uplands within the development area. EPD also held a virtual meeting with the applicant team and Orange County Planning Division staff on February 21, 2025. The seventh RAI was issued to the applicant on April 15, 2025. The application remains incomplete for several reasons, which include questions regarding whether avoidance and minimization of wetland impacts has been demonstrated to the greatest extent practicable, how current hydrologic connections will be maintained across the development area, how stormwater and floodplain requirements will be met, minor plan discrepancies, and questions regarding the proposed mitigation plan.

The CAI Permit Application was presented as a Discussion Item at the December 18, 2024 DRC meeting. The DRC determined that as presented at the time, the development did not constitute an overriding public benefit, and the development did not demonstrate reasonable use of the land or adequate minimization or elimination of wetland impacts. Prior to the December 18, 2024 DRC Discussion Item, the applicant had not reduced or eliminated any of their proposed wetland impacts; impacts had actually increased by 2.93 acres from the originally submitted plan. The increase was partially due to 13.63 acres of wetlands originally proposed for preservation that were later proposed for impact and 10.696 acres of wetlands originally proposed for impact that were later proposed for preservation. The latter wetlands are under Conservation Easement (CE) dedicated to the SFWMD and the applicant indicated at the time that they may pursue a CE release in the future to impact those wetlands. However, following the DRC Discussion, the applicant reduced the proposed wetland impact acreage by 22.970 acres (from 59.28 acres to 36.31 acres). Furthermore, following the February 21, 2025 virtual meeting, the applicant reduced the proposed wetland impact acreage by an additional 13.866 acres (from 36.31 acres to the current 22.444 acres). As a result of revising the plans, the



development footprint was expanded further south to utilize additional uplands owned by the applicant.

EPD informed the applicant in the first RAI sent May 23, 2023, that EPD acknowledged that some wetland impacts will be unavoidable to construct an entry into the parcels owned by the applicant to reach the uplands located in the southern portion of the development area. Furthermore, at in an in-person meeting with the applicant's agent EPD discussed an alternative plan that may be supported which included some wetland impacts for the construction of a roadway into the development area. The applicant was asked to demonstrate how the proposed impacts have been minimized to the greatest extent practicable and how cost effective design alternatives that could avoid impacts have been considered. The applicant's responses and EPD staff's analysis are summarized later in this report. In every RAI sent to date, EPD has informed the applicant that it does not agree that adequate avoidance and minimization of impacts has been sufficiently demonstrated.

EPD acknowledges that impacts have been reduced from what was originally proposed. However, the development still appears to be inconsistent with Section 15-362(5) as further described below.

Early in the review process, EPD informed the applicant that the proposed use of the site as a private development is not typically considered to provide an overriding public benefit. In response, the applicant's agent provided an 'Overriding Public Benefit Assessment'. The applicant was also asked to demonstrate there are no other feasible or practical alternatives to the proposed Class I impacts and that the impacts are necessary to allow a reasonable use of the site. In response, the applicant's agent provided three alternative designs for the site which were considered prior to submittal of the CAI Permit Application. The 'Overriding Public Benefit Assessment' and alternative site designs provided by the applicant, along with EPD staff's analysis, are summarized later in this report.

Although the applicant has modified the plans to provide some practical alternatives to Class I impacts, the development still appears to be inconsistent with Section 15-419(1)(a), as further described below.

### **Analysis of Comprehensive Plan Policies**

- **FLU6.4.3** – All actions taken by the County with regard to development orders shall be consistent with Conservation Element Policy C1.4.1 and the regulations adopted pursuant thereto with respect to wetland protection. (See Conservation Element below);

**C1.4.1** – Orange County shall continue to adopt and enforce regulations that protect and conserve wetlands and surface waters as defined in Orange County Code. Such regulations shall include criteria for identifying the functional habitat value of wetlands or surface waters.

- Staff Analysis – Staff is unable to make a determination of consistency with C1.4.1 because the applicant has not demonstrated compliance with Chapter 15, Article X.

- **FLU6.4.5** – The Land Development Code shall provide regulations for the protection and conservation of wildlife listed as endangered, threatened, or species of special concern, and their occupied habitat, floodplains, and the natural function of wetlands.

- Staff Analysis – The applicant provided a wildlife survey that stated there are no listed species within the development area except gopher tortoise. However, a recent study of the Shingle Creek Basin indicates a total of 64 species of concern occur within the basin as a whole, including but not limited to three endangered, 21 threatened, and 53 Species of Greatest Conservation Need. In addition, a portion of the development is located approximately 1,300 feet from a bald eagle nest tree, three rare or imperiled bats have recently been found to be utilizing the Shingle Creek Basin and numerous black bear sightings have been reported as Shingle Creek serves as a notable part of their foraging range.

- **FLU6.4.6** – Orange County shall continue to protect wildlife corridors, rare upland vegetative communities and wetland vegetative communities through the adoption of land development regulations or by utilizing other mechanisms such as transfer of development rights; development exactions; development incentives; or acquisition (by use of possible bond issues, existing tax dollars, or the Conservation Trust Fund) and the Green Place Program.

- Staff Analysis – The proposed development will sever (east to west) the existing undeveloped lands within the development vicinity and could sever existing wildlife corridors through the area. The applicant is proposing two wildlife crossings within the development area to attempt to maintain the current ability for wildlife to cross the site. However, insufficient details have been provided by the applicant for EPD staff to determine if what is proposed (i.e., the size and design of the crossings) will preclude adverse effects on wildlife.

- **FLU6.4.7** – Orange County shall provide for compatible public and/or private land uses adjacent to significant natural resources that are managed for public benefit. Methods of protection to be considered may include, but shall not be limited to, coordination with appropriate State agencies, Notice of Proximity, the use of density and intensity limitations on land use and development, and the use of buffers.

**C1.9.2** – Orange County shall continue to require compatible land uses and enhanced protective mechanisms, such as, but not limited to, Notices of Proximity, buffers, vegetative buffers, setbacks, density restrictions, easements, physical barriers, pollution abatement swales, erosion control techniques, treatment of stormwater runoff, and fire management that will permit continued habitat management practices in areas adjacent to major managed natural resources. This is necessary in order to minimize adverse impacts from development and allow continuation of management activities for these areas.

- Staff Analysis – The development does not appear to be a compatible land use adjacent to significant natural resources. The development is adjacent to the SFWMD Shingle Creek Management Area and additional adjacent parcels are under existing SFWMD Conservation Easement's. Portions of the proposed development are located adjacent to these preservation areas and the applicant is proposing no upland buffers to offsite wetlands; which can result in adverse secondary impacts to the preserved parcels. The proposed use of the development as commercial/retail, hotel, and multi-family, is a high intensity use which appears to be incompatible with the adjacent land use.
- **C1.2.15** – Orange County shall identify areas within the County that are susceptible to impacts associated with nutrient loadings from specific activities including lawn and turf fertilizer application and reclaimed water irrigation. These susceptible areas shall include but are not limited to: Total Maximum Daily Load (TMDL) impaired waterbodies, Outstanding Florida Waters, Outstanding National Resource Waters, waterbodies with declining water quality associated with nutrient loads and areas adjacent to surface water conveyance systems that drain to a waterbody of special interest. The County will make efforts to reduce the potential impacts from these specific activities. The identified areas will also be used for planning and future use considerations.
  - Staff Analysis – The Shingle Creek Basin is listed as an impaired waterbody (for macrophytes) and is an environmentally sensitive area as the headwaters of the Florida Everglades. Shingle Creek (WBID 3169A) was placed on the Verified Impaired List by FDEP in 2021 for macrophytes. The results of water quality studies of Shingle Creek indicate failed linear vegetation surveys (LVS), with an average Coefficient of Conservatism score less than 2.5 (0 being the lowest and 10 being the highest score), and percent coverage of plants listed by the Florida Exotic Pest Plant Council (FLEPPC) as invasive exotics greater than 25 percent. Shingle Creek is anticipated to remain on the Verified Impaired List and the 303(d) List for the macrophytes parameter for the foreseeable future. Shingle Creek is part of the Lake Okeechobee BMAP and as such is part of an extensive water quality improvement initiative. Additionally, it is currently unclear whether the

proposed development would have its own Municipal Separate Storm Sewer Program (MS4). If so, MS4 permittees are required to develop and implement a stormwater management program.

- **C1.3.1** – Orange County shall continue to improve and enforce the Orange County Floodplain Management Ordinance by requiring compensatory storage for encroachment in floodplains, restricting encroachment in floodways, and requiring habitable structures to be flood-proofed.

**FLU6.4.19** – County shall continue to require the flood-proofing of structures and the restriction of development that diminishes flood carrying or flood storage capacities. The County shall also continue to require non-residential and residential development in special flood hazard areas, as defined by the Federal Emergency Management Agency, to have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation; and, if solid perimeter walls are used to elevate structures, openings sufficient to facilitate the unimpeded movement of floodwater, as well as continue to prohibit development within floodways that increase flow levels to protect areas subject to periodic or seasonal flooding.

- Staff's Analysis – Most of the proposed development is within FEMA-mapped flood zone. The applicant has not yet provided detailed plans regarding how compliance with County floodplain standards will be met.
- **C1.4.9** – An upland buffer of a minimum of 25 feet is recommended, unless otherwise stated elsewhere in Orange County Code or in the Orange County Comprehensive Plan for all wetland systems unless scientific data dictate a larger or smaller buffer based on wetland function or local conditions. This shall be incorporated into Chapter 15 of the Orange County Code.
  - Staff Analysis – The proposed plan does not appear to meet C1.4.9. The applicant is proposing minimal upland buffers within the development footprint. The maximum buffer width being provided adjacent to remaining wetlands onsite is 25 feet, though EPD had requested 100-foot buffers based on scientific data and site conditions. The applicant is providing mitigation for secondary impacts to a depth of 50 feet within remaining wetlands where only a 25 foot buffer is being provided. No upland buffers are proposed adjacent to offsite wetlands to protect adjacent preserved conservation lands offsite, which results in adverse secondary impacts. The applicant is providing mitigation for secondary impacts to a depth of 75 feet into the adjacent wetlands offsite.
- **C1.5.4** – Orange County shall incorporate regulations into the Land Development Code concerning soils and their suitability for future development. These regulations shall include restricting development in areas with hydric soils, preservation of

groundwater recharge areas, and controlling the location of individual on-site sewage disposal systems.

- Staff Analysis – The development is proposing impacts to at least 22.444 acres of wetlands with hydric soils that are mapped as somewhat important for groundwater recharge.

#### **Analysis of Chapter 15, Article X Standards and/or Criteria**

- **Section 15-362(5)** – Where wetlands serve a significant and productive environmental function, the public health, safety and welfare require that any alteration or development affecting such lands should be so designed and regulated so as to minimize or eliminate any impact upon the beneficial environmental productivity of such lands, consistent with the development rights of property owners.
  - Applicant Position (summarized) – Following the DRC discussion and the February 21, 2025 meeting with EPD, the site plan has been revised. The proposed wetland impacts have been reduced to 22.444 acres of forested wetland impacts. Much of these impacts are proposed solely for the two entrance roads and associated stormwater infrastructure providing access into the upland development. This second access road was required by the LUP review. Impacts to W15 have been reduced and impacts to W7 have been eliminated. All wetlands discussed during the February 21, 2025 meeting as being preferred wetlands to avoid are now proposed for preservation. Other impacts are to the edges of wetlands that fall within the boundary of the site. Prior to final development plan approval, the applicant will work with EPD staff along with Stormwater Management Division and Development Engineering to identify where impacts can be further minimized adjacent to the entry roads and through alternative road alignments, subject to review by SFWMD and Florida Fish and Wildlife Conservation Commission (FFWCC).

The uniqueness of this mitigation plan and development ensures that future development and future expansion will not occur. The loss of functions provided by the proposed wetland impacts are offset with an ecologically beneficial mitigation plan that serves the goals of Orange County which consists of preserving the Shingle Creek watershed and creating more conservation lands within the County. It should be noted that this area is designated as a Targeted Sector within the Urban Service Area of Orange County Vision 2050. This area is proposed as a target for “new and intensified development.” Preserving this land now will prevent future development in this targeted area.

- Staff Analysis – Though the applicant has reduced impacts from their original submittal, they have not fully explored suggestions provided by EPD staff for ways

they could further reduce impacts, including constructing an elevated and/or bridged roadway into the development area to access uplands, constructing a conveyance to route the stormwater necessary for the entry roads to stormwater ponds located in uplands, or reducing the overall development program to allow the floodplain compensating area and other stormwater ponds to be excavated solely in uplands to further minimize impacts to wetlands.

There is currently no road access to the development area. It is anticipated that additional wetland impacts will result from the construction of the extension of Westwood Boulevard needed to access the development area.

- **Section 15-419(1)a.** – *Class I conservation areas.* The removal, alteration or encroachment within a Class I conservation area shall only be allowed in cases where no other feasible or practical alternatives exist that will permit a reasonable use of the land or where there is an overriding public benefit. The protection, preservation and continuing viability of Class I conservation areas shall be the prime objective of the basis for review of all proposed alterations, modifications or removal of these areas. When encroachment, alteration or removal of a Class I conservation area is permitted, habitat compensation or mitigation as a condition of development approval shall be required.
- Applicant Position (summarized) – The applicant’s agent provided three alternative designs for the site, which appear to have been considered prior to submittal of the CAI Permit Application.
  - Alternative #1 proposed more than 160 acres of wetland impacts clustered along Westwood Blvd. The applicant states this plan was rejected because its wide footprint risked severing the northern wetland systems east and west of the development.
  - Alternative #2 proposed 64 acres of additional wetland impact clustered along Westwood Blvd. in addition to the previously proposed 59.278 acres of wetland impact. The applicant states this plan was rejected as it would “increase wetland impacts, risk altering hydrologic conditions and wildlife corridors.”
  - Alternative #3 is the SFWMD Conceptual Permit (48-101331-P) site plan which authorized 81.78 acres of direct wetland impacts for an expanded development similar to the current CAI plan but with additional development clustered along Westwood Blvd. The applicant states the plan is not a more reasonable use of the site because “while the proposed wetland impacts are the same within the boundaries of the CAI, the more intense development plan of the SFWMD Conceptual Plan proposes higher secondary impacts to the surrounding Shingle Creek wetland systems.”
  - Though the preferred site plan referenced by the applicant is now outdated, the applicant stated that the current site plan at the time was the most practical

alternative and reasonable use of the development area because it “concentrates development along Westwood Boulevard and clusters proposed development adjacent to the commercial, multi-family and retail facilities that already exist along International Drive.” The applicant also states that “the most reasonable areas of wetlands have been proposed for impact with a less intense development plan that is balanced with an overall mitigation plan that seeks to fulfill SFWMD preservation goals for Shingle Creek.”

The applicant’s agent also provided an ‘Overriding Public Benefit Assessment’, summarized below:

- The development would represent a significant level of capital investment, provide significant permanent job creation within Orange County and additional retail services for tourists.
  - As the tourism and residential community continue to grow, there is a strong demand for commercial services and residential homes that the Tuscana development will satisfy. The development site is located on International Drive and has immediate access to SR-417, SR-528, and I-4.
  - Over the last 32 years, SFWMD and other agencies have preserved 584 acres of land within the Munger Tract. The proposed mitigation plan will immediately add approximately 320 acres of wetlands and uplands to these preserved lands. This development alone will provide one-half of this acreage with this one application.
  - Without this development, the proposed preservation lands will not be preserved. This applicant today, has proposed a development that is the most compact, practical and reasonable use of the Shingle Creek Co-owners lands that benefits both the residents of Orange County and the tourism of Orlando while ensuring a large scale ecologically beneficial preservation plan.
  - The mitigation lands will be providing perpetual high quality upland and wetland forested systems for wildlife denning, nesting, foraging and corridor functions, as well as downstream benefits to Shingle Creek basin.
  - The proposed site plan has been designed to utilize and combine available uplands of multiple lots under the Shingle Creek Co-Owners ownership to avoid wetland impacts in a purposeful and reasonable use of the land.
- Staff Analysis – The majority of the proposed impacts are to Class I wetlands, 22.363 acres out of the total 22.444 acres. There will be at least 28.035 acres of secondary wetland impacts to Class I wetlands. The development use is for commercial/retail, hotel, and multi-family. It is not a development type typically considered to provide an overriding public benefit (e.g., school, power generation, sewage treatment, hospital, public transportation, etc.).

There appear to be practical alternatives to the proposed Class I wetland impacts including the following; constructing an elevated and/or bridged roadway into the development area to access the available uplands, constructing a conveyance to route the stormwater necessary for the entry roads to stormwater ponds located in uplands, or reducing the overall development program to allow the floodplain compensating area and other stormwater ponds to be excavated solely in uplands to further minimize impacts to wetlands. These alternatives would allow for a reasonable use of the development site, while still greatly reducing the impacts to Class I wetlands.

None of the 'Alternative' site plans provided in support of the applicant's position were ever proposed for the current CAI Permit Application.

The wetlands proposed for impact serve a significant and productive environmental function. They are within the Shingle Creek drainage basin at the headwaters of the Florida Everglades. The potential land use has the potential to degrade the quality of Shingle Creek and the surrounding wetlands. The protection, preservation, and continuing viability of this regionally significant Class I wetland system is the prime objective of the basis for review of the proposed alterations and removal of these areas.

The applicant indicates that approximately 320 acres of land will be preserved for mitigation, however the current mitigation plan only includes 115.771 acres of offsite (outside of the PD boundary) preservation. The currently proposed preservation mechanism is uncertain as further discussed below in Section 15-419.

- **Section 15-362(1)** – The county contains large wetlands which are significant and productive in the maintenance and preservation of viable populations of plant and animal species.
  - Staff Analysis – The wetlands within and in the vicinity of the development area are large, contiguous, Class I wetlands which are hydrologically connected to Shingle Creek, adjacent to existing preservation lands and other lands targeted for preservation by the Orange County Green PLACE Program and the SFWMD. The wetlands and uplands are significant and productive in the maintenance and preservation of viable populations of plant and animal species.

A recent study of the Shingle Creek Basin indicates that a total of 64 species of concern, including but not limited to three endangered, 21 threatened, and 53 Species of Greatest Conservation Need occur within the basin as a whole. In addition, the development is located approximately 1,300 feet from a bald eagle's nest tree. Three rare or imperiled bats have recently been found to be utilizing the



Shingle Creek Basin. Numerous black bear sightings have been reported as Shingle Creek serves as a notable part of their foraging range.

In addition to wildlife, the study documented plants within, and within the vicinity of, the SFWMD Management Area including numerous listed, commonly exploited, and endemic species. Examples documented during plant surveys of the area include netted pawpaw, pineland chaffhead, butterfly orchid, Florida scrub frostweed, southern pine lily, longleaf camphorweed, yellow bachelor's button, hooded pitcherplant, and giant air plant. Based on the upland and wetlands habitats present in the area, numerous others may also occur.

- **Section 15-362(2)** – The preservation and protection of property rights of the people of the county require that mechanisms be established which will concurrently provide for the orderly regulation and preservation of environmentally significant and productive wetlands (so as to preserve or restore the productivity of such lands), and the equitable compensation for property development rights denied by reason of such preservation.
  - Staff Analysis – The wetlands within the development area are environmentally significant and productive wetlands. EPD staff has asked for discussion and offered suggestions to the applicant on ways in which the property can still be utilized for development while greatly reducing and eliminating impacts to these significant and productive wetlands. The applicant has not explored all of staff's suggestions.
- **Section 15-362(3)** – The environmental productivity of wetlands is sensitive to all agricultural, residential, commercial, industrial or public uses in or near such lands.
  - Staff Analysis – The proposed development is adjacent to existing preservation lands which are part of the Shingle Creek Management Area. The applicant is proposing no upland buffers to offsite wetlands; which can result in adverse secondary impacts to the preserved parcels. Additionally, without adequate stormwater management, which at this time is unclear whether it can be attained, the proposed development may create a substantial barrier to water flow and wildlife movement from one side to the other.
- **Section 15-362(7)** – Under certain conditions, the public health, safety and welfare may be enhanced by the elimination of isolated, nonviable wetlands and their replacement by interconnected wetlands comprising a viable and productive ecosystem.
  - Staff Analysis – The wetlands within and in the vicinity of the development area are not isolated and are not nonviable. The vast majority of the proposed impacts

are to large, contiguous Class I wetlands which provide a high level of ecological function and the proposed development will fragment these systems.

- **Section 15-379(2)** – Are wetlands lawfully set aside as local, state or federally designated sanctuaries or refuges.
  - Staff Analysis – The development site is adjacent to existing preservation lands owned by the SFWMD, as part of the Shingle Creek Management Area.
- **Section 15-379(3)** – Are wetlands, the destruction or alteration of which would materially affect in a detrimental way natural drainage characteristics, sedimentation patterns, flushing characteristics, or other related and significant environmental characteristics.
  - Staff Analysis – The proposed development may create a substantial barrier to water flow and wildlife movement from one side of the large Class I wetland system to the other, which may alter the hydrology within the remaining wetlands and sever wildlife corridors. It could also reduce the flood attenuation ability of the remaining wetlands offsite.
- **Section 15-383(1)** – The functional significance of lands identified as potential conservation areas shall be determined by the degree of natural biological functions including, but not limited to, food chain production, general habitat and nesting, spawning, rearing, feeding and resting sites for aquatic or wetland dependent species, including those designated as endangered, threatened or of special concern, pursuant to F.S. § 581.185, and Rules 68A-27.003, 68A-27.004 and 68A-27.005, Fla. Admin. Code.
  - Staff Analysis – The wetlands within and in the vicinity of the development site provide significant natural biological functions. Shingle Creek is designated by the FFWCC as a Regional Biodiversity Hotspot and is considered to be the headwaters of the Florida Everglades.
- **Section 15-383(3)** – The replaceability of habitat shall be determined by reviewing the probability that similar or improved habitat values, vegetation dominants or inundation regimes can be established to mitigate or compensate for values or functions occurring in an area (on or off the development site) proposed for alteration or development.
  - Staff Analysis – The wetlands proposed for impact are within the Shingle Creek Basin which is an environmentally sensitive area. They are also adjacent to current preservation lands which would potentially be degraded if the proposed development were constructed. The Shingle Creek Management Area (which is

hydrologically connected and adjacent to the development site), is the last remaining natural area of its size in the area of southwest Orange and northwest Osceola counties. As the Orange County State of the Wetlands Study (2023) demonstrated, fragmentation of wetland areas is a concern for the future viability of wetlands. Loss of an intact mosaic of habitats of this size is not easily replaced.

- **Section 15-416** – In those circumstances where the development proposal will result in an adverse impact upon conservation areas not excluded by this article, the development may proceed by either complying with the provisions of section 15-396 or under a mitigation plan approved pursuant to this division.
  - Staff Analysis – Based on a determination by the Orange County Attorney's Office that EPD must accept the Uniform Mitigation Assessment Method (UMAM) scoring approved in the SFWMD Conceptual Permit, it appears the proposed mitigation plan may offset the functional loss which would result from the proposed development. However, staff still has questions regarding the proposed mitigation plan as the currently proposed preservation mechanism is uncertain. SFWMD has not provided a formal response to staff's inquiries as to whether they are agreeable to the proposed mitigation plan.
- **Section 15-418(6)** – Additional information as may be required by the county to evaluate the mitigation proposal;
- **Section 15-419 (in part)** – Mitigation proposals shall be reviewed pursuant to subsection (1) below. The degree of impact to wetland functions, whether the impact to these functions can be mitigated, and the feasibility of cost-effective design alternatives which could avoid impact are all factors in determining whether a proposed mitigation measure will be acceptable. In addition, an evaluation of the anticipated post-development viability and function performance will be considered utilizing accepted scientific methods which may include, but not be limited to, the habitat evaluation procedure (USFWS).
  - Staff Analysis – The proposed impact to wetland functions within the development area is significant. There appear to be feasible design alternatives which could avoid impacts, such as constructing an elevated and/or bridged roadway into the development area to access uplands, constructing a conveyance to route the stormwater necessary for the entry roads to stormwater ponds located in uplands, or reducing the overall development program to allow the floodplain compensating area and other stormwater ponds to be excavated solely in uplands to further minimize impacts to wetlands.

Mitigation for the impacts includes the preservation of 34.249 acres of on-site wetlands and 115.771 acres of offsite wetlands for a total of 150.02 acres of

preservation. All mitigation lands are proposed to be dedicated to Orange County via a conservation easement and the offsite lands are proposed to be subsequently donated to the SFWMD. There still remain questions about the mitigation plan such as how Orange County will maintain interest in the mitigation lands, and whether the SFWMD has concerns with the proposed plan.

- **Section 15-419(5)** – The applicant shall provide other items that may be required by the board of county commissioners to provide reasonable assurance that the mitigation plan requirements are met.
  - Staff Analysis – Staff still has questions regarding the proposed mitigation plan. The SFWMD has not provided a formal response to staff's inquiries as to whether they are agreeable to the proposed mitigation plan. Therefore, the currently proposed preservation mechanism is uncertain.

On March 2, 2025, EPD began to receive feedback from members of the public regarding the proposed development. Approximately 850 written objections have been received as of the date of this report and more continue to be received by EPD. Concerns stated in the written objections include, in summary, the following:

- The development threatens the heart of our wetlands and the headwaters of the Florida Everglades.
- The area is ecologically vital and should be among the most protected due to its significance in water filtration, flood mitigation, and wildlife habitat.
- The area surrounding the development site is already experiencing flooding with mitigation efforts putting a financial burden on taxpayers.
- If the development moves forward, it will eliminate an emergency water pumping location which will cause floodwaters to backflow into vulnerable areas, even during minor rain events, exacerbating an already pressing issue for residents.
- Any development within the Shingle Creek Basin will cause irreversible damage to our community and environment and long term consequences to this fragile ecosystem.
- Protecting this land is an environmental issue and a public safety necessity.

Based on the site plan and justifications for the proposed impacts provided by the applicant, EPD has determined that the development does not constitute an overriding public benefit or constitute a reasonable use of the land, and that minimization and elimination of wetland impacts has not been fully demonstrated.

Notification of the public hearing was sent to the applicant and authorized agent. Notification of the adjacent property owners is not required.

Pursuant to Orange County Code, Chapter 15, Article X, EPD has evaluated the proposed CAI Permit Application and required documents and has made a finding that the request is inconsistent with Sections 15-362(5) and 15-419 and several policies in the Orange County Comprehensive Plan.

### **Staff Recommendation**

Denial of the Conservation Area Impact Permit for Shingle Creek Co-Owners, LLC (CAI-23-05-022).

Should the Board not accept staff's recommendation of denial and decide to approve the CAI Permit Application, the approval shall be subject to the following conditions:

#### **Specific Conditions**

1. This permit shall become final and effective upon expiration of the 30-calendar day period following the date of rendition of the Board's decision approving the permit unless a petition for writ of certiorari or other legal challenge has been filed within this timeframe. Any timely filed petition or other challenge shall stay the effective date of this permit until the petition or other challenge is resolved in favor of the Board's decision.
2. The operational phase of this permit is effective upon the completion of construction and continues in perpetuity.
3. Prior to beginning construction, the permittee must demarcate the limits of construction with orange safety fencing. Initial clearing shall include a path along the limit of construction to facilitate a visual limit of clearing for the installation of the orange safety fence and erosion control devices. After the initial clearing adjacent to the conservation areas is complete, a silt fence and orange safety fence must be installed along the limits of construction next to the conservation area boundaries and maintained throughout construction.
4. There are un-vacated rights-of-way within the development area, some within areas of wetland impacts and others within areas proposed to be preserved as mitigation. The right-of-ways must be vacated through a Petition-to-Vacate (PTV) prior to construction plan approval or the CAI Permit must be modified to remove all impacts and development from the right-of-ways if the PTV is not approved.

5. The wetland impacts must be completed in accordance with the figure (Figure 8 Wetland Impacts) prepared by Bio-Tech Consulting, Inc. and the site plans prepared by Kimley Horn, received by EPD on March 25, 2025. Construction shall be completed within five years from issuance of this permit unless extended in writing. Requests for permit extension must be submitted to EPD prior to the expiration date.
6. The South Florida Water Management District (SFWMD) Conceptual Permit 48-101331-P currently expires on May 23, 2039, subject to Special Condition No. 1 of that permit and Rules 62-330.056(9) and (10) F.A.C. If the Conceptual Permit cannot be extended and is no longer valid, a CAI Permit Modification will be required to adjust the Uniform Mitigation Assessment Method (UMAM) scores and the mitigation plan for the development to EPD's satisfaction, prior to construction plan approval.
7. The mitigation plan must be implemented in accordance with the figure (Figure 9 Mitigation Map) prepared by Bio-Tech Consulting, Inc. and received by EPD on March 25, 2025. The total preservation area must total at least 150.02 acres. If the mitigation plan changes in any way (i.e., preservation acreages, mitigation parcels, preservation mechanism, Orange County interest mechanism, etc.) for any reason, the permittee must notify EPD immediately and submit the new mitigation plan to EPD for review. A CAI Permit Modification may also be required to authorize any changes to the approved mitigation plan. The revised mitigation plan and CAI Permit Modification may require approval by the Board of County Commissioners. No construction within wetlands, surface waters, or upland buffers that require mitigation may begin unless the mitigation plan has been reviewed and approved by EPD.
8. Trails or other types of passive recreational amenities are prohibited within any preservation areas utilized as mitigation for impacts.
9. The mitigation areas must be preserved through an appropriate protection mechanism (i.e., conservation easement (CE) dedicated to Orange County, donation to Orange County, etc.), which adequately protects the County's interest in the mitigation areas. If the County's required protection mechanism conflicts with another agency's requirements, the permittee shall immediately notify EPD and submit a revised mitigation plan for review and approval by EPD. The protection mechanism and required documentation will be subject to review by EPD, Orange County Real Estate Management Division (REM), and the Orange County Attorney's Office (OCAO).
10. Prior to initiating any construction within the wetlands, surface waters, or upland buffers that require mitigation, or EPD approval of any construction plans, this permit requires the recording of a CE in the public records of Orange County, and when

applicable, notation of the CE on the corresponding plat. If any mitigation parcels are to be donated to another agency (i.e., SFWMD), the CE must be recorded over those parcels prior to the donation. The CE must be dedicated to Orange County and cannot be recorded unless and until the CE is accepted and approved by EPD, OCAO, and REM. The CE must include restrictions on the real property pursuant to Section 704.06, Florida Statutes (F.S.) and the requirements set forth below:

- a. Within 30 days of issuance of this permit, the permit holder shall provide to EPD for review and written approval a copy of the surveyor's sketch and legal description of the area to be encumbered by the CE pursuant to the EPD-approved mitigation plan. The Orange County Surveyor must approve the final sketch and legal description. The permit holder shall ensure that the CE is executed by the correct grantor who must hold sufficient record title to the land encumbered by the CE. Accordingly, when the permit holder submits the surveyor's sketch and legal description, the permit holder must contemporaneously submit current evidence of title of the proposed easement area to EPD. The evidence of title is subject to review and approval by REM.
- b. If the impacts are to a wetland or surface water for which mitigation is required and authorized to occur in discrete phases, the areas to be preserved to offset such impacts may be placed under a CE in phases, such that impacts are offset prior to the commencement of work within the phase that the impacts are permitted to occur. Such phasing of preservation can only occur if it has been proposed in the mitigation plan and approved by this permit. A surveyor's sketch and legal description of the area to be placed under CE must be submitted in accordance with paragraph (a) above prior to commencement of each phase.
- c. The CE must be in a form approved by the OCAO and REM consistent with Section 704.06, F.S. The CE must prohibit all construction, including clearing, dredging, or filling, except that which this permit specifically authorizes. The CE must contain provisions set forth in Section 704.06(1)(a) through (h), F.S., The CE must contain provisions that grant the County the right to access and inspect the CE area, and to enforce the terms and conditions of the CE. Unless specifically prohibited by law, the CE must include a provision whereby the permit holder shall warrant title and agree to defend the same. The grantor cannot amend the CE without written approval by the County.
- d. If the grantor of the CE is a partnership, the partnership must provide to EPD a partnership affidavit stating that the person executing the CE has the legal authority to convey an interest in the partnership land.

- e. If any mortgage or financial encumbrance exists on the land, the permit holder shall ensure an appropriate consent and joinder is executed subordinating the mortgage or financial interest to the CE, which must be reviewed and approved by the OCAO and REM. The consent and joinder of mortgagee must be recorded simultaneously with the CE in the public records of Orange County at the permit holder's sole expense.
  - f. Upon approval of the final executed documents by Orange County, the CE and its attachments must be recorded in the public records of Orange County, at the permit holder's sole expense.
  - g. At least 45 days prior to whichever comes first: (1) dredging, filling, or clearing of any wetland or surface water for which mitigation is required; (2) the sale of any lot or parcel; (3) the recording of the subdivision plat; or (4) use of the infrastructure for its intended use, the permit holder shall submit to EPD a copy of the preliminary plat depicting the area to be encumbered by the CE.
  - h. If during the review of the submitted evidence of title, REM finds any encumbrances or irregularities that will render the proposed mitigation inadequate to offset the impact(s), the permit holder shall submit a revised mitigation plan for EPD staff to review. The revised mitigation plan may require approval by the Board of County Commissioners.
11. All mitigation areas will require legal access for the County to enter the property to inspect the areas and ensure they are meeting success criteria and the conditions of this permit.
12. The mitigation maintenance, monitoring and reporting shall be conducted in accordance with the 'Tuscan PD Maintenance and Monitoring Program' narrative provided by Bio-Tech Consulting and received by EPD on March 25, 2025. If the mitigation plan changes for any reason, an updated maintenance and monitoring plan may be required, subject to EPD review and approval.
13. A baseline monitoring report that clearly shows site conditions of the mitigation areas prior to initiation of maintenance activities must be submitted to EPD within 30 days of issuance of this permit. This report must include, at a minimum, the following information: site location, field sampling design, sampling methodology, GPS location of fixed transects, photographic documentation, fish and wildlife observations, vegetative coverages, hydrology, results and discussion.



14. The permittee is required to submit annual monitoring reports that contain the following information: site location, GPS location of fixed transect, field sampling design, sampling methodology, photographic documentation, fish and wildlife observations, vegetative coverages, hydrology, results and discussion. If at the end of the five-year monitoring period, the mitigation areas are not meeting the success criteria, the permittee is required to provide a restoration plan or modified mitigation plan, and may be required to continue monitoring until success has been demonstrated.
15. Successful establishment of the mitigation areas will have occurred when:
  - a. At least 80 percent cover by appropriate wetland and upland species has been obtained, and
  - b. The area is comprised of less than five percent invasive/non-native vegetation, as identified in the Florida Invasive Species Council (FISC) List of Invasive Species (as amended from time to time), and
  - c. The above criteria have been met at the end of a five-year monitoring period to EPD's satisfaction.
16. All remaining wetlands and upland buffers within the development boundary shall be clearly marked with signage that identifies the remaining wetland and upland buffer. These signs shall be installed every 150 feet along the landward edge of the remaining wetland and/or upland buffer boundary. The signage shall conform to the detail shown on the plan titled 'General Details' received by EPD on March 25, 2025. The signs shall be installed prior to the Certificate of Completion.
17. Prior to construction plan approval, the permittee shall submit detailed plans for the hydrologic conveyance(s) and wildlife crossing(s) to EPD and other County Divisions including but not limited to Stormwater Management and Development Engineering for review. Note, at a minimum, several box culverts and round culverts at road crossings through wetlands and potentially other locations will be required. Additional conveyance(s)/crossing(s) or some of a different type may also be required. Several of the culverts must be designed with features and sizing that accommodate wildlife movement. A CAI Permit Modification and Board of County Commissioners approval may be required for any changes to the site plans as a result of the hydrologic conveyance(s) and wildlife crossing(s) requirements.
18. Prior to construction plan approval, the permittee shall submit details regarding the proposed amount of compensating storage and the stormwater management system

to EPD and other County Divisions including but not limited to Stormwater Management and Development Engineering for review. A CAI Permit Modification and Board of County Commissioners approval may be required for any changes to the site plans as a result of compensating storage and/or stormwater management system requirements.

19. If it is determined at any time that the development has created adverse hydrologic impacts (i.e., drawdown or impeded hydrologic connection) to remaining and adjacent wetlands not authorized for impact, the permittee shall provide EPD a restoration or mitigation plan to address the unauthorized impacts, to EPD's satisfaction. A CAI Permit Modification and Board of County Commissioners approval may be required.
20. Prior to construction plan approval, the permittee shall provide EPD a copy of any applicable wildlife permits from the Florida Fish and Wildlife Conservation Commission (FFWCC) or U.S. Fish and Wildlife Service (FWS) for any listed species that may be affected. A recent environmental assessment (no older than 90 days) of the development site must be submitted to EPD for review prior to construction plan approval. If it is determined that adverse effects will occur to listed species as a result of the development, the permittee may be required to take additional measures to offset the effects.
21. The permittee must obtain proper authorization for road access to the development area prior to construction plan approval or the permit will be null and void.
22. The permittee shall obtain appropriate zoning and land use approval, as applicable, prior to construction plan approval.
23. Prior to any filling within the 100-year flood zone a Flood Plain Permit may be required from the Orange County Stormwater Management Division authorizing the fill.
24. The permittee shall notify EPD, in writing, within 30 days of any sale, conveyance, or other transfer of ownership or control of the real property subject to this permit. The permittee shall remain liable for all permit conditions and corrective actions that may be required because of any permit violations which occur prior to the transfer of the permit by Orange County to a subsequent owner. If applicable, no permit shall be transferred unless and until adequate financial assurance has been provided and approved by Orange County.
25. For developments which disturb one acre or more of land, or which are less than one acre but are part of a larger common plan of development of sale that is greater than

one acre, coverage under a National Pollutant Discharge Elimination System (NPDES) Construction Generic Permit (CGP) is required. Prior to the start of land disturbing activities, which includes demolition, earthwork and/or construction, the operator shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and submit to the Florida Department of Environmental Protection (FDEP) a Notice of Intent (NOI) to obtain coverage under the NPDES CGP pursuant to the requirements of 62-621.300(4)(a) Florida Administrative Code (F.A.C.). As the Operator of the MS4, a copy of the NOI shall also be submitted to the Orange County NPDES Environmental Program Supervisor prior to the start of activities. Copies of the SWPPP, NOI, and FDEP Acknowledgement Letter are to be kept on the development site and made available upon request. Upon completion of all land disturbing activities and after final stabilization of the site is complete, the developer/contractor shall submit to FDEP a Notice of Termination (NOT) to end their coverage under the CGP and provide a copy of the NOT to the Operator(s) of the MS4. A copy of the CGP, NOI and additional information can be found on the FDEP website: <http://dep.state.fl.us/water/stormwater/npdes/construction3.htm>.

26. Turbidity and sediment shall be controlled to prevent off-site, unpermitted impacts and violations of water quality standards pursuant to Rules 62-302.500, 62-302.530(70) and 62-4.242 F.A.C. Best Management Practices (BMPs), as specified in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (2013, or most current version), shall be installed, and maintained at all locations where there is the possibility of transferring sediment, turbidity, or other pollutants, into wetlands and/or surface waters due to the permitted activities. BMPs are performance based, if selected BMPs are ineffective or if site-specific conditions require additional measures, then the permittee shall implement additional or alternative measures as necessary to prevent adverse impacts to wetlands and/or surface waters. Turbidity discharging from a site must not exceed 29 NTU over background for Class III waters and their tributaries or 0 NTU over background for those surface waters and tributaries designated as Outstanding Florida Waters (OFW). A copy of the Designer and Reviewer Manual can be found at the following website: <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>.
27. Discharge of groundwater from dewatering operations requires approval from FDEP and the applicable Water Management District. The operator/contractor shall obtain an FDEP Generic Permit for the Discharge of Ground Water from Dewatering Operations pursuant to the requirements of 62-621.300(2)(a) and 62-620 F.A.C. and Chapter 403, Florida Statutes (FS). Discharges directed to the County's MS4 require an Orange County Right-of-Way Utilization Permit for Dewatering prior to the start of any discharges.

## General Conditions

28. A copy of this permit, along with EPD stamped and approved drawings, should be provided to the Orange County Zoning Division (OCZD) at 201 South Rosalind Avenue for review prior to applying for a Building Permit. For further information, please contact the OCZD at (407) 836-5525.
29. After approval by OCZD, the certified site plans will need to be reviewed by the Orange County Building Safety Division (OCBSD) in order to obtain a Building Permit. For further information, please contact the OCBSD at (407) 836-5550.
30. The permittee shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittee shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
31. Subject to the terms and conditions herein, the permittee is hereby authorized to perform or cause to be performed, the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittee binds themselves and any successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities are not in accordance with the conditions of the permit, work shall cease, and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holder promptly thereafter.
32. Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittee. In the event that any part of the structure permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owners' riparian or other property rights, the permittee agrees to either obtain written consent or to remove the offending structure or encroachment within 60 days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate revocation.
33. This permit does not release the permittee from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district

authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee or convey any rights or privileges other than those specified in the permit and Chapter 15, Article X of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency, the permittee shall comply with the most stringent conditions. The permittee shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.

34. The permittee is hereby advised that Section 253.77 FS, states that a person may not commence any excavation, construction, or other activity involving the use of sovereignty or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
35. Should any other regulatory agency require changes to the property or permitted activities, the permittee shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
36. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
37. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate. EPD may revoke the permit upon discovery of information that may cause pollution to water bodies.
38. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to ensure conformity with the plans and specifications approved by the permit.
39. The permittee shall notify EPD, in writing, within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. The permittee shall remain liable for any corrective actions that may be required as a result of any permit violations until the permit is legally transferred.

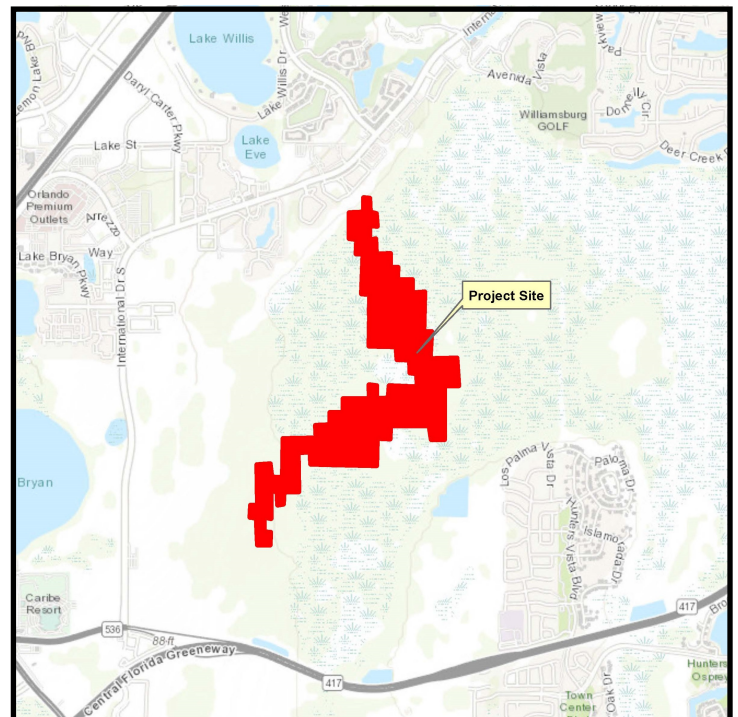
40. The permittee shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
41. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee.
42. The permittee agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida and initiated only in Orange County.
43. Pursuant to Section 125.022 FS, issuance of this permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain the requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.
44. Pursuant to Section 125.022 FS, the applicant shall obtain all other applicable state or federal permits before commencement of construction.

**BUDGET: N/A**



## An aerial photograph showing a large, irregularly shaped wetland area outlined in yellow. The wetland is characterized by dense, dark green vegetation and several small, dark, irregularly shaped ponds or depressions. To the left of the wetland, there is a developed area with a road, a parking lot, and some buildings. To the right, there is a residential area with a large, curved road and several houses. The overall scene is a mix of natural and developed land.

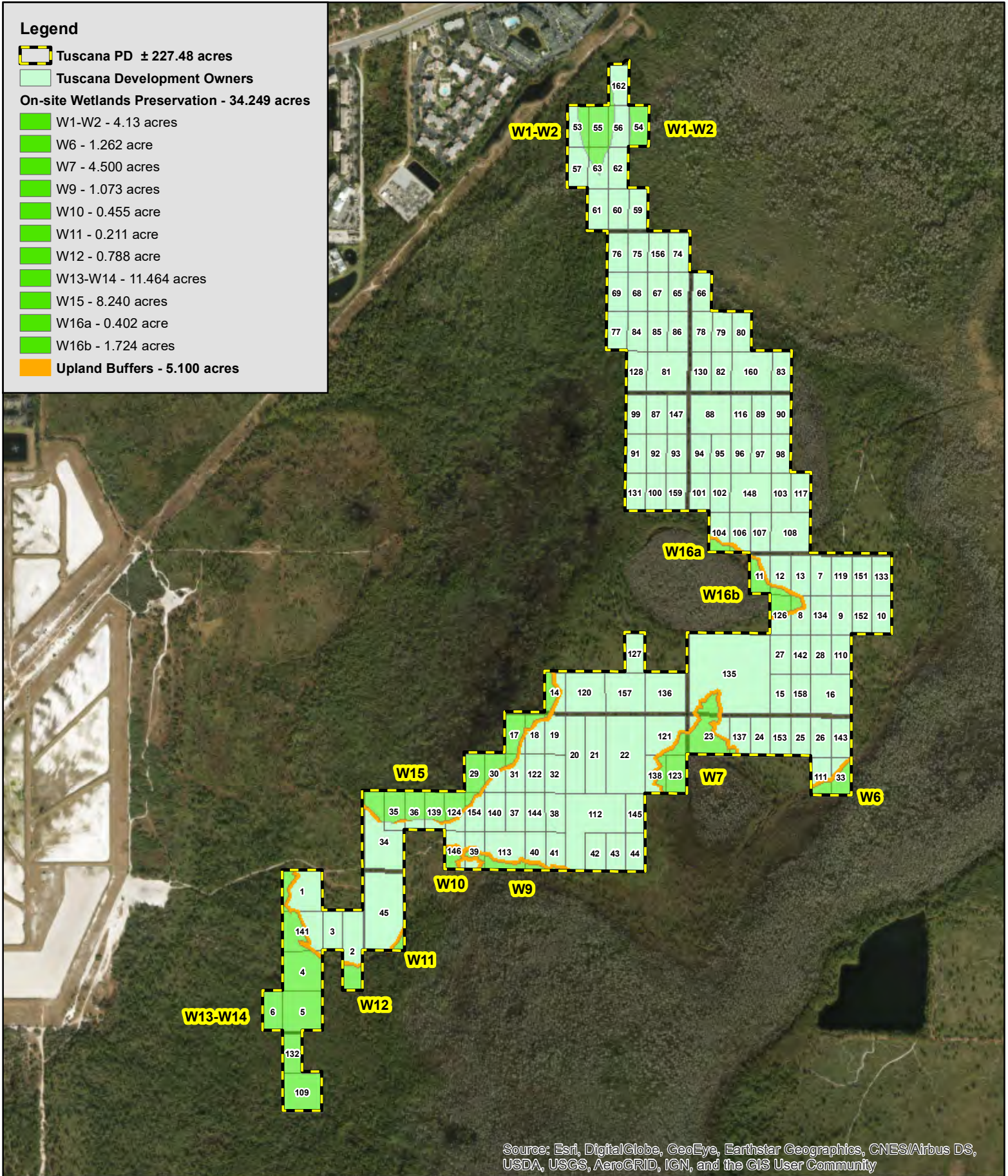
## Property Location





## Legend

- Tuscana PD ± 227.48 acres
- Tuscana Development Owners
- On-site Wetlands Preservation - 34.249 acres**
  - W1-W2 - 4.13 acres
  - W6 - 1.262 acre
  - W7 - 4.500 acres
  - W9 - 1.073 acres
  - W10 - 0.455 acre
  - W11 - 0.211 acre
  - W12 - 0.788 acre
  - W13-W14 - 11.464 acres
  - W15 - 8.240 acres
  - W16a - 0.402 acre
  - W16b - 1.724 acres
- Upland Buffers - 5.100 acres





Map_ID	PARCEL	NAME1
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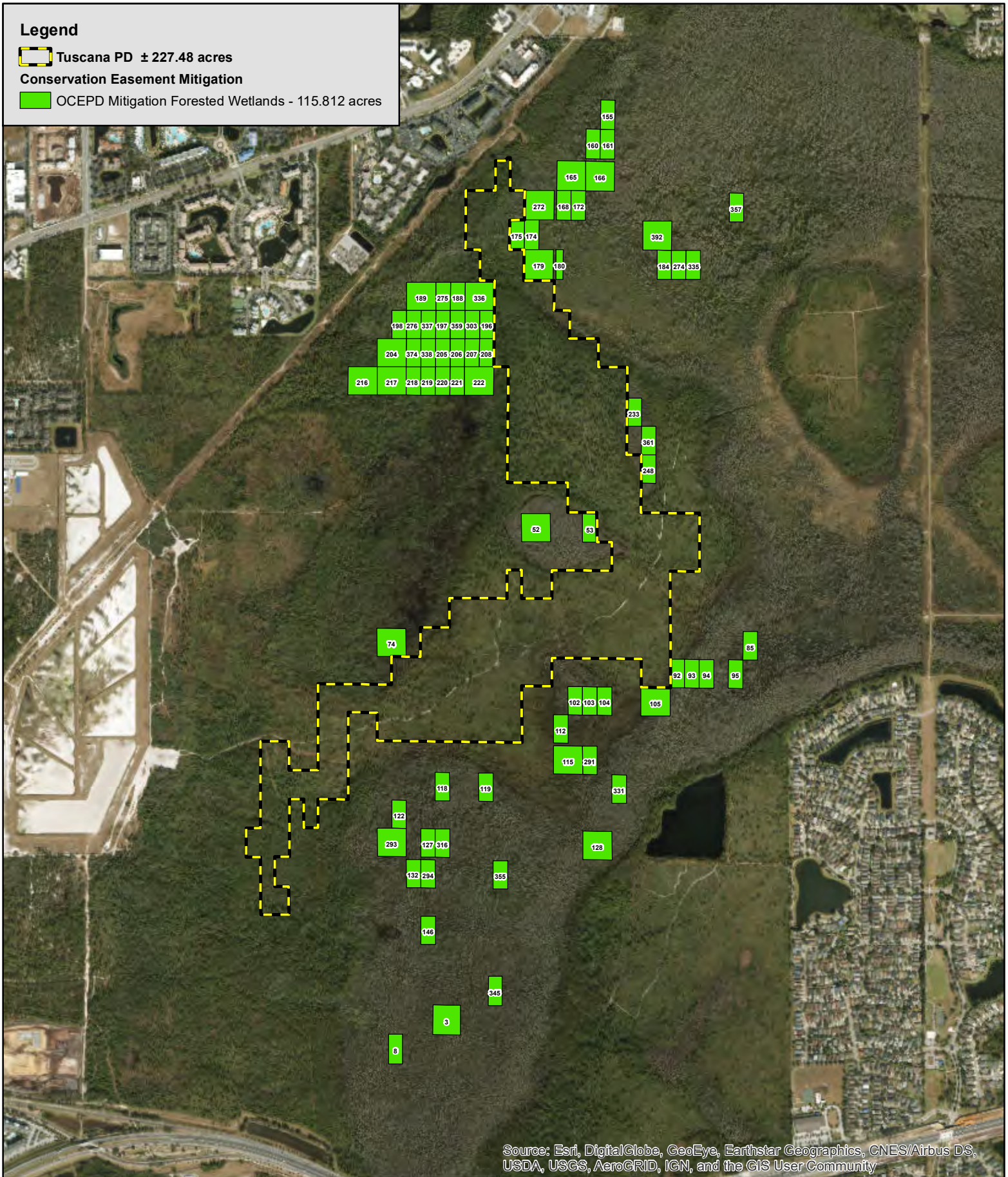


# Legend

 Tuscana PD ± 227.48 acres

Conservation Easement Mitigation

 OCEPD Mitigation Forested Wetlands - 115.812 acres

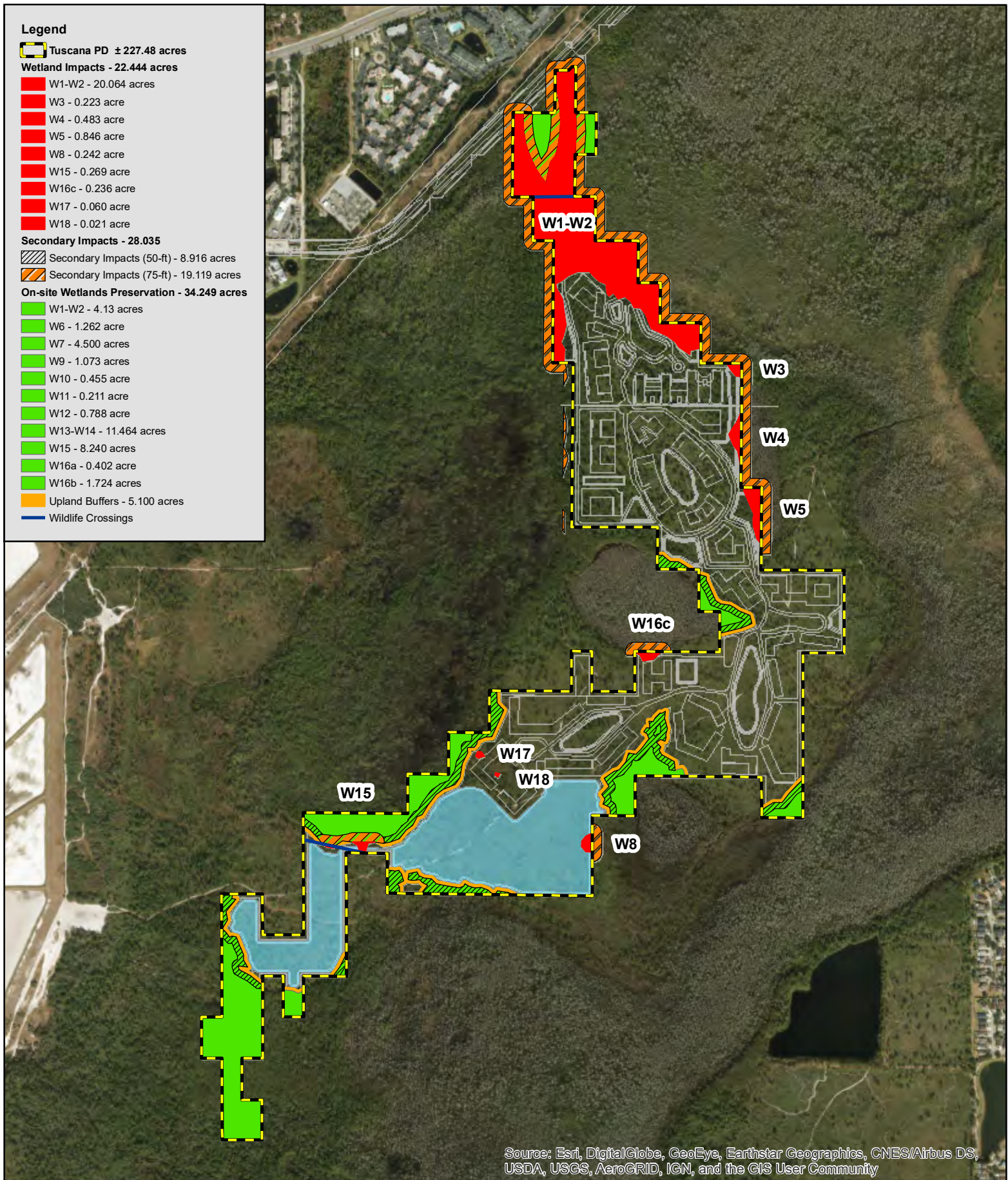


Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

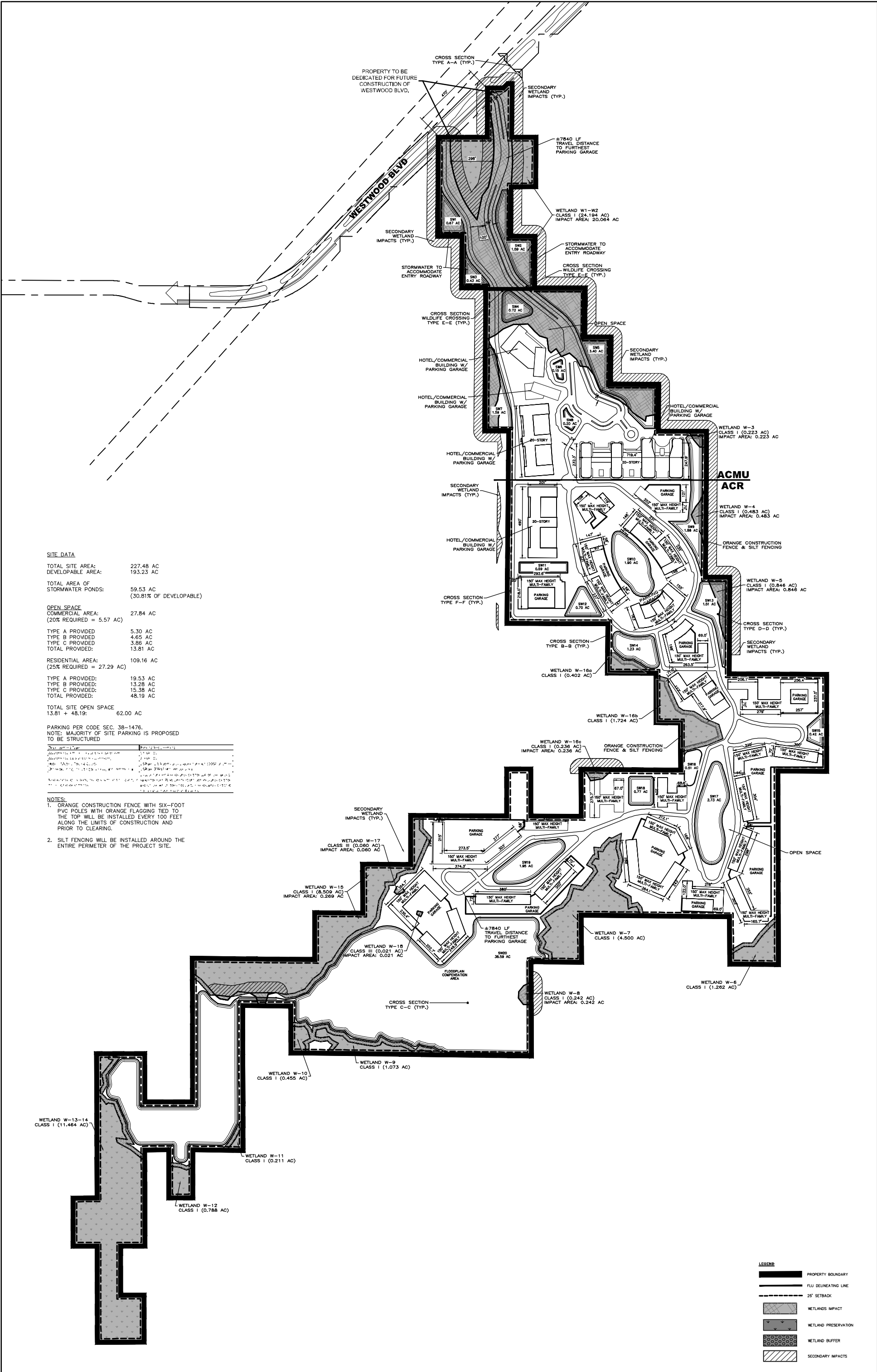
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392	282424584400603	SHINGLE CREEK CO-OWNERS LLC









SITE DATA

TOTAL SITE AREA: 227.48 AC  
DEVELOPABLE AREA: 193.23 AC  
TOTAL AREA OF STORMWATER PONDS: 59.53 AC  
(30.81% OF DEVELOPABLE)

OPEN SPACE  
COMMERCIAL AREA: 27.84 AC  
(20% REQUIRED = 5.57 AC)

TYPE A PROVIDED: 5.30 AC  
TYPE B PROVIDED: 4.65 AC  
TYPE C PROVIDED: 3.96 AC  
TOTAL PROVIDED: 13.81 AC

RESIDENTIAL AREA: 109.16 AC  
(25% REQUIRED = 27.29 AC)

TYPE A PROVIDED: 19.53 AC  
TYPE B PROVIDED: 13.28 AC  
TYPE C PROVIDED: 15.38 AC  
TOTAL PROVIDED: 48.19 AC

TOTAL SITE OPEN SPACE  
13.81 + 48.19: 62.00 AC

PARKING PER CODE SEC. 38-1476.  
NOTE: MAJORITY OF SITE PARKING IS PROPOSED  
TO BE STRUCTURED

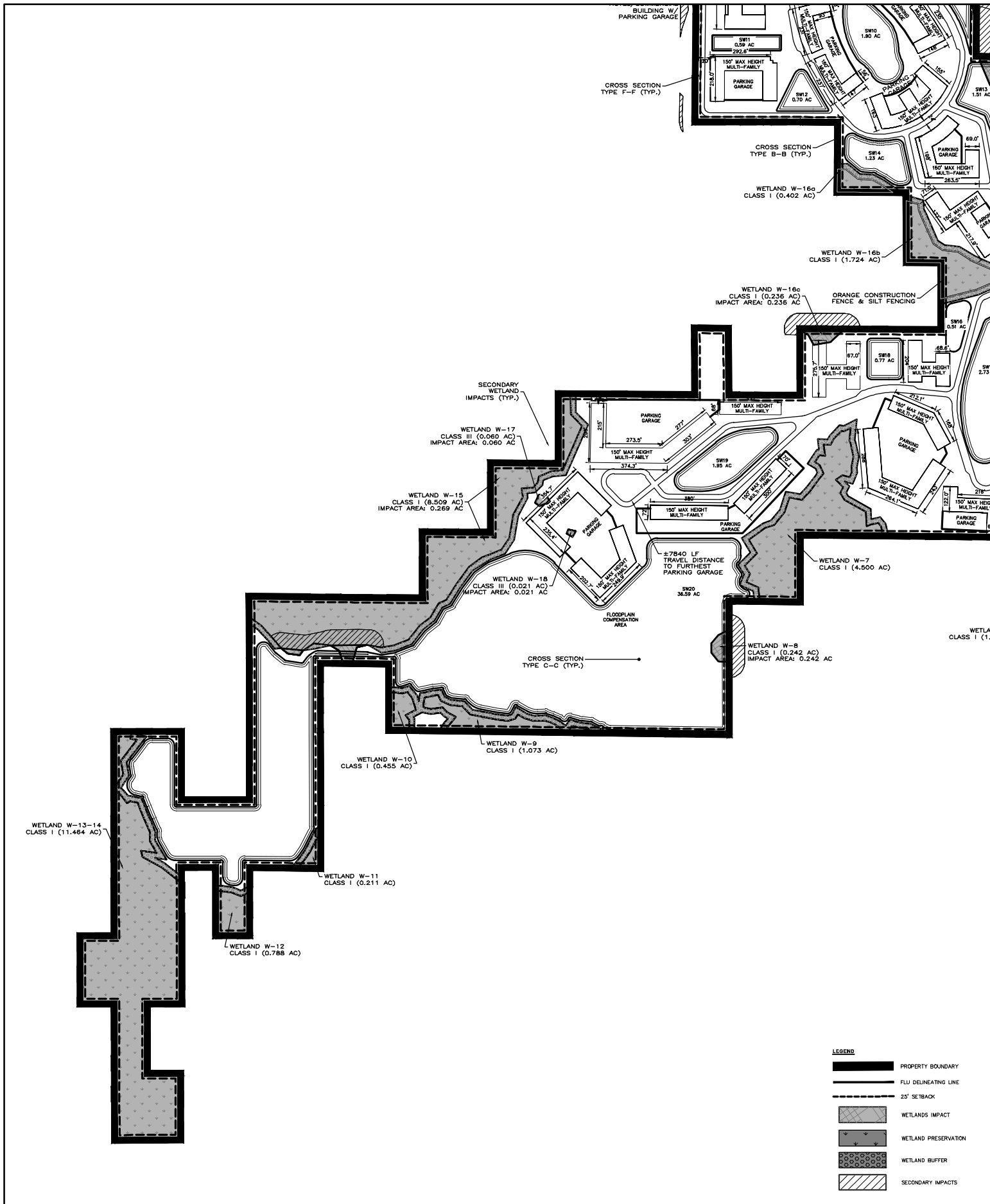
Property	Area
Wetland W-1	0.07 AC
Wetland W-2	1.59 AC
Wetland W-3	0.223 AC
Wetland W-4	0.483 AC
Wetland W-5	0.846 AC
Wetland W-6	1.262 AC
Wetland W-7	4.500 AC
Wetland W-8	0.242 AC
Wetland W-9	1.073 AC
Wetland W-10	0.455 AC
Wetland W-11	0.211 AC
Wetland W-12	0.788 AC
Wetland W-13-14	11.464 AC
Wetland W-15	8.509 AC
Wetland W-16a	0.402 AC
Wetland W-16b	1.724 AC
Wetland W-16c	0.236 AC
Wetland W-17	0.060 AC
Wetland W-18	0.021 AC
Wetland W-19	0.021 AC
Wetland W-20	36.59 AC
Wetland W-21	0.51 AC
Wetland W-22	0.77 AC
Wetland W-23	2.73 AC
Wetland W-24	1.657 AC
Wetland W-25	0.42 AC
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Wetland W-97	0.42 AC
Wetland W-98	0.42 AC
Wetland W-99	0.42 AC
Wetland W-100	0.42 AC

- NOTES:
- ORANGE CONSTRUCTION FENCE WITH SIX-FOOT PVC POLES WITH ORANGE FLAGGING TIED TO THE TOP WILL BE INSTALLED EVERY 100 FEET ALONG THE LIMITS OF CONSTRUCTION AND PRIOR TO CLEARING.
  - SILT FENCING WILL BE INSTALLED AROUND THE ENTIRE PERIMETER OF THE PROJECT SITE.





K:\ORL\_Civil\049605001-Shingle Creek\CADD\CONCEPT\Full site plan\Tuscan Site Plan - SP-05.dwg



TUSCANA

SITE PLAN

SP-05-2

ORANGE COUNTY, FL

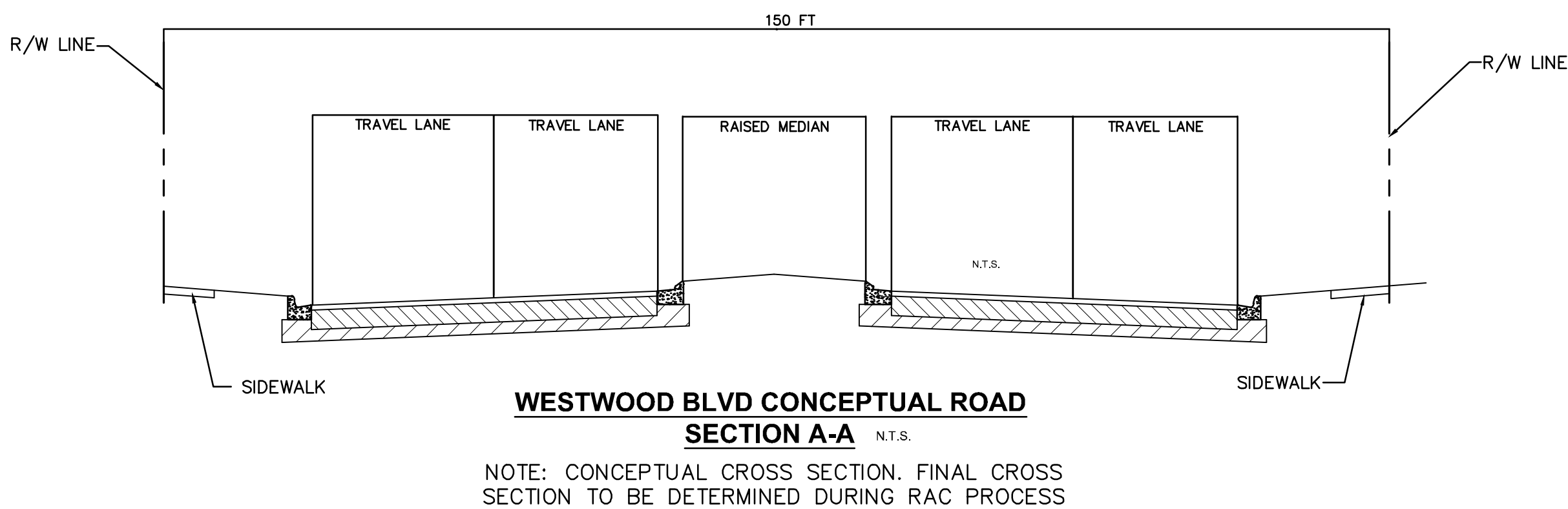
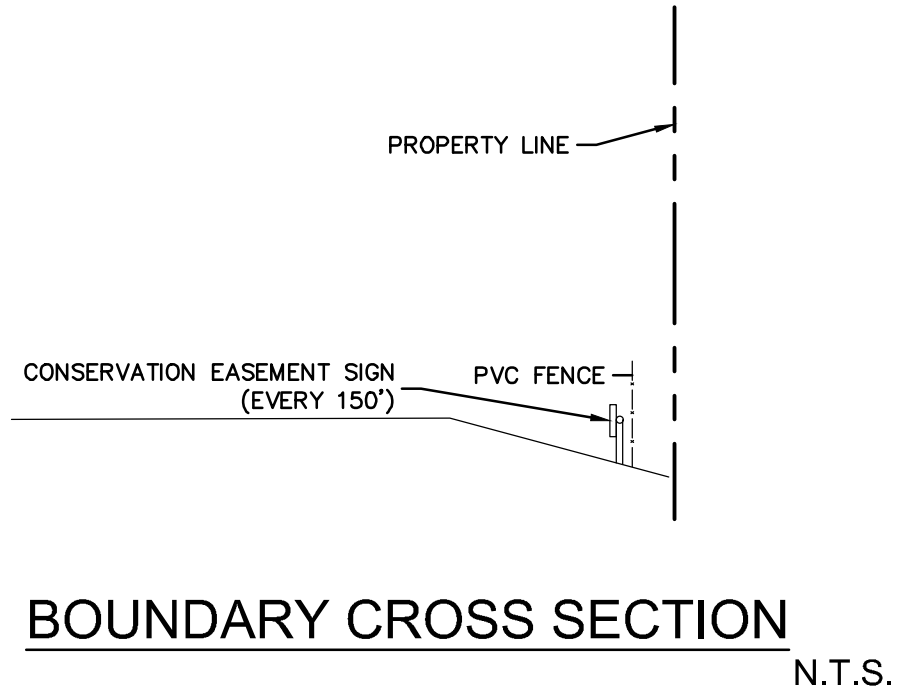
3/20/2025- CONTACT JENNIFER STICKLER (407) 427-1662

GRAPHIC SCALE IN FEET  
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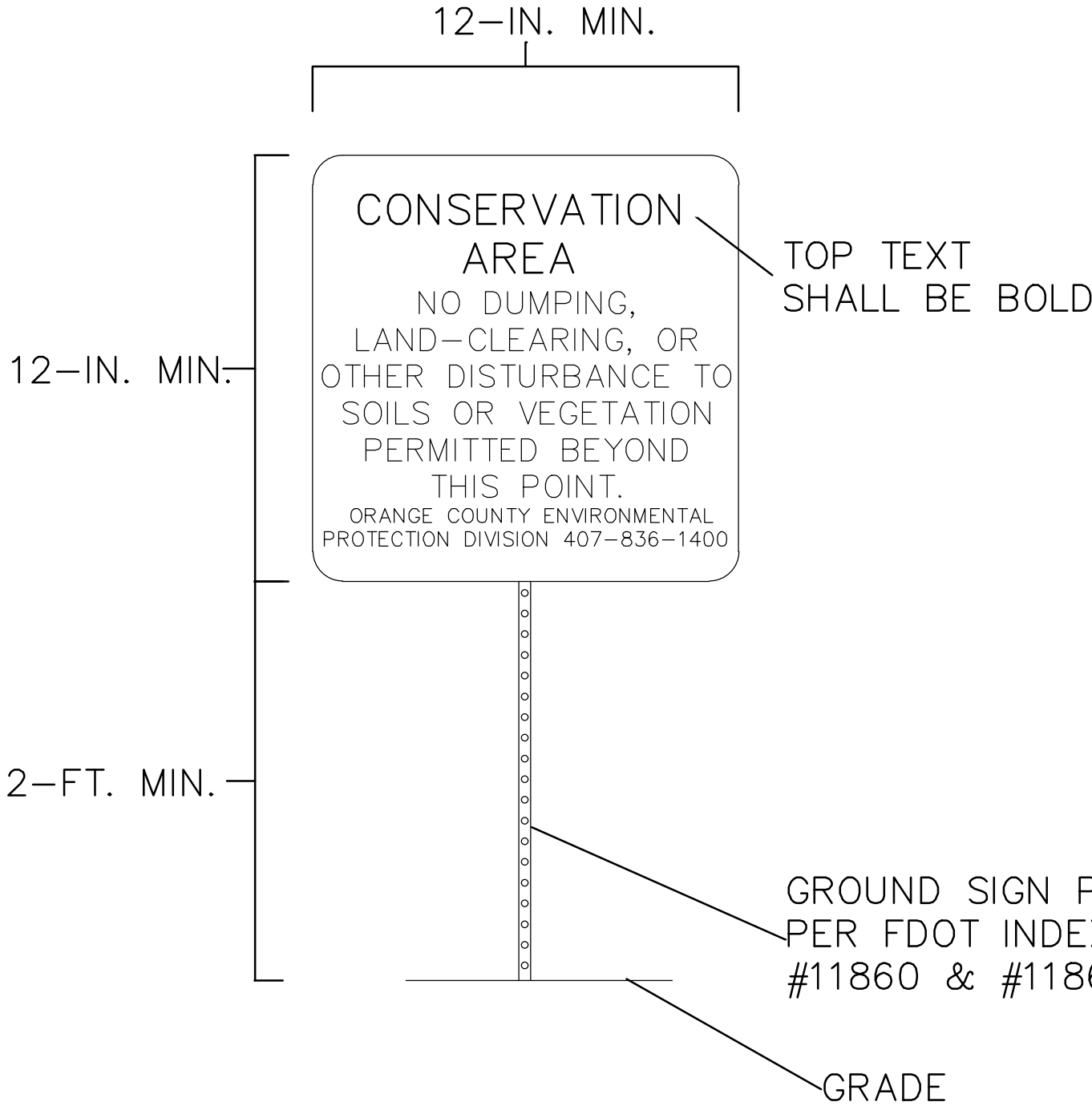
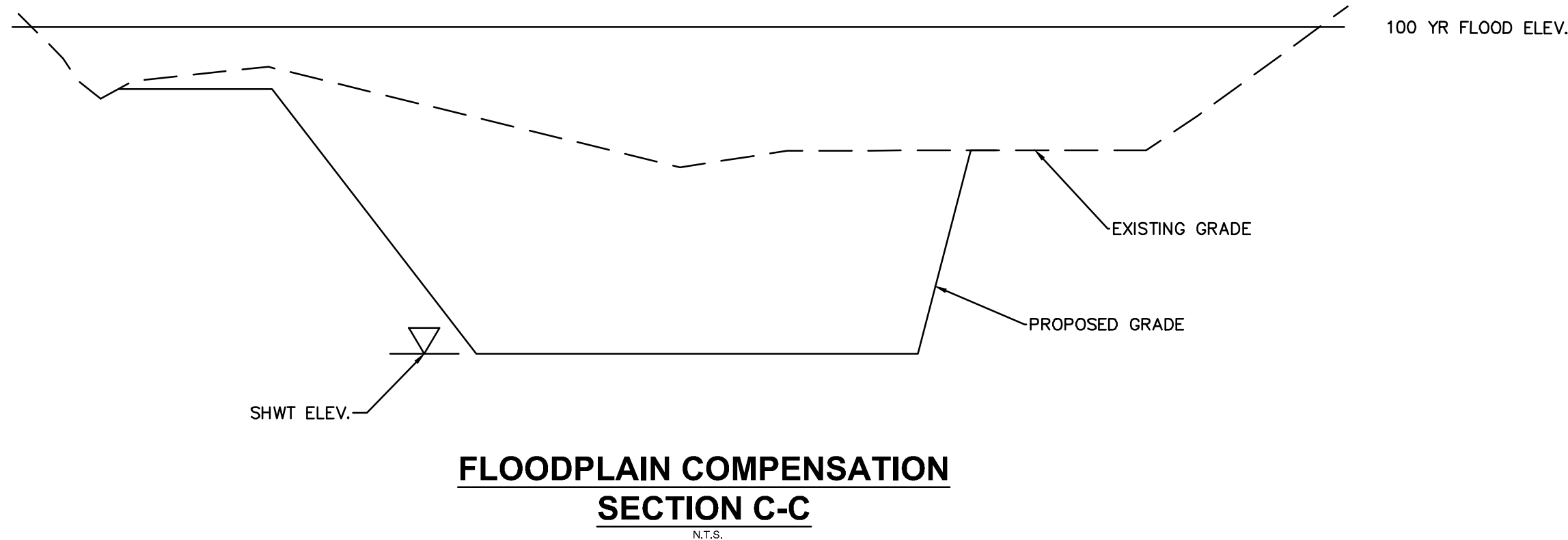
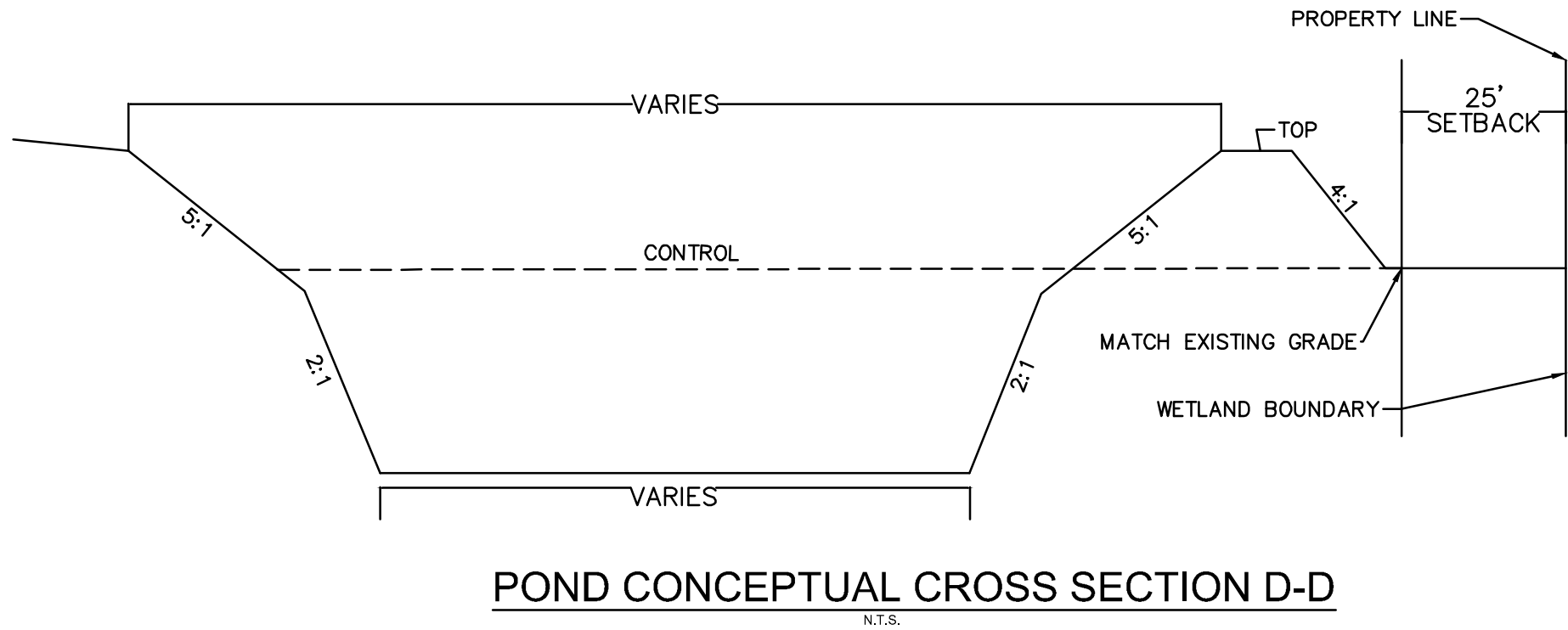
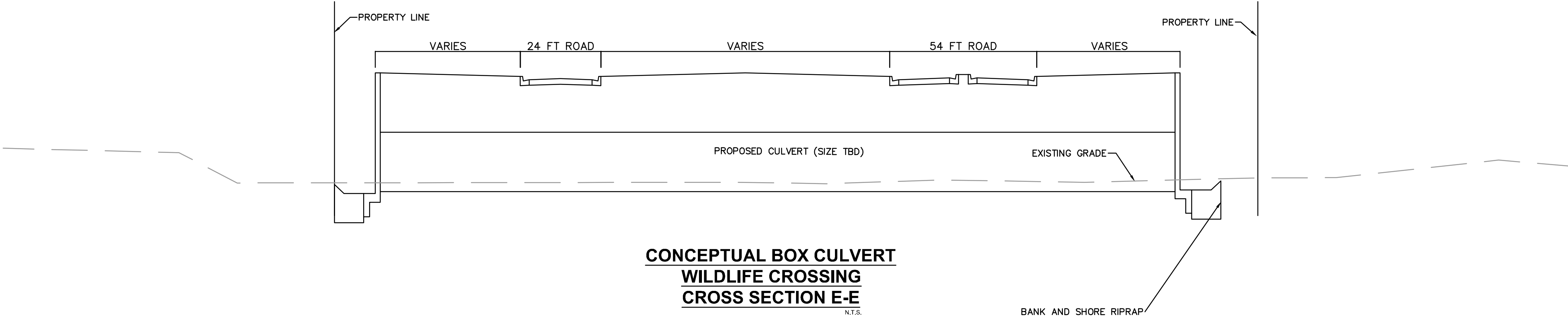
KimleyHorn

Plotted By: Lupo, Daniel    Sheet Set: WESTSIDE PSP AND INFRASTRUCTURE DP    Layout: PSP6-DETAILS    March 20, 2025    04:24:50pm    K:\ORL\_Civil\049605001-Shingle Creek\CADD\EXHIBITS\Wetland and Westwood Cross Sections\Cross-section Details.dwg

This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

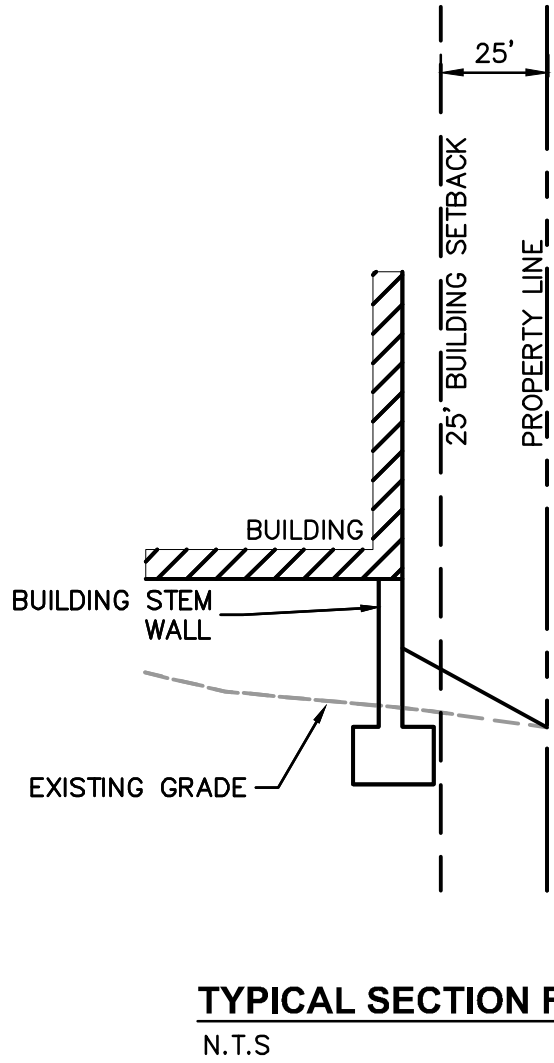
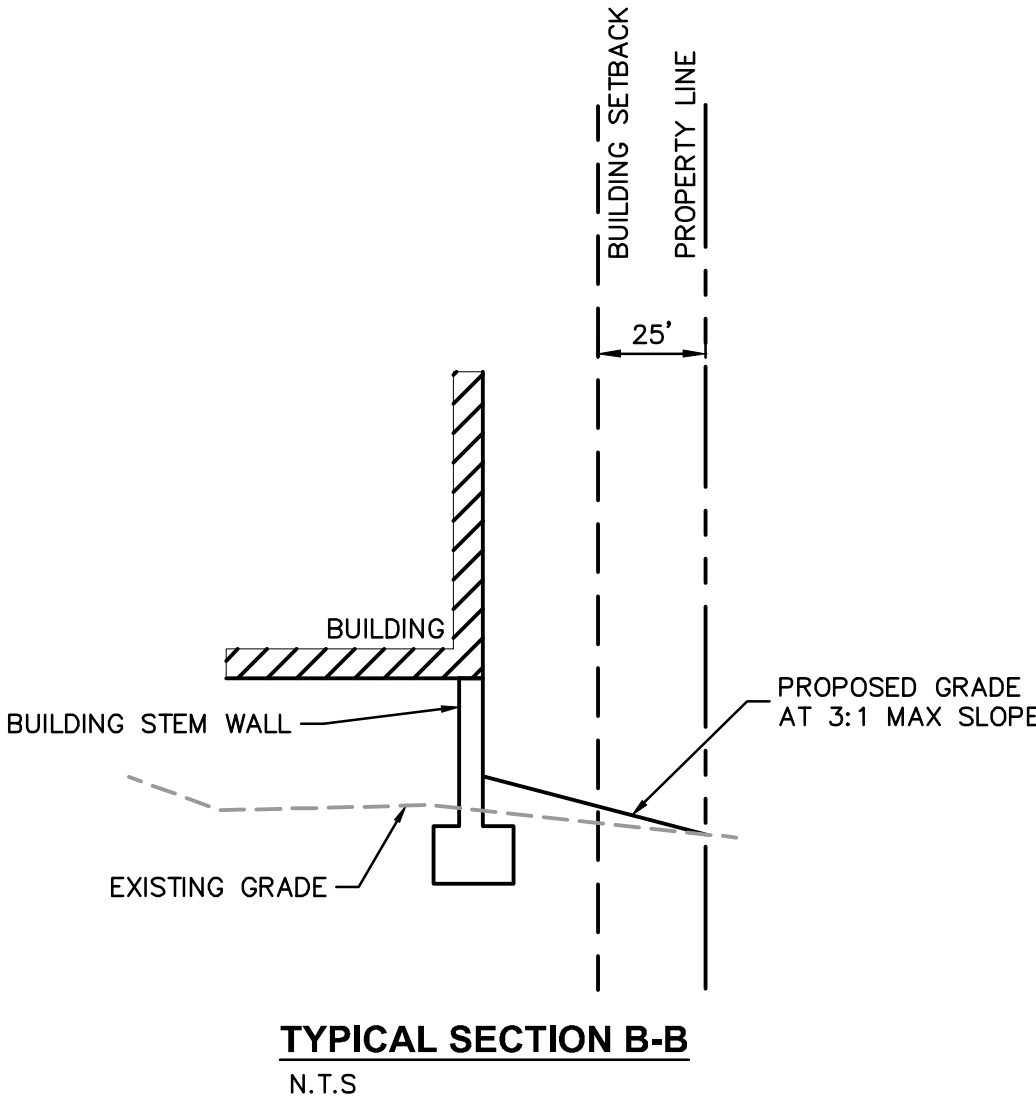


NOTE: CONCEPTUAL CROSS SECTION. FINAL CROSS SECTION TO BE DETERMINED DURING RAC PROCESS



SIGN NOTES:

- SIGNS SHOULD BE PLACED AT 150' INTERVALS ALONG THE EDGE OF THE CONSERVATION EASEMENT.
- CONTRACTOR SHALL ERECT PERMANENT PROPERTY MONUMENTS THAT ARE VISIBLE TO RESIDENTS AND GROUND CREWS THAT CLEARLY DEFINE THE CONSERVATION EASEMENT BOUNDARY. MONUMENTS SHALL BE VISIBLE AND DURABLE 4-INCH SQUARE BY 4' TALL CONCRETE PILLARS, BURIED 2' IN THE GROUND. PILLARS SHOULD BE INSTALLED IN 50' INCREMENTS ALONG CONSERVATION EASEMENT LINE.
- SIGNS SHALL STATE "CONSERVATION AREA - NO DUMPING, LAND-CLEARING, OR OTHER DISTURBANCE TO SOILS OR VEGETATION PERMITTED BEYOND THIS POINT.



REVISIONS		DATE	BY
No.			

**Kimley»Horn**

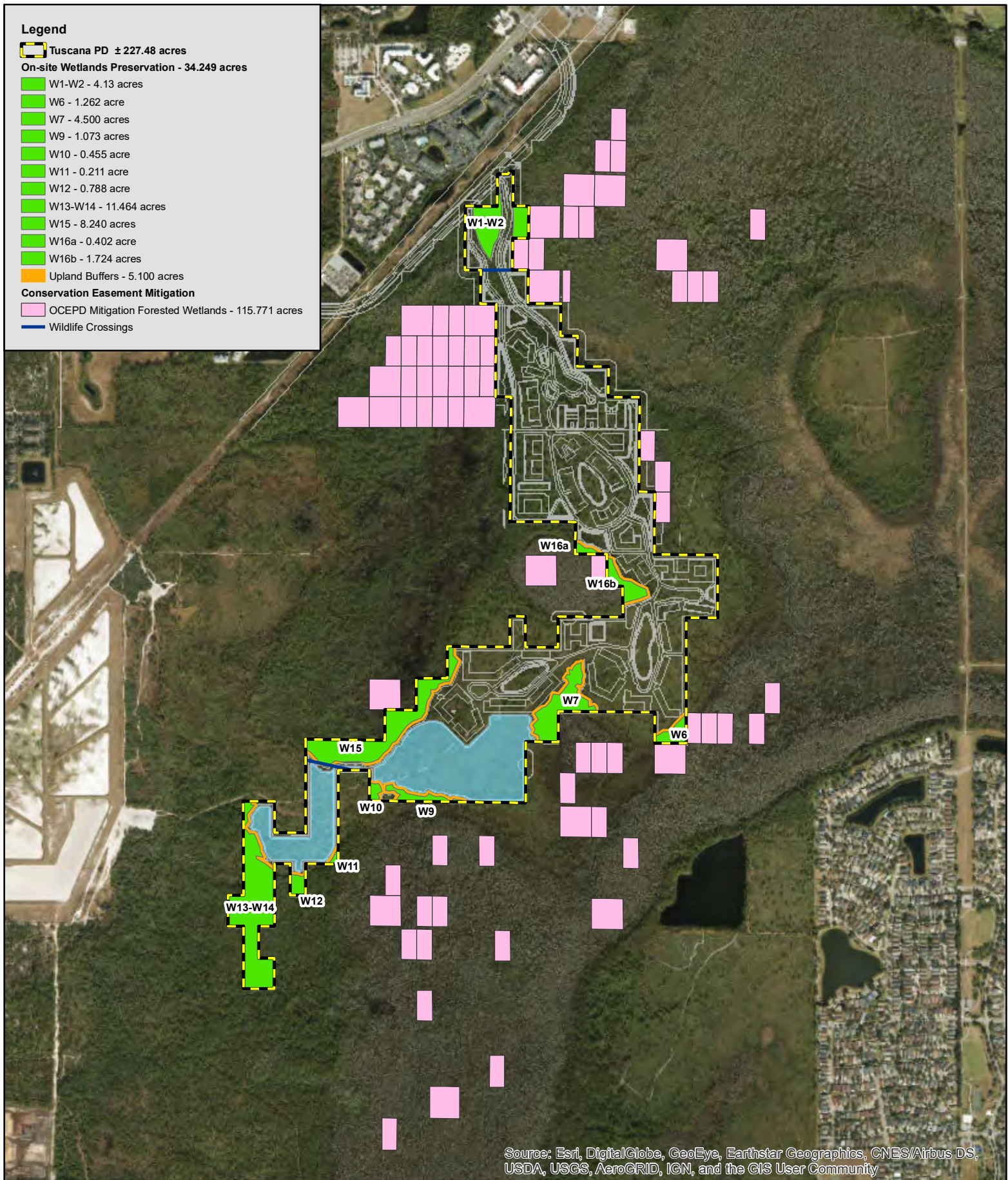
© 2024 KIMLEY-HORN AND ASSOCIATES, INC.  
200 S. ORANGE AVENUE, SUITE 600, ORLANDO, FL 32801  
PHONE: 407-896-1511  
WWW.KIMLEY-HORN.COM    REGISTRY No. 35106

LICENSED PROFESSIONAL	JENNIFER J. STICKLER, P.E.
KHA PROJECT 149581003	FLORIDA LICENSE NUMBER 76118
DATE	DATE: ---
SCALE AS SHOWN	DESIGNED BY
DRAWN BY	CHECKED BY

GENERAL DETAILS


ORANGE COUNTY		FLORIDA
SHEET NUMBER		
















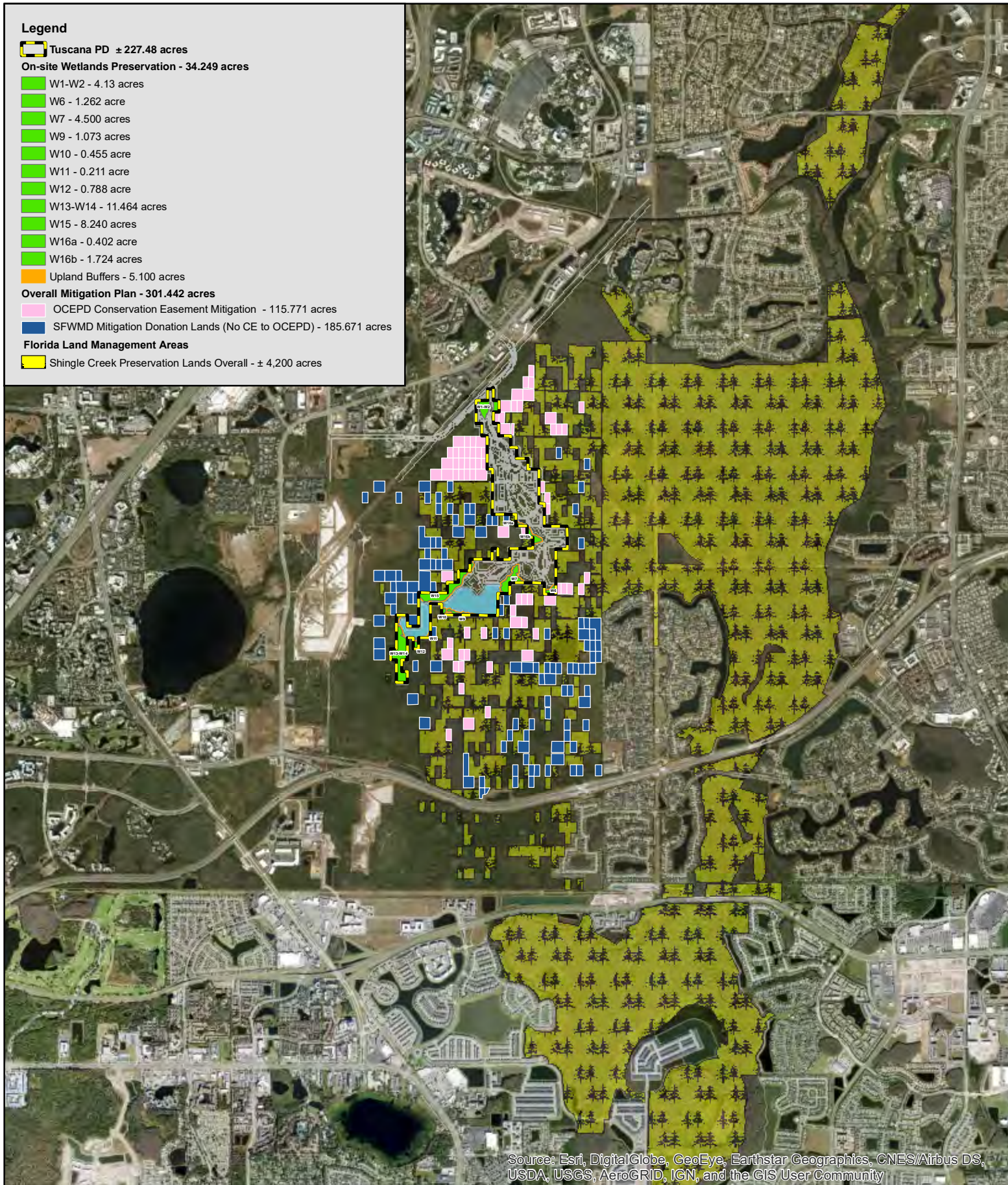
# Legend

 Tuscana PD ± 227.48 acres  
On-site Wetlands Preservation - 34.249 acres

 W1-W2 - 4.13 acres  
 W6 - 1.262 acre  
 W7 - 4.500 acres  
 W9 - 1.073 acres  
 W10 - 0.455 acre  
 W11 - 0.211 acre  
 W12 - 0.788 acre  
 W13-W14 - 11.464 acres  
 W15 - 8.240 acres  
 W16a - 0.402 acre  
 W16b - 1.724 acres  
 Upland Buffers - 5.100 acres

**Overall Mitigation Plan - 301.442 acres**  
 OCEPD Conservation Easement Mitigation - 115.771 acres  
 SFWMD Mitigation Donation Lands (No CE to OCEPD) - 185.671 acres

**Florida Land Management Areas**  
 Shingle Creek Preservation Lands Overall - ± 4,200 acres





## **Tuscana PD Maintenance and Monitoring Program**

The Tuscana PD Mitigation consists of both on-site and off-site wetland and upland buffer preservation as mitigation for impacts associated with the Tuscana development plan. A conservation easement dedicated to Orange County will be placed over both the on-site and off-site preservation areas. The preservation areas will be maintained and monitored by the Permittee for five years. At the end of the five year period and when the off-site preservation has been deemed successful (Success Criteria) by SFWMD and OCEPD, the off-site preservation lands will be donated to SFWMD. If the off-site preservation lands are not deemed successful, coordination and a revised maintenance plan will be implemented to ensure the preservation lands meet the desired success criteria. Once the off-site preservation lands have been deemed successful, the off-site preservation will be donated to SFWMD for management in perpetuity. The on-site wetland preservation and upland buffers area will remain in the Permittee ownership for perpetual maintenance.

### **Maintenance and Monitoring Plan**

The following Invasive Species Control program will be implemented to eliminate and/or control invasive plant species within the wetland preservation and upland buffers area.

- Scheduled maintenance events will occur quarterly (Years 1-5).
- Invasive species (current FLEPPC List) will be mechanically removed (such as by hand removal, light hand equipment, etc.) whenever possible. Chemical application will occur if no other removal technique seems practical.
- All reasonable efforts will be taken to limit local impacts while performing necessary maintenance activities.
- Long-term maintenance of the proposed wetland will be maintained according to the success criteria described below.

### **Photographic Documentation**

Six (6) fixed-location photographic stations will be established during the Baseline Monitoring Event. The specific locations will be determined based on site access. Stations will provide visual documentation of the current condition of the wetland preservation and upland buffers areas. The stations will be visited during each monitoring event. The series of photographs will provide a visual record of the long-term success of the wetland preservation and upland buffers area.

## **Schedule and Annual Reports**

Prior to the start of construction, the Baseline Monitoring Event will be completed. This event will establish the photo stations and complete initial transects of the preservation areas. Once all Permits necessary for the start of construction have been obtained, implementation of the proposed maintenance of the preservation areas will begin. Bi-annual monitoring shall be completed for the wetland preservation and upland buffers areas and results shall be reported within sixty (60) days on an annual basis for five (5) years. Each annual report will provide the results of the monitoring and maintenance activities. The report will summarize the results of the monitoring events and coverage for appropriate wetland species.

## **Vegetation Monitoring**

Qualitative vegetation monitoring of the wetland preservation and upland buffers areas will be conducted using randomly selected pedestrian transects that are 20-ft in width. The monitoring will incorporate sampling of canopy, subcanopy, shrub and groundcover. The qualitative vegetation monitoring along a pedestrian transect will assess percent coverage of invasive species. Each transect will be at least 250 feet in length with the tracklog mapped in the annual monitoring report. If invasive species are found during one semi-annual monitoring, the same transect will be re-monitored the following semi-monitoring event to ensure that the maintenance activities have eradicated the invasive population. If no invasive species are found during a semi-annual monitoring event, then a new transect will be randomly selected for the next monitoring event in order to increase monitoring coverage. Photos and the station locations will be provided on the annual monitoring report.

## **Wildlife Utilization**

Observations of wildlife utilization within the preservation areas will be recorded during all visits and provided within the annual monitoring reports.

## **Success Criteria**

The criteria for determining mitigation success are as follows:

- The area comprises less than 5 percent invasive vegetation and less than 5 percent invasive exotic vegetation, as listed in the Florida Exotic Pest Plant Council's current List of Invasive Species Category I and II, and
- The above criteria has been met at the end of a five year monitoring period to SFWMD's and OCEPD's satisfaction.







