



Alachua County Environmental Protection Department

Stephen Hofstetter, Director

September 24, 2021

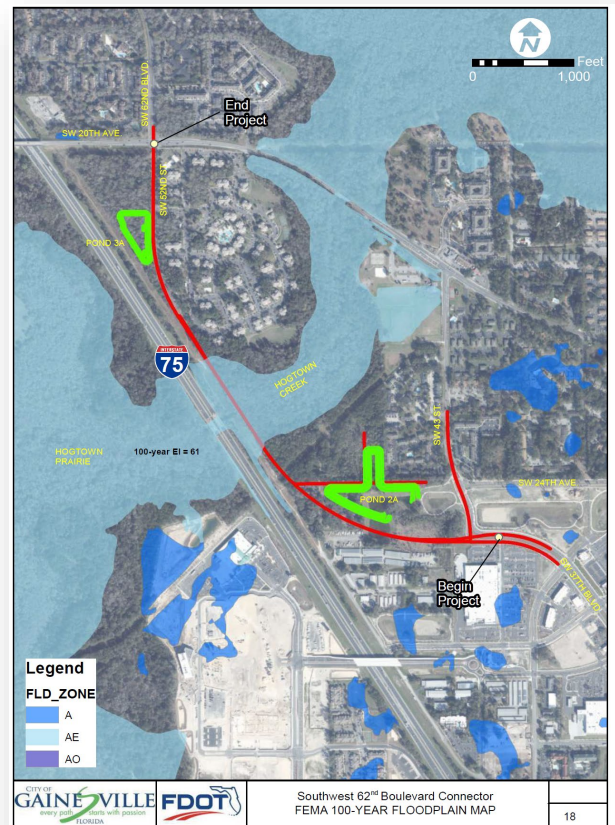
MEMORANDUM

TO: Alachua County BoCC
VIA: Stephen Hofstetter, Director
FROM: Mark Brown, Interim Natural Resources Program Manager
SUBJECT: City of Gainesville - Public Works Department
SW 62nd Boulevard Connector Project
Summary - Countywide Wetland Protection Code –
Avoidance, Minimization and Mitigation Plan

The purpose of this memorandum is to provide information relative to the wetland & buffer encroachments and associated mitigation proposed for the SW 62nd Boulevard Connector (Connector). This information summarizes the “*Avoidance, Minimization and Mitigation Plan*” (dated September 8, 2021) submitted by the City of Gainesville’s Public Works Department (COG-PWD) for review and authorization by the BoCC as required by the Countywide Wetland Protection Code [(CWPC, Section 77.22 (b)(3)].

Project Purpose

The stated primary purpose of the Connector project has been to provide traffic congestion relief to major roadway facilities including I-75, SR 121 (SW 34th Street), SR 24 (Archer Road), CR 2074 (SW 20th Avenue), and SR 26 (Newberry Road). In a collaborative effort between the City of Gainesville and FDOT, evaluations of 11 potential alternatives for the Connector commenced in 2007 and the selected alternative is a 1.1 mile-long, 2-lane facility oriented in a generally southeast-northwest direction. This alignment begins at the western terminus of Clark Butler Boulevard and ends at the intersection of SW 20th Avenue; paralleling along the east side of I-75 for 3,000 feet (right aerial).

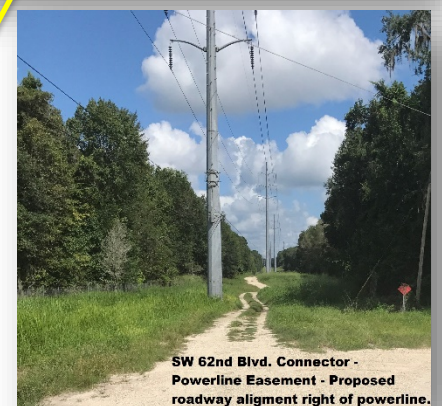
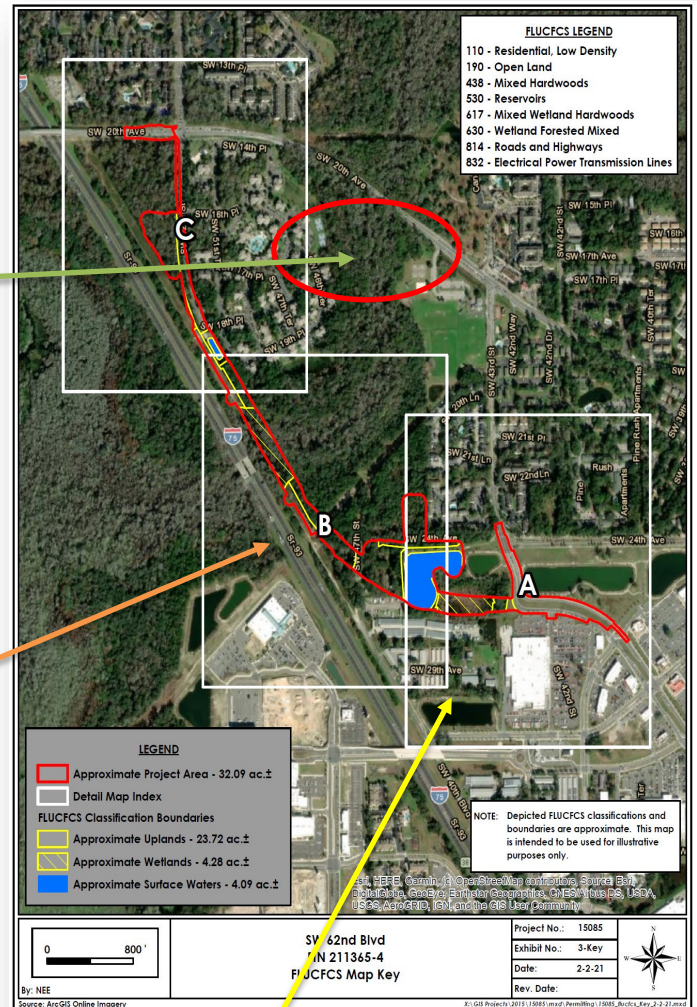


Alternatives Assessment – Wetland & Buffer Issues

The eleven various alternative alignments and roadway dimensions included many components and options to possibly minimize encroachment into wetlands and associated buffers. Since the majority of the existing roads within the study area have existing residential and commercial facilities adjacent to the public roadway right-of-way (R/W), there would be substantial legal and financial limitations in being able to justify and pursue condemnation and demolition of residential structures to expand R/W in order to accommodate construction of additional lanes along those routes. There are only two undeveloped areas associated with the potential route options; both associated with crossing the Hogtown Creek wetland floodplain. They include the proposed alignment additional lanes for the SW 20th Avenue crossing (circled area, right aerial). The SW 20th Avenue alternative design would result in substantially more wetland encroachment compared to the selected alignment.

Since construction of roadway facilities cannot be conducted directly under the powerline adjacent to I-75, this limitation required shifting the selected roadway alignment to the east of the powerline (bottom photo). As a result, this will encroach up to 160 ft. within the outer perimeter of the Hogtown Creek forested wetland floodplain and wetland buffers (right aerial, orange arrow). However, the creek wetland and buffer encroachment has been minimized by selecting a design for a two-lane facility instead of what would be a substantially more expansive four-lane design alternative. This reduction in lanes will result in a narrow 270-ft. long, 60 ft. wide two-lane bridge over Hogtown Creek. The total primary creek crossing wetland impacts from clearing and fill material will be 1.7 acres. An additional 4.9 acres of secondary impacts associated with bridge shading and close proximity to the remaining forested wetland increases the total of qualified and quantified wetland impact to 6.6 acres.

The second wetland crossing for the Connector project will be associated with an altered wetland surrounded to the north and west by two stormwater basins, warehouse complex and Walmart to the south and Clark Butler Boulevard to the east (aerial above, yellow arrow). This is a lower quality wetland than the crossing associated with Hogtown Creek. The roadway construction fill through the center of the wetland (1.9 acres) is considered primary impacts, and the remaining 2.7 acres of the wetland considered secondary impacts (total 4.6 acres). As a



result, the two wetland crossings will have a total 11.2 acres of primary and secondary wetland impacts for the selected Connector alignment.

Countywide Wetland Protection Code – Authorized Impacts (CWPC, Sec. 77.20.)

The COG-PWD provided the following information in the “*Avoidance, Minimization and Mitigation Plan*” to address the proposed alignment and associated wetland impacts as required by the Code.

Section 77.20 (a) Alteration activities shall not be authorized in wetlands or wetland buffers except when the following criteria are met:

- (1) The applicant has taken every reasonable step to avoid adverse impact to the wetland and buffer;
The Connector alignment is located within a developed area where alternative route analysis verified additional wetland impacts would be required if constructed elsewhere. The most noteworthy additional impacts for any alternative would be to the Hogtown Creek wetland floodplain.
- (2) The applicant has taken every reasonable step to minimize adverse impact to the wetland and buffer;
The proposed project designs were narrowed to a two-lane instead of four-lane facility; reducing the encroachment within the two wetland crossings. In addition, the proposed stormwater basin designs were also excluded from wetlands and buffers.
- (3) The applicant has provided appropriate mitigation for adverse impacts to the wetland and buffer;
This issue is addressed in the next section for wetland and wetland buffer mitigation.
- (4) Mitigation may be permitted for new wetland loss only where the applicant demonstrates that the activity cannot practically be located on the upland portion of the parcel or contiguous parcels under common ownership or control. The applicant must demonstrate that one of the following applies:
 - i. Minimal impact activity; ***Wetland and buffer encroachment is necessary however reduced to the least feasible footprint that can achieve the roadway design and safety requirements.***
 - ii. Overriding public interest; ***The Connector has been through an extensive alternatives evaluation and design process for over 15 years, and considered one of the most critical and necessary public roadway infrastructure facilities within Gainesville and Alachua County.***
 - iii. All economically viable use of the property is otherwise precluded; ***The proposed Connector facilities will be constructed within a narrow public right-of-way. This right-of-way will not result in restriction for adjacent property owners and will increase transportation mobility and accessibility for the public.***

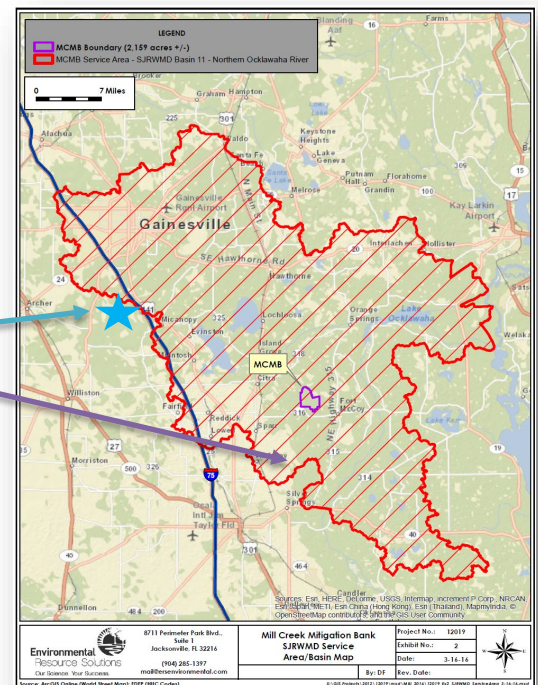
As a result of the selected alignment and design, EPD staff believe the proposed wetland and buffer encroachments have been minimized to the degree possible while achieving FDOT standards of safe roadway design requirements.

Proposed Wetland Mitigation

The COG-PWD evaluated potential mitigation options, and the related issues are summarized below from their “*Avoidance, Minimization and Mitigation Plan*.”

- **Existing Public Lands/Parks** - After extensive evaluation, there are minimal alternatives for necessary habitat enhancement and restoration opportunities within COG’s parks and public lands that could appropriately and adequately fulfill mitigation requirements for the proposed wetland impacts associated with the Connector.

- Potential Land Acquisition** - FDOT will be cost-sharing the construction of the Connector including the costs associated with wetland mitigation. However, FDOT confirmed for cost-share reimbursement, the COG would not be able to independently acquire additional land rights to fulfill wetland mitigation requirements. FDOT recognizes that local government-sponsored transportation projects may have to adhere to local government regulations. However, for FDOT sponsored and co-sponsored projects, FDOT is only required to follow federal and state environmental regulations. Any additional requirements and associated funding a local government has to expend to address local regulations will not be addressed or reimbursed by FDOT. Since mitigation banks are authorized by the State Legislature as appropriate and allowable mitigation alternative that are also supported and extensively utilized by FDOT-sponsored projects, it is highly improbable an extension would be granted by FDOT to allow the COG to evaluate, pursue, negotiate acquisition, design and permit an appropriate mitigation project. In turn, such a delay would severely jeopardize the funding of the project since FDOT would probably designate the allocated Connector funds to other projects.
- Mitigation Bank** - The CWPC [Section 77.20 (e)] states “mitigation may be located in Alachua County and, to the maximum extent practicable, within the local watershed in which the impact occurs.” Last year the Mill Creek Mitigation Bank was permitted by the St. Johns River Water Management District (SJRWMD) and U.S. Army Corps of Engineers (USACOE). The bank’s watershed service area (right figure) includes the proposed Connector alignment, and the bank is located only three miles southeast of the Alachua County boundary.
- SJRWMD Permitting of the Connector** –The SJRWMD has confirmed that purchasing credits from the Mill Creek Mitigation Bank will be an accepted alternative to provide mitigation for the wetland impacts associated with the Connector. Since the COG and ACEPD staffs have concurred with the SJRWMD in terms of wetland delineations, proposed wetland impacts, associated habitat conditions and required alternative avoidance & minimization justification; the same associated wetland mitigation requirements would apply for local and state regulations. As stated in F.S. 373.414(1)(b)(4), “*if mitigation requirements imposed by a local government for surface water and wetland impacts of an activity regulated under this part cannot be reconciled with mitigation requirements approved under a permit for the same activity issued under this part, including application of the uniform wetland mitigation assessment method (UMAM) adopted pursuant to subsection (18), the mitigation requirements for surface water and wetland impacts shall be controlled by the permit issued under this part.*” As much as a mitigation bank within Alachua County would be preferable to address the location stated in the CWPC; as stated in F.S. 373.4135(2), “*local governments shall not deny the use of a mitigation bank or offsite regional mitigation due to its location outside of the jurisdiction of the local government.*” Even if the COG-PWD had been fortunate to locate appropriate mitigation options within existing public lands, compared to a permitted mitigation bank, there would be a high risk that such options could not be deemed sufficient and/or appropriate by SJRWMD.
- Perpetual Mitigation Obligations** - As required for SJRWMD, Alachua County and COG, permitting regulations associated with conducting wetland mitigation activities require perpetual obligations of routine habitat maintenance, monitoring and management responsibilities. The associated expenditures



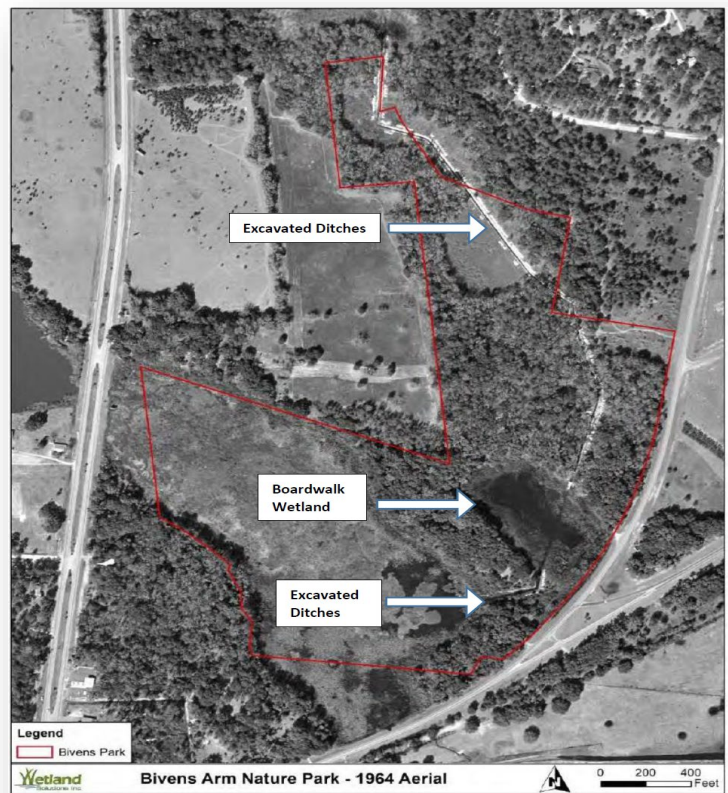
that would have to be annually budgeted for these mitigation activities further increases the commitment, responsibilities and expenditures of the COG. In addition, based on the evaluation of various limited habitat enhancement opportunities within COG properties, these commitments would have to be extended to include multiple sites to fulfill mitigation requirements. In turn, the associated costs of perpetual obligations would increase. Purchasing mitigation bank credits would be a single expenditure without the perpetual liabilities and responsibilities associated if the COG pursued and conducted mitigation elsewhere.

In collaboration and coordination with ACEPD and SJRWMD, the quantity of credits to be purchased from the Mill Creek Mitigation Bank will be evaluated and determined during the permitting process. Based on the UMAM quality assessment of the proposed total of 11.23 acres of direct and secondary wetland impacts, the preliminary estimate of required credits will probably be approximately 4.5 credits. As part of the cost-share agreement, FDOT will reimburse the COG for the expenditures associated with purchasing the mitigation bank credits.

Proposed Wetland Buffer Mitigation Bivens Arm Nature Park – Boardwalk Wetland

There will be an estimated 1.1-acres of proposed buffer encroachment associated with construction of the proposed Connector. As with the Connector's wetland impacts, there are not adequate or appropriate on-site mitigation options for proposed buffer encroachment. However, in addition to fulfilling the wetland mitigation requirements through the Mill Creek Mitigation Bank, the COG wishes to also conduct habitat improvements within public lands located in Alachua County to provide habitat compensation for the proposed buffer encroachment. Based on the evaluation of dozens of COG-Parks property, it has been determined the most promising opportunity and need for habitat improvements is located at the Bivens Arm Nature Park (BANP, right aerial).

In 2018, the COG Parks Dept. contracted with Wetland Solutions, Inc. to conduct a feasibility assessment and preliminary cost



estimate to evaluate various options to restore marsh hydrology and associated vegetative components. The assessment determined that since the three northern marshes are located along the Park's property boundary, it's probable that additional land acquisition and/or drainage easements would be necessary to restore hydrology for those wetland ecosystems. However, the assessment concluded the southern five-acre "Boardwalk Wetland" could be restored to marsh habitat without additional acquisitions of property or easements. Additional engineering evaluation is necessary including hydrologic and hydraulic modeling analysis, construction design plans and permitting of desired habitat improvements within the Boardwalk Wetland.

The COG-Parks Dept. has budgeted up to \$200,000 for the vegetation removal (Carolina willow shrubs), structure construction and perpetual management of the Boardwalk Wetland habitat. However, the necessary engineering and permitting associated with the project were not included in the budget scope. As a result, the COG-Public Works Dept. is willing to allocate the estimated \$100,000 toward this effort. If the consultant's assessment, design and permit estimate is less than the budgeted amount, any remaining funds will be utilized by the Parks Dept. for habitat management at the BANP. This commitment of fund transfer will be incorporated into an Inter-local Agreement between the COG and Alachua County. If for any reason it's determined that the BANP Boardwalk Wetland project cannot be implemented, a contingency option will be incorporated in the agreement to allow the COG utilize the CWPC's in-lieu fee buffer mitigation option and provide the \$100,000 for the County's Environmental Sensitive Lands Fund (refer to next section).

Countywide Wetland Protection Code – Mitigation (CWPC, Sec. 77.20.)

The COG-PWD provided the following information in the "Avoidance, Minimization and Mitigation Plan" to address the proposed mitigation for wetland and wetland buffer impacts as required by the Code.

Section 77.20 (a) Alteration activities shall not be authorized in wetlands or wetland buffers except when the following criteria are met:

(3) The applicant has provided appropriate mitigation for adverse impacts to the wetland and buffer;
As referenced under the stated reasons, the proposed mitigation for wetland impacts will include purchasing the SJRWMD and CWPC required credits from the Mill Creek Mitigation Bank. Mitigation for wetland buffer impacts will not be required by the SJRWMD, however buffer mitigation is being provided to fulfill requirements of the CWPC (discussed below).

Section 77.20 (g) Wetland buffer mitigation shall be provided on or adjacent to the site or offsite or fee-in lieu of land. The order in which mitigation will be considered shall be:

(1) ***Onsite restoration or enhancement. Due to the limited Connector right-of-way and the habitat quality within and adjacent to the Hogtown Creek wetland floodplain, there are not appropriate on-site habitat restoration or enhancement opportunities within existing public lands.***

(2) ***Offsite preservation. Due to the extended time and limited negotiation options to acquire property as well as limitations for being able to be reimbursed by FDOT, the COG is restricted in being able to acquire property for mitigation options. However, five acres of proposed marsh habitat restoration within the City's Bivens Arm Nature Park would provide an appropriate off-site***

mitigation alternative to compensate for the proposed encroachment to approximately one acre of wetland buffer habitat.

As referenced, if for some reason additional engineering evaluation determines that restoration within the Boardwalk Wetland at Bivens Arm Nature Park cannot be conducted, the COG-PWD will provide the \$100,000 allocation to the County's Environmental Sensitive Lands Funds. The proposed wetland mitigation at Mill Creek Mitigation Bank, wetland buffer mitigation at Bivens Arm Nature Park and contingency allocation of the \$100,000 to the County will be documented as part of a Gainesville and Alachua County Inter-local Agreement.

Countywide Wetland Protection Code - Analysis Summary

The following summarizes staff's evaluation of the proposed Connector project:

- Staff has found the Connector project demonstrates the "overriding public interest" requirement of the CWPC [Section 77.20(a)(4)ii.]
- Staff has found the proposed wetland and buffer impacts are necessary for Connector construction and demonstrates achieving the avoidance and minimization criteria requirements of the CWPC [Section 77.20(a)(1) & (2)].
- Staff has found proposed purchase of credits from the Mill Creek Mitigation Bank will provide appropriate mitigation for the proposed wetland impacts; achieving the permitting requirements of the SJRWMD as well as CWPC [Section 77.20(a)(3)].
- Staff has found the proposed habitat and hydrologic restoration of the Boardwalk Wetland at the Bivens Arm Nature Park will provide appropriate mitigation for the proposed wetland buffer impacts.
- Prior to commencing Connector construction, COG-PWD and County BoCC will finalize an Interlocal Agreement to document purchasing of the Mill Creek Mitigation Bank credits and funding activities for the Bivens Arm Nature Park. This agreement will include contingency allocation of the Bivens Arm funds (\$100,000) to Alachua County's Environmental Sensitive Lands Funds.

Staff Recommendation

As a result of the referenced reasons and justifications provided by the COG-PWD, staff believe the proposed wetland and buffer encroachments and mitigation activities are consistent with Section 77.20 requirements of the Countywide Wetland Protection Code. As a result, staff recommends the BoCC approve the presented *Avoidance, Minimization and Mitigation Plan* as referenced in the CWMP [Section 77.22 (b)(3)].