



FLORIDA DEPARTMENT OF Environmental Protection

South District
PO Box 2549
Fort Myers FL 33902-2549
SouthDistrict@FloridaDEP.gov

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

July 18, 2024

Lee Co BOCC - Ehab Guirguis
c/o Ehab Guirguis
Lee County
1500 Monroe St
Fort Myers, FL 33901
Eguirguis@leegov.com

File No.:0288214-002 EE, Lee County

Dear Lee Co BOCC - Ehab Guirguis:

On July 10, 2024, we received your request for verification of exemption to perform the following activities:

To rebuild a public fishing pier in the same location and configuration as existed prior to Hurricane Ian on September 28, 2022 at 300 Royal Palm Park Rd, Fort Myers, FL 33905, Parcel ID No. 04 44 25 08 0000A 0000, in a(n) Caloosahatchee River, Class III Waters, Section 04, Township 44 South, Range 25 East, Lee County.

Your request has been reviewed to determine whether it qualifies for (1) a regulatory exemption, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal approval that may be necessary for work in wetlands or waters of the United States.

Your project did not qualify for the **federal review portion** of this verification request. Specifically, the Department did not receive the Project Design Criteria Checklists. **Additional authorization must be obtained prior to commencement of the proposed activity.** This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

If you have any questions regarding this matter, please contact us by telephone at (239) 344-5600 or by e-mail at SouthDistrict@floridadep.gov.

1. Regulatory Review – VERIFIED

Based on the information submitted, the Department has verified that the activity as proposed is exempt under Chapter 62-330.051(5)(d), Florida Administrative Code, and Section 403.813(1)(d) of the Florida Statutes from the need to obtain a regulatory permit under Part IV of Chapter 373 of the Florida Statutes.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification may not be valid if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. In the event you need to re-verify the exempt status for the activity, a new request and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

2. Proprietary Review - GRANTED

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereign submerged lands. The Department has the authority to review activities on sovereign submerged lands under Chapters 253 and 258 of the Florida Statutes, and Chapters 18-18, 18-20, and 18-21, Florida Administrative Code, as applicable.

The activity appears to be located on sovereign submerged lands owned by the Board of Trustees. The activity is not exempt from the need to obtain the applicable proprietary authorization. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the activity qualifies for an automatic consent by rule under Rule 18-21.005(1)(b), Florida Administrative Code, and Section 253.77 of the Florida Statutes to construct and use the activity on the specified sovereign submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein. No further application is required for this consent by rule.

Special Consent Conditions

1. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.

2. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.
3. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
4. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.
5. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

General Conditions for Authorizations for Activities

All authorizations granted by rule or in writing under Rule 18-21.005, F.A.C., except those for geophysical testing, shall be subject to the general conditions as set forth in paragraphs (a) through (i) below. The general conditions shall be part of all authorizations under this chapter, shall be binding upon the grantee, and shall be enforceable under Chapter 253 or 258, Part II, F.S.

- (a) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.
- (b) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.
- (c) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.
- (d) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.

- (e) Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.
- (f) Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.
- (g) Structures or activities shall not create a navigational hazard.
- (h) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.

Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities.

3. Federal Review - SPGP NOT APPROVED

Your proposed activity as outlined on your application and attached drawings does not qualify for Federal authorization pursuant to the State Programmatic General Permit and a SEPARATE permit or authorization shall be required from the Corps. You must apply separately to the Corps using their *APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT*, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at: <https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book/>.

Authority for review an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection, or Duly Authorized Designee, State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

Additional Information

Please retain this letter. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this

action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While

you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Executed in Lee County, Florida

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Michael Baker
Environmental Administrator
South District

Enclosures:

7 Project drawings
62-330.051(5)(d), 403.813(1)(d)


CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments, including all copies, were sent to the addressee and to the following listed persons:

U.S. Army Corps of Engineers, Fort Myers Office, fdep.other@usace.army.mil

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52(7), F.S., with the designated Department clerk, receipt of which is hereby acknowledged.



Clerk

July 18, 2024

Date



EXEMPT

File Number:
0288214-002 EE

CONSTRUCTION PLANS

FOR



ROYAL PALM PARK VARIOUS BOARDWALK REPAIRS

FEMA DI : 1291154

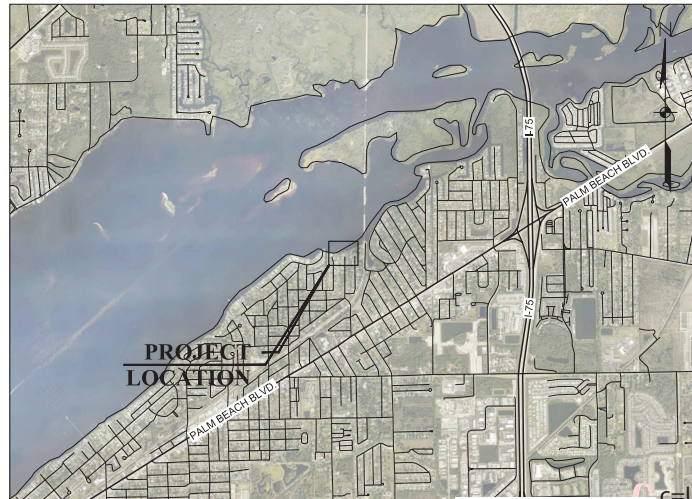
FEMA PRODUCT # : 713919

SECTION 04, TOWNSHIP 44 S., RANGE 25 E.

LEE COUNTY, FLORIDA

INDEX OF PLANS

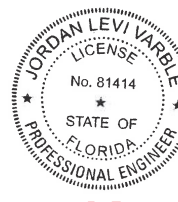
SHEET NO.	DESCRIPTION
C01	COVER
C02	GENERAL NOTES & ABBREVIATIONS
C03	FLUCFCS & SOILS MAP
C04	EXISTING CONDITIONS WITH 2021 AERIAL
C05	SITE PLAN
C06	EROSION CONTROL PLAN
C07	PLAN & PROFILE



LOCATION MAP

0 1000 2000 4000
 INTENDED DISPLAY SCALE:
 22"x34" PLAN 1"=2000'
 11"x17" PLAN 1"=4000'

JULY 2024



This item has been digitally signed and sealed by Jordan L. Varble, P.E., on the date adjacent to the seal.
 Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

OWNER

LEE COUNTY
 2115 SECOND ST
 FORT MYERS, FL 33901
 PHONE: (239) 533-2221
 FAX: (239) 485-2262

SITE ADDRESS

300 ROYAL PALM PARK RD,
 FORT MYERS, FL 33908

STRAP NUMBERS

04-44-25-08-0000A.0000

SIZE OF PARCEL

0.86 ACRES

ZONING

RS-1

BOARD OF COUNTY COMMISSIONERS

KEVIN RUANE	DISTRICT 1
CECL PENDERGRASS	DISTRICT 2
RAY SANDELLI	DISTRICT 3
BRIAN HAMMAN	DISTRICT 4
FRANK MANN	DISTRICT 5

COUNTY MANAGER

DAVE HARNER

ASSISTANT COUNTY MANAGER

PETER WINTON
 CHRISTINE BRADY
 GLEN SALTER
 MARC MORA
 ROBERT CODIE

FACILITIES CONSTRUCTION & MANAGEMENT

EHAB GUIRGUIS, P.E.



WELER ENGINEERING CORP.
 201 WEST MARION AVENUE SUITE
 1306 PUNTA GORDA, FLORIDA 33950
 PHONE: (941) 505-1700
 FAX: (941) 505-1702



JOHNSON ENGINEERING, INC.
 2122 JOHNSON STREET
 FORT MYERS, FLORIDA 33901
 PHONE: (239) 334-0046
 E.B. #642 & L.B. #642

US, o=JOHNSON
 ENGINEERING INC,
 dnQualifier=A0141
 OC0000017D9506E
 DF600003491,
 cn=Jordan Varble
 2024.07.10
 08:56:53 -04'00'

REGISTERED PROFESSIONAL ENGINEER
 FLORIDA LICENSE NO. 81414

JORDAN LEVI VARBLE, PE

DATE



NOTICE TO ALL CONTRACTORS
 IT'S THE LAW IN FLORIDA
 2 BUSINESS DAYS BEFORE
 YOU DIG
 CALL SUNSHINE
 1-800-432-4770
 STATE, COUNTIES & CITIES
 ARE "NOT" PART OF THE
 ONE-CALL SYSTEM. THEY
 MUST BE CALLED
 INDIVIDUALLY.

60% DESIGN

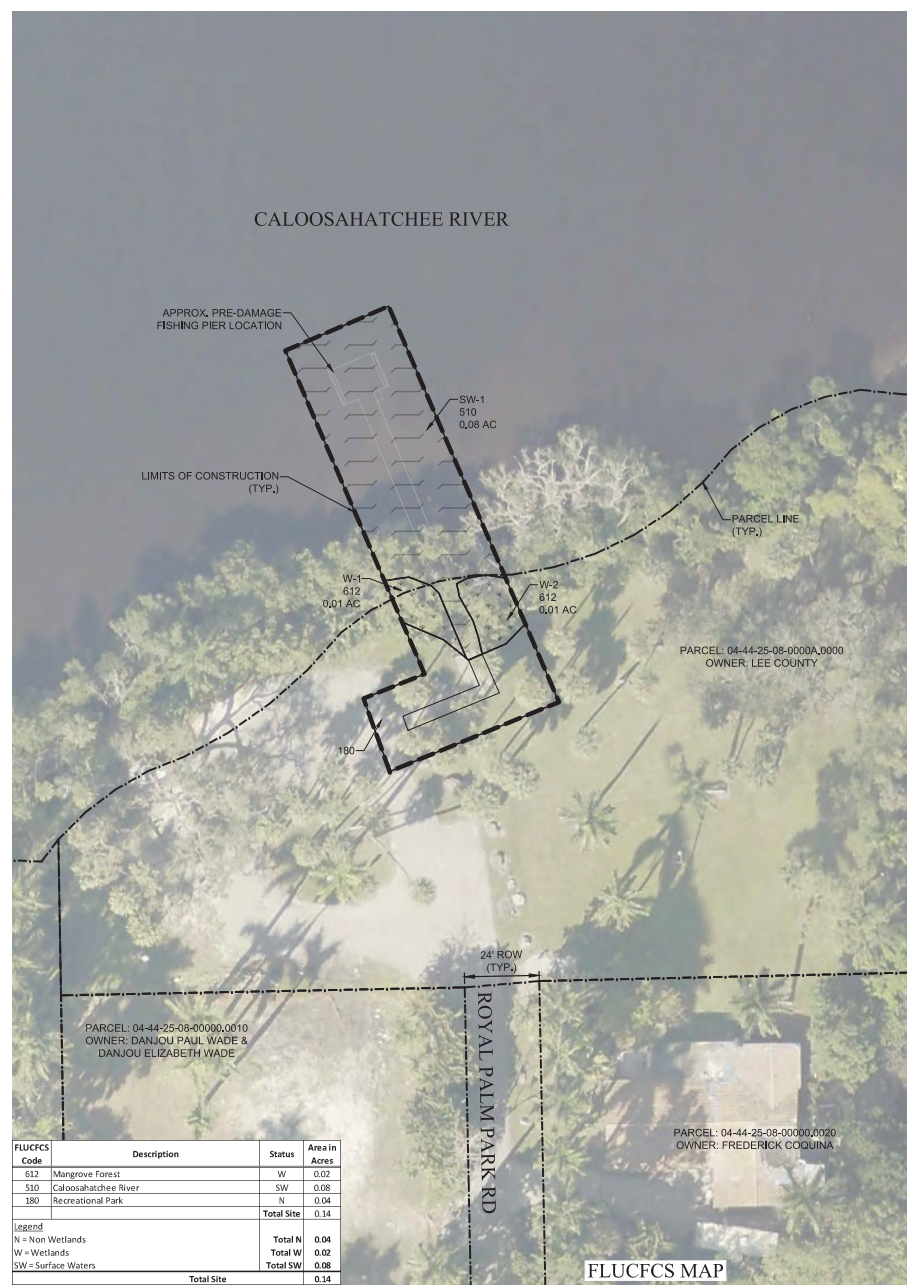
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C01



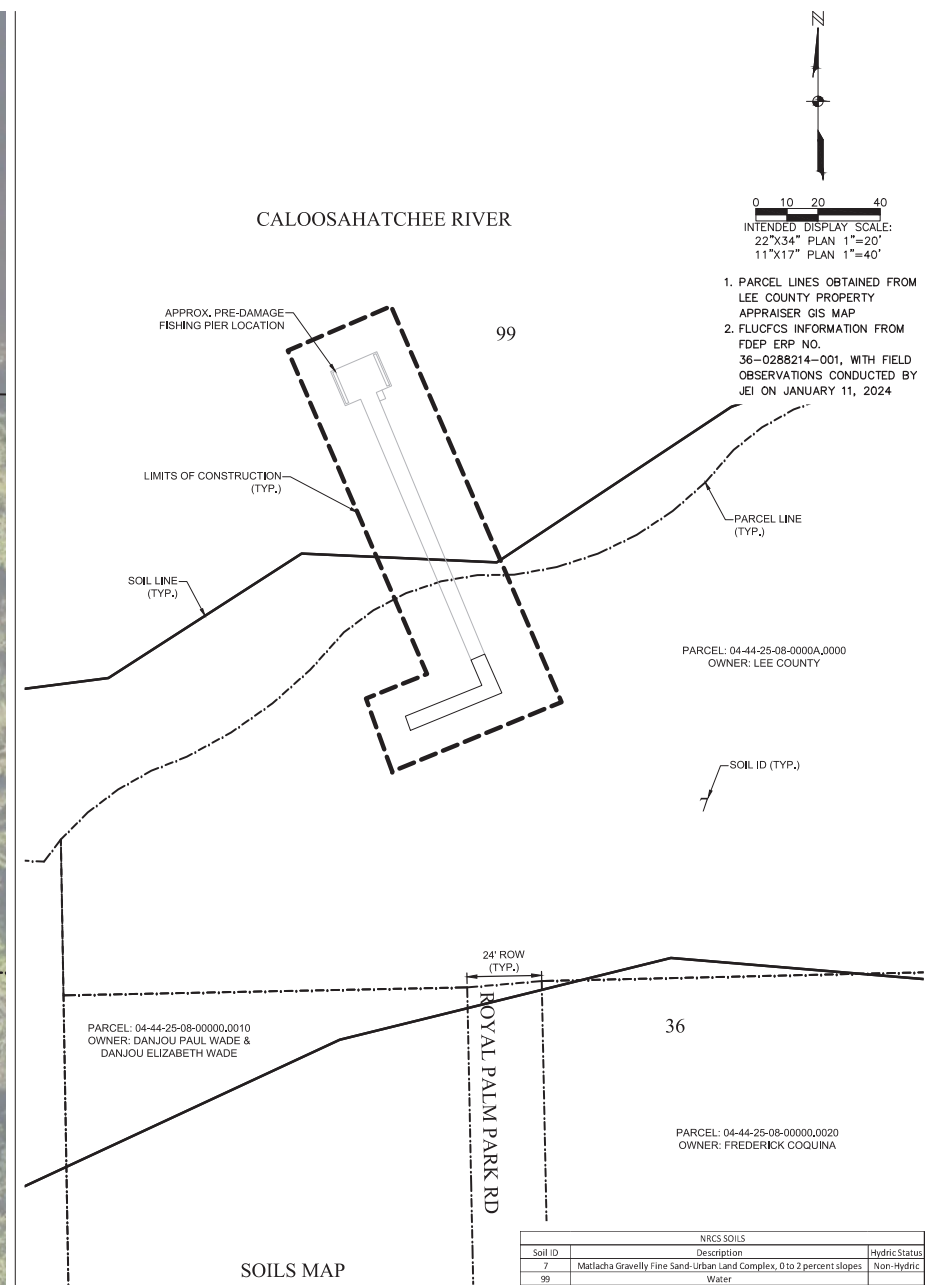
EXEMPT

File Number:
0288214-002 EE



FLUCFCS Code	Description	Status	Area In Acres
612	Mangrove Forest	W	0.02
510	Caloosahatchee River	SW	0.08
180	Recreational Park	N	0.04
			Total Site 0.14
Legend			Total N 0.04
N = Non Wetlands			Total W 0.02
W = Wetlands			Total SW 0.08
SW = Surface Waters			Total Site 0.14

\\flm011\drawings\2023\2023180-000\Engineering\Drawings\00\Royal Palm Park\23180-004 FLUCFCS & SOILS MAP.cad Jul 02, 2024 - 4:20pm



Soil ID	NRCS SOILS Description	Hydric Status
7	Maitlacha Gravelly Fine Sand-Urban Land Complex, 0 to 2 percent slopes	Non-Hydric
99	Water	

AERIAL PHOTOGRAPH SOURCE: LEE COUNTY - FLIGHT YEAR 2024



INTENDED DISPLAY SCALE:
22"x34" PLAN 1"=20'
11"x17" PLAN 1"=40'

1. PARCEL LINES OBTAINED FROM LEE COUNTY PROPERTY APPRAISER GIS MAP
2. FLUCFCS INFORMATION FROM FDEP ERP NO. 36-0288214-001, WITH FIELD OBSERVATIONS CONDUCTED BY JEI ON JANUARY 11, 2024

JOHNSON ENGINEERING

JOHNSON ENGINEERING, INC.
2122 JOHNSON STREET
FORT WERTS, FLORIDA 33901
PHONE: (239) 336-0345
E.O. 11282 & L.B. 8622



WELER ENGINEERING CORP.
1306 WEST MARION AVENUE, SUITE 1306
PLANTA GORDA, FLORIDA 33950
PHONE: (841) 506-1702
FAX: (841) 506-1702

SCALE: 1"=40'



ROYAL PALM PARK
VARIOUS BOARDWALK
REPAIRS
LEE COUNTY, FLORIDA

NO.	DATE	DESCRIPTION

DATE: JULY 2024
PROJECT NO. 2023180-000
FILE NO. 04-44-25
SCALE: AS SHOWN

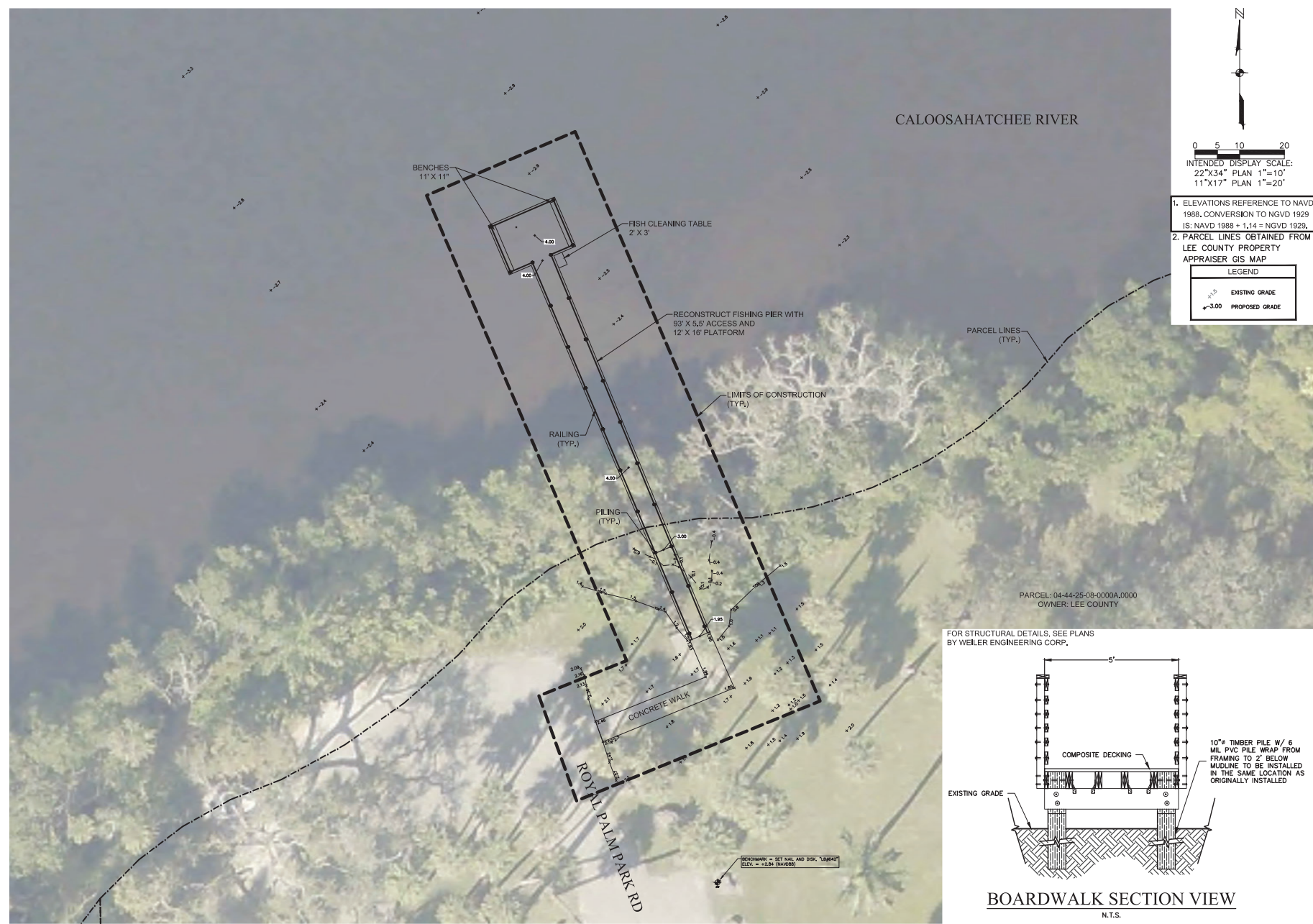
FLUCFCS & SOILS MAP

SHEET NUMBER
C03



EXEMPT

File Number:
0288214-002 EE



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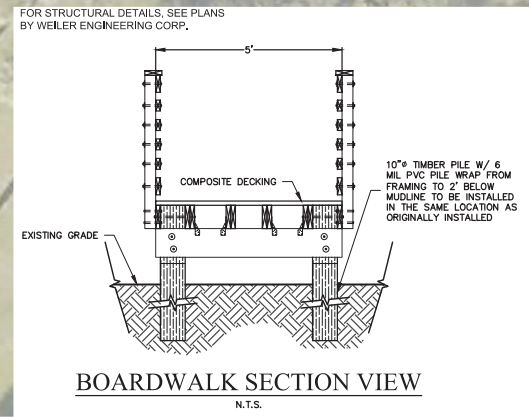
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INTENDED DISPLAY SCALE:
22"X34" PLAN 1"=10'
11"X17" PLAN 1"=20'

- ELEVATIONS REFERENCE TO NAVD 1988, CONVERSION TO NGVD 1929 IS: NAVD 1988 + 1.14 = NGVD 1929.
- PARCEL LINES OBTAINED FROM LEE COUNTY PROPERTY APPRAISER GIS MAP

LEGEND

EXISTING GRADE
 PROPOSED GRADE



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E.O. 11286 & L.B. 4642

WEC
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PLANTA GORDA, FLORIDA 33960
PHONE: (841) 505-1700
FAX: (841) 505-1702

Lee County
Sustained Florida

ROYAL PALM PARK
VARIOUS BOARDWALK
REPAIRS
LEE COUNTY, FLORIDA

NO.	DATE	DESCRIPTION

NO. _____ DATE: JULY 2024
PROJECT NO. 20238180-000
FILE NO. 04-44-25
SCALE: AS SHOWN

SITE PLAN

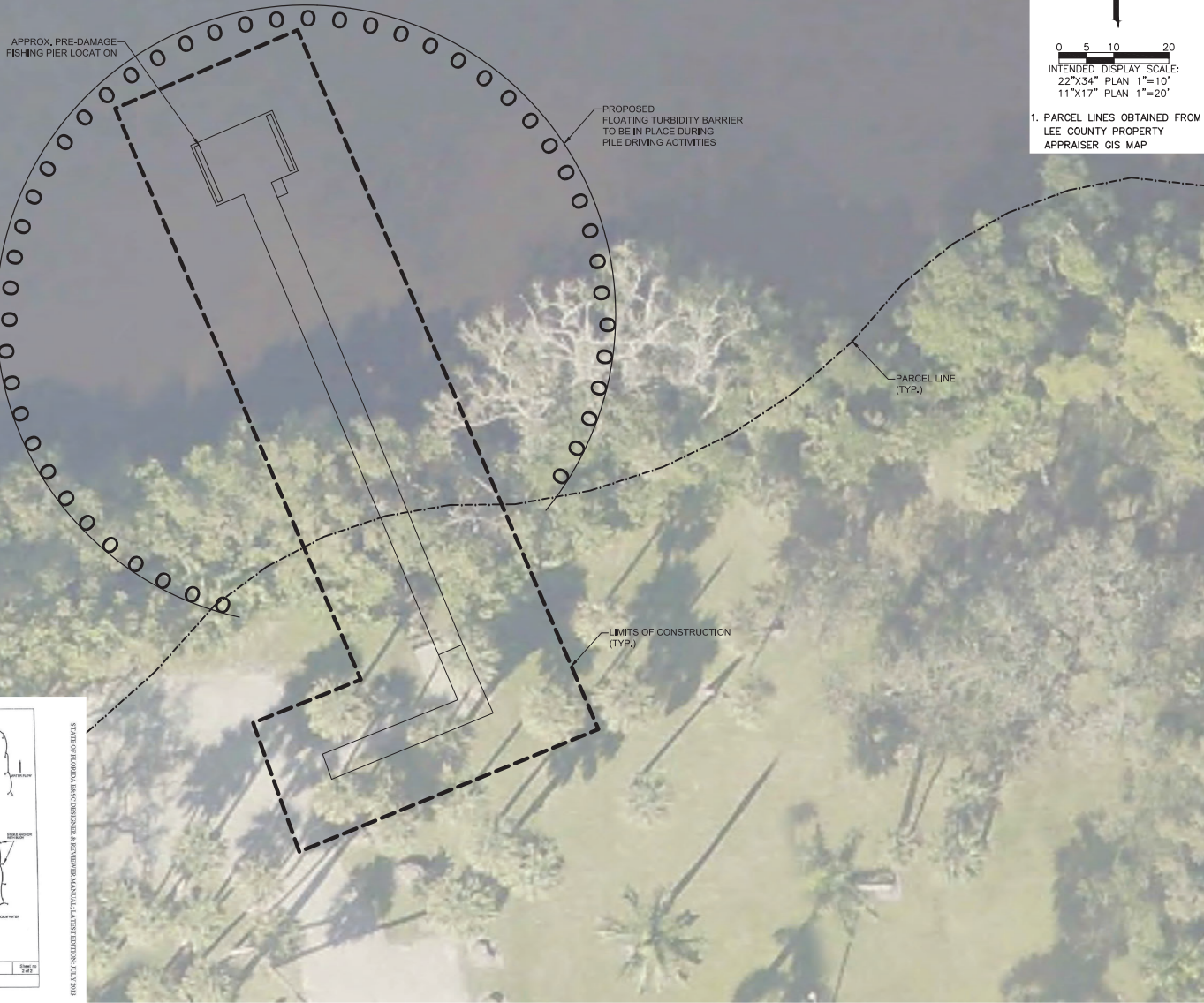
SHEET NUMBER
C05



EXEMPT

File Number:
0288214-002 EE

CALOOSAHATCHEE RIVER



0 5 10 20
 INTENDED DISPLAY SCALE:
 22"X34" PLAN 1"=10'
 11"X17" PLAN 1"=20'

1. PARCEL LINES OBTAINED FROM LEE COUNTY PROPERTY APPRAISER GIS MAP

JOHNSON ENGINEERING

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 PHONE: (209) 336-0345
 E.O. 11942 & L.B. 8642



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 201 WEST MARION AVENUE, SUITE
 1306 PLANTA GORDA, FLORIDA 33569
 PHONE: (641) 505-1700
 FAX: (641) 505-1702

PROJ. NO. 2023180-004
 SHEET NO. 04-44-25



ROYAL PALM PARK
 VARIOUS BOARDWALK
 REPAIRS
 LEE COUNTY, FLORIDA

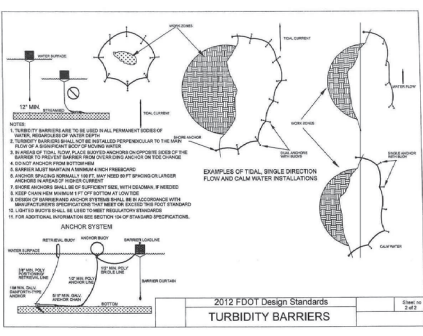
NO.	DATE	DESCRIPTION

DATE: JULY 2024
 PROJECT NO. 2023180-000
 FILE NO. 04-44-25
 SCALE: AS SHOWN

EROSION CONTROL PLAN

SHEET NUMBER
C06

Figure 1-16: Illustration of Installing a Floating Turbidity Barrier

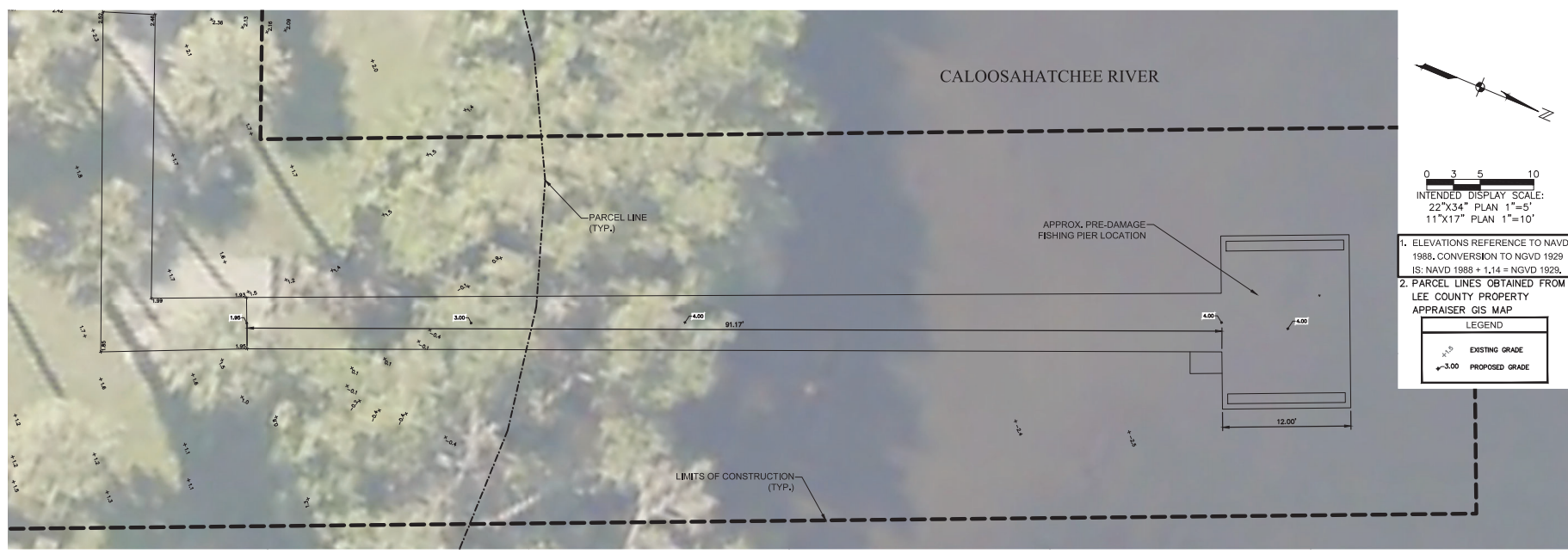


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EXEMPT

File Number:
0288214-002 EE



0 3 5 10
 INTENDED DISPLAY SCALE:
 22"X34" PLAN 1"=5'
 11"X17" PLAN 1"=10'

1. ELEVATIONS REFERENCE TO NAVD 1988, CONVERSION TO NGVD 1929 IS: NAVD 1988 + 1.14 = NGVD 1929.
 2. PARCEL LINES OBTAINED FROM LEE COUNTY PROPERTY APPRAISER GIS MAP

LEGEND
 ▽ 1.5' EXISTING GRADE
 ↖ 3.00' PROPOSED GRADE

JOHNSON ENGINEERING

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ROYAL PALM PARK
VARIOUS BOARDWALK
REPAIRS
LEE COUNTY, FLORIDA



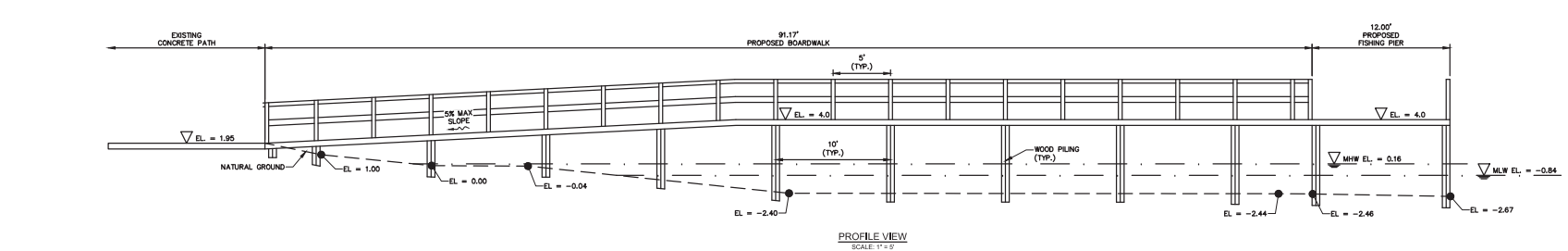
ROYAL PALM PARK
VARIOUS BOARDWALK
REPAIRS
LEE COUNTY, FLORIDA

NO.	DATE	DESCRIPTION

DATE: JULY 2024
PROJECT NO. 20236180-000
FILE NO. 04-44-25
SCALE: AS SHOWN

PLAN & PROFILE

SHEET NUMBER
C07



PROFILE VIEW
SCALE 1"=2'

3. TIDAL DATA PER TIDE
INTERPOLATION POINT NO. 1223.
ACCESSED FROM LABINS MAY 28, 2024

62-330.051 Exempt Activities.

The activities meeting the limitations and restrictions below are exempt from permitting. However, if located in, on, or over state-owned submerged lands, they are subject to a separate authorization under chapters 253 and 258, F.S., as applicable.

(5) Dock, Pier, Boat Ramp and Other Boating-related Work –

(d) Replacement or repair of existing docks and piers, including mooring piles, in accordance with section 403.813(1)(d), F.S., provided the existing structure is still functional or has been rendered non-functional within the last year by a discrete event, such as a storm, flood, accident, or fire.

Section 403.813, Florida Statutes Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, this subsection does not relieve an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(d) The replacement or repair of existing docks and piers, except that fill material may not be used and the replacement or repaired dock or pier must be in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired. This does not preclude the use of different construction materials or minor deviations to allow upgrades to current structural and design standards.