

**MALABAR TOWN COUNCIL/BREVARD COUNTY  
CONFLICT ASSESSMENT MEETING MINUTES**

**April 10<sup>th</sup>, 2023, 10:00 AM**

This meeting of the Malabar Town Council was held at Malabar Town Hall, 2725 Malabar Road.

**1. CALL TO ORDER:**

Malabar Town Attorney Karl Bohne called the meeting to order at 10:04 am.

**2. OPEN MEETING:**

Atty Bohne identified those in attendance representing the Town of Malabar, including himself, Town Manager Matthew Stinnett, and Town Clerk Richard Kohler. He also identified those in attendance representing Brevard County, including Brevard County Manager Frank Abbate, EELs Program Director Mike Knight, and Brevard County Attorney Morris Richardson.

**3. MEETING DESCRIPTION**

Atty Bohne gave a brief description of the goals of today's meeting. The purpose is to fulfill the requirements set forth in FS 164. This is a dispute between the Town of Malabar ("TOM") and Board of County Commissioners ("BCC"). We shall discuss issues and assess the conflict from each side. The action was initiated by BCC in regards to the necessity of permits. Town has inserted an issue regarding the erection of barricades along the ingress and egresses of the sanctuary. A tentative solution reached today must also be approved by both legislative bodies. We will proceed with Public Comments first, 3-minute limit. Then the discussion will return to the staff. If an agreement cannot be reached, the next step would be a meeting between the legislative bodies. Since the County filed, they will go first, and then the Town will respond. This is informal, but is required by statute to be a public meeting. Atty asks if Brevard County has anything to add, Atty Richardson states no.

**4. PUBLIC COMMENTS**

**Murray Hann, Malabar Resident** – 1365 Corey Road. Why wasn't this plan met with open arms? No one in Malabar is opposed to helping scrub jays. Having said that, the Jordan Scrub restoration alarmed many residents. The same powerful machines had been used around town, so the Town supplemented its code. The EELs program is the largest landowner in town. The signs were the first indication of proposed work. The Trails and Greenways Committee ("TGC") tried to learn the rules and propose an alternate plan. It was approved by Malabar TC and submitted to EELs. They felt the blanket assessment was unfeasible, and tried to provide alternate theories. Suggested a moderate approach. It affected 2% of the property in east.

**John White, Melbourne Resident** – 2700 Feld Lane, Resident for 52 years who has seen a lot of change, including a negative turn of the way of life. His background is as an equestrian user, and he is familiar with the MSS. He also rides in other scrub areas. He was a systems engineer and is interested in analytics. He was under the impression the PVA was the basis for the proposal. He found that the analysis is credible. In any model you can get a lot of different outputs. He questioned the lack of consideration for recreational passive use of the areas. He understands it is a secondary nature, and he supports that. He believes we should consider using the PVA as a counter proposal that would preserve some trees in the area.

**Barbara Cameron, Malabar Resident** – 665 Hall, Malabar is a Trail Town, and we are known for the wonderful trails. She has friends from Ohio who travel here to enjoy our trail system. The Brevard County Zoo was built by volunteers. Richard Cameron led the effort to create the Trailhead 1 for Malabar, and has the Richard Cameron Preserve named in his honor. When the barricades went up, it was a big issue. There was a conflict between the residents and the EELs program.

Barricading the sanctuary is unnecessary. We have presented proposals and have been turned down. She too is a TGC member who is deeply devoted to open space, and the tax payers having access to public land. She requests this be resolved.

**Mark Britt, Malabar Resident** – 1671 Country Cove Circle, Thanked the panel for their time. He retired in 2007 after years as a law enforcement agent. Settles in Malabar in 2015, and selected it due to the surrounding sanctuary. He felt he had found his dream and final home. He and his family frequently use the sanctuary for walking, jogging, hiking, and biking. He never imagined the preserve could be the land of chainsaws and fires. He is extra concerned about the effects these actions would have on both the residents and the native ecosystem. The scrub takes 4 years to produce an acorn after a burn. Please consider the residents who will be affected by this proposal. He also submitted a photo of the area. Finally he requested the group consider enhancing the small lake in MSS to add to the appeal.

**Craig Smith, Grant - Valkaria Resident** – 4315 Literal Lane, Owner of 20 acres in GV, and he loves the rural lifestyle. He serves both the GV and TOM TGC as a liaison. He is also the BPTAC rep for GV, and a BMBA Board Member. His personal opinion is that having greenspaces and trails nearby is excellent. His employees could go for a run on their lunch break. He has recently had 2 employees retire. They both ride their bikes and exercise in the areas now closed. We live in a wonderful county, and we should use the resources at hand to find a solution and proposes an onsite meeting.

**Drew Thompson, Malabar Resident** – 940 Holloway Trail, Serve on TGC, BPTAC and Brook Hollow HOA President. States there are 3 main factors. First is time. He has chosen to and continues to choose to live here due to the sanctuary. It is still in the same habitat that he moved to, and is not alone in his pursuit. There are many benefits to living near an urban forest. This area is the “Central Park” of South Brevard. It’s an investment in some of the big employers, Harris built their new headquarters near this area. People are moving to be nearer the area. It’s not just for the people living here, but for the future. Changing this area drastically could affect the area’s economics. Time Money Balance are the 3 factors. The current proposal treats MSS as one parcel, but east and west are very diverse. FCC recognizes that 300’ is comparable for longevity.

**Vickie Thomas, Malabar Resident** – 1605 County Cove. She is concerned about collateral damage. She has seen deer, snakes, and coyotes. Where will they go? Erosion is a concern as well. Birds do not only hunt from trees, but the surrounding power lines.

## 5. DISCUSSION/POSSIBLE ACTION OF ATTENDEES:

Attorney Bohne requested EELs Program Director Mike Knight present. Mr. Knight began his presentation (Available on request). Subjects covered were:

- Overgrown vs Healthy Scrub
- History of Property
- What is Optimal Scrub Habitat
  - o Mostly treeless
  - o 1000’ buffer preferred (300’ not feasible)
- 30 years of fire exclusion at the property.
  - o Scrub Habitat is cyclical.
- Previous Private Mitigation.
  - o Previous attempts to leave trees along trails, with notation to remove them in the future if restoration successful (i.e., scrub jays return to mitigation areas).
- Overall Restoration plan.
  - o Includes area north of creek.
  - o Will be consistent with FNAI habitat description.
- Why Now?

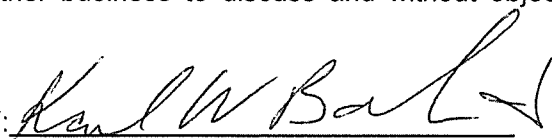
- Other projects have been less successful due to the trees that have been left.
- Timeline is speeding up to save birds.
- Alternatives Proposed by County
  - Preserving trees in areas near SDs and relocating trails.
  - Responded with other trail alignments.
  - Marked 9 locations with trees to be saved along trail.
  - 12 areas along paved trail
  - Several areas around Country Cove
  - Also suggested 3 trail relocations.
- Current Status
  - TGC requested a 25 foot buffer, and to not remove tree curtain, and to not remove the trees. Can not be followed due to the lack of science. Can be back to productive producing area in 3-4 years. We usually do 1/3 of the area at a time.

Atty Bohne requests information on Scrub Oaks on the interior, would they be cut to a height, or cut to the ground? Mr. Knight states most would be cut to 3-4 feet. Atty Bohne asks if there is room for compromise here, or can we preserve a specific height? Mr. Knight states they have already chosen approx. 5 of 30 trees to be left as is, but they will be trimmed in the future as well, with Scrub habitat being cyclical. Atty Bohne requests more information on the 1000' buffer, as it seems there are areas without 1000. Mr. Knight states in that instance they would max it out, and there is no room for negotiation as that calculation is based on the science and best management practices for scrub habitat. Atty Bohne asks if it is enough to save the birds since it doesn't meet the requirement. Are there areas where we can save trees due to it not being enough room? Mr. Knight states they have investigated that and feel there is no option for that. TM Stinnett states there appears to be no way the birds survive indefinitely. Mr. Knight states that is incorrect. TM Stinnett asks if doing this work will keep the Scrub Jays alive in perpetuity? Mr. Knight states that with additional work such as egg swapping and moving of birds it is possible. Bob Lacey and the Chicago Zoological Society did the study. TM Stinnett confirms that the Malabar site alone is not large enough to save the birds alone. Mr. Knight states they are currently moving birds and eggs to assist the development. CM Abbate stated 15 birds in 2 families were moved to the site recently. Atty Bohne confirms the plan is 1 tree per acre? Mr. Knight states the goal is 1-2 trees per acre, but areas will have higher or lower concentration. Atty Bohne asks if there are limitations on what trees are removed. Mr. Knight states it will mostly be pine trees removed. Oaks will not be removed, but reduced in height to the 2-3 feet range, or lower in roller chopping areas. Atty asks if there is room for compromise? Mr. Knight states the scrub oaks are essential to scrub families. Atty asks if in a cluster all will be removed? Mr. Knight states some may be left, but a majority would be removed. Atty asks for an estimate of how many oaks will be left along the perimeter. Mr. Knight states there are 12 locations along the paved trail that will be left. Atty asks if higher trees are preferred by the Coopers Hawk? Mr. Knight states not particularly. Atty asks if they use power lines? Mr. Knight states yes, but they are very visible. Atty asks about private property, and Mr. Knight states they cannot do anything about trees on private property. Atty Bohne states the current objection is between the tree survey and per tree fee. Is there any way to discuss some of those issues with the County trying to preserve trees along the perimeter? Mr. Knight states it doesn't meet the science, so it would require them to maintain the property incorrectly. Atty Bohne states he is focusing on the perimeter, is it Scrub Habitat? Mr. Knight states some of it is, but there aren't many oak trees in that area. Atty Bohne asks again if there is any room for compromise there? Mr. Knight states no. TM Stinnett states in some area, there is already a buffer in between the firebreaks. Do you plan to remove trees in those areas as well? Mr. Knight states yes. There will be some exceptions, but we will maintain the property the best we can. The real issue is the small size of these properties. Atty Bohne asks what the basis of the barricades going up was, and is that basis still there? Atty Bohne states none. Atty Bohne asks if there is a suggestion on how to remove them? Is there any reason from the EELs perspective to keep it closed? Mr. Knight states that during the work, certain areas would be closed. Atty Bohne states that the area being closed while work is in progress makes sense, but closing it now makes no sense. CM Abbate states the concern is the timing. The goal is to move forward, and going back

to the way it was doesn't get it there. We need to be moving towards a better place. Atty Bohne asks if there is anything in the interim that may help get them open? CM Abbate states getting the scrub to where it should be is progress. TM Stinnett states the conflict lies with the intent of the EELs program being opposed to the Town Code. The Town's side is very focused on perpetuating the trees and canopy cover of the Town. He doesn't think that protection of the scrub jay from a single threat is the only intent and purpose for that land. Our code prevents you from meeting the highest expectation. You have made a compromise just in the size of the land. He feels their response has been drastic. CM Abbate states the primary purpose was for the protection of the scrub jay. Everything else is secondary. Atty Bohne states that the referendum did not reference the scrub jay, and the points of preservation and recreation were equal. Attorney Richardson states the trail experience would be enhanced by the addition of trails, keeping it completely consistent with the recreation use. Atty Bohne states the referendum didn't number them. CM Abbate asks if the Town doesn't hold conservation as a high consideration? Atty Bohne states it is. Mr. Knight states the decision regarding conservation as the first priority was in place before the referendum to the people. TM Stinnett states we have our code, and were willing to come off of that a little to find a middle ground, and you have stated you cannot. How can we negotiate this if the only concern you have is the scrub jay? CM Abbate states they are not the only consideration, as shown by the options of trail movement. Clerk Kohler asks about removing trails from the map? Mr. Knight states the area is already overused by trails. He also reminded TM Stinnett that our Town Code references the conservation requirements. Atty Bohne refocused the discussion towards trying to reduce the impact to the surrounding areas. As there has been no tree survey, we don't know how many trees we are talking about. The Town may be willing to negotiate on the necessity of that, but he feels there will be no compromise from the County. Mr. Knight states he doesn't believe that it is possible due to the limits of science. Atty Bohne asks if there has been a survey of the Coopers Hawks in the area? Mr. Knight states it would be near impossible, but that they are common in the area. In dealing with the small sites, we need to maximize the use we can.

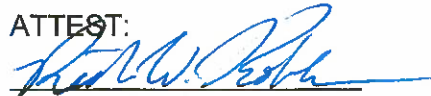
Atty Bohne states he does not believe either party was able to come to a position that would facilitate a resolution. He would like to move towards the next step of a joint meeting within 50 days. Must be inside the first week of May. After that there would also be a mediation process if there is no resolution. Atty Bohne asks if there can be a facilitator at the next meeting? Atty Richardson states if both sides agree. Atty Richardson states the County provided a presentation, however the Town did not propose any resolutions. Atty Richardson asks if the Town has any presentations. Clerk Kohler states the previously submitted plan is included. The plan was approved by the Malabar Trails and Greenways Committee and Town Council in February 2022. The County's proposal shown today is essentially the same they gave in response to our original submittal. Mr. Knight states a preserved tree buffer would be an added cost, as they would have to install and maintain new fire control lines inside of that buffer. Atty Bohne states it could save on permit fees. Atty Bohne asks if a 25' buffer can be accomplished? Mr. Knight states no, they can leave certain trees along the buffer, but they must be spaced out. Atty Bohne states that every attempt at compromise from the Town is met with a quick no from the County. Atty Richardson asks what the benefit of the buffer is? Atty Bohne states aesthetics for residents. Atty Richardson asks where that lies in the sanctuary guidelines. CM Abbate states they did their compromising earlier. Atty Richardson states that if the court requires no permit, they may not utilize the trail alignments. Atty Bohne asks how do we get the fences down? Atty Richardson states when work commences, areas will be opened and closed off as necessitated by the work and removed entirely when complete.

**6. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 11:35 A.M.

BY:   
Town of Malabar Attorney Karl Bohne

ATTEST:

ATTEST:



Richard W. Kohler  
Town Clerk

Exhibits attached:

- Brevard County "Malabar Scrub Restoration"
- Speaker's Identification Cards from Public Comments
- Photos submitted during Public Comments by Mark Britt
- Town of Malabar "Proposed Amendments to Malabar Scrub Restoration Plan"



Overgrown Scrub Habitat



Restored Scrub Habitat

# Malabar Scrub Restoration

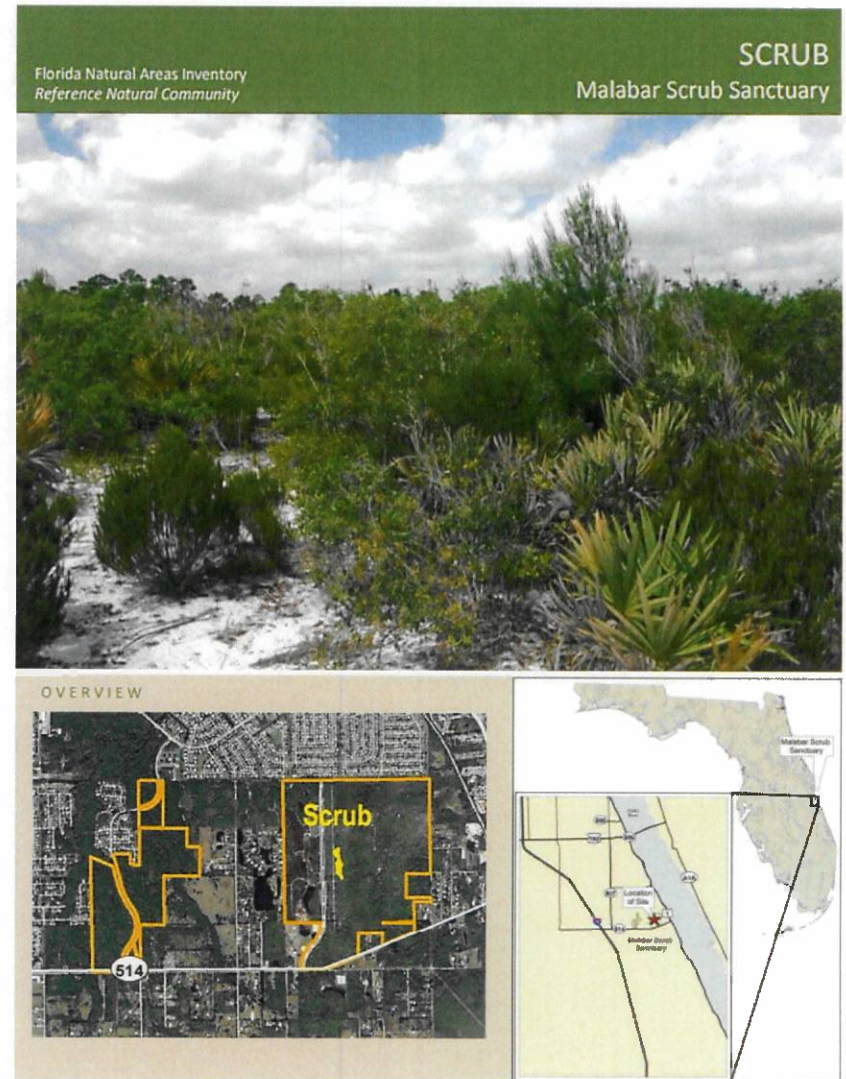


- Purchased under the EEL referendum for the specific purpose of protecting the Florida Scrub-Jay and other scrub species.



# What is Optimal Scrub Habitat

- Conditions that promote more jays reaching adulthood than dying.
- Mostly treeless expanses of low shrubs with bare sand openings.
  - 4 - 5.5 feet tall
  - 1000 foot forest edge buffer from scrub jay territories.



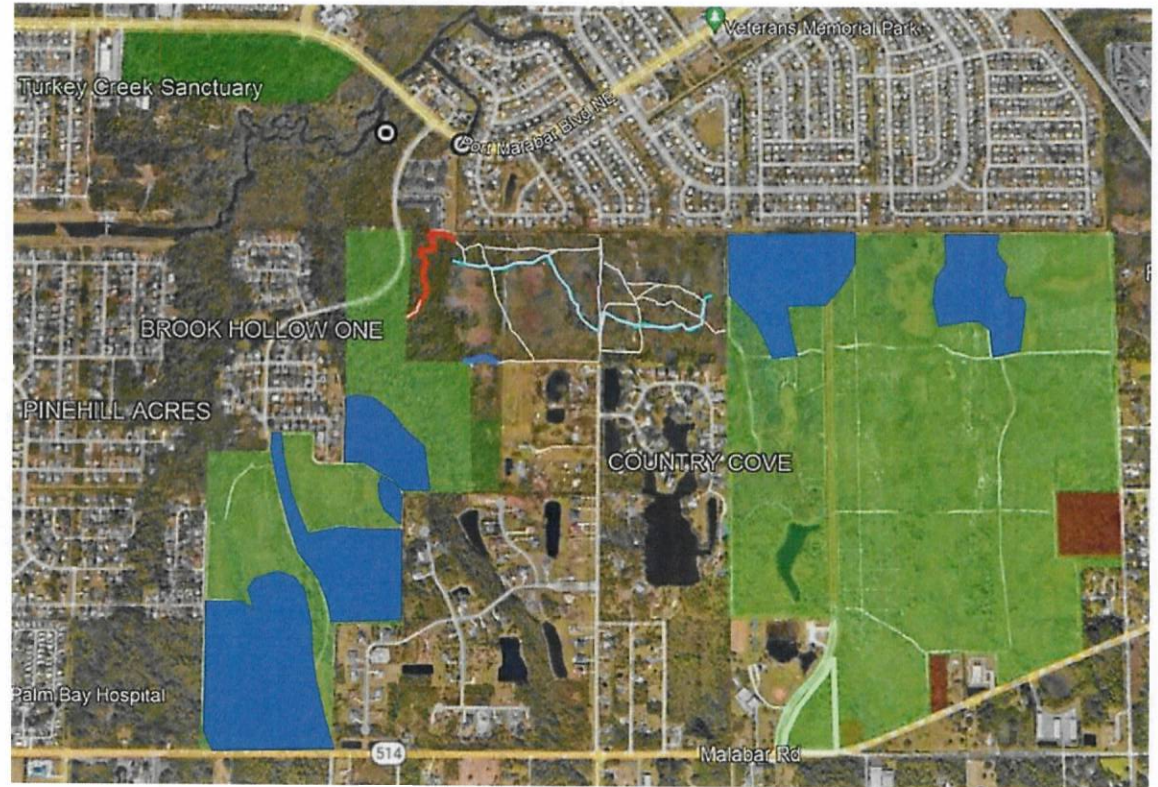


- 30-years of fire exclusion at the time of acquisition.
- Trees become too large to be managed with fire alone.
- EEL restoration efforts have included:
  - Prescribed Fire
  - Roller chopping
  - Private development mitigation



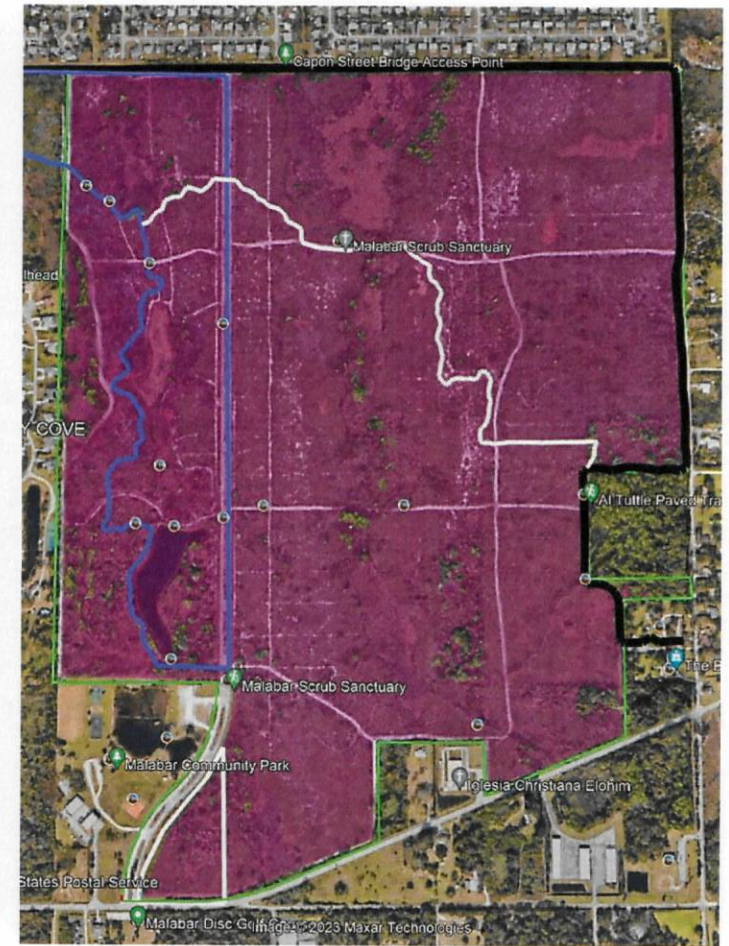
## Private Mitigation (Blue)

- Projects are limited in acres due to development permits.
- Permit required removal of all tree curtains. Staff left additional oaks along trails for later removal IF the jay population resumed use of the area (this was clearly stated to users at the time).





- Overall restoration plan will include area north of the creek bottom.
- Creek bottom and NW corner of west tract remain excluded.
- Level of tree thinning will vary depending on location.
- All work will be consistent with FNAI habitat descriptions.



## Why Now?

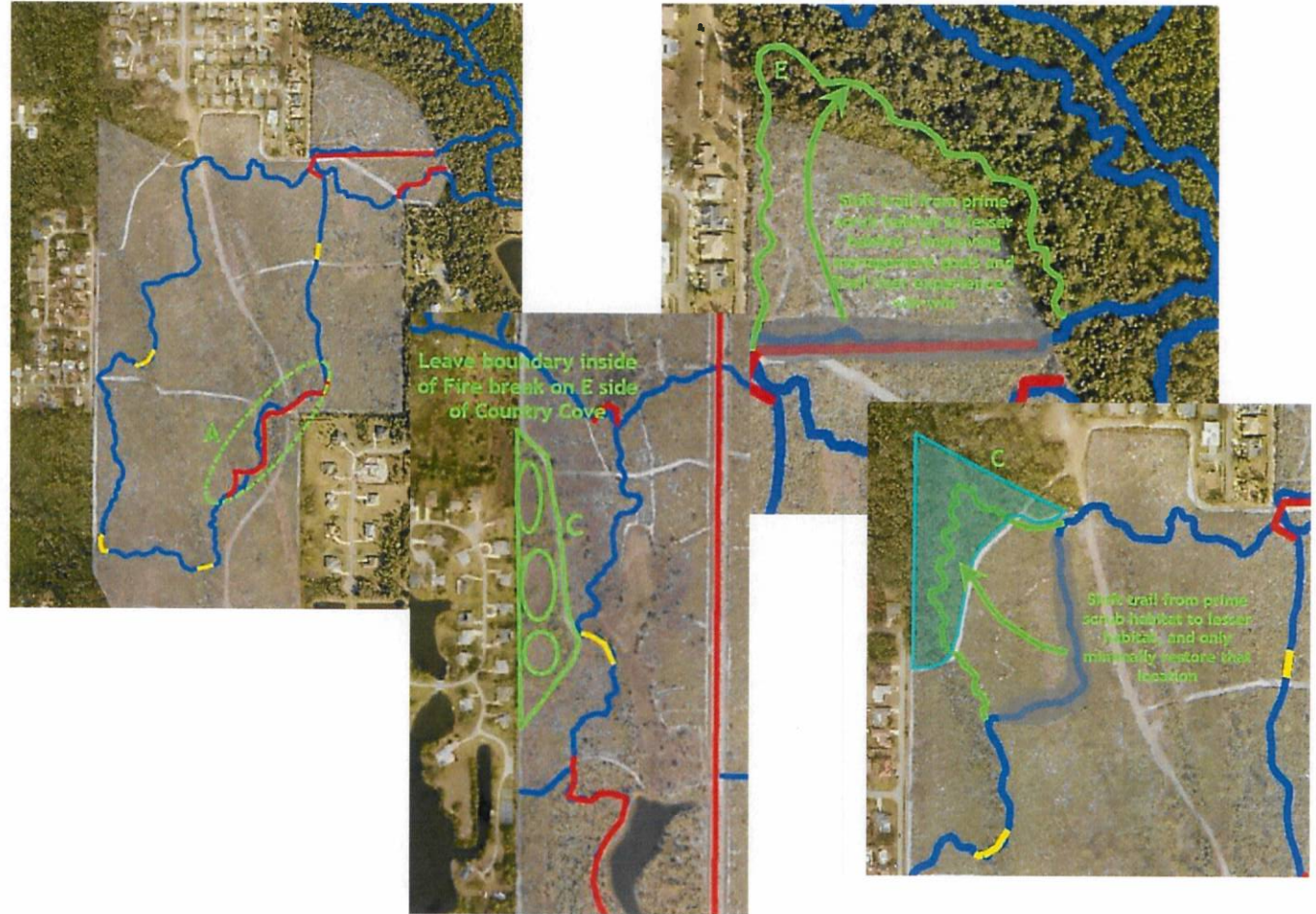
- The Scrub-Jay population is responding to the mitigation work areas.
- Recent research data indicates timeline for species stabilization is shorter than previously expected and that Malabar Scrub plays a key role in contributing to the stabilization of the Scrub-Jay population in southern Brevard County.





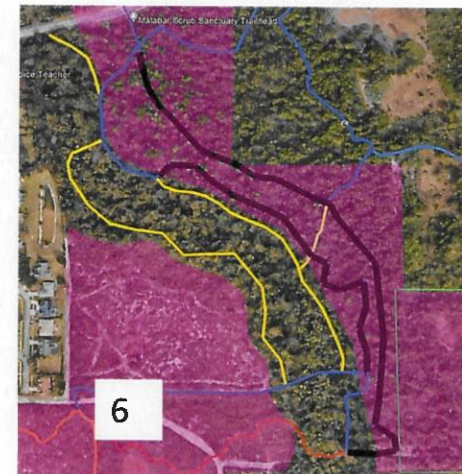
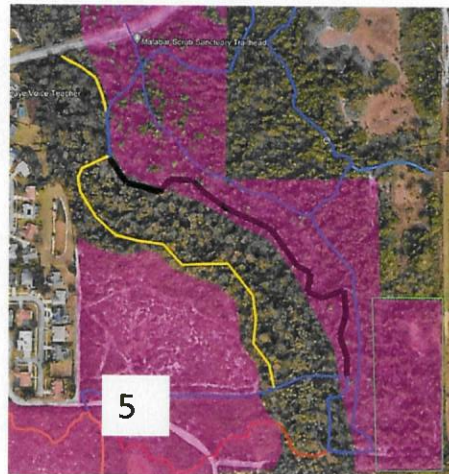
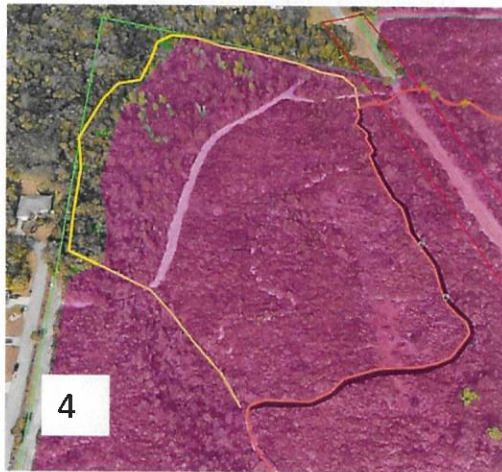
# Malabar Trails & Greenway Committee Recommendation

- Malabar Trails and Greenway Committee recommended no removal of overgrown oaks and minimal pine and palm overstory removal along trails, no tree removal by Country Cove, and relocation of two trails into shaded areas.





- The County (EEL) has offered six compromise options that do not conflict with maximizing optimal scrub habitat:



## Current Status

- Malabar Trails and Greenway Committee was not supportive of trail modification / compromise plan provided by EEL.
- Malabar Trails and Greenway Committee has requested a 25' wide preserved tree buffer around entire perimeter of property and the lake along with continued recommendation to not remove oak curtains along the trails.

EEL cannot support these requests because it is inconsistent with the requirements we are mandated to follow to maximize optimal scrub habitat conditions.

## Speaker's Identification Card (Please Print)

Date:	4/10	Agenda Item #:	CONFLICT ASSESSMENT
Name:	MURRAY HANN		
Address:	1365 CORBY RD		
Town, State, & Zip:	MALABAR FL		
Phone Number:	(321) 223-3265	Email:	MHANN@HARRIS.COY
Organization you are representing, if other than self:	MALABAR G&TC		
Agenda Item:	CONFLICT ASSES		
Subject of Comments:	→ STATUS "		

## Purpose of the Card:

- For Accurate Recording in the Minutes – proper spelling of Speaker's Name, to provide contact information for follow-up by Staff or Elected Official, and efficient meeting decorum.

## Speaking Rules:

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- Deliver completed card to the Town Clerk.
- Speaker will have 5 minutes to address the subject.
- An additional 5 minutes may be granted by a majority vote if speaker is on behalf on an organization.
- Speakers will be called upon by the Chair.
- Speakers should state their name and address for the record before making public comments.
- Speakers should only address Elected Officials and should refrain from addressing Town Staff or members of the audience.

## Speaker's Identification Card (Please Print)

Date:	4/10/2023	Agenda Item #:	4 PUBLIC COMMENTS
Name:	JOHN WHITE		
Address:	2700 FILLY LN		
Town, State, & Zip	MELBOURNE, FL 32934		
Phone Number	321-514-5260	Email:	
Organization you are representing, if other than self:			
Agenda Item:	PUBLIC COMMENTS		
Subject of Comments:	INDEPENDENT ASSESSMENT OF PVA & APPLICABILITY TO MSS RESTORATION		

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## Speaker's Identification Card (Please Print)

Date:	4-10-23	Agenda Item #:	
Name:	Barbara Cameron		
Address:	665 Hall Rd		
Town, State, & Zip:	Malabar FL		
Phone Number:	321 508 5505	Email:	bkcameron@Gmail
Organization you are representing, if other than self:	Trails & Greenway Malabar		
Agenda Item:	Conflict Assmt Meeting		
Subject of Comments:	Take Down Barricade Solve Problems		

## Purpose of the Card:

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## Speaker's Identification Card (Please Print)

Date:	4/10/23	Agenda Item #:	4, BPC
Name:	Mark Britt		
Address:	1671 Country Cove Cir		
Town, State, & Zip:	Malabar 32950		
Phone Number:	321 427-4406	Email:	markb1241@hotmail
Organization you are representing, if other than self:	Self		
Agenda Item:			
Subject of Comments:	Malabar Scrub Sanctuary		

## Purpose of the Card:

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## Speaker's Identification Card (Please Print)

Date:	4/10/23	Agenda Item #:	1
Name:	CRAIG SMITH		
Address:	4315 CIPPERAUC CANY		
Town, State, & Zip:	GRAND-VALKARIA, FL 32950		
Phone Number:	321-984-2856	Email:	CRAIG@BUDPACINFORMATION.COM
Organization you are representing, if other than self:			
Agenda Item:	CONFLICT ASSESSMENT		
Subject of Comments:	MSS RESTORATION		

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## Speaker's Identification Card (Please Print)

Date:	APRIL 10, 2023	Agenda Item #:	4 PUBLIC COMMENTS
Name:	DREW THOMPSON		
Address:	940 HOLLOWAY TRAIL		
Town, State, & Zip:	MALABAR, FL 32950		
Phone Number:	321.215.4865	Email:	drew.thompson@prodent.com
Organization you are representing, if other than self:			
Agenda Item:	PUBLIC COMMENTS (#4)		
Subject of Comments:	BALANCE PRESERVING KEY TREES		

## Purpose of the Card:

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## Speaker's Identification Card (Please Print)

Date:	10/0 04/10/2023	Agenda Item #:	
Name:	Vickie Thomas		
Address:	1605 Country Cove Cir		
Town, State, & Zip:	Malabar FL 32950		
Phone Number:	321-960-	Email:	321Thomasvickie@gmail.com
Organization you are representing, if other than self:	7446		
Agenda Item:	EELS		
Subject of Comments:	3 min		

## Purpose of the Card:

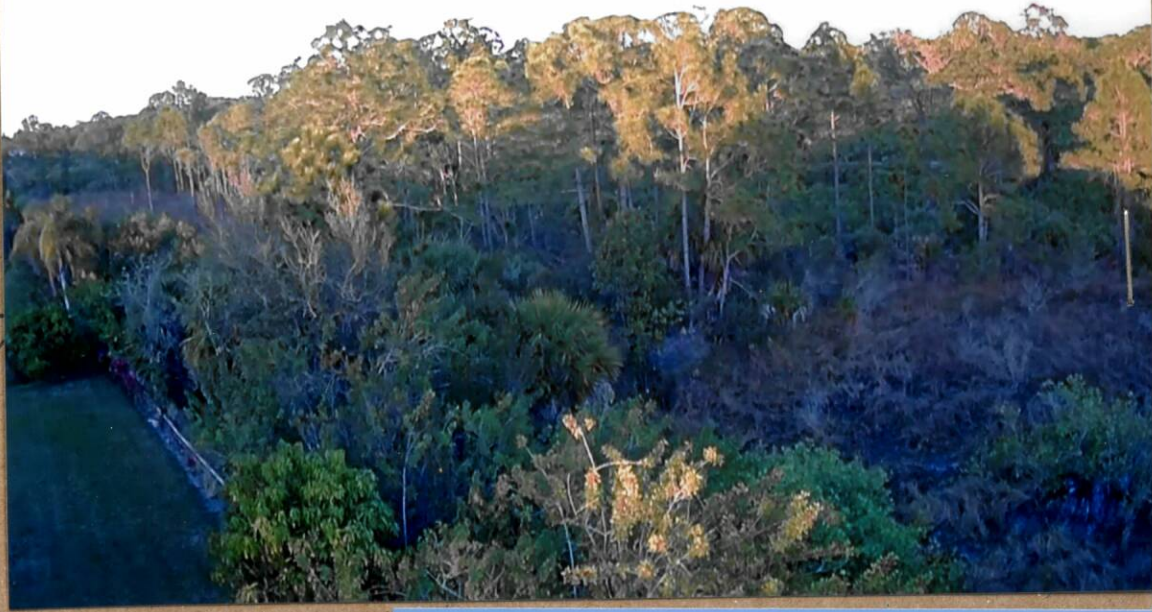
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Picture  
Now  
From my  
BB  
Property



Picture of Jordan's Sanctuary  
After restoration in 2021

Now my  
Property



# TOWN OF MALABAR

## Town Council

**AGENDA ITEM NO: 12.b**  
**Meeting Date: February 7th, 2022**

**Prepared By: Richard W. Kohler, Deputy Town Clerk/Treasurer**

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**SUBJECT:** T&GC Request for Council Endorsement of their proposed amendments to the Malabar Scrub Restoration Plan for submittal at Brevard County Commission Meeting of February 8, 2022

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### **BACKGROUND/HISTORY:**

- a) On February 2, 2022, Trails and Greenways Committee Chair Drew Thompson provided Staff with an updated plan for Malabar Scrub Sanctuary. The presentation was briefly discussed at the 02/02/2022 Special Town Council Meeting and is here for further discussion/possible action.

### **FINANCIAL IMPACT:**

- a. None

### **ATTACHMENTS:**

- a. Updated Requested Changes to the Environmentally Endangered Lands Program Malabar Scrub Sanctuary Restoration Plan

### **ACTION OPTIONS:**

- a. Motion to endorse this plan as the official Town of Malabar proposal for this project, to be presented to County Commission at 2/8/2022 Meeting.

**Town of Malabar  
Requested Changes to the  
Environmentally Endangered Lands Program  
Malabar Scrub Sanctuary Restoration Plan**

**Provided to Town of Malabar Town Council**

**February 2, 2022**

## **2 Months Into the Issue**

**We are now at two months of intense public focus regarding the Environmentally Endangered Lands Program (EEL Pgm) Malabar Scrub Sanctuary (MSS) Restoration Plan. Realities considered beyond factors presented in the original plan show the need for some plan modifications. Physical site constraints and current level of passive recreation use were recognized and newly considered after almost 30 years without EEL Pgm full scale restoration.**

## **Differing Views of Appropriateness of Severity of Planned Tree Reduction**

**EEL Pgm and Brevard County Commissioners (BCC) feel that 500 acres of the 577-acre MSS should have drastic tree reduction to create more habitat for Florida Scrub-Jays. Citizens who use MSS feel that the EEL Pgm should be guided more by the last voter-approved 2004 Referendum ballot wording which said the 20-year / \$60 M bond issue taxation would be for: “protection of habitat, public open space, and water resources, and for providing passive recreational opportunities”. Essentially a problem of imbalance was fully defined and reasonable steps toward a more balanced plan revision have been developed. This file contains the results of that effort.**



## **Town of Malabar Trails & Greenways Committee Asked to Research Issue and Recommend Changes Identifying Tree Preservation Locations & Counts**

**The Town Council of the Town of Malabar (TOM) asked the Town's all-volunteer Trails and Greenways Committee (T&GC) to develop a comprehensive package of tree preservation locations within the targeted tree reduction zones of the EEL Pgm MSS Restoration Plan. Few, if any, residents of Malabar desire the removal of any trees from MSS. However, the T&GC respected the Management Selection Committee (SMC) science of, and behind, the EEL Pgm plan. The T&GC acknowledged that to help Florida Scrub-Jays, thousands of trees would need to be removed. The T&GC sought to identify which of the trees most valued by MSS users could be retained with a no to minimal impact to the goal of creating optimal habitat for Scrub-Jays in the 500 targeted tree reduction acres of the 577- acre sanctuary.**

## **2 Months of Extensive Research**

**During the two months that followed the posting of signs first announcing the EEL Pgm MSS Restoration Plan, the members of the TOM T&GC attended, viewed, and/or participated in all respective meetings or webinars where the plans were presented or discussed. The plight of the Florida Scrub-Jay and factors of optimal scrub habitat for Scrub-Jay survival in Brevard County were learned. Additionally, the MSS specific factors of geography, topography, existing habitats that cannot be restored to scrub, and the passive recreation use of the MSS were all studied by the T&GC.**

# What is Optimal Scrub-Jay Habitat?

In all documentation it was emphasized that Scrub-Jays are vulnerable to predator birds and therefore do best in areas without many trees of height from which predator birds could perch and hunt. The T&GC found that the most succinct source for factors of optimal Scrub-Jay habitat was a chart found at: Florida Fish and Wildlife Conservation Commission - Policy, Position Statement, or Guideline (PPG) - TYPE OF PPG: GUIDELINE – Scrub Management Guidelines – Page 7 of 51.

Table 1. Optimal and suitable Florida scrub-jay habitat characteristics per territory. Adapted from Breininger (2004), Breininger et al. (1998, 2014) and, Burgman et al. (2001).

Habitat variable	Optimal habitat for scrub-jays (i.e., recruitment exceeds mortality)	Suitable scrub-jay habitat (i.e., scrub-jays can persist, at least for the short-term)
Vegetation height	Sufficient amount of medium-height (4 - 5.5 ft tall) shrubs are present to provide cover and produce acorns for scrub-jays. Optimal arrangement of shrub heights within each potential territory includes conditions where: <ul style="list-style-type: none"> <li>• at least 10% of the territory is medium height</li> <li>• most of the vegetation is medium height or shorter</li> <li>• no more than 1 acre of vegetation taller than 5.5 ft per 25 acres is present</li> </ul>	Shrub height averages greater than 3.5 ft but less than 8 ft tall
Open ground	10 - 50% bare sand or sparse herbaceous vegetation.	Minimum: At least some bare sand or sparse herbaceous vegetation. Maximum: No more than 75% bare ground. At least 25% of the territory contains shrubs that provide escape cover, nest sites, and acorns.
Overstory (>15 ft tall) density	0 - 1 tree per acre.	0 - 2 trees per acre (D. R. Breininger, InoMedic Health Applications, pers. comm.).
Distance to forest edge	1,000 ft non-forested buffer (0 - 2 trees/acre) between a scrub-jay territory and forest.	At least a 300 ft non-forested buffer (0 - 4 trees/acre) between a scrub-jay territory and forest.

Florida Scrub-Jay Optimal vs Suitable  
Habitat Chart-20190225\_FFWCC

## **Scrub-Jay Habitat Goals for MSS**

**From numerous scientific studies, available EEL Pgm documentation, along with specifics of the EEL Pgm MSS Restoration Plan, it became clear that the best chance for survival of Florida Scrub-Jays in MSS required that their habitat would need to meet certain metrics:**

**the location must have only 1 -2 trees of 15' or higher per acre**

**the scrub consists of scrub-oak and other native scrub vegetation that is limited to 4' – 5.5' high**

**the open ground (no vegetation) runs from 10 – 50% of the area**

## **Possibly the Main Factor in Scrub-Jay Habitat... Distance from Tall Trees of Nearby Forest**

**An important additional factor, again directly related to the acknowledged vulnerability of Scrub-Jays to predator birds, is the tree-free distance from Scrub-Jay territory (areas with most Scrub-Jays) to the nearest forest edge. Optimal distance was noted as 1,000' and the minimal distance considered suitable for Scrub-Jays is 300'. The T&GC noted that, from several perspectives, MSS is too small for the 1,000' optimal standard to be applied throughout the EEL Pgm plan. MSS is actually two sanctuaries – East and West – separated by the 100-acre Cameron Preserve, managed by TOM.**

## **Malabar Scrub Sanctuary – West Characteristics**

**MSS West** is shaped like a lower case “r” and contains the TOM 100’ unpaved right-of-way of Briar Creek Blvd. and the Channel C tributary of Turkey Creek. The sanctuary border is more irregular, with several abrupt corners based on original land acquisition parcels. “Rounding-out” of such corners, by retaining more trees closer to the corner apex, would have minimal negative impact on the tree-free distance to the Scrub-Jay territory located more toward the middle of the sanctuary.



## **Malabar Scrub Sanctuary – East Characteristics**

**MSS East** is somewhat square-shaped. In seeking optimal Scrub-Jay habitat, this allows for greater tree-free distance to the nearest forest edge. However, MSS East does contain several wetland areas and also has an active Bald Eagle nest which requires establishment of a 600' no reduction zone around the nest. MSS East also has a very popular pond surrounded by trees. It is a major visitation site and highlight of the passive recreation attributes of MSS. Fortunately, the pond is located near a corner of the sanctuary.

# **Malabar Scrub Sanctuary Keeping Changes Within the 1 – 2 Trees 15'+ Per Acre EEL Pgm Requirement**

The T&GC developed a plan, with specific tree preservation locations identified separately in MSS West and East. Careful consideration was made to only request preservation of the most key trees of the sanctuary, with most preservation locations situated along the sanctuary borders. The EEL Pgm MSS Restoration Plan specified tree metric of 1 -2 trees of 15' or higher per acre was maintained. **At 500 of the sanctuary's 577 acres targeted for tree reduction, with no changes, the plan would preserve 1000 trees.** With adoption of the T&GC requested preservation locations, the plan would still preserve 1000 trees. The chart on the next page shows requested tree preservation locations, as individually explained on subsequent pages, and includes the number of trees and acres involved for each preservation location.

# Requested Tree Preservation Locations in MSS

At EEL Pgm MSS home page, EEL Pgm states total MSS acreage at 577							577	Target Area Trees to be
In the EEL Pgm Workplan - Attachment B, the targeted restoration acreage total is 500							500	1000
Per EEL Pgm SMC Meeting - MSS to be based on 1-2 trees per acre							2	
EEL Pgm Restoration Target Area Totals				1000				
				387	33	613		
TOM Preservation Area Totals						500		
MSS Side	Preservation Location	Preservation Trees	Preservation Acres	Preservation Trees Running Totals	Preservation Acres Running Totals	Main Restoraton Area Tree Running Totals	Main Restoraton Area Acres Running Totals	Main Restoraton Area Running Trees Per Acre Totals
West	A	40	3	40	3	960	497	1.9
West	B	30	3	70	6	930	494	1.9
West	C	40	4	110	10	890	490	1.8
West	D	12	1	122	11	878	489	1.8
West	E	0	0	122	11	878	489	1.8
East	A	25	1	147	12	853	488	1.7
East	B	30	2	177	14	823	486	1.7
East	C	40	4	217	18	783	482	1.6
East	D	20	2	237	20	763	480	1.6
East	E	50	5	287	25	713	475	1.5
East	F	100	8	387	33	613	467	1.3

## **The T&GC Process and Specific Tree Preservation Recommendations**

**MSS East** is somewhat square-shaped. In seeking optimal Scrub-Jay habitat, this allows for greater tree-free distance to the nearest forest edge. However, MSS East does contain several wetland areas and also has an active Bald Eagle nest which requires establishment of a 600' no reduction zone around the nest. MSS East also has a very popular pond surrounded by trees. It is a major visitation site and highlight of the passive recreation attributes of MSS. Fortunately, the pond is located near a corner of the sanctuary.



# **Trail Compromise Undated Post EELp SMC 1/21/2022**

**Town of Malabar Trails and Greenways Committee is proposing this compromise for restoration of Malabar East and West, with the goal of:**

**To the largest extent possible, allow the EELp to continue to manage the property for their overall environmental goals, and**

**Maintain the best trail user experience possible, and**

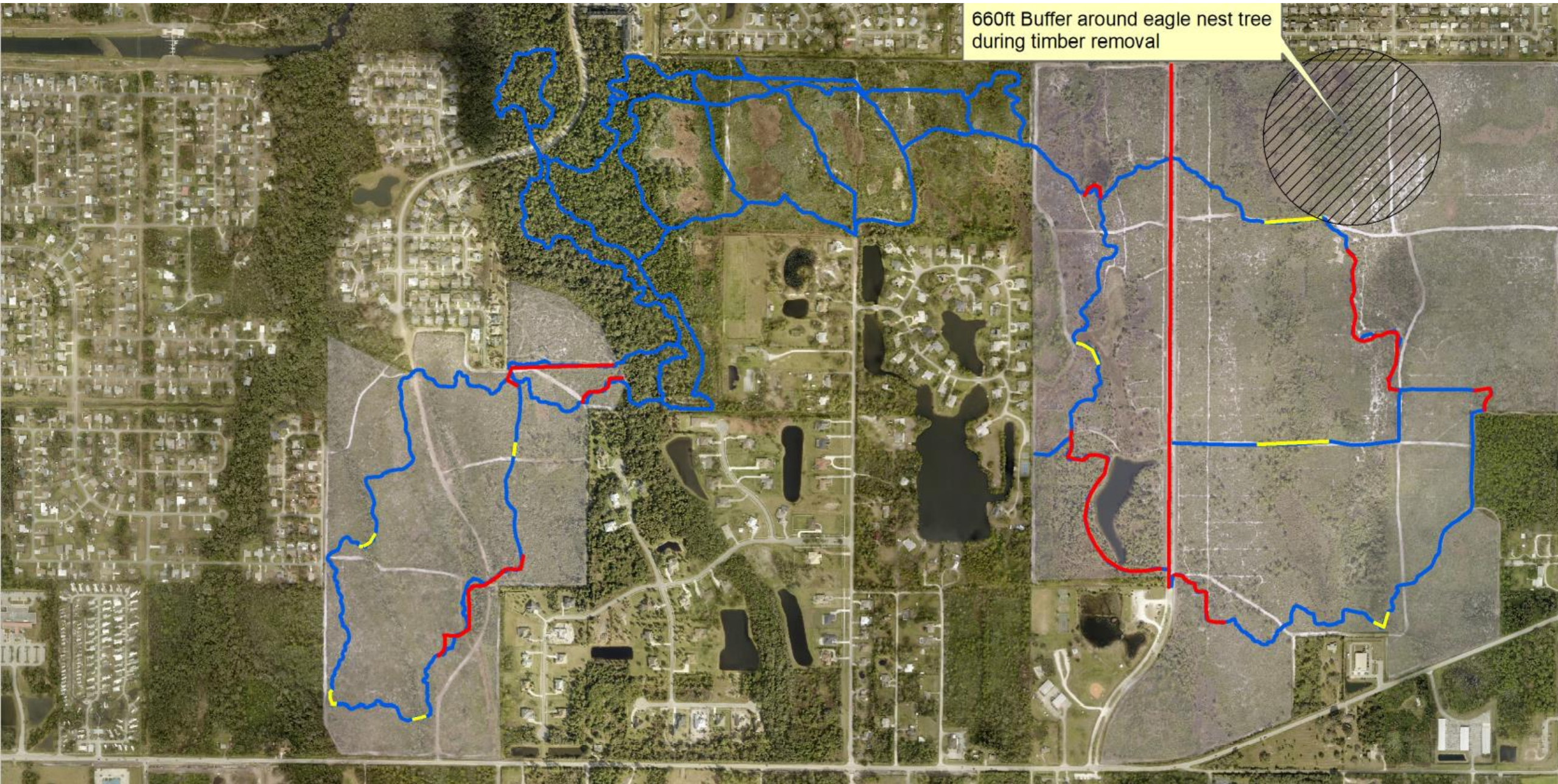
**Address immediately adjacent homeowner concerns where possible**

**Compromise was modified after hearing concerns of SMC on 1/21/2022**



# EELs Restoration and Trail Map

15





# MAP Legend – From EEL Pgm MSS Restoration Plan

Shaded area = Restoration project Boundary. Restoration will include pine tree thinning to achieve approximately 1 to 2 pine trees per acre; reducing cabbage palm density and reducing scrub vegetation height to less than 6ft.

Blue line = Existing trail

Red line = Areas along trail with a greater overstory where larger oak trees and cabbage palms will be removed and pine trees will be thinned to a greater spacing. Oaks and pine trees with flagging tape will remain standing.

Yellow line = Areas along trail with less overstory and tree removal will be minimal.

\*Portions of trails may be closed temporarily for safety reasons during the restoration project.

## Malabar West

- The next two pages discuss Malabar West, and the distances to “screening trees”
- The EEL Pgm has identified a goal of maintaining 1000’ to any screens of trees, to help promote more optimal scrub habitat
- Several sources quote 136M (~450’), so the T&GC also analyzed MSS at 500’
- In most areas, screening trees occur already at the entire property boundaries, so an analysis was done by “projecting” the property boundaries toward the property interior to see the effect of these screening trees on potentially “optimal habitat” areas - see the effects of 1000’ and 500’ offsets



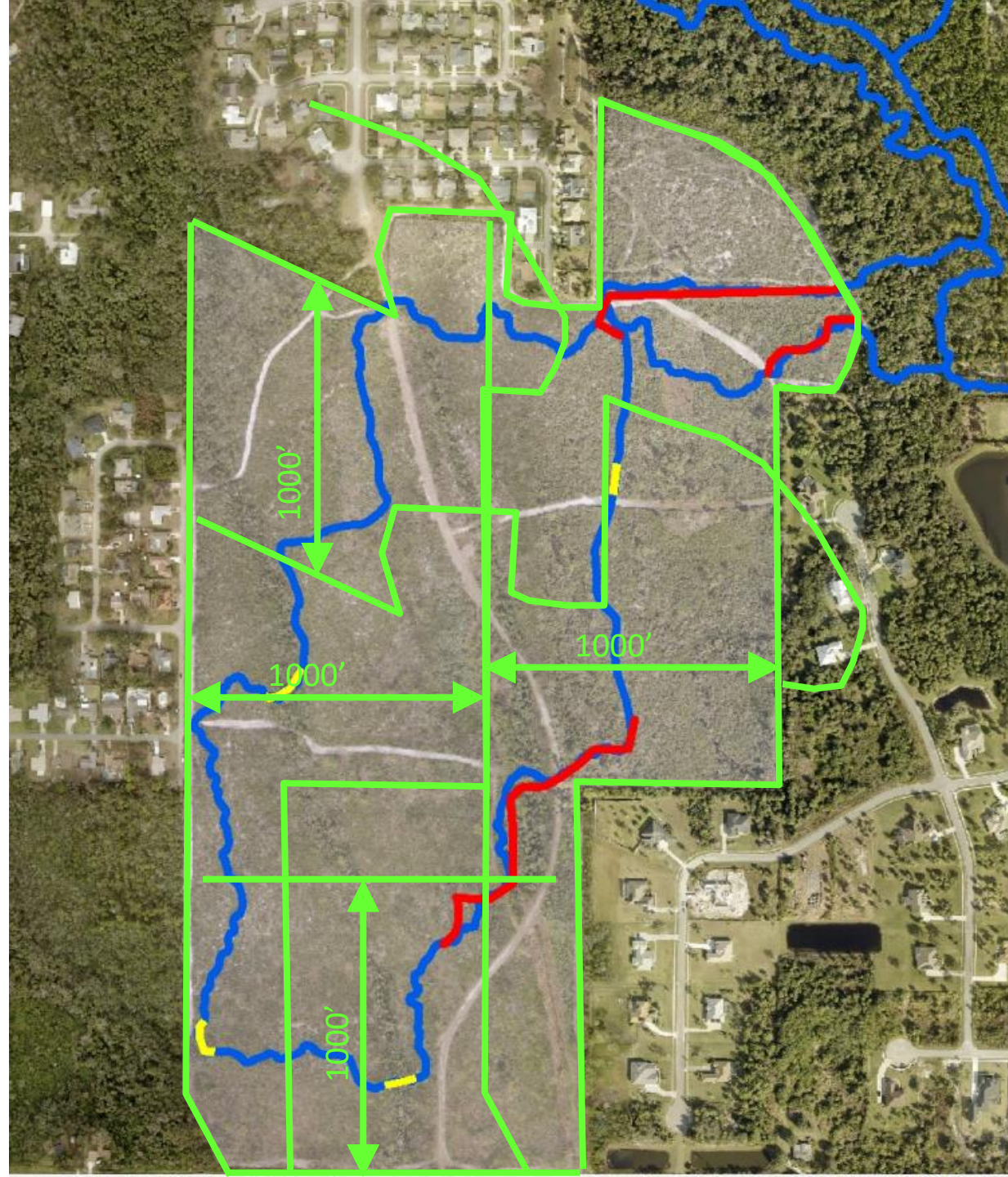
# Malabar West “1000 Feet to Screening Trees” Analysis

Green Arrow on Map  
Represents 1000' to  
property boundaries and/or  
tall trees

1000'

Projection of each property  
boundary by 1000' shows total  
overlap. This property has 0  
area that meets the “optimal”  
Condition.

The 1000' distance to screening  
trees cannot be met at Malabar  
West

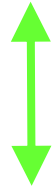




# Malabar West “500 Feet to Screening Trees” Analysis

Green Arrow on Map  
Represents 500' to property  
boundaries and/or tall trees

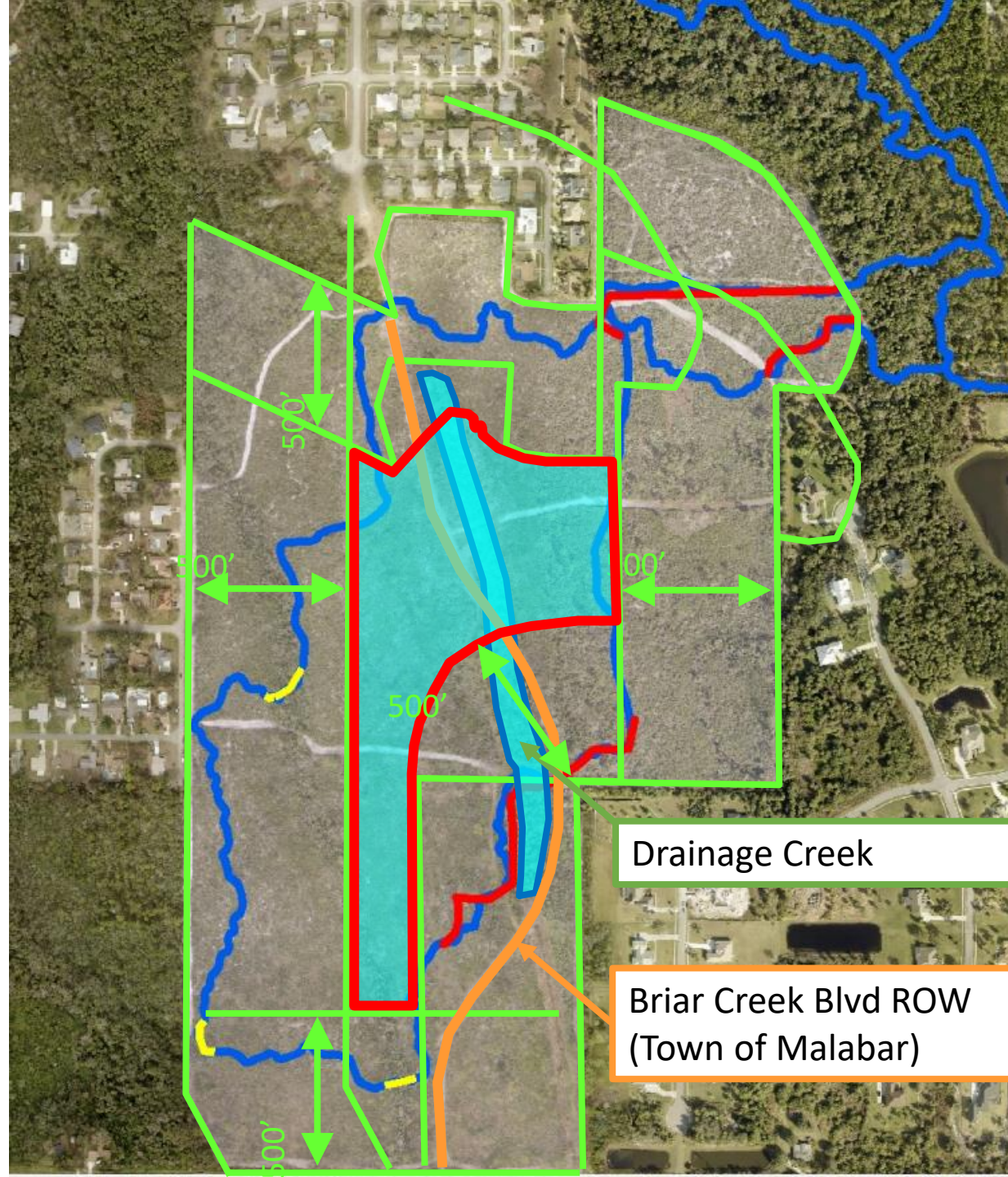
500'



Projection of each property  
boundary by 500' shows a small  
area in the property center that  
could be optimized

**NO** trail important tree areas are  
inside this optimizable zone

**NOTE:** Malabar ROW for Briar  
Creek Blvd (100' wide, property  
of Town of Malabar), and creek  
that feeds directly to the S fork of  
Turkey Creek



Drainage Creek

Briar Creek Blvd ROW  
(Town of Malabar)

## Conclusion of 1000' and 500' Analysis on Malabar West...

**Malabar West is too small and complex in shape, and not appropriate to “optimize” scrub habitat based on the “screens of trees” criteria**

## **Observations of 1000' & 500' Analysis on Malabar West...**

- **1000' analysis: Zero property left**
- **500' analysis: Small, complex area dominated by Malabar-owned right-of-way (ROW) and Turkey Creek channel tributary creek**
- **Optimizable area is not a critical trail area**
- **Note: Assuming the EEL program should seek specific permission from the Town of Malabar to modify Town of Malabar owned property ROW**
- **The ROW is 100' wide and goes throughout the center of the property. Gates on both ends were built by, and are owned by, Malabar. Most tall trees were removed from the ROW during the 2014 restoration efforts**
- **Note: This ROW was damaged in the last restoration, requiring some repair from the TOM. Town ROW should be restored to the satisfaction of TOM**
- **Note: The creek that runs through this property directly feeds Turkey Creek channel D and the Indian River Lagoon and is a critical drainage for the Town of Malabar**
- **The Town of Malabar maintains this drainage (example: replaced the drainage pipes that cross under Briar Creek Blvd. in 2015)**



- There is already an established trail compromise here between EEL Pgm and TOM. TOM proposes to build on that compromise while also recognizing that the EEL Pgm wishes to have overall fewer “screening” trees of greater than 15’. Within Malabar West, in general:
  - Maintain consideration of the “Trail Buffer” that is +/- 25’ of the trail (perform less severe mechanical reduction)
  - Within the Trail Buffer, remove all sand pines, remove taller pine trees as necessary, and remove scrub oaks greater than 12’ except for the areas specifically delineated, keeping all scrub oaks less than 12’
  - The plan calls for tree reduction to 1 – 2 trees of 15’ or greater height per acre
  - It has been observed that EEL Pgm typically roller chops or mows scrub oaks down to 4-6’. TOM requests that less severe tree reduction be done near the trails.
  - Outside of the trail buffer, manage the property as you see fit, with the exceptions of:
    - Specifically delineated areas noted on the next pages
    - Some trail modifications are suggested, as a “win-win” scenario, with the goal of both advancing the EEL Pgm environmental goals and enhancing the trail users’ experience
    - There is some precedence for this. When the State of Florida Forestry did a major restoration on the Cross Florida Greenway, it started out with a “trail optimization” effort, to move trails away from prime scrub to areas where the land managers were more willing to leave more woods and taller overstory. References can be provided from TOM via T&GC.

- **Malabar West has an important drainage channel that directly feeds the south fork of Turkey Creek, and the Indian River Lagoon.**
- **The TOM expects to see SJRWMD rule compliance by EEL Pgm for these waterways (25' buffer average and 15' buffer minimum) strictly maintained**
- **It should be recognized that this is a different habitat**
- **Overstory removal of the creek should be minimal and not impact the creek**
- **It was observed by TOM that in EEL Pgm Tree removal within the Jordan Scrub Sanctuary, at the lake edges, Brontosaurus vegetation removal was severe, and trees were pushed into the lake, additionally, the lake edges were totally reduced with the grinder (see next page). This type of reduction is not acceptable along a Turkey Creek tributary**





## **Point of Reference for MSS Work... Edge of Lake in Jordan Scrub Sanctuary**



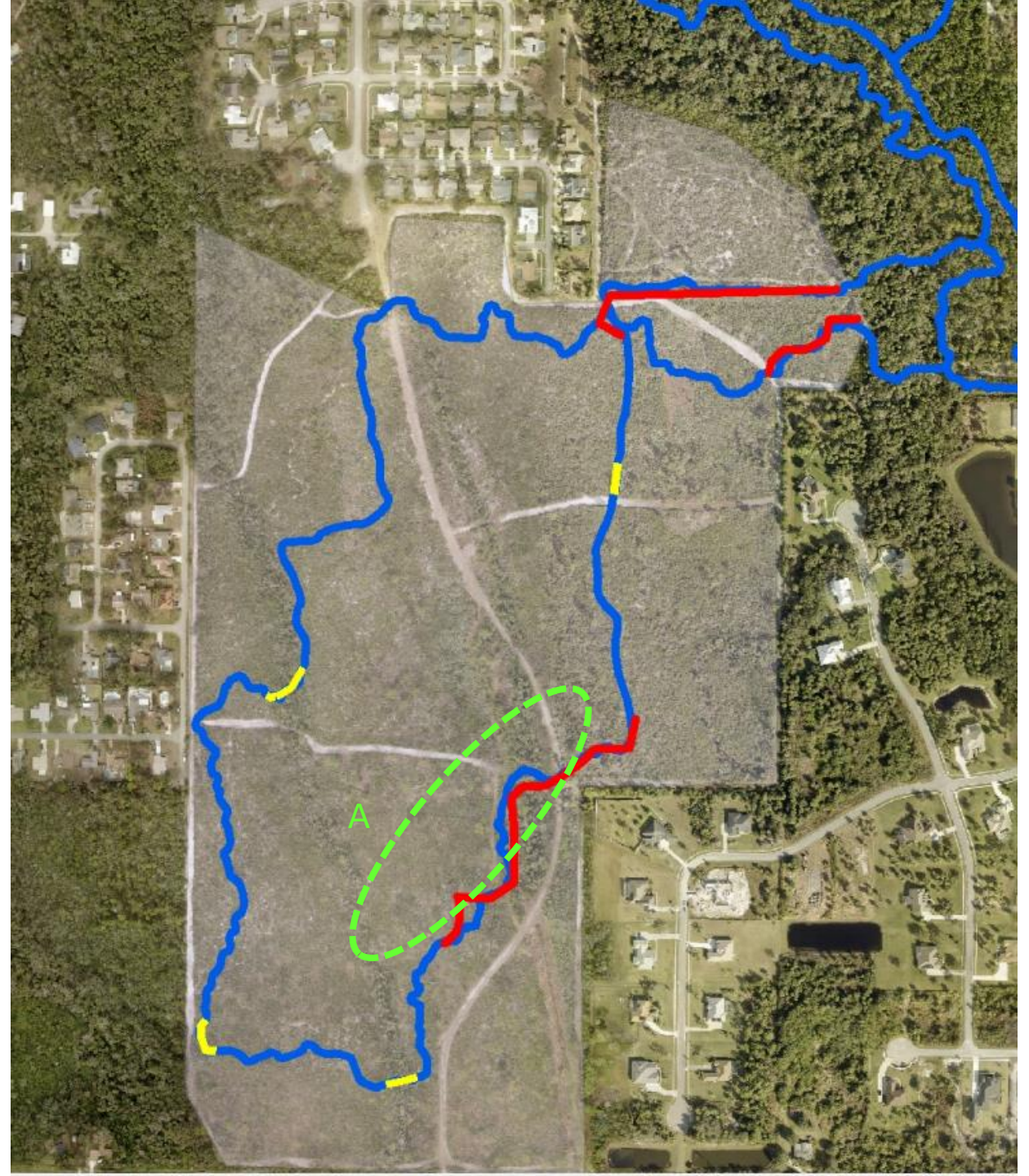


# Malabar West Preservation Location A

This is one of the last areas unmodified from the original trail buffer compromise

**TOM requests** minimal tree overstory removal in this area, removal of sand pines or particularly tall pines, but no removal of scrub oak overstory, for the following reasons:

- 1) About half of this trail length shown is crossing a wetland and Turkey Creek channel D, and is a much different habitat.
- 2) It is tucked against Stillwater Preserve, which also provides a line of “screening trees”, and tree removal here does not really advance EEL Pgm goals to get greater buffer to screening trees



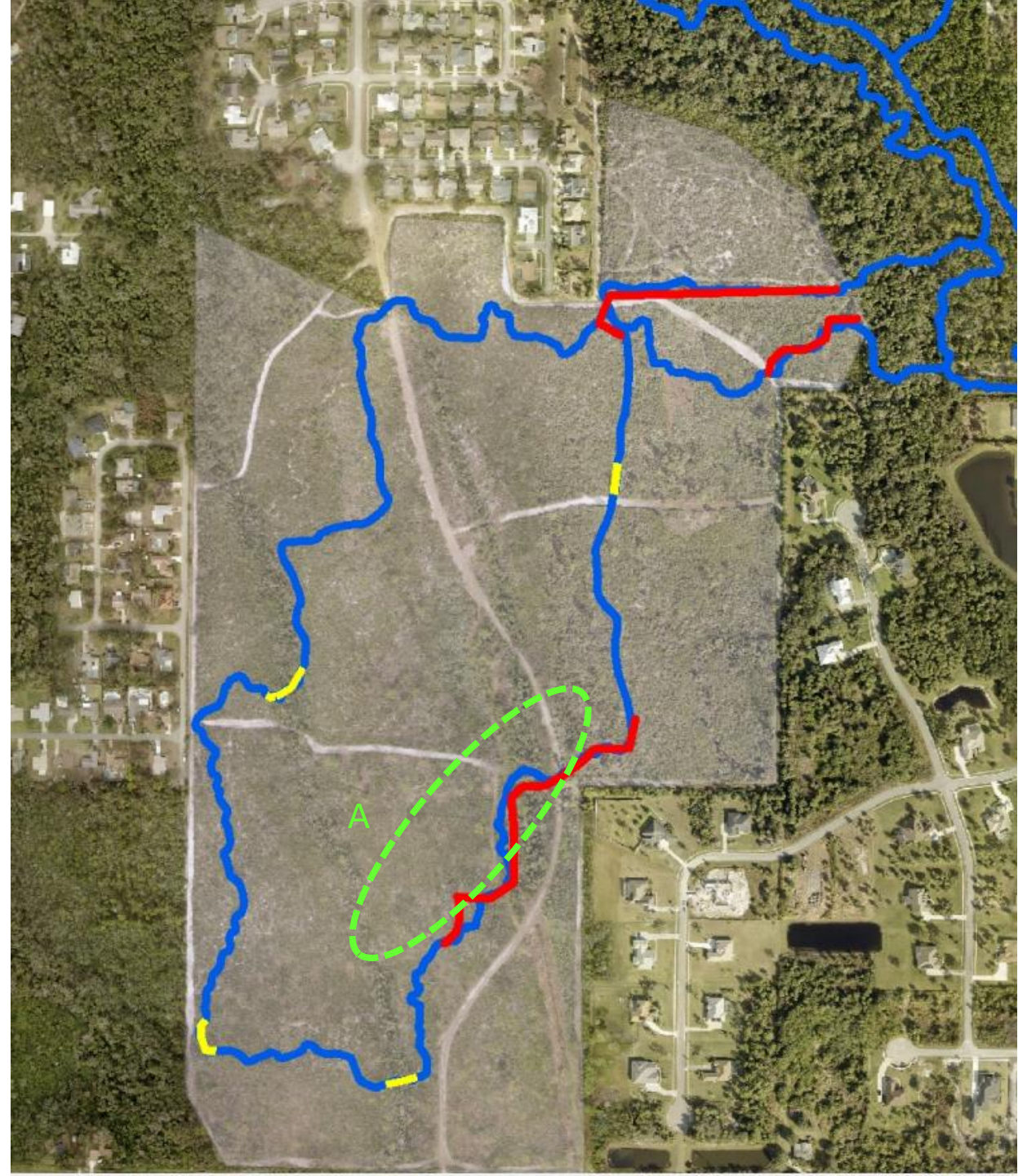


# Malabar West Preservation Location A

This is one of the last areas unmodified from the original trail buffer compromise

**TOM requests** minimal tree overstory removal in this area, removal of sand pines or particularly tall pines, but no removal of scrub oak overstory, for the following reasons *continued*:

- 3) Stillwater Preserve subdivision residents have expressed concerns with tree removal at this location
- 4) Tree preservation here provides trail users with a brief section that looks and feels like deep woods, after a long and largely exposed walk/ride south down the trail section above



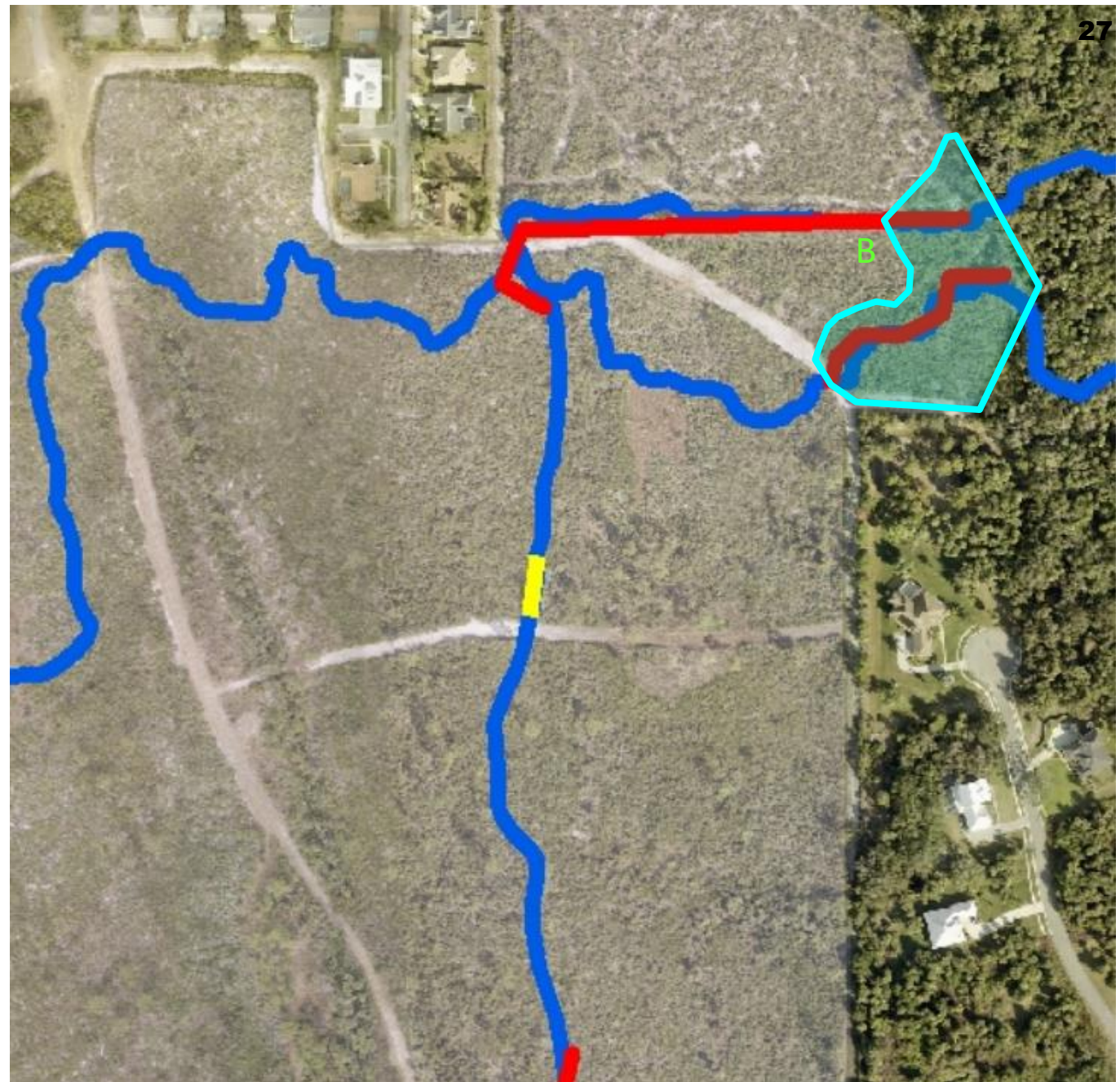


## Malabar West Preservation Location B

This area habitat is transitioning to habitat of the Turkey Creek channel area. It is currently not very tall scrub, and as a trail user, you can recognize this unique transition from scrub to deep woods habitat.

**TOM requests** minimal tree overstory removal in this area, for the following reasons:

- 1) This area transitions to a deep woods habitat, and changes to to live oaks and palms
- 2) This area is tucked into a small “pocket”, and does not significantly advance the habitat goals to increase distance to screening trees (this “pocket” is about 100’ across)



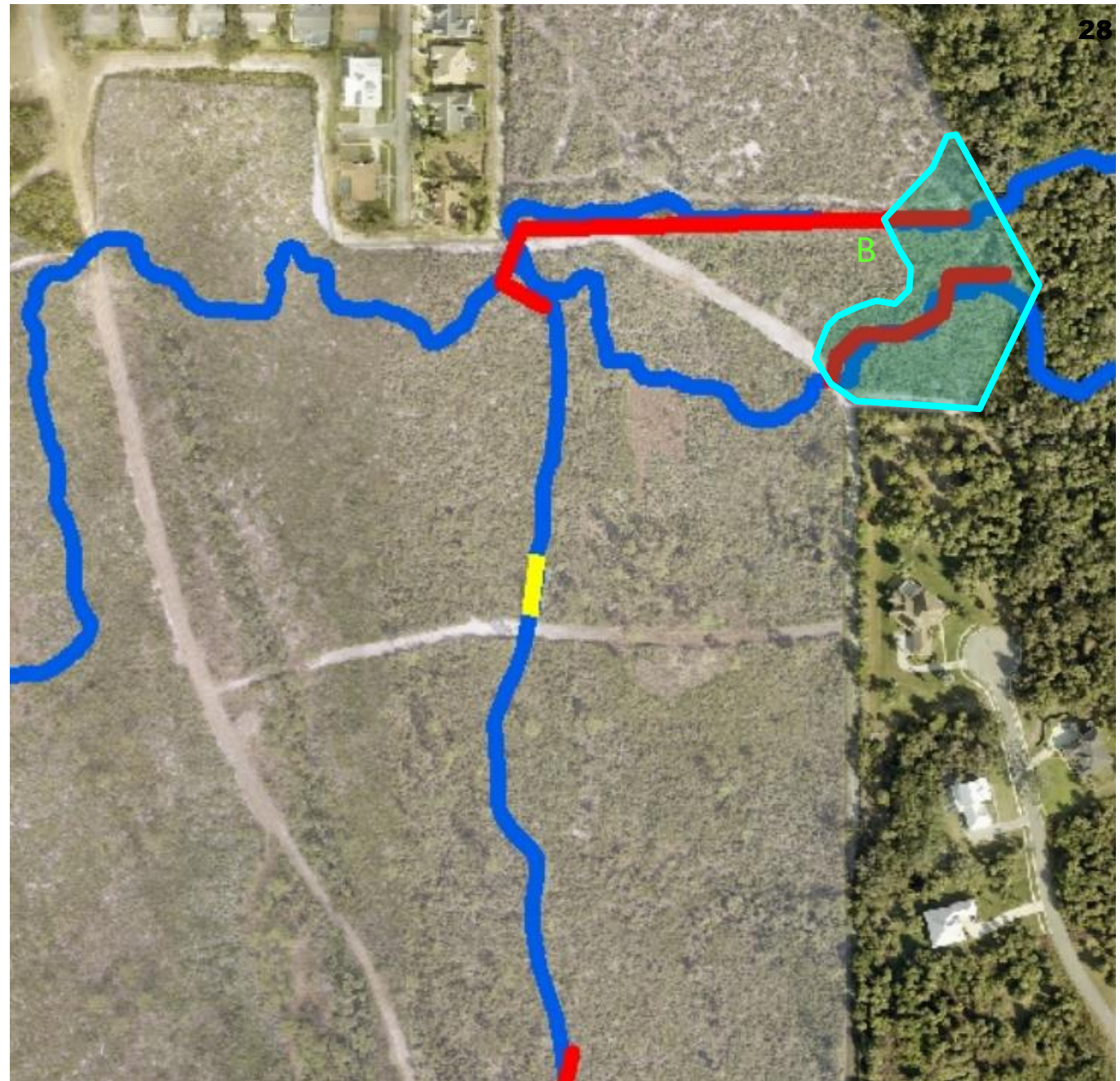


## Malabar West Preservation Location B

This area habitat is transitioning to habitat of the Turkey Creek channel area. It is currently not very tall scrub, and as a trail user, you can recognize this unique transition from scrub to deep woods habitat.

**TOM requests** minimal tree overstory removal in this area, for the following reasons *continued*:

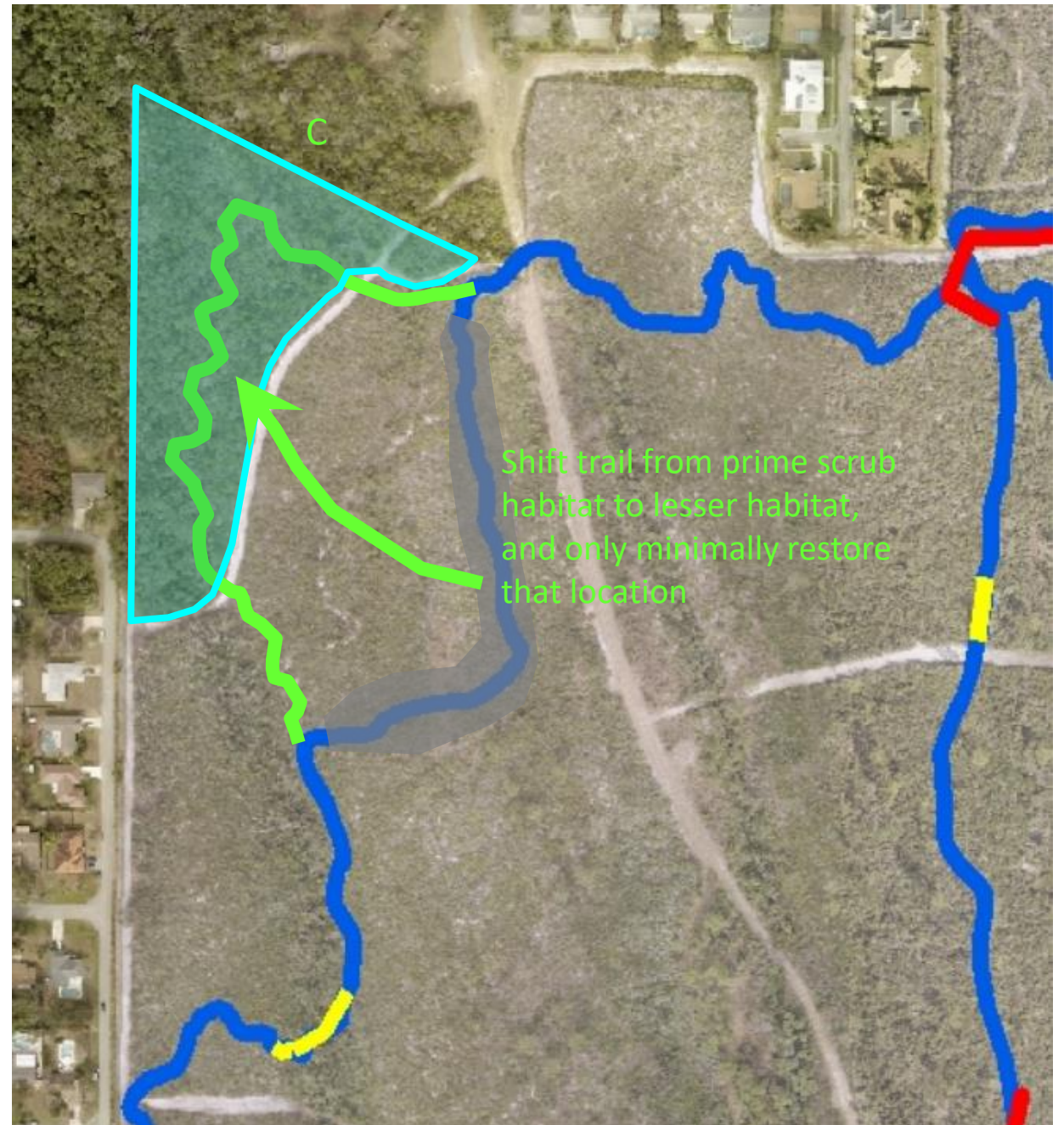
- 1) This area is one of the better trail areas to experience the transition to the deep woods
- 2) Scrub oaks are not particularly tall in this area (15' average)
- 3) Southern portion is a location where local photographers take “ideal Florida” pictures. This is a favorite trail section of trail users.





## Malabar West Preservation Location C

Habitat in this area is also transitioning to the Turkey Creek basin area, and more importantly, it provides an important connector to the N-S wooded area that separates the City of Palm Bay from Brook Hollow subdivision. It provides an important game corridor for animals. It is transitioning to the creek habitat to the North. This area offers an excellent opportunity to relocate a trail that would benefit both trail users, and the EEL Pgm environmental goals. Further, moving a trail out of a more prime scrub habitat to a habitat that is not prime habitat will result in additional prime scrub habitat.

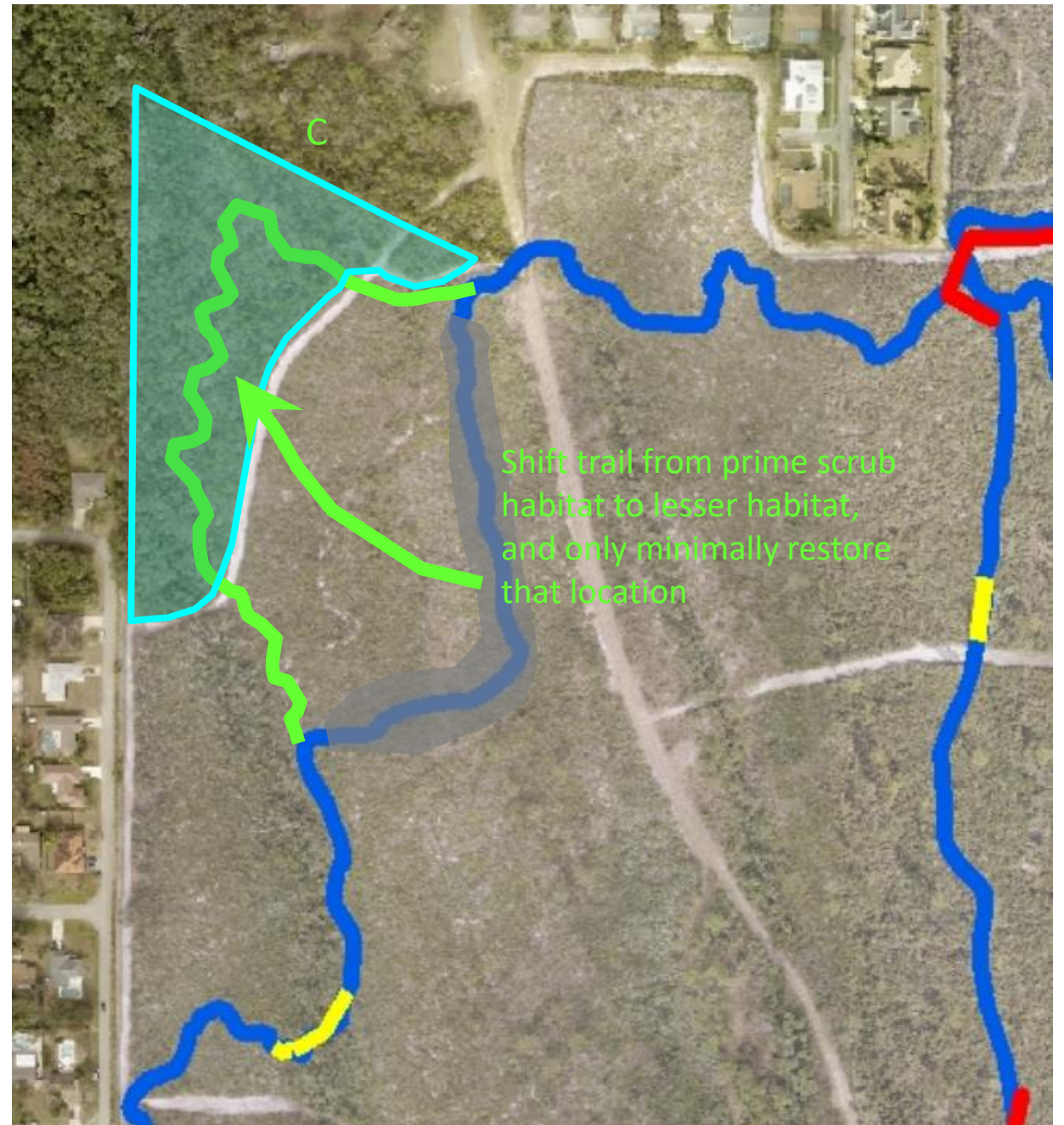




# Malabar West Preservation Location C

**TOM requests** minimal tree overstory removal, limited to removal of sand pines as necessary, with tapering of the edge down to fire break, removal of tall pines on fire break, and some Fecon thinning for the following reasons:

- 1) This area is important connectivity to, and similar to, the property to the North
- 2) Provides an important game corridor looking at the overall map

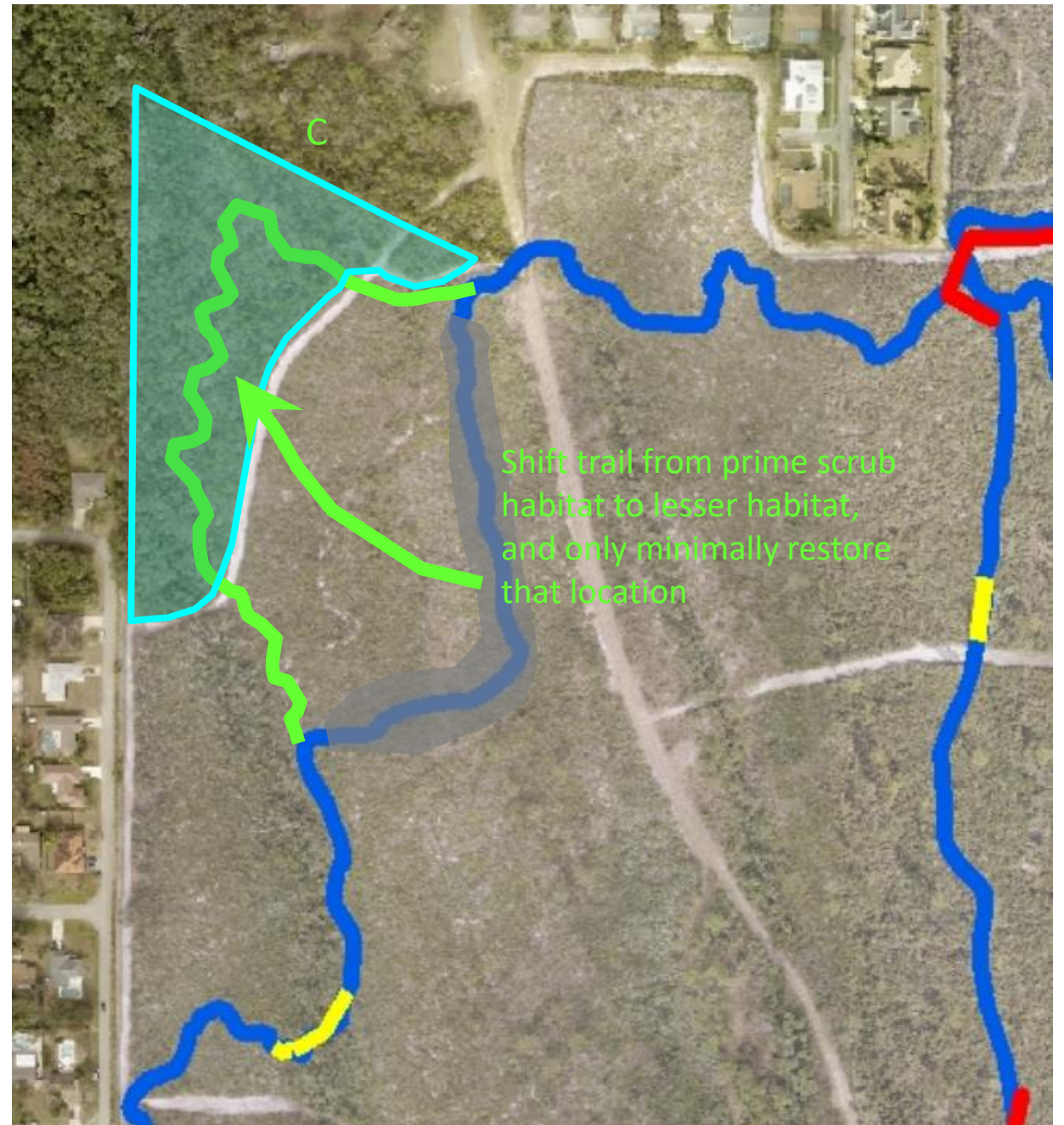




# Malabar West Preservation Location C

**TOM requests** minimal tree overstory removal, limited to removal of sand pines as necessary, with tapering of the edge down to fire break, removal of tall pines on fire break, and some Fecon thinning for the following reasons *continued*:

- 3) This area is never going to be prime scrub habitat, and it would be better used by trail riders, shifting a trail from prime habitat to less prime habitat
- 4) End result of relocating the trail provides a larger prime scrub habitat and relocates the trail to a non-prime area that will also provide a better experience for the trail user. Win-Win.



Shift trail from prime scrub habitat to lesser habitat, and only minimally restore that location



## Malabar West Preservation Location D

There are a few beautiful mature scrub oaks in this area that serve as a shade break and rest area from a largely shade-free run up from the South. It also serves as a small tree buffer against Brook Hollow subdivision (some of the only remaining historic scrub oaks left that once dominated this area).

**TOM requests** minimal tree overstory removal in area “D”, just removing sand pines, dead scrub oaks (from past burns) and excessively tall pines if needed for the following reasons:



# Malabar West Preservation Location D

## **TOM requests** - reasons **continued**:

- 1) Small buffer against Brook Hollow subdivision
- 2) Leaves some of the historic scrub oaks at a sanctuary entrance where trail users can see and enjoy them. This area is used by evening walkers everyday
- 3) Provides trail riders a very short shade break at this trail intersection
- 4) Does not significantly affect the habitat goals – it is a very small area located on the sanctuary edge – other tall screening trees are within 300' to N and E





## Malabar West Preservation Location D

E-W trail that moves uphill in this area. Trail is currently problematic. After the last restoration effort, there were many piles of trees in the area (~14). Some of those piles caught fire and fire fighting plows damaged half of the trail. The trail has never been an ideal trail. Historically, there was another trail along the bank of Turkey Creek Channel D that went fallow after 2004 hurricanes. This is possibly a long-term goal, but here is a possible “Win-Win” scenario, by shifting the trail to deep woods habitat, and running back in along the edge near brook hollow fire break, both trail users experience and additional scrub habitat result.





# Malabar West Preservation Location D

**TOM requests** a shift of the trail shown to approximate new location shown for the following reasons:

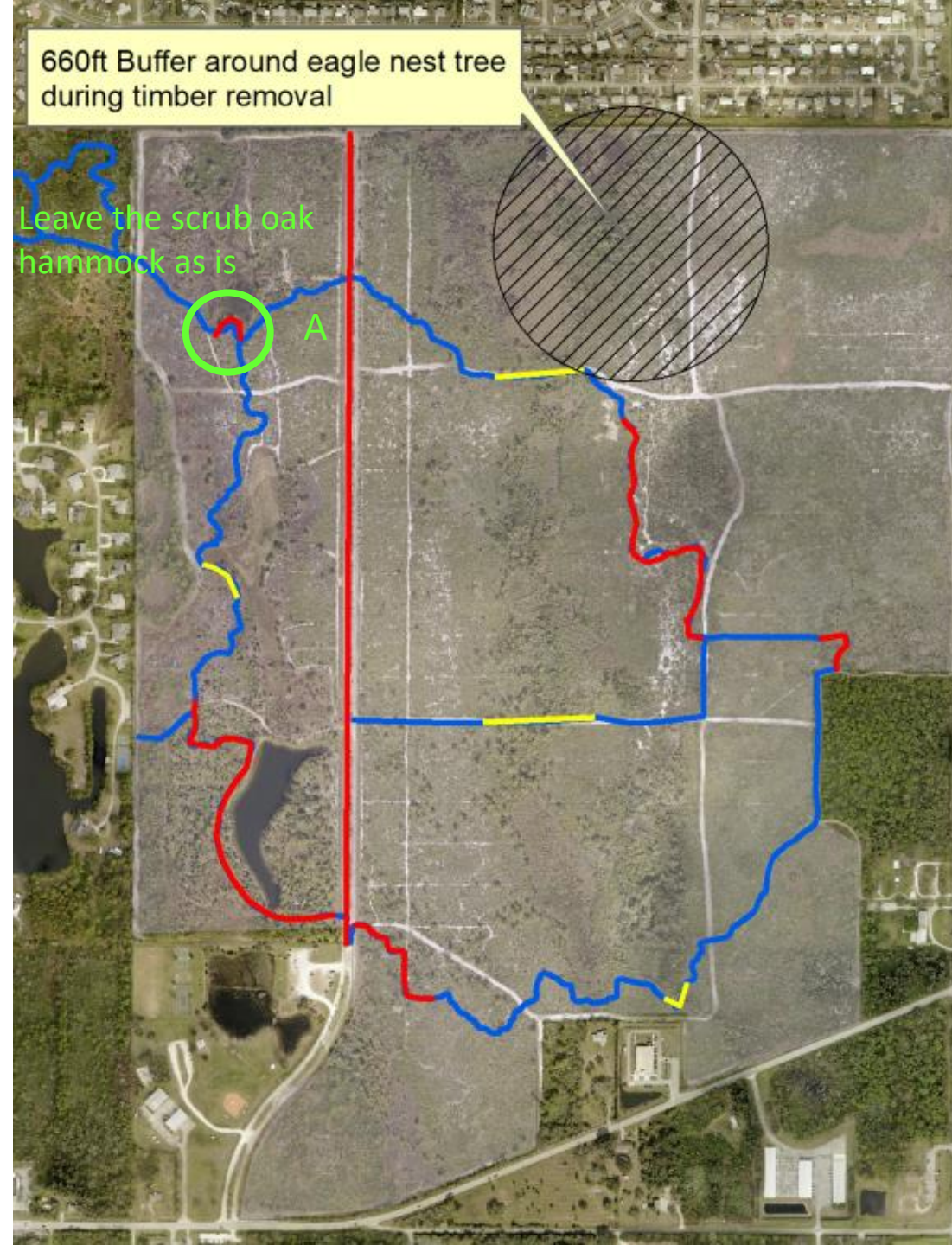
- 1) This trail was historically present but “dead-ended” and was not re-opened after the 2004 hurricanes
- 2) Possible Win-Win for both trail users and EEL Pgm environmental goals – allowing larger prime scrub habitat not interrupted by trail with a better trail user experience





# Malabar East Preservation Location A

In past MSS restoration efforts by ELL Pgm, this small oak hammock was negotiated to be preserved specifically as a small spot of “historic woods”, it is a hammock of scrub oaks, as were present prior to a previous restoration (see next page for photo from 2001, nearby this location). The area is small, possibly 100’ in diameter, and of little overall consequence to the EEL Pgm environmental goals. It should be recognized that, in its current unrestored condition, Scrub-Jays are often seen in the understory of this area.

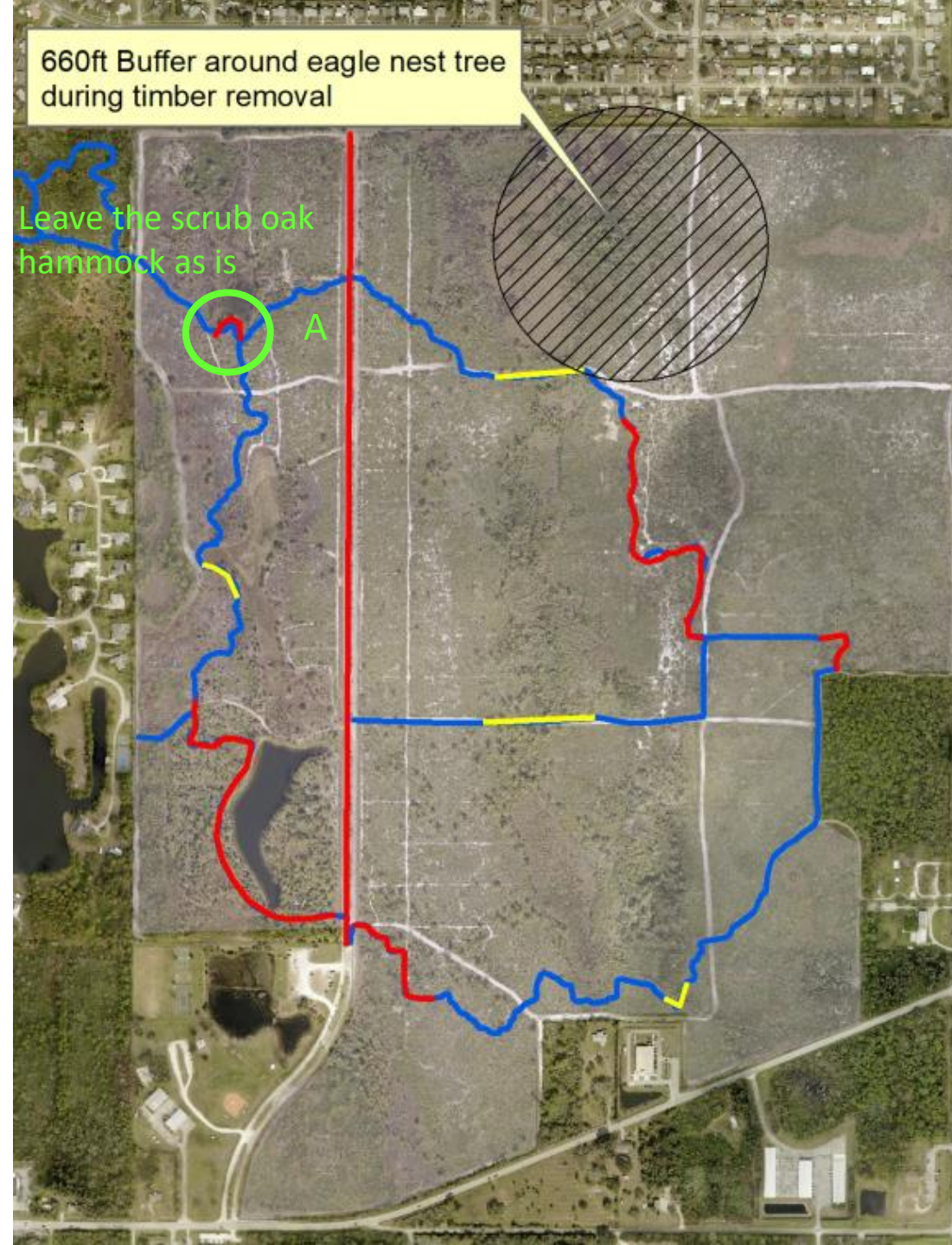




# Malabar East Preservation Location A

**TOM requests** minimal tree overstory removal in this area, just removal of sand pines and the taller pine trees, for the following reasons:

- 1) We often see Scrub Jays in this area. They seem to take refuge in the understory of the Scrub Oaks.
- 2) It is a small area. It has been suggested that a grouping of trees, if small enough, is no different than a single tree
- 3) It is near the property boundary to the N and W

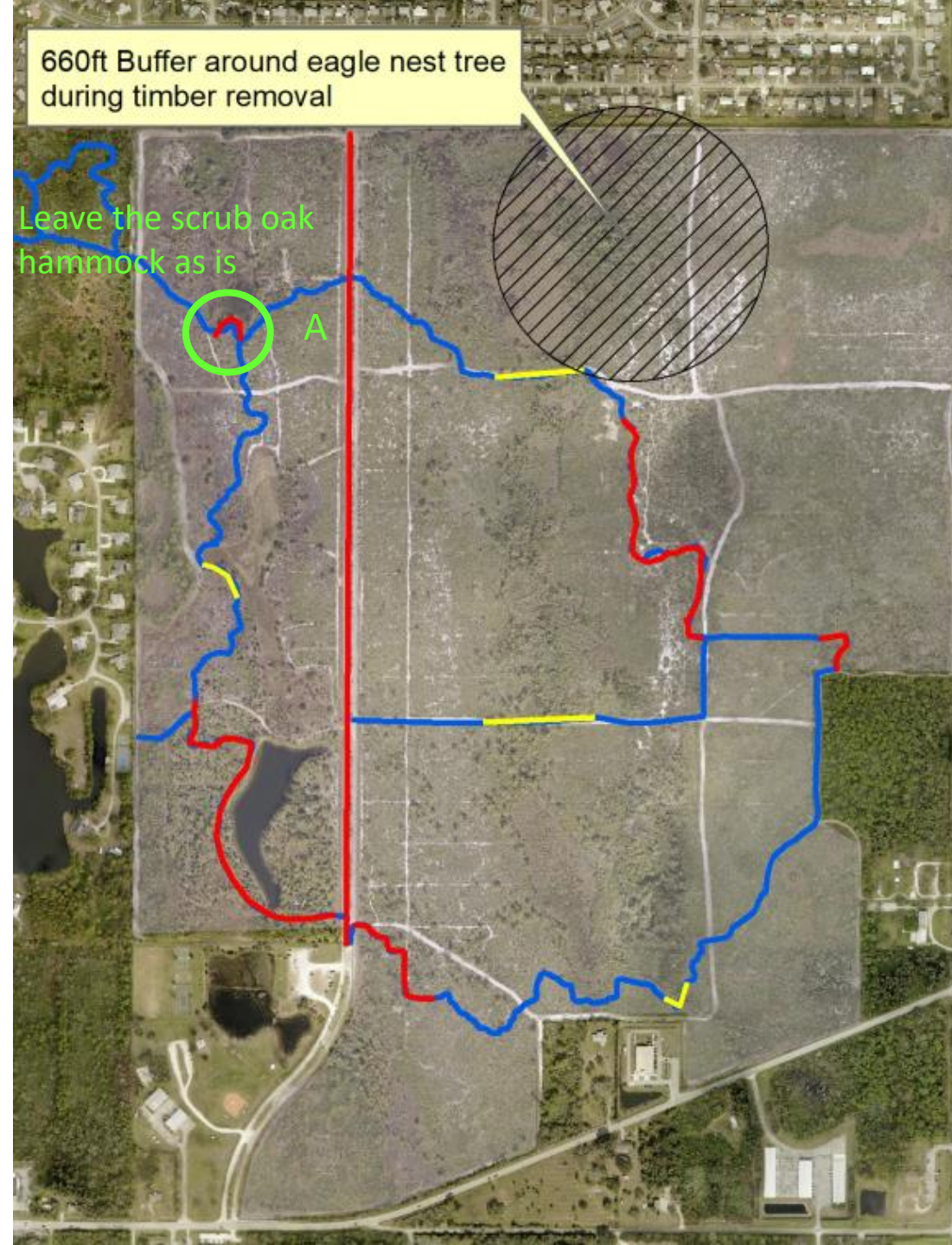




# Malabar East Preservation Location A

**TOM requests** minimal tree overstory removal in this area, just removal of sand pines and the taller pine trees, for the following reasons *continued*:

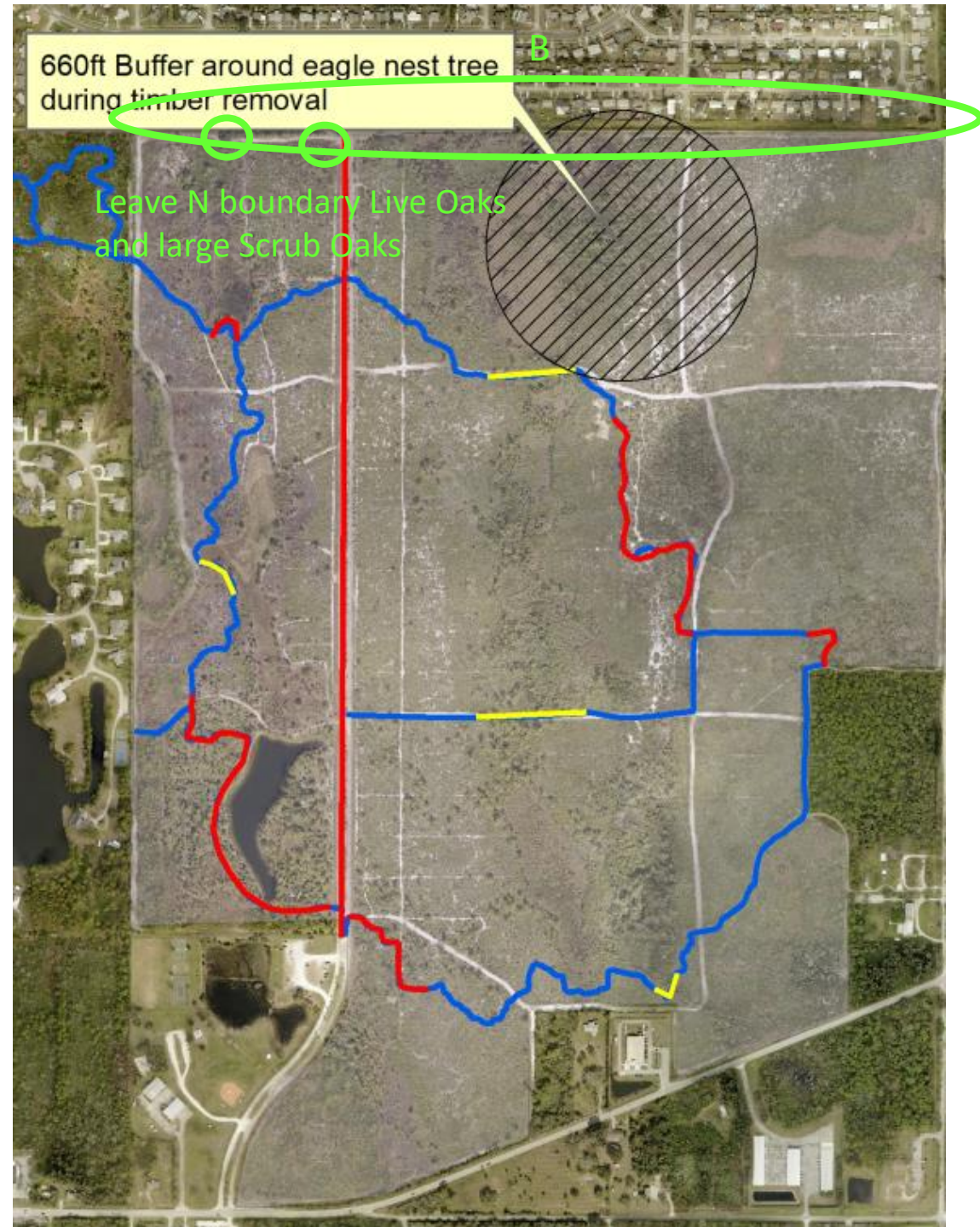
- 1) It is all that remains of a much larger Scrub Oak forest – the trail was re-routed into this small oak hammock back in early 2000's.
- 2) It provides trail users with a break of shade, after a long and largely exposed walk/ride throughout the rest of the sanctuary. It is a place to stop when overheating.





# Malabar East Preservation Location B

Live oaks are on far north property edge. There are several very large, mature oak trees along the north boundary most of these trees are already north of the fire break. These trees can be preserved with little affect on EEL Pgm environmental goals. These trees provide a visual break with the large urban area to the north.

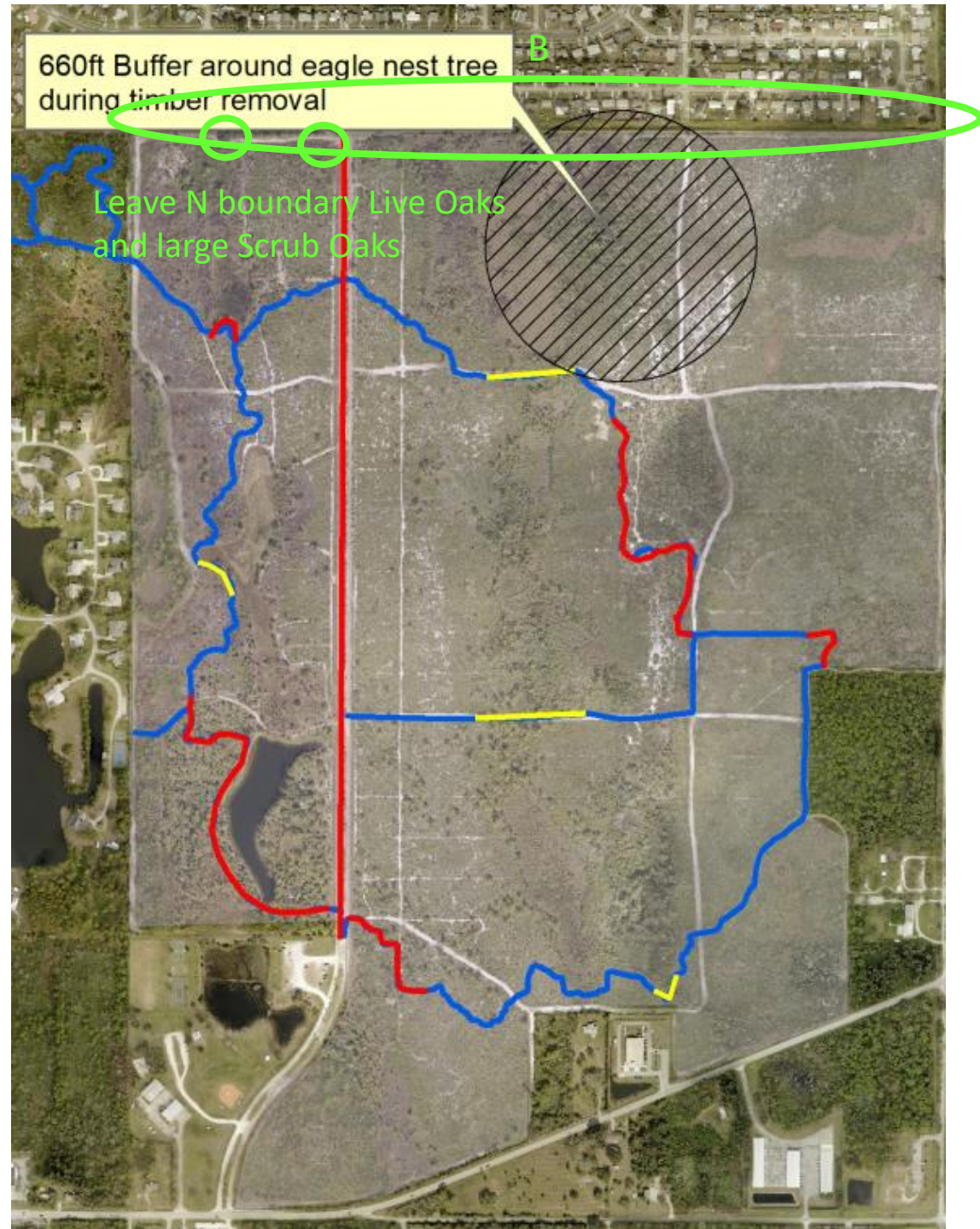




# Malabar East Preservation Location B

**TOM requests** that oak trees on North boundary be left, for the following reasons:

- 1) North edge of property (back up to property with power lines just 30' away to the north).  
\*Predator birds can also perch on power lines.
- 2) Trees provide a visual break from the nearby urban area
- 3) Provides tree shade for users near the paved Al Tuttle trail just north of this boundary



# Malabar East Preservation Location C

**TOM requests** that this area be preserved “as-is”

- 1) This is a narrow edge on the property boundary, and does not affect the environmental goals of the program
- 2) Area dominated by depression marshes and wetlands (this is why the EEL program chose to move their fire break away from the property boundary)
- 3) Provides a visual break for Country Cove homeowners





# Malabar East Preservation Location C

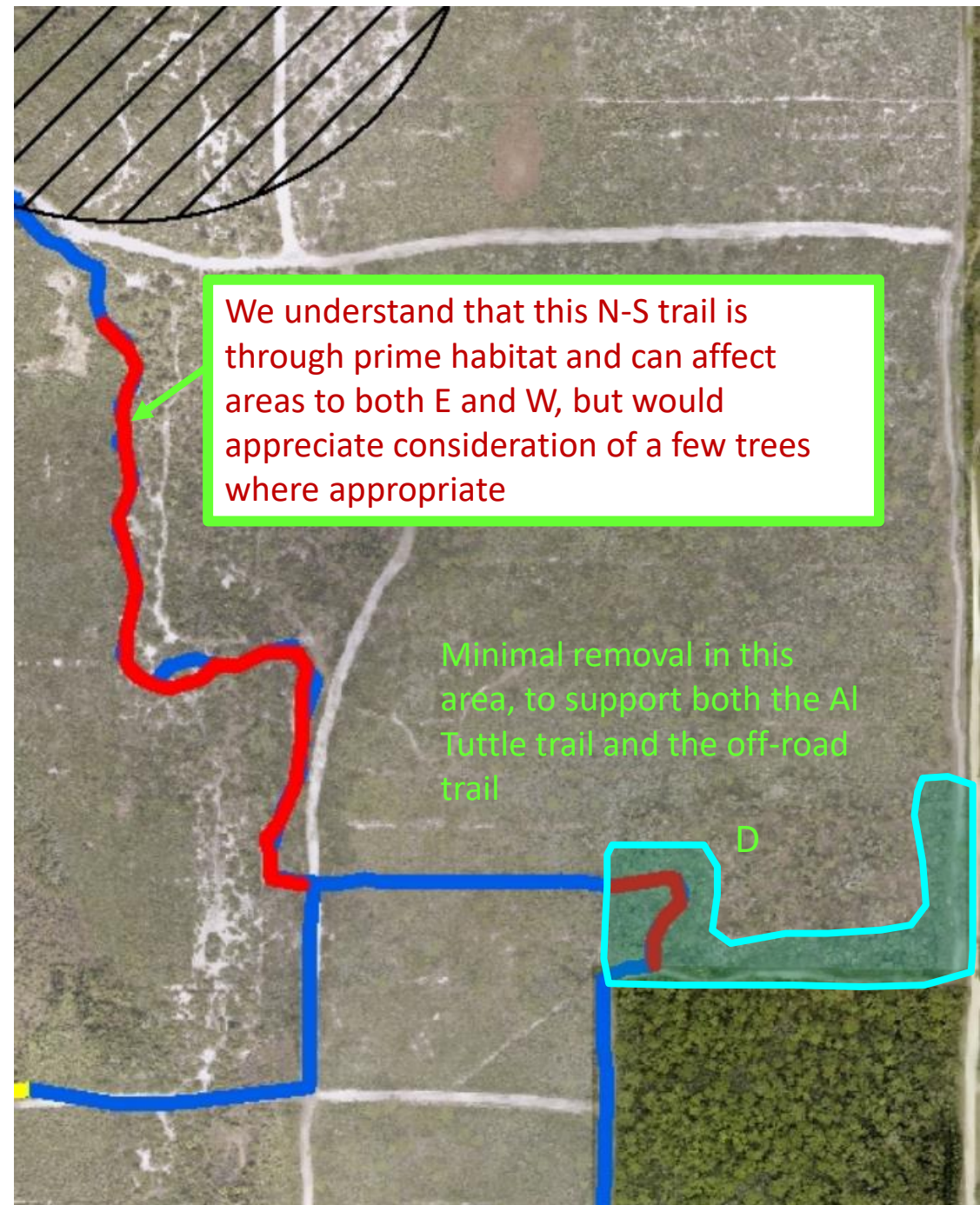
**TOM requests** that this area be preserved “as-is” for the following reasons:

- 1) This is a narrow edge on the property boundary, and does not affect the environmental goals of the program
- 2) This area is dominated by depression marshes and wetlands (this is why the EEL program chose to move their fire break away from the property boundary)
- 3) These key location trees provide a visual break for Country Cove homeowners



## Malabar East Preservation Location D

This is largely a palm and live oak hammock, that is likely left over from an old farm. It is a very wet area. It provides a good trail user experience. A small amount of this could be preserved against the AI Tuttle Trail (A Brevard County SCTPO Showcase Trail), and encompass part of the off-road trail, significantly enhancing the trail user experience with minimal affect on the EEL Pgm environmental goals – please see photo on next page.





# **Malabar East Preservation Location D**

**The Al Tuttle Trail is  
recognized as a  
Brevard County  
Showcase project**

**There are very tall trees  
on private property,  
immediately adjacent to  
the trail to the S**

**Request the EELp leave  
~25' of trees next to  
trail to give the illusion  
of being in the woods,  
and improve the trail  
user experience.**

**Leave large oaks near  
trail in place**

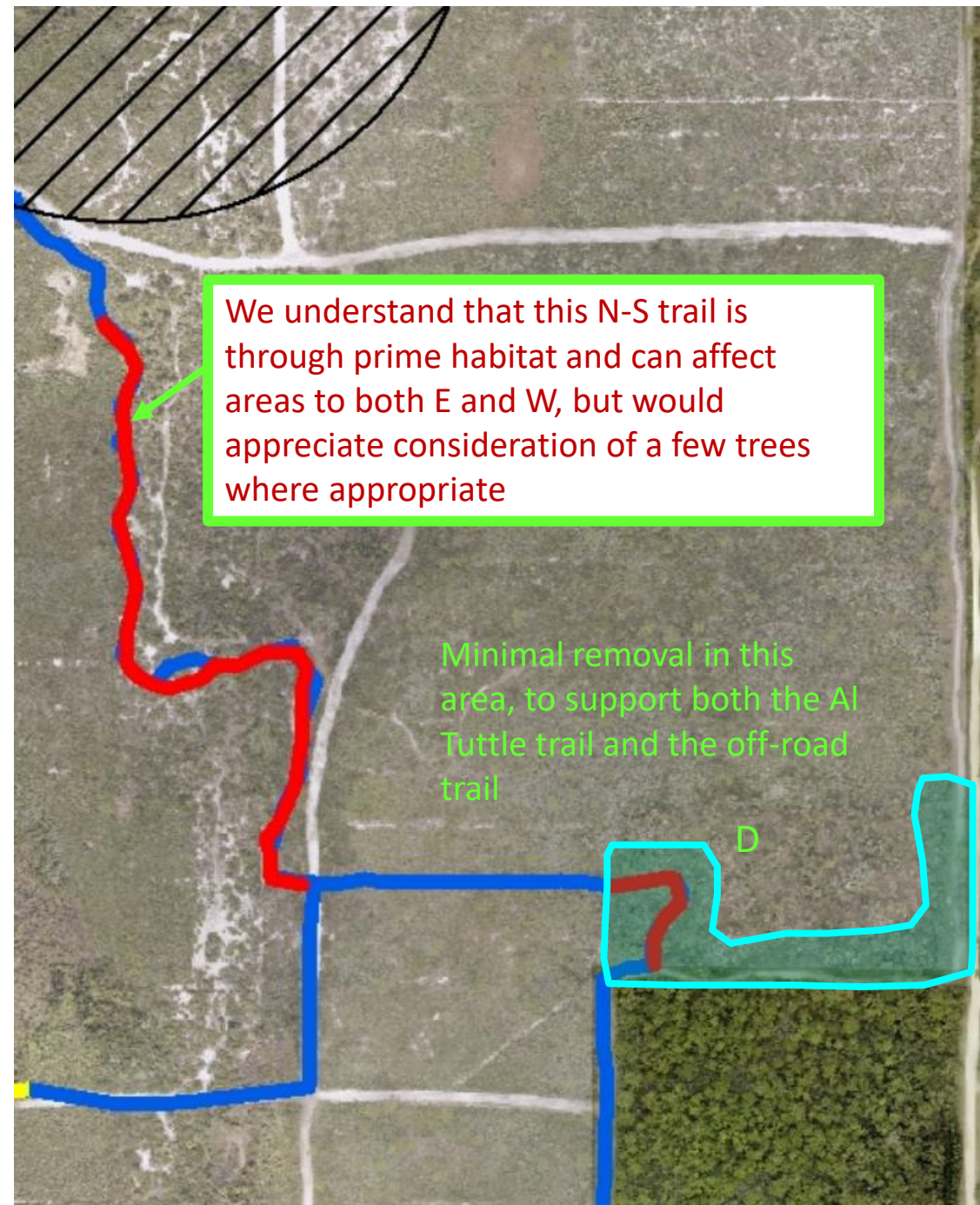




# Malabar East Preservation Location D

**TOM requests** minimal tree overstory removal in this area, just removal of sand pines, for the following reasons:

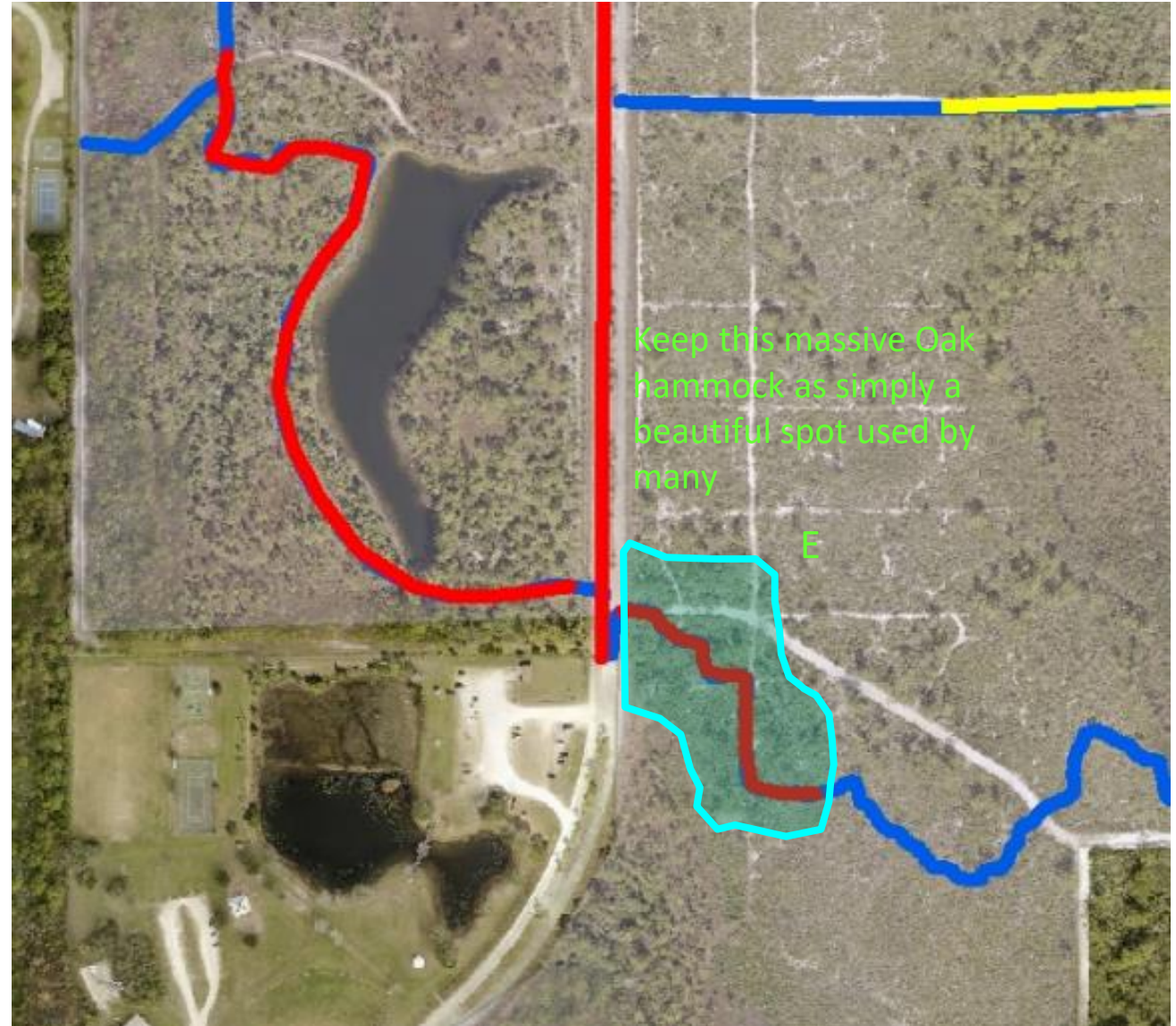
- 1) Enhance both the AI Tuttle Trail and the off-road trails by preserving a small area of woods ~25' for user experience
- 2) This area is on the very edge of the sanctuary property and will have minimal affect on the overall goals of the EEL Pgm – very tall trees, on neighboring private property are immediately adjacent to this location and only about 15' away
- 3) Small area overall
- 4) As a wet area, this will never be prime scrub habitat





# Malabar East Preservation Location E

**This is a very large Scrub Oak hammock left as part of the original 2001 restoration compromise. It was specifically left not for trail users, but as a focal point of the main EEL Pgm sanctuary entrance, and also to enhance the adjacent Malabar Park. Many, many people use this area. Wedding pictures are taken here, bridal showers, pregnancy pictures, trail users all frequent this special area.**

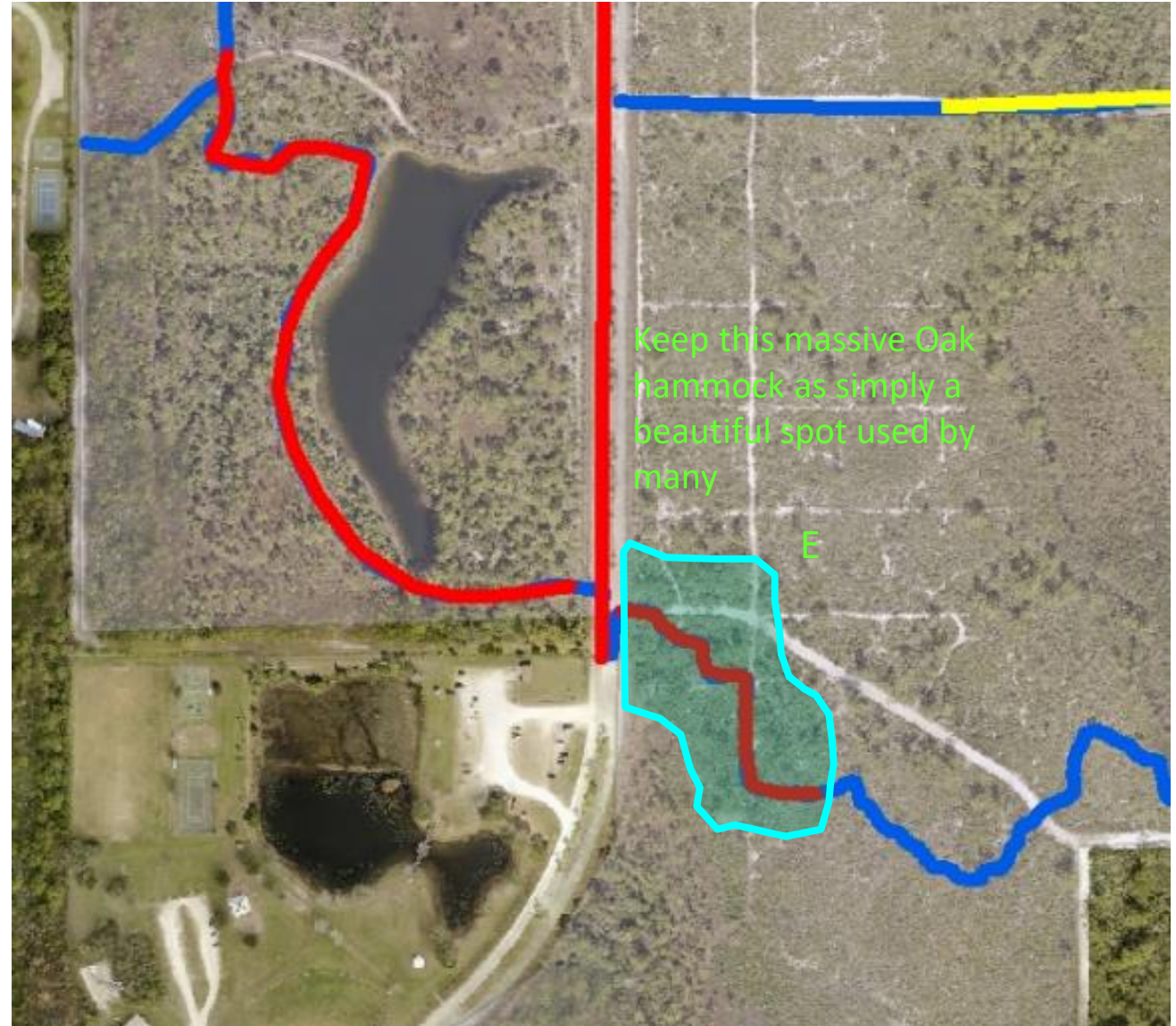




# Malabar East Preservation Location E

**TOM requests** no removal of Scrub Oaks in this area, just removal of sand pines, and possibly tall pine trees, for the following reasons:

- 1) This is the Sanctuary main entrance. This is the highlight of the sanctuary. Most trail walkers walk only ~100 yards, and this area gives them an enchanting experience
- 2) Used by many people besides trail users
- 3) The area is very small area overall
- 4) It was part of the original 2001 trail compromise for MSS

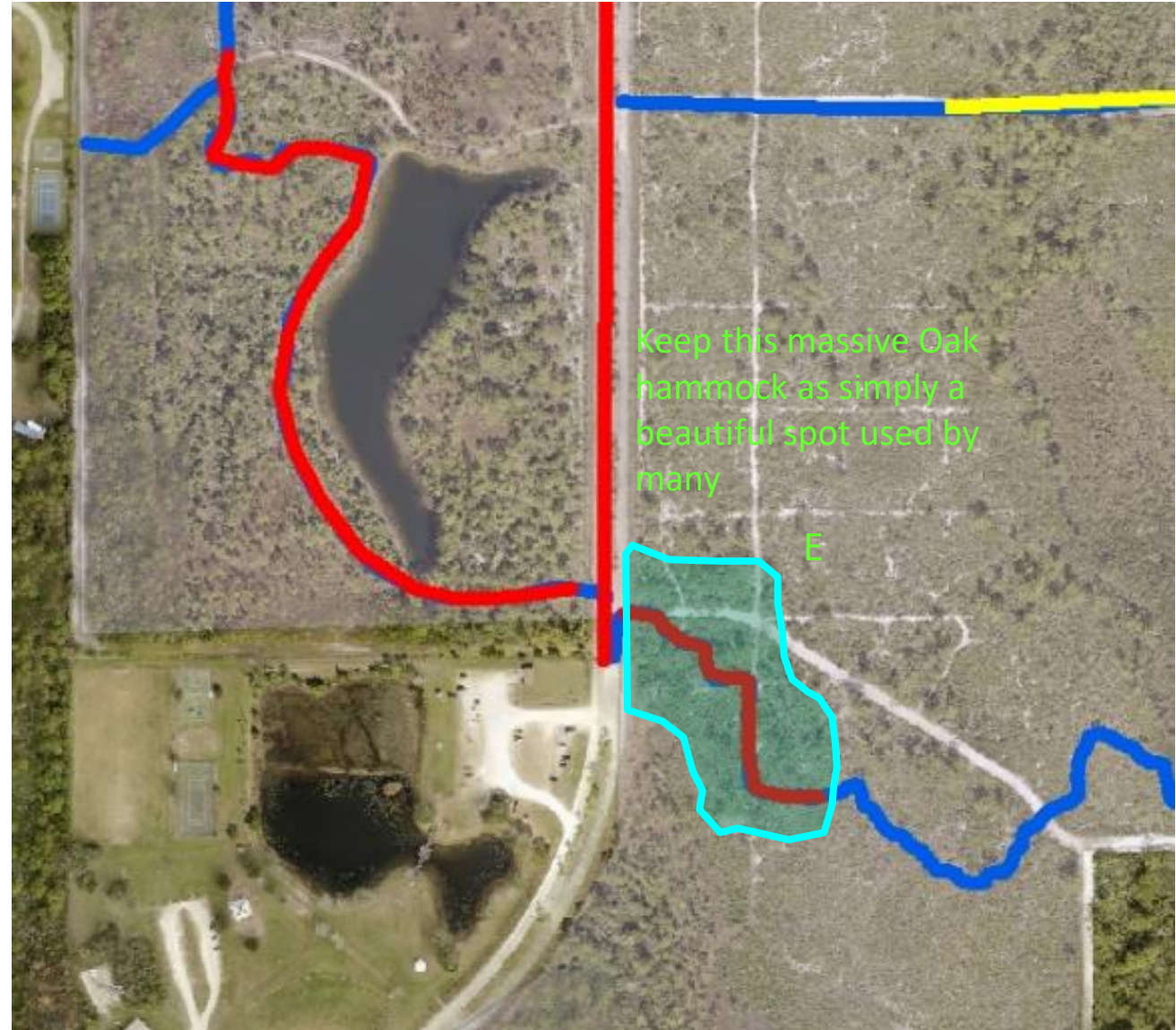




# Malabar East Preservation Location E

**TOM requests** no removal of Scrub Oaks in this area, just removal of sand pines, and possibly tall pine trees, for the following reasons *continued*:

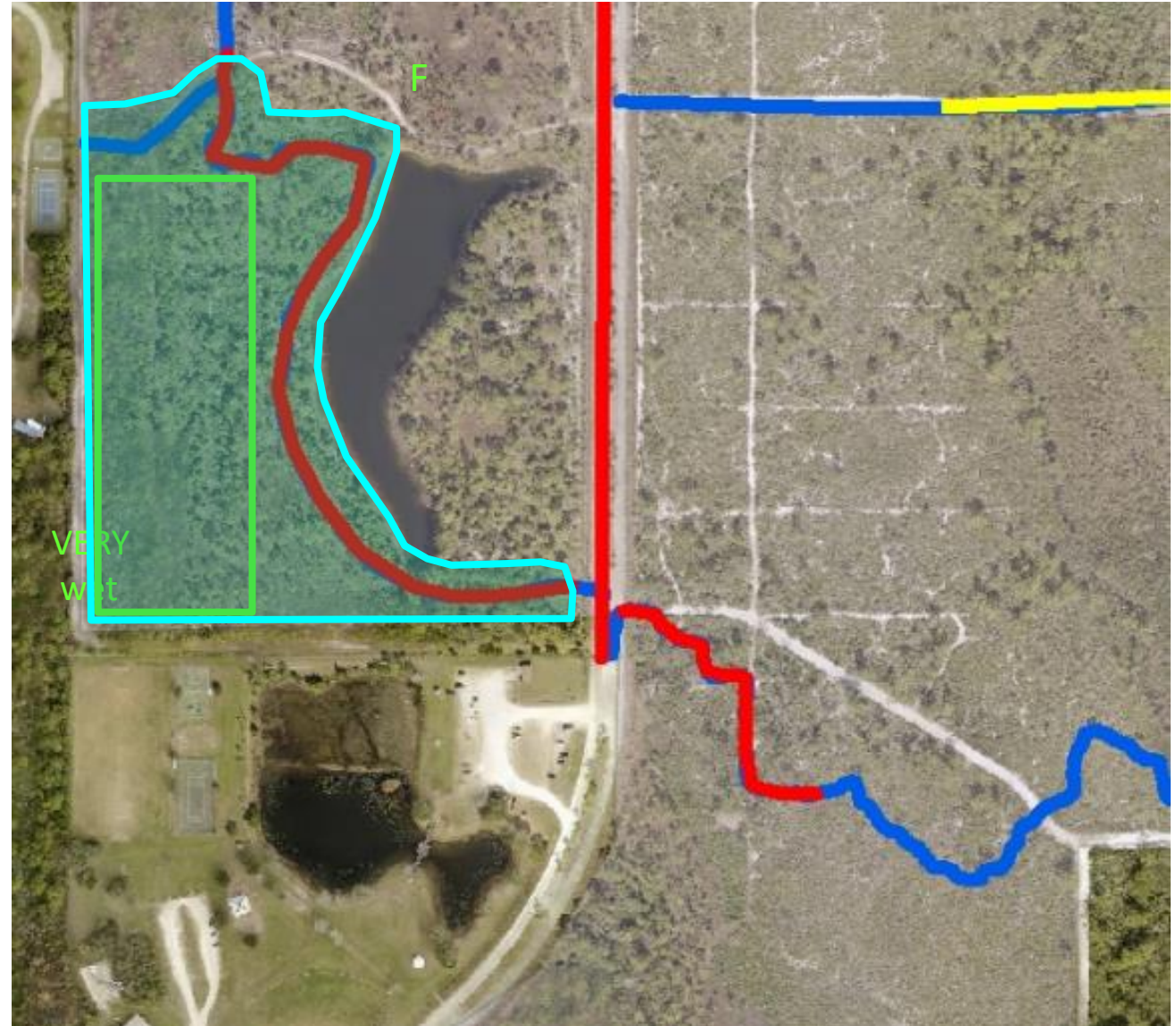
- 5) On the property boundary. Not a huge affect to environmental goals. This complex area already has screening trees within 400' to both the E and S.
- 6) Enhances the adjacent Malabar Park
- 7) Best area to view various woodpeckers
- 8) Scrub Jays often seen on the N part of this area, under the oak canopy
- 9) This is the signature area of MSS East





# Malabar East Preservation Location F

This is an unusual area. Very wet, some pines and sparse palmetto, it will never be good scrub habitat. The lake is a focal point of the sanctuary with mostly walking families and fishermen. This area must be walked to understand it. There is a large, tall ridge of dirt on the E bank of the lake (spoils from digging the lake), which screens the area away from the trees to the S-W. West bank of lake is ~600 feet from edge of scrub habitat. Given the “screen” provided by the spoils piles on the lake W bank, this should be adequate.





# Malabar East Preservation Location F

**TOM requests** that minimal restoration be done here, near trail, for the following reasons:

- 1) West lake bank ~600 feet from scrub habitat
- 2) Serves as a focal point of the sanctuary entrance
- 3) Used by many folks other than trail users. A favorite location for fishermen teaching kids to fish.
- 4) Provides a screen of trees from Malabar Community Park
- 5) Provides a screen of trees to adjacent properties
- 6) This is a wet environment and will never be optimal scrub habitat

