

GIS Tracking Sheet

Case No.:

DCT 2008-00045

Intake Date:

December 12, 2008

Project Name:

BBR East Water Storage Tank

STRAP Number(s):

32-47-26-00-00001.0360; .0020; 028A

Planner Name:

Chahram Badumtekian

Ext.

38372

P#2008-00262
on bench
INTEGRAL
FLOW

LEGAL DESCRIPTION VERIFICATION and INITIAL GIS MAPPING

Date:

11/5/09

INTAKE:

DCT08045

LEGAL SUFFICIENT

YES

NO

Initials:

CF

If not, give brief explanation:

~~Eliminate legal for 1-2, Remark 1-A2 to 1-2. and resubmit w/ sketch~~

~~Remark b.s. and resubmit~~

~~See remark~~

Approved legal sketch
Survey & opinion

MAP UPDATE following FINAL ACTION

Date:

Hearing Examiner Decision

Board of County Commissioner's Resolution

Administrative Approval

Blue Sheet

Zoning Notes:

MAP UPDATED

YES

NO

Initials:

CF

If not, give brief explanation:

ZONE 1 CFP D1 000059

RECEIVED

NOV 04 2009

DCI 2008-00045
COMMUNITY DEVELOPMENT

LEGAL DESCRIPTION

THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32.

THENCE N.01°00'38"W. ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 FOR 1,316.62 FEET TO THE SOUTHEAST CORNER OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32, ALSO BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;
THENCE ALONG THE SOUTH LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) S.89°11'39"W. FOR 327.67 FEET TO THE SOUTHWEST CORNER OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);
THENCE ALONG THE WEST LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) N.00°57'50"W. FOR 658.01 FEET TO THE NORTHWEST CORNER OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);
THENCE ALONG THE NORTH LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) N.89°08'31"E. FOR 327.13 FEET TO THE NORTHEAST CORNER OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);
THENCE ALONG THE EAST LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) S.01°00'38"E. FOR 658.31 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.

CONTAINING 215,480 SQUARE FEET OR 5.0 ACRES, MORE OR LESS.

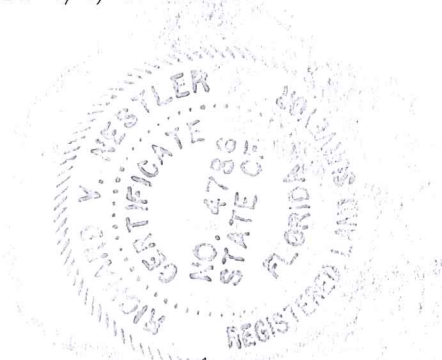
BEARINGS ARE BASED ON THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 AS BEING N.01°00'38"W.

RWA, INC.

SURVEYING & MAPPING, CIVIL ENGINEERING, PLANNING AND VISUALIZATION
6610 WILLOW PARK DRIVE, SUITE 200
NAPLES, FLORIDA 34109

BY: 

RICHARD V. NESTLER, PROFESSIONAL SURVEYOR AND MAPPER LS# 4786
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A
FLORIDA LICENSED SURVEYOR AND MAPPER.



10/19/09
SIGNING DATE

Applicant's Legal Checked
by  11-5-09
SEE SHEET 2 OF 2 FOR SKETCH

October 19, 2009 1:33 PM S:\2008\080097.00.00 Bonita Bch Rd East Water Storage Tank\0002 Boundary Survey\SKETCHES AND DESCR\0800970000SK05Z.dwg



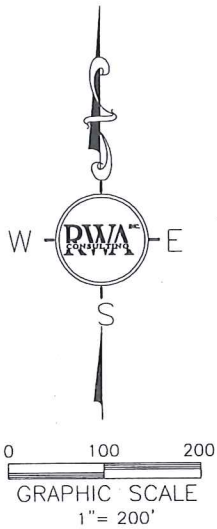
6610 Willow Park Drive, Suite 200
Naples, Florida 34109
Phone: (239) 597-0575
FAX: (239) 597-0578
Florida Certificate of Authorization # 1b-6952

DATE: 10/19/09	CLIENT: BONITA SPRINGS UTILITIES
SCALE: 1"=200'	TITLE: SKETCH OF LEGAL DESCRIPTION
DRAWN BY: RVN	PROJECT NUMBER: 080097.00.00
CHECKED BY: RVN	SHEET NUMBER: 1 OF 2
SEC: TWP: RGE: 32 47S 26E	FILE NUMBER: 0002 SK5Z

SKETCH OF LEGAL DESCRIPTION

THIS NOT A SURVEY

DCI 2008-00045



NORTH LINE
E. 1/2 OF S.E.
1/4 OF N.E. 1/4
OF S.W. 1/4

N89°08'31"E 327.13'

EAST LINE
E. 1/2 OF S.E.
1/4 OF N.E. 1/4
OF S.W. 1/4

S01°00'38"E 658.31'

E. 1/2 OF S.E.
1/4 OF N.E. 1/4
OF S.W. 1/4

N00°57'50"W 658.01'

WEST LINE
E. 1/2 OF S.E.
1/4 OF N.E. 1/4
OF S.W. 1/4

SNELL LANE

POB

S89°11'39"W 327.67'

SOUTH LINE
E. 1/2 OF S.E.
1/4 OF N.E. 1/4
OF S.W. 1/4

EAST LINE
SW 1/4
BEARING BASIS
N01°00'38"W 1316.62'

Applicant's Legal Checked
By BQ 11-5-09

POC
SE CORNER
SW 1/4

SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST

BONITA BEACH ROAD S.E.

SECTION 5, TOWNSHIP 48 SOUTH, RANGE 26 EAST

LEGEND

- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- R/W = RIGHT OF WAY

SEE SHEET 1 OF 2 FOR DESCRIPTION

October 19, 2009 1:33 PM S:\2008\080097.00.00 Bonita Bch Rd East Water Storage Tank\0002 Boundary Survey\SKETCHES AND DESCR\0800970000SK05Z.dwg



6610 Willow Park Drive, Suite 200
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Phone: (239) 597-0575
FAX: (239) 597-0578
Florida Certificate of Authorization # 1b-6952

DATE:
10/19/09

SCALE:
1"=200'

DRAWN BY:
RVN

CHECKED BY:
RVN

SEC: TWP: RGE:
32 47S 26E

CLIENT:

BONITA SPRINGS UTILITIES

TITLE:

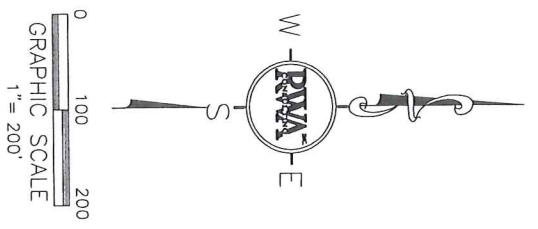
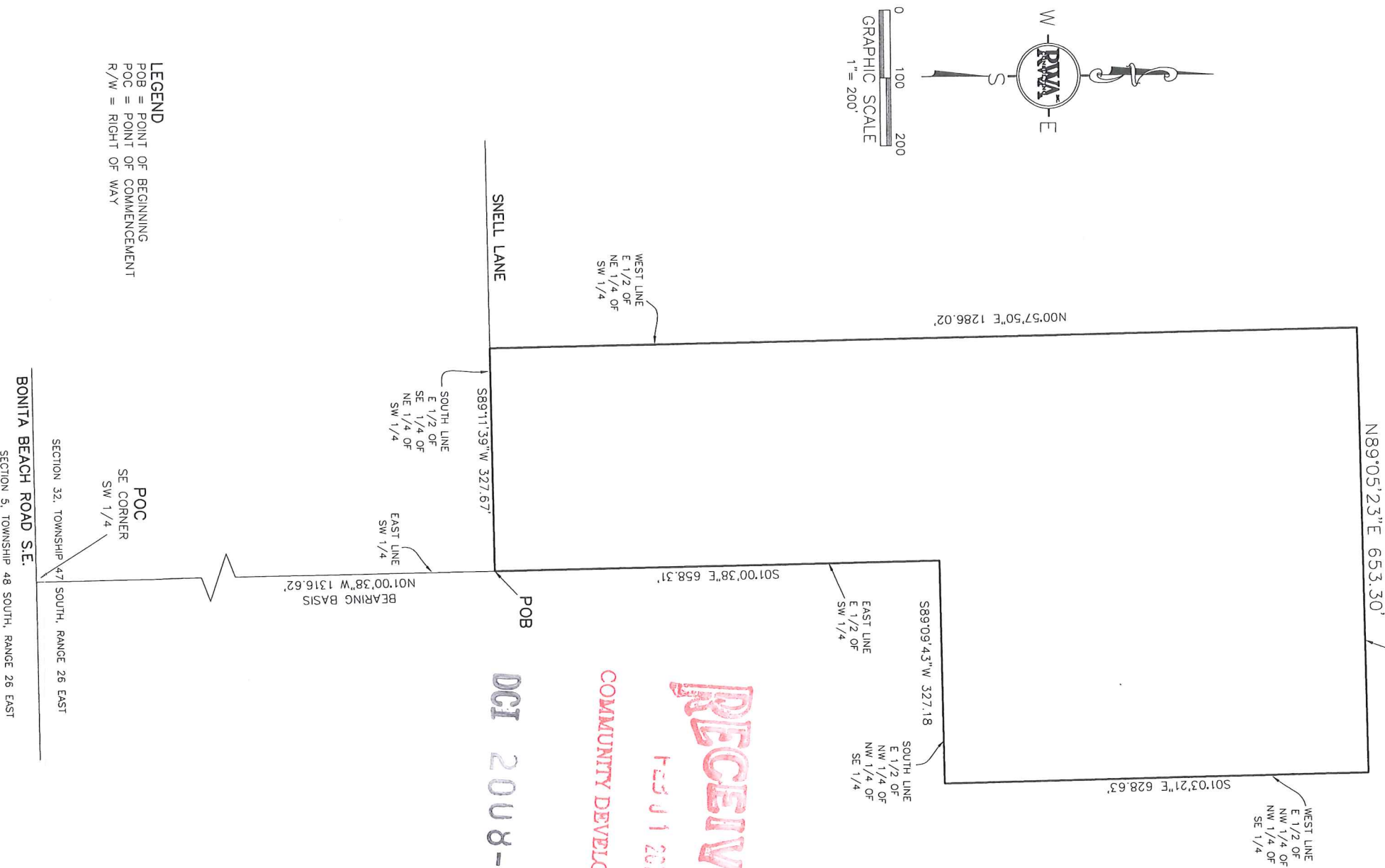
SKETCH OF LEGAL DESCRIPTION

PROJECT NUMBER: 080097.00.00

SHEET NUMBER: 2 OF 2

FILE NUMBER: 0002 SK5Z

SKETCH OF LEGAL DESCRIPTION
THIS NOT A SURVEY



RECEIVED

FEB 11 2010

COMMUNITY DEVELOPMENT

DCI 2008-00045

LEGEND
 POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT
 R/W = RIGHT OF WAY

POC
SE CORNER
SW 1/4


SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST

BONITA BEACH ROAD S.E.
SECTION 5, TOWNSHIP 48 SOUTH, RANGE 26 EAST

REVISED 1-29-10 RVN

SEE SHEET 1 OF 2 FOR DESCRIPTION

January 29, 2010 9:09 AM Q:\2005\050217.00.01 Golden Gate Roadway - Additional Services\0002 Rev ROW Map-Lone Re-Design\050217 00 00 0008 Rvw.dwg

		Planning Visualization Civil Engineering Surveying & Mapping	
6610 Willow Park Drive, Suite 200 Naples, Florida 34109 Phone: (239) 597-0575 Fax: (239) 597-0578 Florida Certificate of Authorization # 1b-69952			
DATE:	10/21/09	CLIENT:	BONITA SPRINGS UTILITES
SCALE:	1"=200'	TITLE:	SKETCH OF LEGAL DESCRIPTION
DRAWN BY:	RVN	PROJECT NUMBER:	080097.00.00
CHECKED BY:	RVN	SHEET NUMBER:	2 OF 2
SEC:	TWP:	RGE:	FILE NUMBER:
32	47S	26E	0002 SK15

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by the property owner, Bonita Springs Utilities, Inc., to rezone 14.4± acres from Community Facilities Planned Development (CFPD) (Bonita Springs Utilities, Resolution Z-92-043) to Community Facilities Planned Development (CFPD), in reference to BBR East Water Storage Tank; and,

WHEREAS, a public hearing was advertised and held on January 27, 2010, and February 24, 2010, with the record held open until February 26, 2010, for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2008-00045; and

WHEREAS, a second public hearing was advertised and held on April 5, 2010, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone 14.4± acres from CFPD to CFPD to allow for a water storage tank and associated accessory uses with a maximum building height of 50 feet. No development blasting is being requested. The property is located in the DR/GR and Wetlands Land Use Category and is legally described in attached Exhibit "A." The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the 1-page Master Concept Plan (MCP) entitled "BBR East Water Storage Tank," dated August, 2008, last revised April 5, 2010, and date-stamped "Received APR 05 2010 Community Development," attached hereto as Exhibit "C," except as modified by the conditions below.

2. Uses and Site Development Regulations

The following Limits apply to the project and uses:

a. Schedule of Uses

- Accessory Uses and Structures
- Essential Services
- Essential Service Facilities: Group I and Group II (Group II Limited to water storage and water treatment facilities, including underground storage) - Subject to condition #10.
- Entrance Gates and Gatehouses
- Excavation, water retention
- Fences, walls
- Maintenance facility (Accessory and subordinate to water treatment facilities)
- Parking lot, Accessory
- Signs, in accordance with Chapter 30
- Storage, indoor only (Accessory and subordinate to water storage and treatment facilities)
- Temporary Uses (limited to construction trailers and storage sheds during the development of the site, and temporary uses directly related to the existing permitted uses on the site)

b. Site Development Regulations

Minimum Setbacks	Water Tank	Accessory Structures**
Street (Snell lane):	100 Feet	100 Feet
Side:	100 Feet	30 Feet
Rear:	100 Feet	30 Feet
Preserve:	30 Feet	30 Feet
Maximum Building Height:	Water Tank:	50 Feet
	Accessory Structures:	35 Feet

*** Setbacks for Entrance Gates and Gate houses, and Essential Services, and Group I Essential Service Facilities must comply with §§34-1748 and 34-1613, respectively.*

3. Environmental Conditions

- a. Prior to local development order approval, the applicant must submit copies of the approved South Florida Water Management District (SFWMD) and United States Army Corps of Engineers (COE) permit.

- b. Prior to vegetation clearing approval, the property must be surveyed for active/inactive gopher tortoise burrows. If active/inactive burrows are found, then buffers, as required by the Florida Fish and Wildlife Conservation Commission (FWCC), must be maintained, Or, if impacts to active gopher tortoise burrows are proposed, the applicant should consider on-site relocation before pursuing off-site relocation options. If on-site relocation is not appropriate as per current FWCC regulations or guidance (including, but not limited to the "Gopher Tortoise Permitting Guidelines," attached hereto as Exhibit "D"), then off-site relocation is an acceptable mitigation measure. A copy of the appropriate gopher tortoise relocation permit issued by the FWCC must be submitted to the Lee County Division of Environmental Sciences (ES) staff prior to excavation and moving of any gopher tortoises. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWCC and the appropriate gopher tortoise management plan meeting the requirements of LDC §10-474 must be submitted for ES staff review and approval.
- c. Prior to vegetation clearing approval, the property must be surveyed for the presence of Big Cypress fox squirrel. If any nest structures are located, the nests must be monitored for up to 5 days to determine if the nests are being utilized by Big Cypress fox squirrel and if nesting activities are taking place. If the nests are deemed to be active, a 125 foot natural vegetated buffer must remain undisturbed around the nest tree until nesting activities have been deemed complete by the FWCC or ES Staff. Once the nests have been deemed inactive, any request for removal of the nest tree must be coordinated with FWCC and ES staff and the appropriate FWCC permit provided. In addition, if Big Cypress fox squirrels or evidence there of are documented on the site, the management plan meeting the requirements of LDC §10-474 must be submitted for ES staff review and approval.
- d. Prior to local development order approval, the development order plans must delineate a minimum 4.3 acres as open space in substantial compliance with the approved MCP. Area within existing roadway right-of-way easements may not be used to meet open space requirements.
- e. Prior to local development order approval, development order plans must depict the minimum 1.6 acre preserve and minimum 1.39 planted compensating storage area in substantial compliance with the approved MCP.
- f. Prior to local development order approval, landscape plans must depict the preserve and compensating storage area to provide supplemental plantings pursuant to the Bonita Beach Road East Water Storage Tank Compensating Storage Area and On-Site Preserve Planting Plans, dated February 1, 2010, (attached as Exhibit "E") and existing sabal palms to be relocated on-site pursuant to LDC §10-415(b)(2)(a). An Indigenous

Management Plan meeting the requirements of LDC §10-415(b)(4) must be submitted for ES staff review and approval.

- g. Lee County must be made a 3rd party to any conservation easement required by state and/or federal agencies.

4. Vehicular/Pedestrian Impacts

Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

5. Concurrency

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

6. Compliance with the LDC

This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

7. Road Improvement

Bonita Springs Utilities must execute a maintenance covenant with Lee County for the unpaved portion of Snell Lane extending from the end of the paved surface to the subject property's entrance prior to the development order approval. If an MSBU or MSTU or an agreement of the property owners is established to address the maintenance of the unpaved portion of Snell Lane, or if Snell Lane is accepted as a publicly maintained road, then this covenant will be of no further force and effect.

8. Road Extension

The applicant must extend and improve Snell Lane from the end of the paved surface to the subject property's entrance as an unpaved category "D" road. This road improvement will be considered site related and no Impact Fee credit will be allowed for this improvement.

9. Tank color

The tank must be gray in color, or it may be painted to a single earth-tone color. The tank may not contain any murals.

10. Underground Storage

The Applicant must submit copies of all State and Federal Agency permit applications for underground water storage facilities, as well as all approved permits issued by said agencies, to the Lee County Division of Natural Resources as soon as such documents become available to the Applicant.

11. Buffer

In the event that the ownership of the property to the west changes and is no longer owned by the owners of the subject property, a Type "D" landscape buffer must be provided on the western property line of the subject property.

12. Subsequent Development - Open Space and Preserves

Open Space and areas of Preserved and Enhanced indigenous plant communities included part of this MCP will contribute to future open space and indigenous vegetation requirements in the event this CFPD is amended or expanded in the future to include additional areas or additional phases.

13. Lee Plan Allocation

Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

SECTION C. DEVIATIONS:

1. Access Road

Deviation (1) seeks relief from the LDC §10-292(2) requirement that all developments have access to a public or private street designed, constructed and improved to meet the standards of Section 10-296, to allow for access to the site from the end of the paved portion of Snell Lane as an unpaved Category "D" road and to allow for a T-turnaround in lieu of a cul-de-sac. This deviation is APPROVED, SUBJECT TO Condition 7.

2. Solid Waste and Recycling Containers

Deviation (2) seeks relief from the LDC §10-261 requirement that all new multifamily residential developments, commercial businesses and industrial uses provide sufficient on-site space for the placement of garbage containers or receptacles, and sufficient space for recyclable materials collection containers to allow the unmanned community facility (the subject property) to be developed without on-site refuse collection. This deviation is APPROVED.

3. Perimeter Buffers

Deviation (3) seeks relief from the LDC §10-416(d)(1) requirement that buffers along the entire perimeter of the proposed development allow preserve areas with enhanced plantings to satisfy the buffer requirement. This deviation is APPROVED, SUBJECT TO Conditions 3.e. and f.

4. Buffer from Properties Under Common Ownership

Deviation (4) seeks relief from the LDC §10-416(d)(1) requirement that buffers along the entire perimeter of the proposed development eliminate the required buffer adjacent to property under common ownership along portions of the western property boundary. This deviation is APPROVED, SUBJECT TO Condition 11.

5. Northern Property Line Buffer

Deviation (5) seeks relief from the LDC §10-416(d)(1), (3) and (4) requirement that a Type "C" or Type "F" buffer along the northern property line of the proposed development allow for an alternative landscape plan along the northern property line adjacent to the Kehl Canal easement. This deviation is APPROVED, SUBJECT TO Condition 3.e and f.

SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan
- Exhibit D: Gopher Tortoise Permitting Guidelines
- Exhibit E: Bonita Beach Road East Water Storage Tank Compensating Storage Area and On-Site Preserve Planting Plans; dated February 1, 2010

The applicant has indicated that the STRAP numbers for the subject property are: 32-47-26-00-00001.0020, 32-47-26-00-00001.028A and 32-47-26-00-00001.0360.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;

- b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area;
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
- a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

Commissioner Ray Judah made a motion to adopt the foregoing resolution, seconded by Commissioner Frank Mann. The vote was as follows:

District #1	Vacant
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 5th day of April 2010.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Patricia W. Green*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Tammara Hall*
Tammara Hall, Chair

Approved as to form by:

John J. Fredyma
John J. Fredyma
Assistant County Attorney
County Attorney's Office



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MINUTES OFFICE

2010 APR 15 AM 9:47

RECEIVED

FEB 01 2010

COMMUNITY DEVELOPMENT

DCI 2008-00045

LEGAL DESCRIPTION

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THENCE ALONG SAID CANAL EASEMENT N.89°05'23"E. FOR 653.30 FEET, TO A POINT ON THE EAST LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32;

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CONTAINING 626,273 SQUARE FEET OR 14.4 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 AS BEING N.01°00'38"W

APPROVED LEGAL

Handwritten signature/initials

BY:

RICHARD V. NESTLER, PROFESSIONAL SURVEYOR AND MAPPER LS# 4786

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

1/24/10
SIGNING DATE

REVISED 1-29-10 R/VN
REVISED 1-27-10 RVN

SEE SHEET 2 OF 2 FOR SKETCH

January 29, 2010 8:29 AM C:\J005129021\0301 Golden Gate Hwy - Additional Services\K02 Per ROW Application Re-Design\050217 00 00 0008 Re.dwg

DWA INC.
CONSULTING

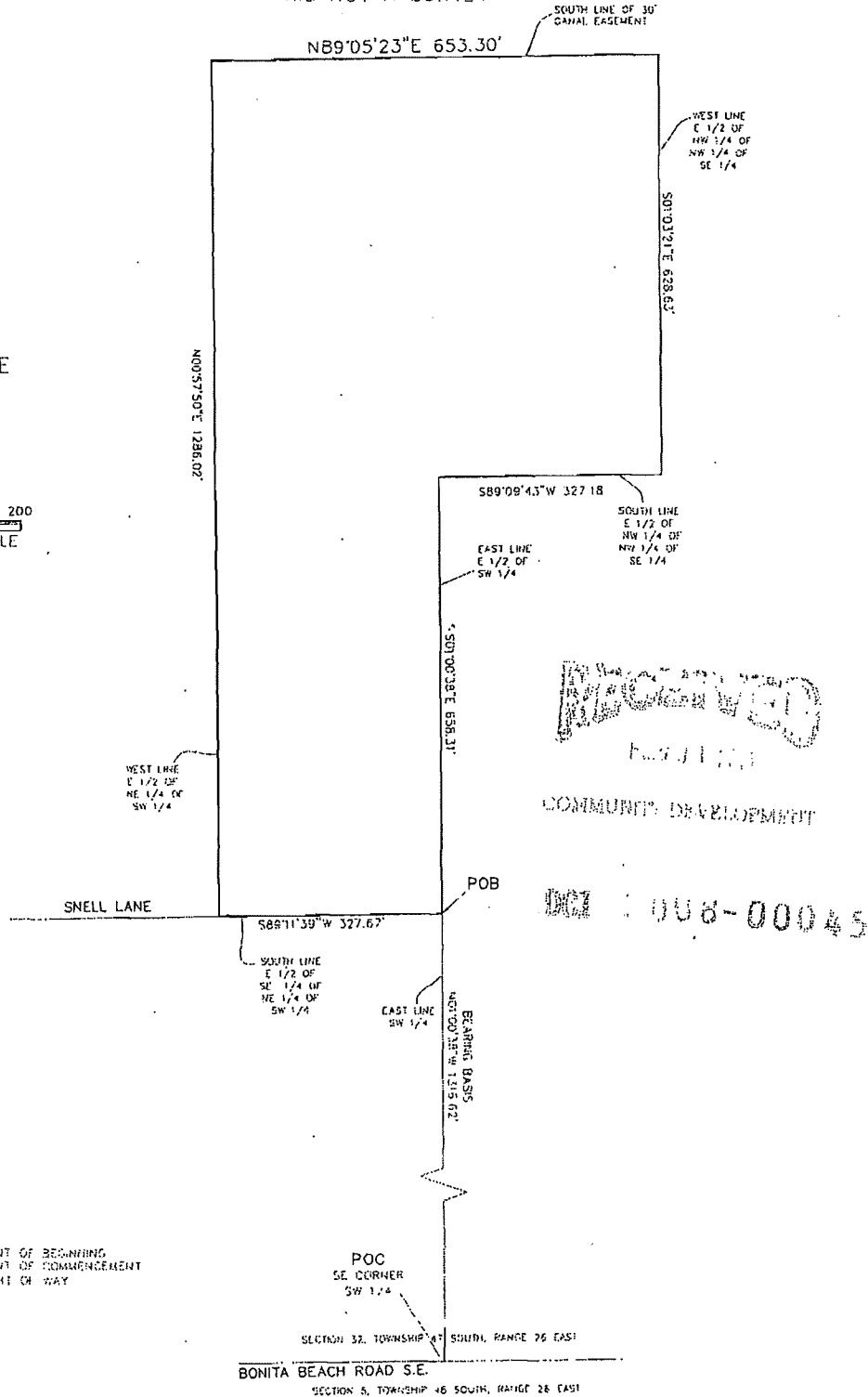
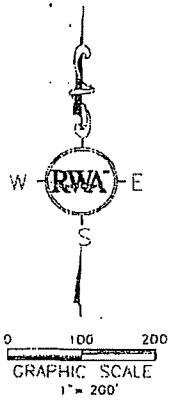
Planning
Visualization
Civil Engineering
Surveying & Mapping

6610 Wilcox Park Drive, Suite 200
Naples, Florida 34109
Phone: (239) 597-0576
Fax: (239) 597-0578
Florida Certificate of Authorization # 16-0952

DATE	10/21/09
SCALE	11/A
DRAWN BY	R/VN
CHECKED BY	R/VN
REV. 1/27/10	475
REV. 2/2	475

CLIENT	BONITA SPRINGS UTILITES		
TITLE	LEGAL DESCRIPTION		
PROJECT	2008-00045	SHEET NUMBER	1 OF 2
FILE NUMBER	0002 SK15		

SKETCH OF LEGAL DESCRIPTION
THIS NOT A SURVEY



RECEIVED
PLANNING
COMMUNITY DEVELOPMENT

DCI : 008-00045

LEGEND
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
R/W = RIGHT OF WAY

POC
SE CORNER
SW 1/4

SECTION 32, TOWNSHIP 46
BONITA BEACH ROAD S.E.
SECTION 5, TOWNSHIP 46 SOUTH, RANGE 26 EAST

REVISED 1-29-10 MVN

SEE SHEET 1 OF 2 FOR DESCRIPTION

January 27, 2010 8:09 AM G:\2005\050217\00.01 Green Gate Roadway - Additional Services\9002 Rev RUN Map-Long Re-Design\050217 00 00 0008 Run.dwg

RWA INC.
CONSULTING
Planning
Visualization
Civil Engineering
Surveying & Mapping

6610 Willow Park Drive, Suite 200
Naples, Florida 34109
Phone: (239) 597-0575
FAX: (239) 597-0578
Florida Certificate of Authorization # 10-0952

DATE 10/21/09	CLIENT: BONITA SPRINGS UTILITES
SCALE: 1" = 200'	TITLE: SKETCH OF LEGAL DESCRIPTION
DRAWN BY: MVN	
CHECKED BY: MVN	
SEC: 32	PROJEC1 NUMBER: 080097.00.00
R/W: 475	SHEET NUMBER: 2 OF 2
H/L: 26E	FILE NUMBER: 0002 SK15

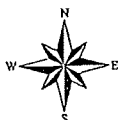
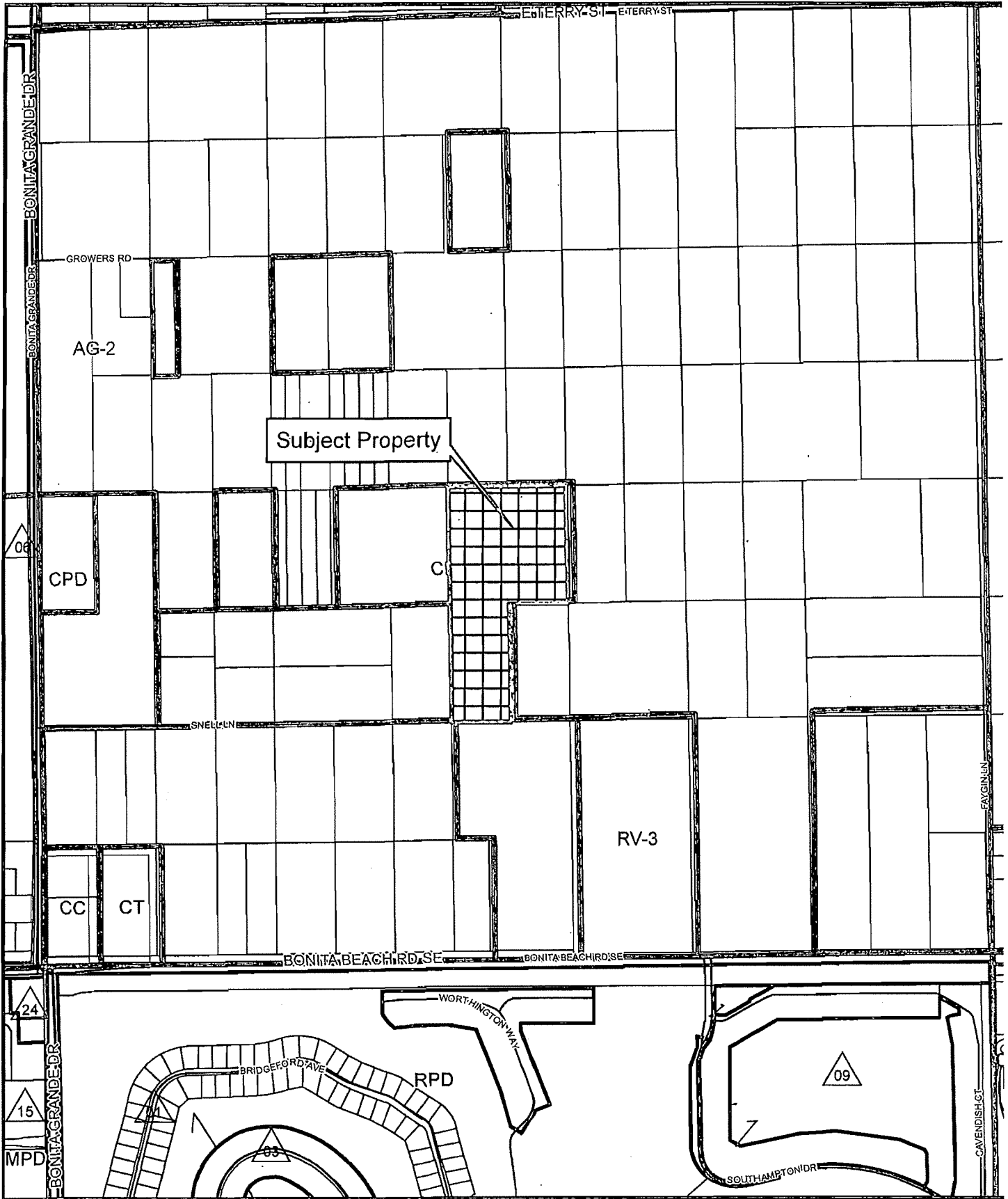
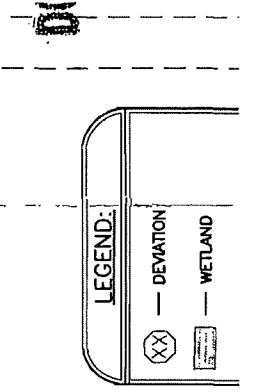
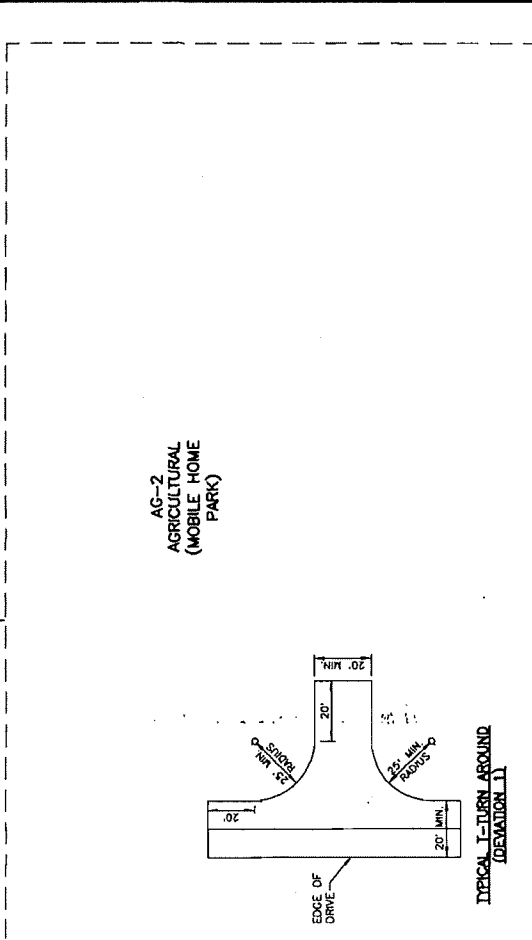
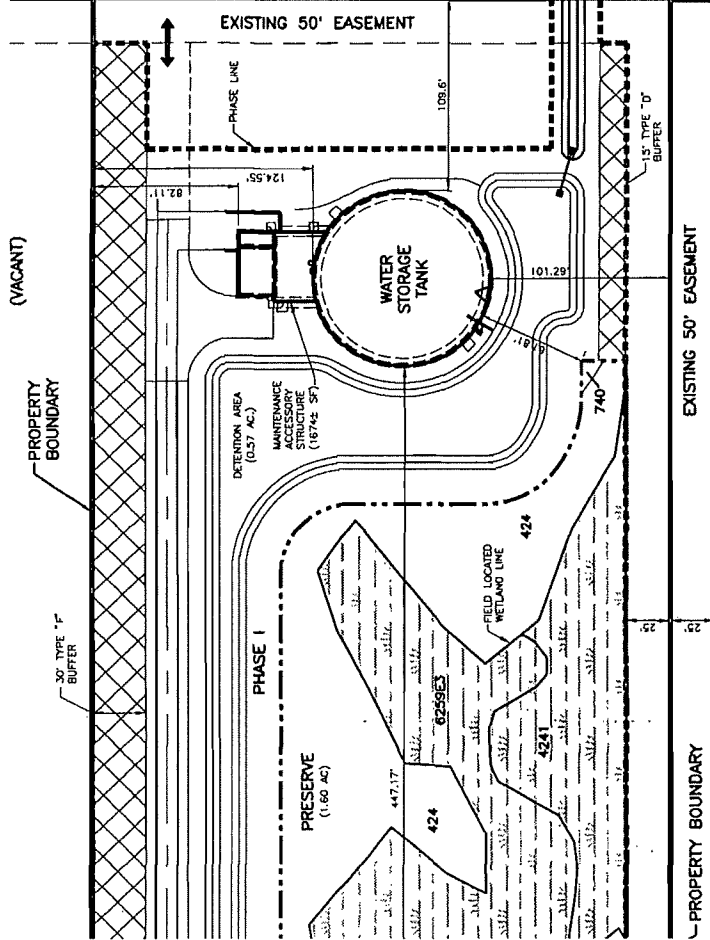
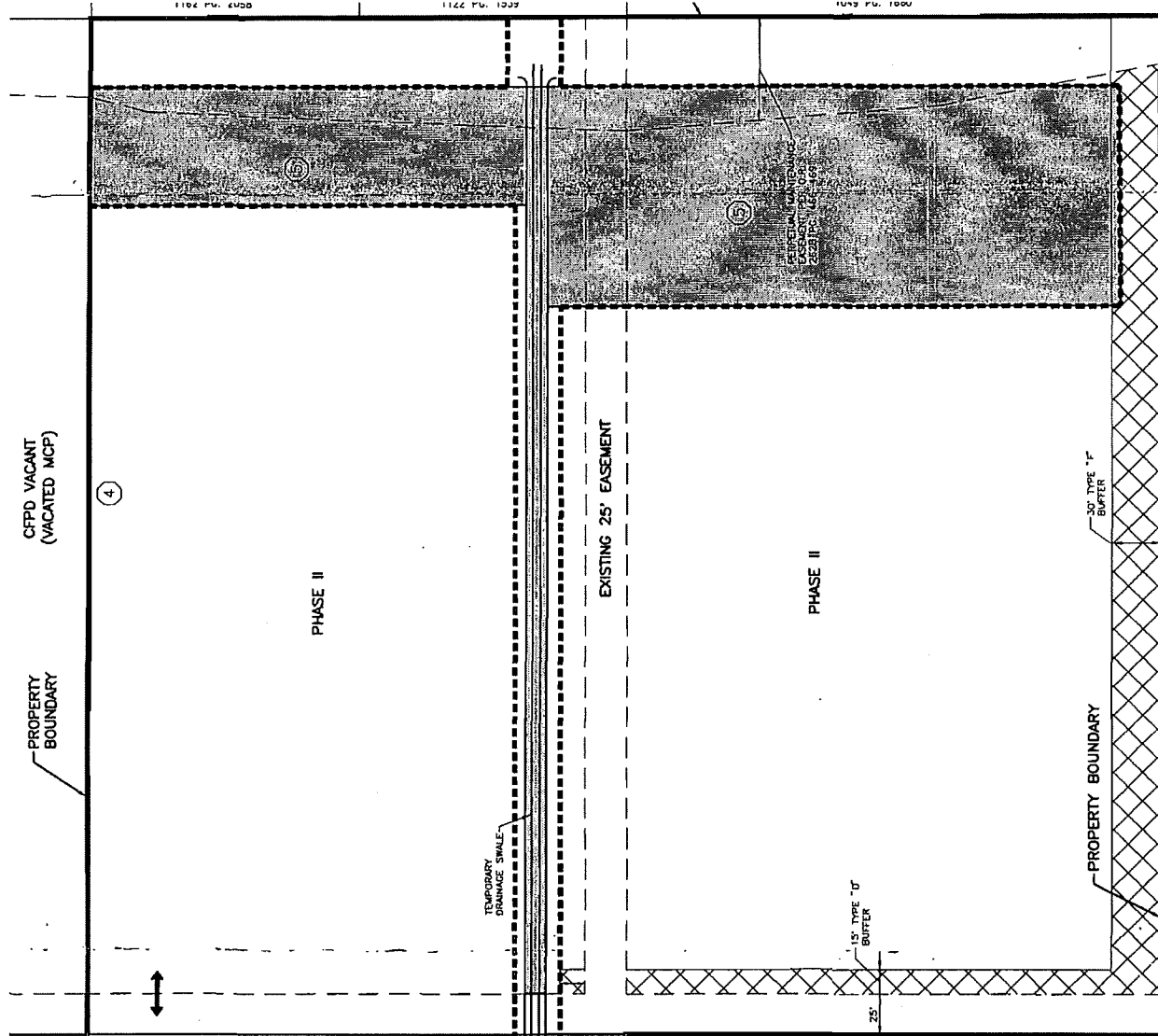


EXHIBIT "B"



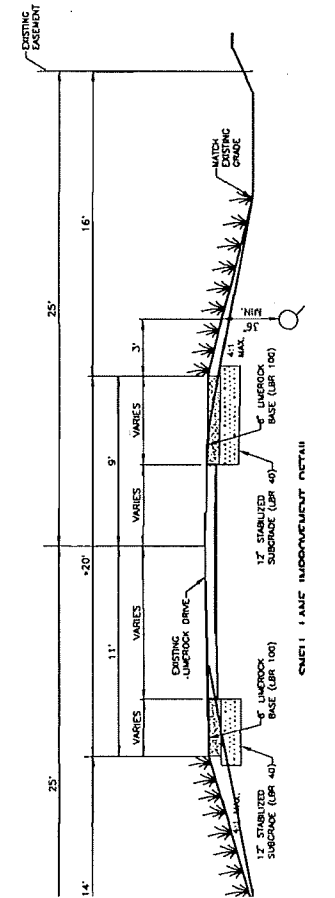


AG-2 AGRICULTURAL (MOBILE HOME PARK)

OPEN SPACE CALCULATIONS:

TOTAL ACREAGE:	14.38 ACRES
LESS PUBLIC EASEMENTS:	1.45 ACRES
PROJECT ACREAGE:	12.93 ACRES
OPEN SPACE REQUIRED (30%):	3.88 ACRES
OPEN SPACE PROVIDED:	4.30 ACRES
EXISTING INDIGENOUS VEGETATION:	0.47 ACRES
PRESERVED INDIGENOUS VEGETATION:	0.47 ACRES

OPEN SPACE CALCULATION TABLE



Appendix 11. Modified Application Requirements, Recipient Site Criteria, and Handling Procedures for 10 or Fewer Burrows Permits

This permit is available when 10 or fewer burrows will be impacted on a development site. This permit is intended to provide a streamlined, less expensive, and faster option for applicants impacting smaller numbers of tortoises when the gopher tortoises are relocated to suitable on-site and off-site recipient areas. Therefore, the amount of information required for applications is reduced. Applications may be checked by FWC staff, and additional information may be required in situations where submitted information is not clear or does not appear to meet criteria for this permit type.

Such permits usually are issued for smaller properties (such as single-family residential lots), but larger properties may also meet the criteria for this permit when development activities are minimal or only small numbers of burrows are present on the property.

Gopher Tortoise Burrow Surveys

In order for applicants to determine if they meet the criteria for this permit, 100% surveys must be conducted over the entire development footprint and submitted as part of the permit application (rather than after issuance of the permit). The 15% survey protocol for donor sites (Appendix 4) does not apply to this permit type. Survey maps listed in Appendix 4 are recommended but not required for these permit applications, unless specifically requested by FWC staff reviewing such applications.

On-site Recipient Site Criteria

On-site recipient areas under this permit type do not require separate FWC recipient site permits. Therefore, requirements under certified long-term, short-term, and unprotected sites do not apply. However, recipient sites must be suitable set-aside areas that are not disturbed by construction activities, that provide a safe environment, and that exclude (through temporary fencing or other means) tortoises from development areas until such development activities have been completed. Gopher tortoises need access to the following: 1) sufficient areas of forage (herbaceous and low-growing plants including native broadleaf grasses, legumes [bean/pea family], asters, blackberries and other fruits, prickly pear cactus, and a variety of other non-native grasses, except cogon grass); 2) sandy, well-drained, open (uncanopied), sunny sites for burrows and basking; 3) protection from dogs, cats, other exotic predators, human harassment, and busy roads. Such general conditions must remain after development, outside the built footprint on the site. Small sites typically have gopher tortoises that normally "roam" between adjoining neighboring parcels to forage or burrow, so this should be considered as well. The herbaceous vegetation must be maintained (mowing, burning, etc.), and pesticides/herbicides should not be used in the recipient area. If the recipient area does not appear to meet these requirements, please contact FWC staff or an authorized agent to discuss conservation options that may be available.

Stocking criteria (maximum of 4 per acre, Table 2) do not apply. Under this permit, higher on-site recipient area densities are allowed; up to 5 tortoises may be moved into pens for up to 10 days.

**BONITA BEACH ROAD EAST WATER STORAGE TANK
COMPENSATING STORAGE AREA AND
ON-SITE PRESERVE PLANTING PLANS**

RECEIVED

February 1, 2010

FEB 01 2010

COMMUNITY DEVELOPMENT

Compensating Storage Area (1.39± Acres)

As a buffer to the adjoining property to the north of the Kehl Canal, plantings will be installed within the 1.39± acre compensating storage area located at the north end of the Project. The areas encumbered by the existing road easement and canal maintenance easement are excluded from the 1.39± acre area to be replanted, in order to ensure that access is maintained. To minimize the obstruction of flow into the canal, only canopy and sub-canopy plantings will be included. Ground cover will include sod or grass seed. The planting quantities and specifications are outlined in Table 1.

Table 1. Compensating Storage Area Supplemental Planting Specifications

Common Name	Scientific Name	Maximum Spacing	Minimum Height	Minimum Container	Strata	Quantity
Slash pine	<i>Pinus elliotii</i>	15 Feet	4-8 Feet	3 Gallon	Canopy	100
Cabbage palm	<i>Sabal palmetto</i>	15 Feet	4-8 Feet	3 Gallon	Canopy	100
Dahoon holly	<i>Ilex glabra</i>	15 Feet	4-8 Feet	3 Gallon	Canopy/ Sub-Canopy	100
Wax myrtle	<i>Myrica cerifera</i>	10 Feet	3 Feet	1 Gallon	Sub-Canopy	300
Total						600

On-Site Preserve (1.60± Acres)

To enhance the Project's 1.60± acre on-site preserve, located towards the south end of the Project, supplemental plantings will be installed within the 1.13± acres of non-native habitats within the preserve. Based on the revised FLUCFCS map dated January 27, 2010, the non-native habitats include 0.77± acre of Melaleuca (FLUCFCS Code 424); 0.28± acre of Melaleuca, Hydric (FLUCFCS Code 4241); and 0.08± acre of Disturbed Land (FLUCFCS Code 740). The planting quantities and specifications are outlined in Table 2. Existing native vegetation that is retained in this area will count toward the planting quantities.

Table 2. Non-Native Habitats Supplemental Planting Specifications

Common Name	Scientific Name	Maximum Spacing	Minimum Height	Minimum Container	Strata	Quantity
Slash pine	<i>Pinus elliotii</i>	20 Feet	4-8 Feet	3 Gallon	Canopy/ Upland & Wetland	60

Table 2. (Continued)

Common Name	Scientific Name	Maximum Spacing	Minimum Height	Minimum Container	Strata	Quantity
Cabbage palm	<i>Sabal palmetto</i>	20 Feet	4-8 Feet	3 Gallon	Canopy/ Upland & Wetland	60
Dahoon holly	<i>Ilex cassine</i>	15 Feet	4-8 Feet	3 Gallon	Sub- Canopy/ Upland & Wetland	109
Wax myrtle	<i>Myrica cerifera</i>	15 Feet	3 Feet	1 Gallon	Sub- Canopy/ Upland & Wetland	109
Sand cordgrass	<i>Spartina bakeri</i>	5 Feet	3 Feet	1 Gallon	Herbaceous /Wetland	100
Saw palmetto	<i>Serenoa repens</i>	5 Feet	3 Feet	1 Gallon	Herbaceous /Upland	500
Total						938

BBR EAST WATER STORAGE TANK MASTER CONCEPT PLAN

Approved as Exhibit
MCP Page 1 of 1
Resolution # Z-10-003

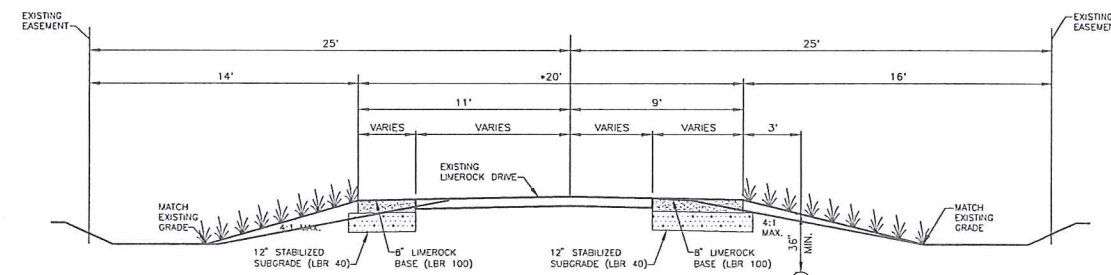
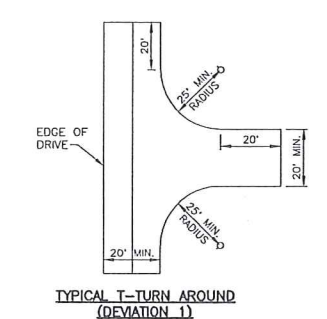
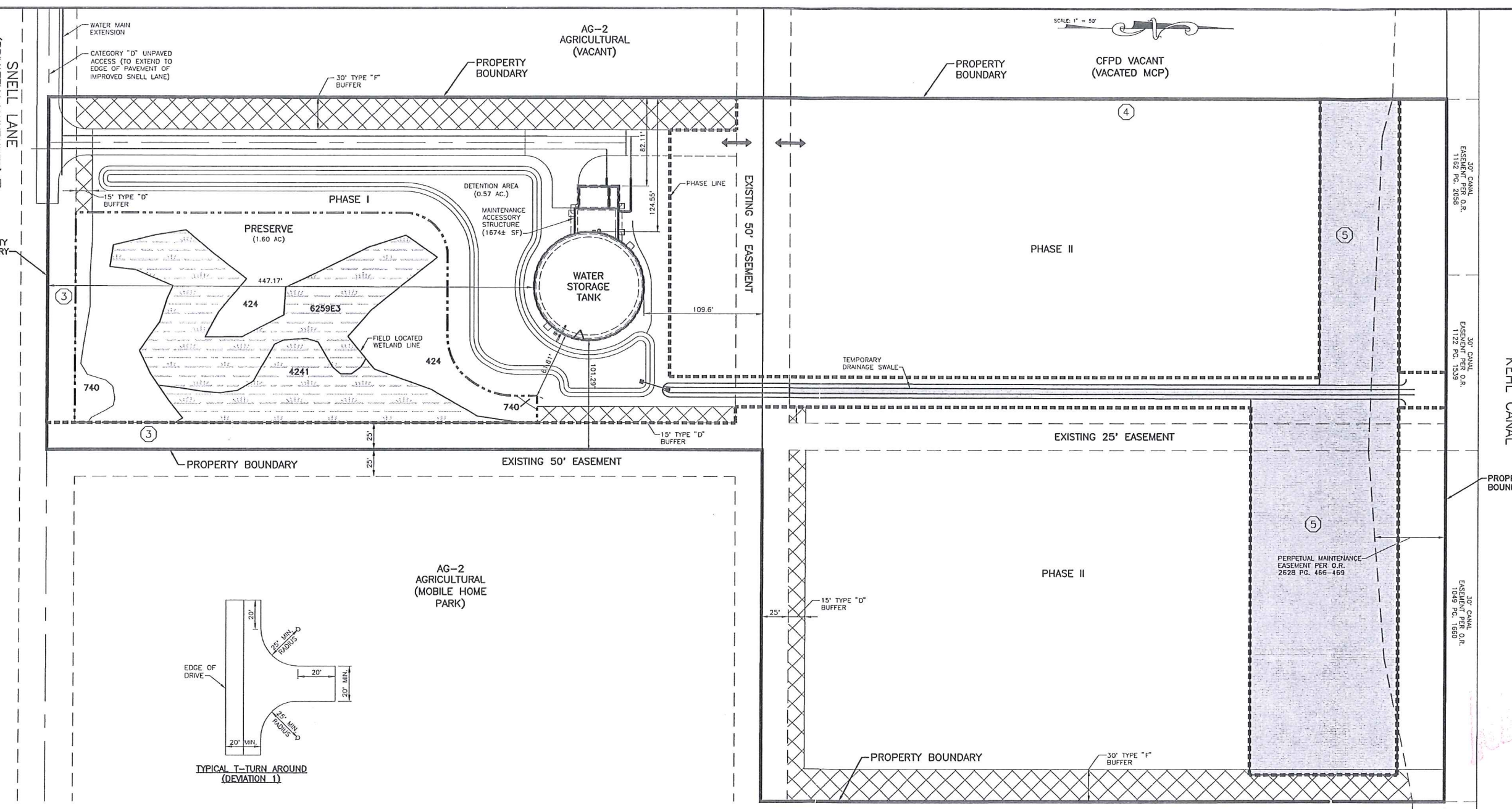
Planning
Visualization
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Surveying & Mapping
RWA
CONSULTING
INC.
6510 Willow Park Drive, Suite 200, Naples, Florida 34109
(239) 597-0575 FAX: (239) 597-0578
1542 Conson Street, Fort Myers, Florida 33901
(239) 278-5224 FAX: (239) 278-5419

PROJECT:
BBR
EAST WATER STORAGE TANK

CLIENT:
BONITA SPRINGS
UTILITIES
MASTER
CONCEPT PLAN

DCI 2008-00045

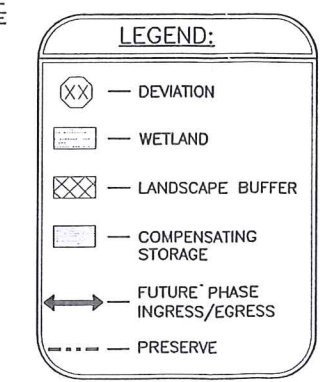
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PROJECT NO.: 0800970000
FILE NO.: 0800970000P03
SHEET NUMBER: 1 OF 1
SCALE: 1" = 50'
DRAWN: R.M.J.
CHECKED: P.V.



NOTE:
1. WIDENING OF SNELL LANE TO CONFORM TO LEE COUNTY TYPE "D" STANDARDS (LOC SECTION 10-295.(1)(4) and LOC SECTION 10-710.(b))
2. ALL AREAS DISTURBED DUE TO CONSTRUCTION ACTIVITIES TO BE STABILIZED AND SODDED IMMEDIATELY UPON COMPLETION OF CONSTRUCTION.

OPEN SPACE CALCULATIONS:
TOTAL ACREAGE: 14.38 ACRES
LESS PUBLIC EASEMENTS: 1.45 ACRES
PROJECT ACREAGE: 12.93 ACRES
OPEN SPACE REQUIRED (30%): 3.88 ACRES
OPEN SPACE PROVIDED: 4.30 ACRES
EXISTING INDIGENOUS VEGETATION: 0.47 ACRES
PRESERVED INDIGENOUS VEGETATION: 0.47 ACRES

DESCRIPTION	ACRES
Buffers	1.00
Compensating Storage	1.70
Preserve	1.60
Melaleuca, 424	0.77
Melaleuca, Hydric, 4241	0.28
Disturbed Land, 740	0.08
Hydric Pine, Disturbed (50-75%), 6259E3	0.47
TOTAL:	4.30



April 5, 2010 2:32 PM S:\2009\0800970000\03 Snell Lane Ground Storage Tank\0009 BS LPA And City Council Public Hearing\2010-04-05 MCP_Report\0800970000P03.dwg

REV #	REVISION	DRAWN	CHECKED	DATE

**M E M O R A N D U M
FROM
THE OFFICE OF THE
LEE COUNTY HEARING EXAMINER**

RECEIVED
MAR 12 2010
ZONING

TO: THE FILE

DATE: March 12, 2010

FROM: Richard A. Gescheidt
County Hearing Examiner

RE: Case DCI2008-00045 - BONITA SPRINGS UTILITIES, INC., in reference to
BBR EAST WATER STORAGE TANK
Error/Omission in Hearing Examiner Recommendation

The Hearing Examiner's Recommendation contains an error or an omission. The following deletions ("strike-thrus") and additions ("underlines") will correct the Recommendation:

In Section III. A. CONDITIONS.... [page #2]:

2. Uses and Site Development Regulations

The following Limits apply to the project and uses:

a. Schedule of Uses

Accessory Uses and Structures

Essential Services

Essential Service Facilities: Group I, Group II Limited to water storage and water treatment facilities, including underground storage (Subject to condition # 10)

Entrance Gates and Gatehouses

Excavation, water retention

Fences, walls

Maintenance facility (Accessory and subordinate to water treatment facilities)

Parking lot, Accessory

Signs, in accordance with Chapter 30

Storage, indoor only (Accessory and subordinate to water storage and treatment facilities)

Temporary Uses (limited to construction trailers and storage sheds during the development of the site, and temporary uses directly related to the existing permitted uses on the site)

RE: Case DCI2008-00045 - BONITA SPRINGS UTILITIES, INC., in reference to
BBR EAST WATER STORAGE TANK

March 12, 2010
Page 2

In Section IV., HEARING EXAMINER DISCUSSION... [page #6]:

The Applicant's Master Concept Plan, **Exhibit B** hereto, depicts a water storage tank centrally to the parcel. Immediately, west of the tank is a ~~167-square-foot~~ **+/- 1,674-square-foot**, maintenance accessory structure. They propose A large preserve for most of the southeast corner of the site. There is a narrow storm water treatment area, which parallels the access drive running south to north. Large buffers placed on all sides of the site. Portion of the western property line, which abuts a large property also owned by the Applicant, does not contain any buffers. In the north, the compensation area will be replanted with indigenous vegetation, instead of any buffers.

The Hearing Examiner regrets any inconvenience this error may have caused.

cc: Donna Marie Collins, County Attorney's Office
Jamie Princing, Development Services Division
Chahram Badamtchian, Planner, Development Services Division
John Fredyma, County Attorney's Office
Applicant/Applicant's Representatives
Hearing Participants *[if applicable]*

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

RECEIVED

MAR 05 2010

ZONING

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2008-00045
APPLICANT: BONITA SPRINGS UTILITIES, INC., in reference to BBR EAST
WATER STORAGE TANK
HEARING DATE: JANUARY 27, 2010
FEBRUARY 24, 2010
WRITTEN SUBMISSION: FEBRUARY 26, 2010

I. APPLICATION:

This matter came before the Lee County Hearing Examiner as an Application for a Rezoning to a Commercial Planned Development (CPD) pursuant to Lee County Land Development Code (LDC).

Filed by BONITA SPRINGS UTILITIES, INC., c/o Mr. MICHAEL LIGGINS, 11860 East Terry Street, Bonita Springs, Florida 34135 (Applicant/Owner); RWA, INC., c/o PATRICK VANASSE, AICP, 1542 Carson Street, Fort Myers, Florida 33901; RWA, INC., c/o MARK SUNYAK, PE, 6610 Willow Park Drive, Suite 200, Naples, Florida 34109; PAVESE LAW FIRM, c/o NEALE MONTGOMERY, P.O. Box 1507, Fort Myers, Florida 33902; PASSARELLA AND ASSOCIATES, INC., c/o KEN PASSARELLA, 13620 Metropolis Avenue, Suite 200, Fort Myers, Florida 33912 (Agents).

Request is to Rezone 14.4± acres from CFPD (Bonita Springs Utilities, Resolution Z-92-043) to CFPD to allow for a water storage tank and associated accessory uses with a maximum building height of 50 feet. No development blasting is being requested.

The subject property is located at 13471 Snell Lane, Bonita Springs, Southeast Lee County Planning Community, Lee County, FL. (District #3)

II. STAFF REPORT AND RECOMMENDATION: APPROVAL

The Department of Community Development Staff Report was prepared by Chahram Badamtchian. The Staff Report is incorporated herein by this reference.

III. RECOMMENDATION OF HEARING EXAMINER:

The undersigned Lee County Hearing Examiner recommends that the Lee County Board of County Commissioners **APPROVE** the Applicant's request for CFPD (Bonita Springs Utilities, Resolution Z-92-043) to CFPD to allow for a water storage tank and associated accessory uses with a maximum building height of 50 feet for the real estate described in Section IX. Legal Description WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:

A. CONDITIONS:

1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the 3-page Master Concept Plan entitled "BBR East Water Storage Tank," stamped received February 1, 2010, last revised January 29, 2010, attached hereto as **Exhibit B**, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. Uses and Site Development Regulations

The following Limits apply to the project and uses:

a. Schedule of Uses

Accessory Uses and Structures

Essential Service Facilities: Group I, Group II Limited to water storage and water treatment facilities, including underground storage (Subject to condition # 10)

Entrance Gates and Gatehouses

Excavation, water retention

Fences, walls

Maintenance facility (Accessory and subordinate to water treatment facilities)

Parking lot, Accessory

Signs, in accordance with Chapter 30

Storage, indoor only (Accessory and subordinate to water storage and treatment facilities)

Temporary Uses (limited to construction trailers and storage sheds during the development of the site, and temporary uses directly related to the existing permitted uses on the site)

b. Site Development Regulations

Minimum Setbacks	Water Tank	Accessory Structures**
Street (Snell lane):	100 Feet	100 Feet
Side:	100 Feet	30 Feet
Rear:	100 Feet	30 Feet
Preserve:	30 Feet	30 Feet
Maximum Building Height:	Water Tank:	50 Feet
	Accessory Structures:	35 Feet

** Setbacks for Entrance Gates and Gate houses, and Essential Services, and Group I Essential Service Facilities must comply with Section 34-1748 and Section 34-1613, respectively.

3. Environmental Conditions

a) Prior to local development order approval, the applicant must submit copies of the approved South Florida Water Management District (SFWMD) and United States Army Corps of Engineers (US Corps) permit.

b) Prior to vegetation clearing approval, the property must be surveyed for active/inactive gopher tortoise burrows. If active/inactive burrows are found then buffers, as required by the Florida Fish and Wildlife Conservation Commission (FWCC), must be maintained, Or, if impacts to active gopher tortoise burrows are proposed, the applicant should consider on-site relocation before pursuing off-site relocation options. If on-site relocation is not appropriate as perm current FWC regulations or guidance (including, but not limited to the "Gopher Tortoise Permitting Guidelines," attached hereto as **Exhibit C**), then off-site relocation is an acceptable mitigation measure. A copy of the appropriate gopher tortoise relocation permit issued by the FWCC must be submitted to the ES staff prior to excavation and moving of any gopher tortoises. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWCC and the appropriate gopher tortoise management plan meeting the requirements of Land Development Code (LDC) Section 10-474 must be submitted for ES staff review and approval.

c) Prior to vegetation clearing approval, the property must be surveyed for the presence of Big Cypress fox squirrel. If any nest structures are located, the nests must be monitored for up to 5 days to determine if the nests are being utilized by Big Cypress fox squirrel and if nesting activities are taking place. If the nests are deemed to be active, a 125 foot natural vegetated buffer must remain undisturbed around the nest tree until nesting activities have been deemed complete by the FWCC or ES Staff. Once the nests have been deemed inactive, any request for removal of the nest tree must be coordinated with FWCC and ES staff and the appropriate FWCC permit provided. In addition, if Big Cypress fox squirrels or evidence there of are documented on the site, the management plan meeting the requirements of LDC Section 10-474 must be submitted for ES staff review and approval.

d) Prior to local development order approval, the development order plans must delineate a minimum 4.3 acres as open space in substantial compliance with the approved Master Concept Plan. Area within existing roadway right-of-way easements may not be used to meet open space requirements.

e) Prior to local development order approval, development order plans must depict the minimum 1.6 acre preserve and minimum 1.39 planted compensating storage area in substantial compliance with the approved Master Concept Plan (MCP).

f) Prior to local development order approval, landscape plans must depict the preserve and compensating storage area to provide supplemental plantings pursuant to the Bonita Beach Road East Water Storage Tank Compensating Storage Area And On-Site Preserve Planting Plans, dated February 1, 2010, (attached hereto as **Exhibit D**) and existing sabal palms to be relocated on-site pursuant to LDC Section 10-415(b)(2)(a). An Indigenous Management Plan meeting the requirements of LDC Section 10-415(b)(4) must be submitted for Division of Environmental Sciences staff review and approval.

g) Lee County must be made a 3rd party, to any conservation easement required by state and/or federal agencies.

4. Vehicular/Pedestrian Impacts

Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.

5. Concurrency

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

6. Compliance to LDC

This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

7. Road Improvement

Bonita Springs Utilities must execute a maintenance covenant with Lee County for the unpaved portion of Snell Lane extending from the end of the paved surface to the subject property's entrance prior to the Development Order approval. If an MSBU or MSTU or an agreement of the property owners is established to address the maintenance of the unpaved portion of Snell Lane, or if Snell Lane is accepted as a publicly maintained road, then this covenant shall be of no further force and effect.

8. Road Extension

The applicant shall extend and improve Snell Lane from the end of the paved surface to the subject property's entrance as an unpaved category "D" road. This road improvement shall be considered site related and no Impact Fee credit shall be allowed for this improvement.

9. Tank color

The tank must be gray in color, or may be painted to a single earth tone color. The tank shall not contain any murals.

10. Underground Storage

The Applicant shall submit copies of all State and Federal Agency permit applications for underground water storage facilities, as well as all approved permits issued by said agencies, to the Lee County Natural Resources Division as soon as such documents become available to the Applicant.

11. Buffer

In the event that the ownership of the property to the north west changes and is no longer owned by the owners of the subject property, a Type "D" landscape buffer shall be provided on the western property line of the subject property.

12. Open Space and areas of Preserved and Enhanced indigenous plant communities included part of this MCP will contribute to future open space and indigenous vegetation requirements in the event the community facilities planned development is amended or expanded in the future to include additional areas or additional phases.

B. DEVIATIONS:

Deviation 1: Access Road

Deviation 1 seeks relief from LDC Section 10-292(2), which requires that all developments have access to a public or private street designed, constructed and improved to meet the standards of Section 10-296, to allow for access to the site from the end of the paved portion of Snell Lane as an unpaved Category "D" road and to allow for a T-turnaround in lieu of a cul-de-sac. The Hearing Examiner recommends **APPROVAL** of this deviation subject to Condition 7.

Deviation 2: Solid waste and recycling containers

Deviation 2 seeks relief from LDC Section 10-261, which requires that all new multifamily residential developments, commercial businesses, and industrial uses provide sufficient on-site space for the placement of garbage containers or receptacles, and sufficient space for recyclable materials collection containers to allow the unmanned community facility (the subject property) to be developed without on-site refuse collection. The Hearing Examiner recommends **APPROVAL** of this deviation.

Deviation 3: Buffers

Deviation 3 seeks relief from LDC Section 10-416(d)(1), which requires buffers along the entire perimeter of the proposed development to allow preserve areas with enhanced plantings to satisfy the buffer requirement. The Hearing Examiner recommends **APPROVAL** of this deviation subject to Conditions 3.e) and f).

Deviation 4: Buffer from properties under common ownership

Deviation 4 seeks relief from LDC Section 10-416(d)(1), which requires buffers along the entire perimeter of the proposed development to eliminate the requires buffer adjacent to property under common ownership along portions of the western property boundary. The Hearing Examiner recommends **APPROVAL** of this deviation. subject to Condition 11.

Deviation 5: Northern property line buffer

Deviation 5 seeks relief from LDC Section 10-416(d)(1), (3) and (4), which requires a Type "C" or Type "F" buffer along the northern property line of the proposed development to allow for an alternative landscape plan along the northern property line adjacent to the Kehl Canal easement. The Hearing Examiner recommends **APPROVAL** of this deviation, subject to Condition 3.e) and f).

IV. HEARING EXAMINER DISCUSSION:

This is a request to rezone a 14.4-acre parcel, from a Community Facilities Planned Development (CFPD) to a Community Facilities Planned Development. The subject parcel

is part of a larger 30-acre site, owned by the Bonita Springs Utilities, and zoned Community Facilities Planned Development. The original CFPD zoning was approved in 1992, but never developed. It provided for a wastewater treatment plant and other essential service facilities. That Master Concept Plan was vacated in 1997, by operation of law. The request, is to rezone part of the original site, to be developed with a water storage tank. Part of the property is within the Density Reduction/Ground Water Retention Future Land Use¹ and the remainder in the Wetlands Future Land Use.²

This area is sparsely developed. Whatever residential development there is, consists of single family homes, on large agricultural parcels. North of the site is the Kehl Canal, across from which is an Agricultural Zoning District (AG-2), containing a State Preserve. East of the Site is an Agricultural Zoning District (AG-2), containing a mobile home park. To the south is, in part Snell Land, and then another Agricultural Zoning District (AG-2) with a mobile home park. That park is not reached from Snell Road, access is to the south from Bonita Beach Road. West of the site, on the south half is another vacant Agricultural Zoning District (AG-2), north of which is the remainder of the Applicant's original CFPD. There is a fire station about 2,000 feet to the west. Development is very limited in this area. Coupled with the size of the properties and the mature of vegetation in the area, the project will have minimal visual impact on neighboring properties. This project will not have employees permanently on-site. They will only inspect it weekly. Access to the site is from Snell Lane, which currently ends about 350 feet west of the property. The Applicant proposes to extend the existing gravel road to the site.

The Applicant's Master Concept Plan, **Exhibit B** hereto, depicts a water storage tank centrally to the parcel. Immediately, west of the tank is a, 167 square foot, maintenance accessory structure. They propose A large preserve for most of the southeast corner of the site. There is a narrow storm water treatment area, which parallels the access drive running south to north. Large buffers placed on all sides of the site. Portion of the western property line, which abuts a large property also owned by the Applicant, does not contain any buffers. In the north, the compensation area will be replanted with indigenous vegetation, instead of any buffers.

The Division of Environmental Sciences staff reviewed the request, and field verified a habitat assessment of the site, on May 15, 2009. The provided the environmental conditions contained in this recommendation. They did not find any environmental issues with this

¹ **Lee County Comprehensive Plan Policy 1.4.5:**

The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.

² **Lee County Comprehensive Plan Policy 1.5.1:**

Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan.

application. They did report to the Hearing Examiner, that the site contains a habitat with the potential to be utilized by listed species, and is within the primary focus area of the state and federally listed Florida panther, the primary range of the state listed Florida black bear, and core foraging area of the state and federally listed woodstork.

This project is currently under review by the South Florida Water Management District, by way of an application for an Environmental Resource Permit (ERP), and for review by the United States Army Corps of Engineers (US Corps), to address any additional potential listed species impacts and possible required mitigation

Since the site will be visited weekly, for inspection purposes, there are no transportation issues, incident to the application.

The request is for a water storage tank, with 9,500 square feet of footprint. The road leading to the site, and the internal driveway, will be graveled. This project will have minimal impact, and will be compatible with maintaining surface and groundwater levels at their historic levels. This public utility water storage tank, which is owned and operated by Bonita Spring Utilities, Inc. Public uses and buildings, and public facilities, are permitted in all land use categories.³ All wetland areas are being preserved and will be enhanced and maintained by removing exotic vegetation. The request is consistent with Lee County Comprehensive Plan Policies 1.4.5 and 1.5.1 (See Footnotes 1 and 2), and with Lee County Comprehensive Plan Objective 1.5, Policies 1.5.2 and 1.5.3.⁴

³ **Lee County Comprehensive Plan Policy 2.1.3:**

All land use categories and Planning Community Map areas permit the consideration of churches and schools (except in Wetlands and Airport Noise Zones), public uses and buildings, public utilities and resource recovery facilities, public recreational uses (including franchised quasi-commercial uses in conjunction with a public use), and sites for compatible public facilities when consistent with the goals, objectives, policies, and standards in this plan and applicable zoning and development regulations.

⁴ **Lee County Comprehensive Plan Objective 1.5:**

WETLANDS. Designate on the Future Land Use Map those lands that are identified as Wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended in F.S. 373.4211.

Lee County Comprehensive Plan Policy 1.5.2:

When the exact location of Wetlands boundaries is in question, Chapter XIII of this plan provides an administrative process, including a field check, to precisely define the boundary.

Lee County Comprehensive Plan Policy 1.5.3:

Wetlands that are conservation lands will be subject to the provisions of Policy 1.4.6 as well as the provisions of Objective 1.5. The most stringent provisions of either category will apply. Conservation wetlands will be identified on the FLUM to distinguish them from non-conservation wetlands.

This rezoning will enable Bonita Springs Utilities, Inc. to increase their potable water service capacity, which will be consistent with Goal 53 of the Lee Plan.⁵

The area is sparsely developed. The proposed development of the site will not encroach into existing, or future, residential areas. The Future Land Use designation of the area is DR/GR which only allows large lot homesites, and will not allow a residential subdivision in the area. The application is consistent with Policy 5.1.5 of the Lee County Comprehensive Plan.⁶

The undersigned Hearing Examiner finds that the requested rezoning, and deviations, meet the criteria necessary for approval, including consistency with the Lee County Comprehensive Plan and Lee County Land Development Code. The new zoning district is compatible with neighboring properties. Consequently, this Hearing Examiner recommends approval of rezoning the subject parcel to a Community Facilities Planned Development (CFPD), subject to the conditions and deviations set forth herein. In compliance with Section 3.1 of Lee County Administrative Code AC-2-6, the undersigned Hearing Examiner conducted a site visit to the subject real property prior to issuing this recommendation.

V. FINDINGS AND CONCLUSIONS:

Based upon the Staff Report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

- A. That the Applicant has proved entitlement to the rezoning by demonstrating compliance with the Lee County Comprehensive Plan, the Lee County Land Development Code, and any other applicable code or regulation.
- B. That the request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
- C. That the request is consistent with the densities, intensities and general uses set forth in the Lee County Comprehensive Plan.
- D. That the request is compatible with existing or planned uses in the surrounding area.

⁵ **Lee County Comprehensive Plan Goal 53:**

POTABLE WATER INFRASTRUCTURE. To ensure the public health, welfare, and safety by the provision of high-quality central potable water service throughout the future urban areas of unincorporated Lee County, and to ensure that the costs of providing facilities for the supply of potable water are borne by those who benefit from them.

Lee County Comprehensive Plan Objective 53.1:

The County will ensure the provision of acceptable levels of potable water service throughout the future urban areas of the unincorporated county, either directly by Lee County Utilities, or indirectly through franchised utility companies.

⁶ **Lee County Comprehensive Plan Policy 5.1.5:**

Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments.

E. That approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development.

F. That, where applicable, the request will not adversely affect environmentally critical areas and natural resources.

G. That the proposed use or mix of uses is appropriate at the subject location.

H. That the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.

I. That the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

J. That the requested deviations enhance the achievement of the objectives of the planned development.

K. That the requested deviations preserve and promote the general intent of Chapter 34 of the Lee County Land Development Code, to protect the public health, safety and welfare.

VI. LIST OF EXHIBITS:

STAFF'S EXHIBITS

1. Composite consisting of Cover Sheet, General Notes and Tables; and Master Concept Plan, prepared by RWA Consulting, dated August, 2008 [3 pages](24"x36")
2. 2008 Aerial Photograph, prepared by Lee County DCD, mapped January 2010 (Color)[24"x36"]
3. Composite consisting of Aerial two (2) Aerial Photographs, prepared by Lee County DCD (1 page- 8 1/2"x11)
4. Memorandum from Chahram Badamtchian, dated February 26, 2010, re: Revised Condition language (8.5" x 11")(multiple pages) (post hearing submittal)

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

APPLICANT'S EXHIBITS

1. Resume of Patrick Vanasse, AICP, Planning Manager at RWA Consulting
2. Regional Aerial Map, prepared by RWA Consulting, dated February 15, 2010 (color)[11"x17"]
3. Composite consisting of six (6) photos of Existing Public Facility Uses in DR/GR (1-page 11"x17")[color]
4. Project Reference Map, prepared by RWA Consulting, dated February 12, 2010

(color)[11"x17"]

5. Composite consisting of six (6) photos of subject property and surrounding area (Color)
6. Master Concept Plan overlay on Aerial Photograph, prepared by RWA Consulting, dated August, 2008 (Color)[11"x17"]
7. Aerial with FLUCFCS and Wetlands overlay and Gopher Tortoise Burrow Location prepared by Passarella and Associates, Inc., dated February 10, 2010 (Color)[11"x17"]
8. Resume of Michael J. Liggins, P.E., Director of Engineering/ Account Executive Director of Bonita Springs Utilities, Inc.
9. Letter from Neale Montgomery, Esquire, dated February 26, 2010, re: Revised Condition language (8.5" x 11")(multiple pages) [post hearing submittal]

Résumés of Applicant's consultants are on file with the Hearing Examiner's Office and are incorporated herein.

VII. PRESENTATION SUMMARY:

See Official Court Reporter Transcript

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Michael Myers, c/o Passarella and Associates, 13620 Metropolis Avenue, Suite 200, Fort Myers, Florida 33912

ADDITIONAL COUNTY STAFF:

1. Suzie Derheimer, Lee County Environmental Sciences, P.O. Box 398, Fort Myers, Florida 33902
2. John J. Fredyma, Assistant County Attorney, P. O. Box 398, Fort Myers, Florida 33902-0398

PUBLIC PARTICIPATION:

A. THE FOLLOWING PERSONS TESTIFIED OR SUBMITTED EVIDENCE FOR THE RECORD AT THE HEARING (SEE SECTION VII.):

For:

1. Byron G. Liles, 13101 Snell Lane, Bonita Springs, Florida 34135

Against: NONE

General:

1. Sam Snell, 13410 Snell Lane, Bonita Springs, Florida 34135

B. THE FOLLOWING PERSONS SUBMITTED A LETTER/COMMENT CARD, OR OTHERWISE REQUESTED A COPY OF THE HEARING EXAMINER RECOMMENDATION:

For: NONE

Against: NONE

IX. LEGAL DESCRIPTION:

See Exhibit A (scanned legal description).

X. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation. . . . [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the Hearing Examiner or any county commissioner [or their staff]. . . . [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication . . . [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the Hearing Examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.]; OR

A fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-5(c)]

XI. HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. This recommendation is made this 5TH day of March, 2010. Notice or copies will be forwarded to the offices of the Lee County Board of County Commissioners.

B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

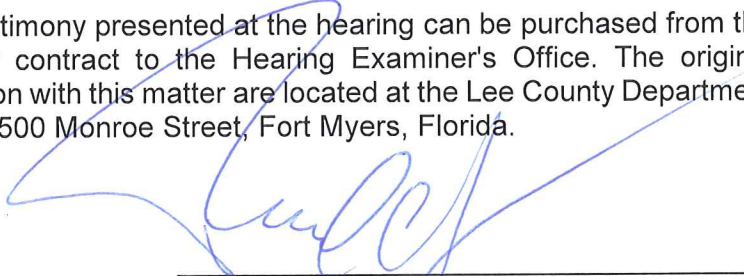
C. The Board of County Commissioners will hold a hearing at which they will consider the record made before the Hearing Examiner. The Department of Community Development

will send written notice to all hearing participants of the date of this hearing before the Board of County Commissioners. Only participants, or their representatives, will be allowed to address the Board. The content of all statements by persons addressing the Board shall be strictly limited to the correctness of Findings of Fact or Conclusions of Law contained in the recommendation, or to allege the discovery of relevant new evidence which was not known by the speaker at the time of the earlier hearing before the Hearing Examiner and not otherwise disclosed in the record.

D. The original file containing the original documents used in the hearing before the Hearing Examiner will be brought by the Staff to the hearing before the Board of County Commissioners. Any or all of the documents in the file are available on request at any time to any County Commissioner.

XII. COPIES OF TESTIMONY AND TRANSCRIPTS:

A verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Fort Myers, Florida.



RICHARD A. GESCHEIDT
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, Florida 33902-0398
Telephone: 239/533-8100
Facsimile: 239/485-8406

RECEIVED
FEB 01 2010

COMMUNITY DEVELOPMENT

DCI 2008-00045

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32.

THENCE N.01°00'38"W. ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 FOR 1,316.62 FEET, TO THE SOUTHEAST CORNER OF THE EAST HALF (1/2) OF THE SOUTHEAST QUARTER (1/4) OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32, ALSO BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED:

THENCE ALONG THE SOUTH LINE OF THE EAST HALF (1/2) OF THE SOUTHEAST QUARTER (1/4) OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32 S.89°11'39"W. FOR 327.67 FEET TO THE WEST LINE OF THE EAST HALF (E1/2) OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4);

THENCE ALONG THE WEST LINE OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32 N.00°57'50"W. FOR 1286.02 FEET, TO A POINT ON THE SOUTHERLY BOUNDARY OF A CANAL EASEMENT;

THENCE ALONG SAID CANAL EASEMENT N.89°05'23"E. FOR 653.30 FEET, TO A POINT ON THE EAST LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32;

THENCE ALONG THE EAST LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32 S.01°03'21"E. FOR 626.63 FEET, TO THE SOUTHEAST CORNER OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32;

THENCE ALONG THE SOUTH LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32 S.89°08'43"W. FOR 327.18 FEET, TO THE SOUTHWEST CORNER OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32;

THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32, S.01°00'38"E. FOR 658.31 FEET, TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.


CONTAINING 626,273 SQUARE FEET OR 14.4 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 AS BEING N.01°00'38"W

APPROVED
LEGAL

*RVN 2/2/10
Please Refer to*



BY: 
RICHARD V. NESTLER, PROFESSIONAL SURVEYOR AND MAPPER LS# 4786
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

1/29/10
SIGNING DATE

REVISED 1-29-10 RVN
REVISED 1-27-10 RVN

SEE SHEET 2 OF 2 FOR SKETCH

January 29, 2010 9:09 AM C:\2005\050217\03\01 Golden Gate Roadway - Additional Services\0602 Rev: NW Map-Lane Re-Design\050217 00 00 0009 Rn.dwg

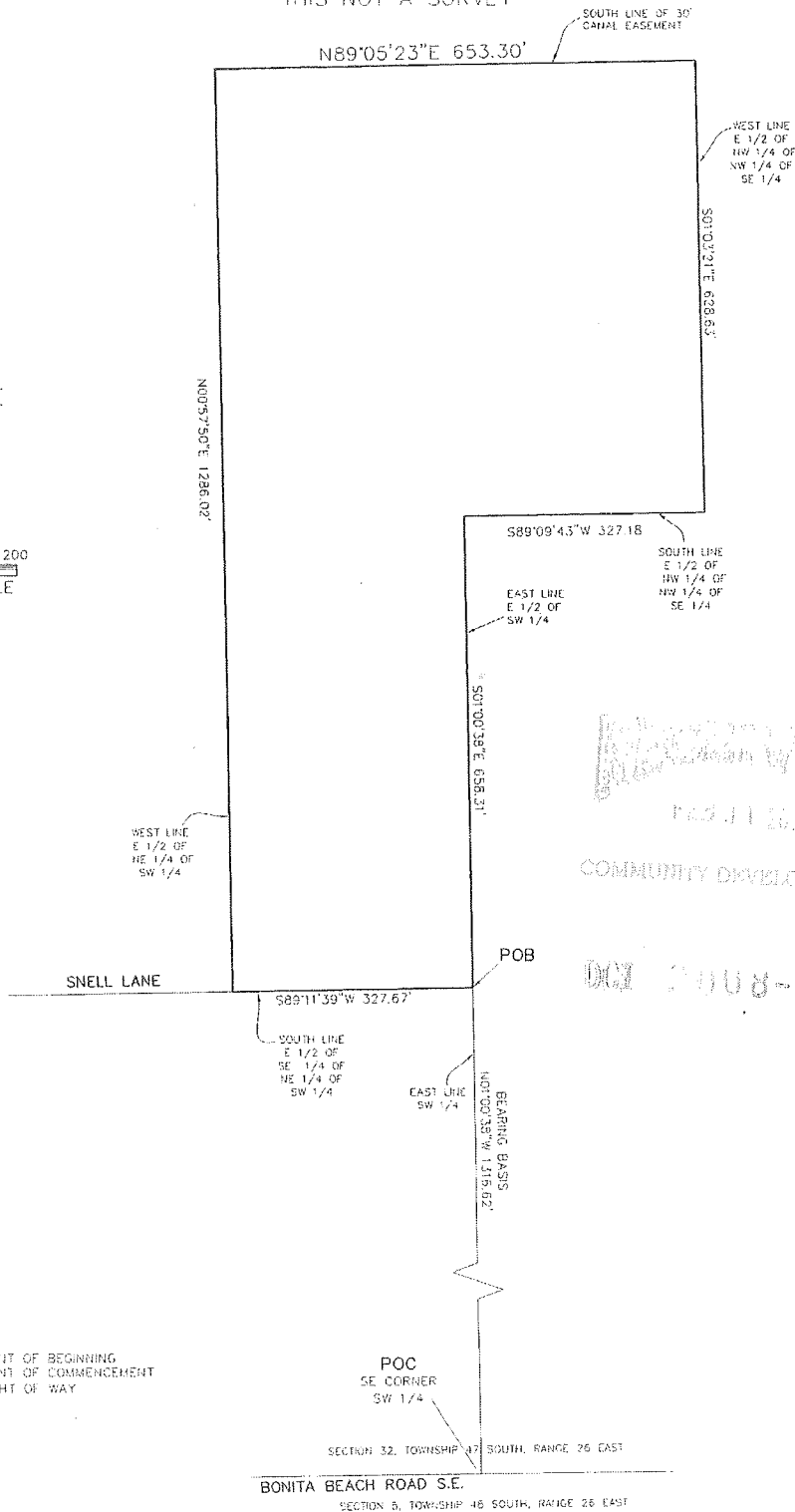
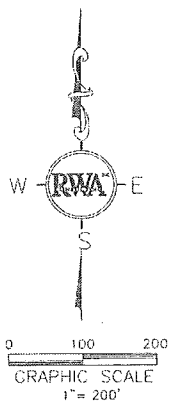
DWA INC.
CONSULTING
Planning
Visualization
Civil Engineering
Surveying & Mapping

6610 Willow Park Drive, Suite 200
Naples, Florida 34109
Phone: (239) 597-0575
FAX: (239) 597-0578
Florida Certificate of Authorization # 1b-6952

DATE: 10/21/09	CLIENT: BONITA SPRINGS UTILITES
SCALE: N/A	TITLE: LEGAL DESCRIPTION
DRAWN BY: RVN	PROJECT: 000007 00 00
CHECKED BY: RVN	SHEET NUMBER: 1 OF 2
SEC. TWP. RDP: 32 47S	FILE NUMBER: 0002 SK15

EXHIBIT A

SKETCH OF LEGAL DESCRIPTION
THIS NOT A SURVEY



LEGEND
 POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT
 R/W = RIGHT OF WAY

REVISED 1-29-10 RVN

SEE SHEET 1 OF 2 FOR DESCRIPTION

January 26, 2010 9:09 AM G:\2005\000217\0001 Golden Gate Roadway - Additional Services\0002 Rev RW Map-Lane Re-Design\050217_00_00_0008 Pl.dwg

RWA INC.
CONSULTING
 Planning
 Visualization
 Civil Engineering
 Surveying & Mapping

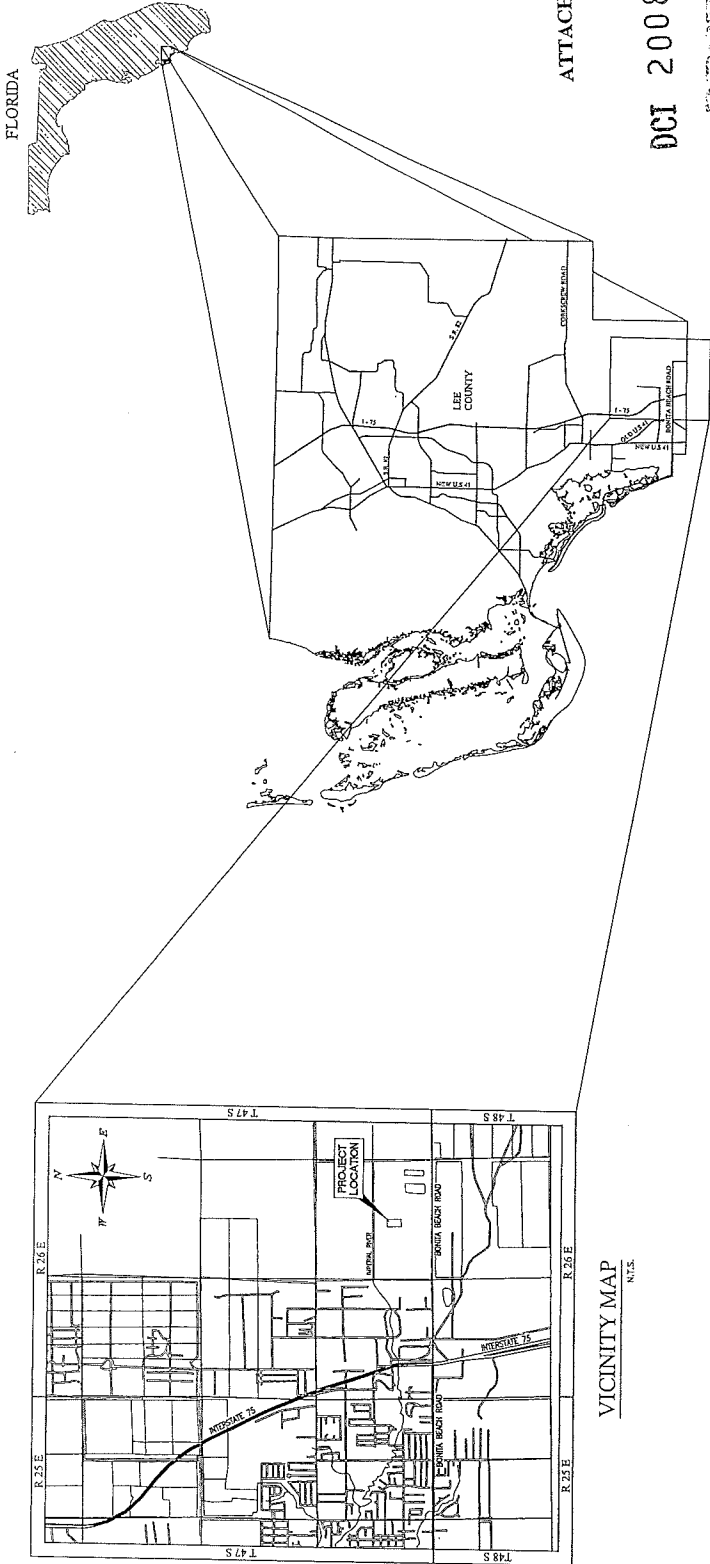
6610 Willow Park Drive, Suite 200
 Naples, Florida 34109
 Phone: (239) 597-0375
 FAX: (239) 597-0578
 Florida Certificate of Authorization # 10-6952

DATE: 10/21/09
 SCALE: 1"=200'
 DRAWN BY: RVN
 CHECKED BY: RVN
 SEC: 32 IWP: 475 RGE: 26E

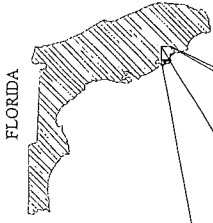
CLIENT: BONITA SPRINGS UTILITES
 TITLE: SKETCH OF LEGAL DESCRIPTION
 PROJECT NUMBER: 080097.00.00
 SHEET NUMBER: 2 OF 2
 FILE NUMBER: 0002 SK15

BBR EAST WATER STORAGE TANK

SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA



VICINITY MAP
N.T.S.



ATTACHMENT B

DCI 2008-00045

RECEIVED
FEB 01 2010

PREPARED FOR:

BONITA SPRINGS UTILITIES
11860 EAST TERRY STREET
BONITA SPRINGS, FLORIDA 34135

COMMUNITY DEVELOPMENT

CONTENTS

- SHEET 1 COVER SHEET
- SHEET 2 GENERAL NOTES & TABLES
- SHEET 3 MASTER CONCEPT PLAN

REV #	REVISION	DATE

RWA INC.
CONSULTING

Planning
Visualization
Civil Engineering
Surveying & Mapping

610 Willet Park Drive, Suite 200, Naples, Florida 34109
Tel: 239-437-8272 Fax: 239-437-8271
1240 Collier Street, Fort Myers, Florida 33901
Email: info@rwa.com Website: www.rwa.com

EXHIBIT B

Appendix 11. Modified Application Requirements, Recipient Site Criteria, and Handling Procedures for 10 or Fewer Burrows Permits

This permit is available when 10 or fewer burrows will be impacted on a development site. This permit is intended to provide a streamlined, less expensive, and faster option for applicants impacting smaller numbers of tortoises when the gopher tortoises are relocated to suitable on-site and off-site recipient areas. Therefore, the amount of information required for applications is reduced. Applications may be checked by FWC staff, and additional information may be required in situations where submitted information is not clear or does not appear to meet criteria for this permit type.

Such permits usually are issued for smaller properties (such as single-family residential lots), but larger properties may also meet the criteria for this permit when development activities are minimal or only small numbers of burrows are present on the property.

Gopher Tortoise Burrow Surveys

In order for applicants to determine if they meet the criteria for this permit, 100% surveys must be conducted over the entire development footprint and submitted as part of the permit application (rather than after issuance of the permit). The 15% survey protocol for donor sites (Appendix 4) does not apply to this permit type. Survey maps listed in Appendix 4 are recommended but not required for these permit applications, unless specifically requested by FWC staff reviewing such applications.

On-site Recipient Site Criteria

On-site recipient areas under this permit type do not require separate FWC recipient site permits. Therefore, requirements under certified long-term, short-term, and unprotected sites do not apply. However, recipient sites must be suitable set-aside areas that are not disturbed by construction activities, that provide a safe environment, and that exclude (through temporary fencing or other means) tortoises from development areas until such development activities have been completed. Gopher tortoises need access to the following: 1) sufficient areas of forage (herbaceous and low-growing plants including native broadleaf grasses, legumes [bean/pea family], asters, blackberries and other fruits, prickly pear cactus, and a variety of other non-native grasses, except cogon grass); 2) sandy, well-drained, open (uncanopied), sunny sites for burrows and basking; 3) protection from dogs, cats, other exotic predators, human harassment, and busy roads. Such general conditions must remain after development, outside the built footprint on the site. Small sites typically have gopher tortoises that normally "roam" between adjoining neighboring parcels to forage or burrow, so this should be considered as well. The herbaceous vegetation must be maintained (mowing, burning, etc.), and pesticides/herbicides should not be used in the recipient area. If the recipient area does not appear to meet these requirements, please contact FWC staff or an authorized agent to discuss conservation options that may be available.

Stocking criteria (maximum of 4 per acre, Table 2) do not apply. Under this permit, higher on-site recipient area densities are allowed; up to 5 tortoises may be moved into pens for up to 10 days.

**BONITA BEACH ROAD EAST WATER STORAGE TANK
COMPENSATING STORAGE AREA AND
ON-SITE PRESERVE PLANTING PLANS**

RECEIVED

February 1, 2010

FEB 01 2010

COMMUNITY DEVELOPMENT

Compensating Storage Area (1.39± Acres)

As a buffer to the adjoining property to the north of the Kehl Canal, plantings will be installed within the 1.39± acre compensating storage area located at the north end of the Project. The areas encumbered by the existing road easement and canal maintenance easement are excluded from the 1.39± acre area to be replanted, in order to ensure that access is maintained. To minimize the obstruction of flow into the canal, only canopy and sub-canopy plantings will be included. Ground cover will include sod or grass seed. The planting quantities and specifications are outlined in Table 1.

Table 1. Compensating Storage Area Supplemental Planting Specifications

Common Name	Scientific Name	Maximum Spacing	Minimum Height	Minimum Container	Strata	Quantity
Slash pine	<i>Pinus elliottii</i>	15 Feet	4-8 Feet	3 Gallon	Canopy	100
Cabbage palm	<i>Sabal palmetto</i>	15 Feet	4-8 Feet	3 Gallon	Canopy	100
Dahoon holly	<i>Ilex glabra</i>	15 Feet	4-8 Feet	3 Gallon	Canopy/ Sub-Canopy	100
Wax myrtle	<i>Myrica cerifera</i>	10 Feet	3 Feet	1 Gallon	Sub-Canopy	300
Total						600

On-Site Preserve (1.60± Acres)

To enhance the Project's 1.60± acre on-site preserve, located towards the south end of the Project, supplemental plantings will be installed within the 1.13± acres of non-native habitats within the preserve. Based on the revised FLUCFCS map dated January 27, 2010, the non-native habitats include 0.77± acre of Melaleuca (FLUCFCS Code 424); 0.28± acre of Melaleuca, Hydric (FLUCFCS Code 4241); and 0.08± acre of Disturbed Land (FLUCFCS Code 740). The planting quantities and specifications are outlined in Table 2. Existing native vegetation that is retained in this area will count toward the planting quantities.

Table 2. Non-Native Habitats Supplemental Planting Specifications

Common Name	Scientific Name	Maximum Spacing	Minimum Height	Minimum Container	Strata	Quantity
Slash pine	<i>Pinus elliottii</i>	20 Feet	4-8 Feet	3 Gallon	Canopy/ Upland & Wetland	60

Table 2. (Continued)

Common Name	Scientific Name	Maximum Spacing	Minimum Height	Minimum Container	Strata	Quantity
Cabbage palm	<i>Sabal palmetto</i>	20 Feet	4-8 Feet	3 Gallon	Canopy/ Upland & Wetland	60
Dahoon holly	<i>Ilex cassine</i>	15 Feet	4-8 Feet	3 Gallon	Sub- Canopy/ Upland & Wetland	109
Wax myrtle	<i>Myrica cerifera</i>	15 Feet	3 Feet	1 Gallon	Sub- Canopy/ Upland & Wetland	109
Sand cordgrass	<i>Spartina bakeri</i>	5 Feet	3 Feet	1 Gallon	Herbaceous /Wetland	100
Saw palmetto	<i>Serenoa repens</i>	5 Feet	3 Feet	1 Gallon	Herbaceous /Upland	500
Total						938

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

ORDER FOR CONTINUANCE

CASE NUMBER: DCI2008-00045
APPLICANT: BONITA SPRINGS UTILITIES, INC., in reference to
BBR EAST WATER STORAGE TANK
RESPONSE DATE: FEBRUARY 26, 2010

The hearing on the above-styled case began as scheduled on February 24, 2010. At the conclusion of the presentations of Staff and Applicant and, following the comments and presentations of other interested parties present, the matter was continued to the date and time set forth below to allow the Staff and the Applicant to submit additional materials, only as requested by the Hearing Examiner, which are responsive to questions, issues and concerns which arose during the course of the proceedings.

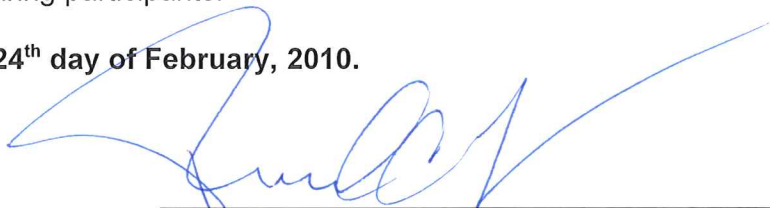
Written submissions shall be in the form of:

1. Applicant's and/or Staff's revised conditions.

This matter is continued to **FRIDAY, FEBRUARY 26, 2010, AT 5:00 P.M.** FOR SUBMISSION OF **MATERIALS AS REQUESTED BY THE HEARING EXAMINER.** At, or before this time, the requested materials will be submitted to the Hearing Examiner, and other responding parties, and the Hearing Examiner will determine if these submissions are sufficient. **NO HEARING WILL BE HELD AND NO TESTIMONY WILL BE HEARD.** If the Hearing Examiner determines that these submissions are insufficient, a subsequent hearing will be set to discuss this matter further and notices will be sent to all parties involved.

Accordingly, written submittals will be delivered to the Office of the Hearing Examiner, 1500 Monroe Street, Suite 218, Fort Myers, Florida, on or before these dates. Copies of this order will be furnished to the Staff, the Applicant, and all hearing participants.

DONE AND ORDERED this 24th day of February, 2010.



RICHARD A. GESCHEIDT
LEE COUNTY HEARING EXAMINER
P. O. Box 398 (1500 Monroe Street, Suite 218)
Fort Myers, Florida 33902-0398
Telephone: 239/533-8100 Fax: 239/485-8406

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the aforesaid Order was sent to all hearing participants, officially established as of the above Order date, either by U.S. Mail, Inter-County Mail, or Facsimile Transfer on the 24th day of February, 2010.



Linda M. Waters/Administrative Assistant

February 24, 2010

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

ORDER FOR CONTINUANCE

CASE NUMBER: DCI2008-00045
APPLICANT: BONITA SPRINGS UTILITIES, INC., in reference to
BBR East Water Storage Tank
NEW HEARING DATE: FEBRUARY 24, 2010

This matter was scheduled to be heard on January 27, 2010 at 9:00 a.m. and at, or prior to, that time, it was agreed that continuing the hearing on this matter was in the best interests of all concerned.

Accordingly, this matter is continued to **WEDNESDAY, FEBRUARY 24, 2010, at 10:00 a.m.**, at the Hearing Examiner's Hearing Room, 1500 Monroe Street, Second Floor, Fort Myers, Florida. Copies of this order will be mailed to the Staff, the Applicant, the Court Reporter, and all hearing participants.

DONE AND ORDERED this 27th day of January, 2010.



DIANA M. PARKER
LEE COUNTY CHIEF HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, Florida 33902-0398
Telephone: 239/533-8100
Facsimile: 239/485-8406

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the aforesaid Order was sent to all hearing participants, officially established as of the above Order date, either by U.S. Mail, Inter-County Mail, or Facsimile Transfer on the 27th day of January, 2010.



Linda M. Waters
Administrative Assistant

January 27, 2010



LEE COUNTY
SOUTHWEST FLORIDA

**APPLICATION FOR REQUEST FOR CONTINUANCE,
DEFERRAL, WITHDRAWAL, OR REHEARING
FOR UNINCORPORATED LEE COUNTY**

REQUEST IS FOR: (refer to back of sheet for special notes)

CONTINUANCE DEFERRAL WITHDRAWAL

REHEARING WITHDRAWAL OF ADMINISTRATIVE APPEAL

If a DEFERRAL OR CONTINUANCE is requested, please indicate:

Length of time requested: 2/24/10

From: Hearing Examiner BOCC (must be submitted 5 calendar days prior to hearing)

1. Date of Scheduled Hearing: _____

2. Applicant/Project Name: Bonita Beach Road East Water Storage Tank

3. Tracking/Hearing/Application Number: DCI 2008-0045

4. Date Decision was Rendered (if applicable): _____

5. Type of Application (check appropriate type): _____

Rezoning Special Exception Variance Other

6. Reason for request (If rehearing is requested, see Special Notes on reverse side):

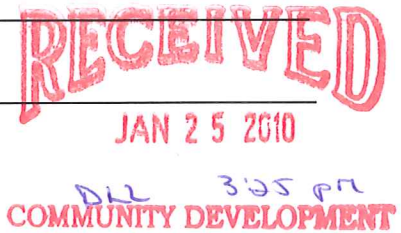
Revisions to the MCP

Patrick Vanasse
Signature of applicant or property owner

1/21/10
Date

Patrick Vanasse
Name (typed or printed legibly)

Address _____

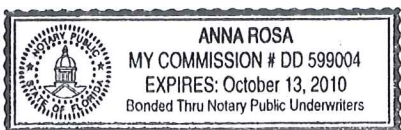


STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 21st day of January _____

2010 by Patrick Vanasse who is personally known to me or who produced

_____ as identification.



Anna Rosa
Signature of Notary Public

Anna Rosa
Printed Name of Notary Public

FEE \$160.00 _____

RECEIPT NUMBER: _____

DATE PAID: _____

INTAKE BY: _____

**LEE COUNTY, FLORIDA
ZONING DIVISION
REVISED STAFF REPORT**

TYPE OF CASE: PLANNED DEVELOPMENT/DCI

CASE NUMBER: DCI2008-00045

HEARING EXAMINER DATE: February 24, 2010

I. APPLICATION SUMMARY:

A. Applicant: Bonita Springs Utilities, Inc. In reference to BBR East Water Storage Tank

B. Request: Rezone 14.4± acres from CFPD (Bonita Springs Utilities, Resolution Z-92-043) to CFPD to allow for a water storage tank and associated accessory uses with a maximum building height of 50 feet. No development blasting is being requested.

C. Location: The subject property is located at 13471 Snell Lane, Bonita Springs, Southeast Lee County Planning Community, Lee County, FL. (District #3)

D. Future Land Use Plan Designation, Current Zoning and Use of Subject Property and Road Classification:

The subject property is zoned CFPD. The Future Land Use Plan designations of the property are "Density Reduction/ Groundwater Resource" and "Wetlands". The property is currently vacant. Snell Lane is classified as local road.

E. Surrounding Land Use:

<u>Existing Zoning & Land Use</u>	<u>Future Land Use Map</u>
North: Vacant, Bonita Springs Utilities' property, zoned CFPD	DR/GR and Wetlands
East: Vacant, zoned AG-2	Wetlands
South: Snell Lane, then a mobile home park (Saldivar Migrant Housing), zoned AG-2	DR/GR
West: Vacant, zoned AG-2	DR/GR and Wetlands

F. Size of Property: 14.4± acres

II. RECOMMENDATION:

Staff recommends **APPROVAL** of the Applicant's request for rezoning from CFPD to CFPD with the following conditions and deviations:

A. Conditions:

1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the 3 page Master Concept Plan entitled "BBR East Water Storage Tank," stamped received February 1, 2010, last revised 1/ 29/ 2010, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. Uses and Site Development Regulations

The following Limits apply to the project and uses:

a. Schedule of Uses

Accessory Uses and Structures

Essential Service Facilities: Group II Limited to water storage and water treatment facilities, including underground storage (Subject to condition # 10)

Excavation, water retention

Fences, walls

Maintenance facility (Accessory and subordinate to water treatment facilities)

Parking lot, Accessory, ~~Temporary~~

Signs, in accordance with Chapter 30

Storage, indoor only (Accessory and subordinate to water storage and treatment facilities)

Temporary Uses (limited to construction trailers and storage sheds during the development of the site, and temporary uses directly related to the existing permitted uses on the site)

b. Site Development Regulations

Minimum Setbacks	Water Tank	Accessory Structures
Street (Snell lane):	100 Feet	100 Feet
Side:	100 Feet	30 Feet
Rear:	100 Feet	30 Feet
Preserve:	30 Feet	30 Feet
Maximum Building Height:	Water Tank:	50 Feet
	Accessory Structures:	35 Feet

3. Environmental Conditions

- a) Prior to local development order approval, the applicant must submit copies of the approved South Florida Water Management District (SFWMD) and United States Army Corps of Engineers (US Corps) permit. Any related permit requirements regarding listed species included in the state or federal permits or resulting from direct consultation with the appropriate wildlife agency will be incorporated as a condition of the local development order.
- b) Prior to vegetation clearing approval, the property must be surveyed for active/inactive gopher tortoise burrows. If active/inactive burrows are found then buffers, as required by the Land Development Code (LDC) Section 10-474(b), must be maintained. Or, if impacts to active gopher tortoise burrows are unavoidable, the applicant must first seek approval for on-site relocation before pursuing off-site relocation options. Communication with Florida Fish and Wildlife Conservation Commission (FWC) verifying on-site relocation attempts were made must be provided to the Division of Environmental Sciences (ES) staff. A copy of the appropriate gopher tortoise relocation permit issued by the FWC must be submitted to the ES staff prior to excavation and moving of any gopher tortoises. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and the appropriate gopher tortoise management plan meeting the requirements of Land Development Code (LDC) Section 10-474 must be submitted for ES staff review and approval.
- c) Prior to vegetation clearing approval, the property must be surveyed for the presence of Big Cypress fox squirrel. If any nest structures are located, the nests must be monitored for 5 days to determine if the nests are being utilized by Big Cypress fox squirrel and if nesting activities are taking place. If the nests are deemed to be active, a 125 foot natural vegetated buffer must remain undisturbed around the nest tree until nesting activities have been deemed complete by the FWC. Once the nests have been deemed inactive, any request for removal of the nest tree must be coordinated with FWC and ES staff and the appropriate FWC permit provided. In addition, if Big Cypress fox squirrels or evidence there of are documented on the site, a management plan meeting the requirements of LDC Section 10-474 must be submitted for ES staff review and approval.
- d) Prior to local development order approval, the development order plans must delineate a minimum 4.3 acres as open space in substantial compliance with the approved Master Concept Plan. Area within existing roadway right-of-way easements may not be used to meet open space requirements.
- e) Prior to local development order approval, development order plans must depict the minimum 1.6 acre preserve and minimum 1.39 planted

compensating storage area in substantial compliance with the approved Master Concept Plan (MCP).

- f) Prior to local development order approval, landscape plans must depict the preserve and compensating storage area to provide supplemental plantings as per ES staff **Exhibit 1 “Bonita Beach Road East Water Storage Tank Compensating Storage Area And On-Site Preserve Planting Plans”**, dated February 1, 2010, and existing sabal palms to be relocated on-site as per LDC Section 10-415(b)(2)(a). An Indigenous Management Plan meeting the requirements of LDC Section 10-415(b)(4) must be submitted for Division of Environmental Sciences staff review and approval.
- g) Lee County must be made a 3rd party, to any conservation easement required by state and/or federal agencies.

4. Vehicular/Pedestrian Impacts

Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.

5. Concurrency

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

6. Compliance to LDC

This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

7. Road Improvement

Bonita Springs Utilities must execute a maintenance covenant with Lee County for the unpaved portion of Snell Lane extending from the end of the paved surface to the subject property's entrance prior to the Development Order approval.

8. Road Extension

The applicant shall extend and improve Snell Lane from the end of the paved surface to the subject property's entrance as an unpaved category “D” road. This road improvement shall be considered site related and no Impact Fee credit shall be allowed for this improvement.

9. Tank color

The tank must be gray in color, or may be painted to a single earth tone color. The tank shall not contain any murals.

10. Underground Storage
Any proposed underground water storage facility must be reviewed and approved by Lee County Natural Resources Division in addition to any State and Federal agencies with permitting jurisdiction over such facilities.
11. Buffer
In the event that the ownership of the property to the north changes and is no longer owned by the owners of the subject property, a type "D" landscape buffer shall be provided on the western property line of the subject property.

B. Deviations

Deviation #1: Access Road

Deviation from LDC Section 10-292(2) which requires that all developments have access to a public or private street designed, constructed and improved to meet the standards of Section 10-296, to allow for access to the site from the end of the paved portion of Snell Lane as an unpaved Category "D" road and to allow for a T-turnaround in lieu of a cul-de-sac.

Staff recommends approval of this deviation subject to condition #7. Snell Lane is a paved road from Bonita Grande Drive east for approximately 650 feet, then it becomes a gravel road for approximately 1,350 feet. The applicant will extend the gravel road for another 350 feet or so to provide access to this subject site. The site will be unmanned. It is anticipated that the site will generate one vehicle trip per week. Due to the amount of traffic generated by the site it is not necessary to require a cul-de-sac at the end of the road. A T-turnaround will be adequate at this location.

Deviation # 2: Solid waste and recycling containers

Deviation from LDC Section 10-261 which requires that all new multifamily residential developments, commercial businesses, and industrial uses provide sufficient on-site space for the placement of garbage containers or receptacles, and sufficient space for recyclable materials collection containers to allow the unmanned community facility (the subject property) to be developed without on-site refuse collection.

Staff recommends approval of this deviation. This site will be unmanned and only a weekly visit to the site to visually inspect the plant and perform any needed maintenance will be occurring on this site. There is no need to have trash collection on this site, as the employee who makes the weekly visit will be able to remove the trash generated by him and take it to their headquarters for proper disposal.

Deviation # 3: Buffers

Deviation from LDC Section 10-416(d)(1) which requires buffers along the entire perimeter of the proposed development to allow preserve areas with enhanced plantings to satisfy the buffer requirement.

Staff recommends approval of this deviation subject to Conditions 3-e and f. There are areas of significant natural vegetation that will be preserved along portions of the property boundaries where it abuts road easements. In these instances, the proposed preserve areas will exceed the minimum buffer width and planting requirements, and with additional plantings will adequately screen adjacent road easements from the proposed use.

Deviation #4: Buffer from properties under common ownership

Deviation from LDC Section 10-416(d)(1) which requires buffers along the entire perimeter of the proposed development to eliminate the requires buffer adjacent to property under common ownership along portions of the western property boundary.

Staff recommends approval of this deviation. subject to condition #11 of this staff report. This 14.4 acre parcel is a part of a larger parcel zoned CFPD with a vacated Master Concept Plan owned by Bonita Springs Utilities. The applicant plans to rezone the remainder of the site for a large water treatment facility in the future, when needed

Deviation #5: Northern property line buffer

Deviation from LDC Section 10-416(d)(1), (3) and (4) which requires a type "C" or type "F" buffer along the northern property line of the proposed development to allow for an alternative landscape plan along the northern property line adjacent to the Kehl Canal easement.

Staff recommends approval of this deviation subject to condition 3-e and f. An area for compensating storage is proposed along the northern property line. The compensation area extends between 73 and 136 feet from the northern property line. The compensation area will be replanted with indigenous vegetation as illustrated in Environmental staff Attachment #1, preliminary planting plan, and will not be developed in the future.

C. Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff makes the following findings and conclusions to support the recommendation of approval:

1. The applicant has proven entitlement to the rezoning to Community Facilities Planned Development (CFPD) by demonstrating compliance with the Lee Plan Policy 2.1.3, the Land Development Code Section 34-930(d), and other applicable codes and regulations.
2. The requested zoning as conditioned:
 - a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b) is consistent with the densities, intensities and general uses set forth in the Lee Plan Policy 1.4.5 and Objective 1.5.

- c) is compatible with existing or planned uses in the surrounding area; Lee Plan Policy 5.1.5 and
 - d) will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
 4. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.
 5. The proposed use is appropriate at the subject location.
 6. The recommended conditions to the master concept plan and other applicable regulations provide sufficient safeguards to the public interest.
 7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
 8. The deviations, as conditioned:
 - a) enhance the planned development; and
 - b) preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

III. BACKGROUND INFORMATION AND ANALYSIS:

Introduction/Synopsis

The subject parcel is a part of a 30 acre property owned by Bonita Springs Utilities and zoned CFPD. The CFPD zoning was approved in 1992 (Resolution Z-92-043) to allow for a wastewater treatment plant and other essential service facilities. The site was never developed and the Master Concept Plan was vacated in 1997. The request, is to rezone a 14.4 acre of the original 30 acres parcel from CFPD to CFPD and develop the site with a water storage tank. The access to the site will be via Snell Lane, which dead-ends about 350 feet from the site. The applicant is proposing to extend the existing gravel road to provide access to the site.

Master Concept Plan

The Master Concept Plan depicts a water storage tank almost centrally located on the parcel. The access to the site is from Snell Lane which abuts the southern property line of the site. A large preserve occupies most of the southeast corner of the site. There is a

narrow and long storm water treatment area which parallels the access drive from south to north. Rather large buffers are shown on all sides of the site. Portion of the western property line which abuts a large property under common ownership does not contain a buffer. To the north, the compensation area will be replanted with indigenous vegetation in lieu of type "C" or "F" buffer.

Lee Plan Considerations

POLICY 1.4.5: *The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.*

The request is for a water storage tank with about 9,500 square feet of footprint. The road leading to the site as well as the internal driveway will be graveled. The development, as proposed, will have minimal impact and will be compatible with maintaining surface and groundwater levels at their historic levels. By virtue of Policy 2.1.3, public uses and buildings and public facilities are permitted in all land use categories. Staff finds the request is **CONSISTENT** with Policy 1.4.5 of the Lee Plan.

OBJECTIVE 1.5: WETLANDS. *Designate on the Future Land Use Map those lands that are identified as Wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended in F.S. 373.4211. (Amended by Ordinance No. 94-30)*

POLICY 1.5.1: *Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan. (Amended by Ordinance No. 94-30)*

POLICY 1.5.2: *When the exact location of Wetlands boundaries is in question, Chapter XIII of this plan provides an administrative process, including a field check, to precisely define the boundary. (Amended by Ordinance No. 94-30)*

POLICY 1.5.3: *Wetlands that are conservation lands will be subject to the provisions of Policy 1.4.6 as well as the provisions of Objective 1.5. The most stringent provisions of either category will apply. Conservation wetlands will be identified on the FLUM to distinguish them from non-conservation wetlands. (Added by Ordinance No. 98-09)*

By virtue of Policy 2.1.3, the use is permitted in the wetlands land use category. All wetland areas are being preserved and will be enhanced and maintained by removing exotic vegetation. Staff finds the request is **CONSISTENT** with Objective 1.5 and Policies 1.5.1, 1.5.2, and 1.5.3 of the Lee Plan.

POLICY 1.7.6: *The Planning Communities Map and Acreage Allocation Table (see Map 16 and Table 1(b) and Policies 1.1.1 and 2.2.2) depicts the proposed distribution, extent, and location of generalized land uses for the year 2030. Acreage totals are provided for land in each Planning Community in unincorporated Lee County. No final development orders or extensions to final development orders will be issued or approved by Lee County which would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded.*

This project is a public utility development and not subject to Policy 1.7.6 of the Lee Plan.

POLICY 2.1.3: *All land use categories and Planning Community Map areas permit the consideration of churches and schools (except in Wetlands and Airport Noise Zones), public uses and buildings, public utilities and resource recovery facilities, public recreational uses (including franchised quasi-commercial uses in conjunction with a public use), and sites for compatible public facilities when consistent with the goals, objectives, policies, and standards in this plan and applicable zoning and development regulations. (Amended by Ordinance No. 94-30, 98-09)*

This Policy allows public uses and buildings as well as public utilities are permitted uses in all land use categories. The request is for a public utility water storage tank which will be owned and operated by Bonita Spring Utilities, Inc.

GOAL 53: POTABLE WATER INFRASTRUCTURE. *To ensure the public health, welfare, and safety by the provision of high-quality central potable water service throughout the future urban areas of unincorporated Lee County, and to ensure that the costs of providing facilities for the supply of potable water are borne by those who benefit from them.*

OBJECTIVE 53.1: *The County will ensure the provision of acceptable levels of potable water service throughout the future urban areas of the unincorporated county, either directly by Lee County Utilities, or indirectly through franchised utility companies. (Amended by Ordinance No. 94-30, 00-22, 03-04)*

This rezoning will enable Bonita Springs Utilities, Inc. to increase their potable water service capacity, which will further Goal 53 of the Lee Plan.

POLICY 5.1.5: *Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address*

potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments. (Amended by Ordinance No. 94-30, 99-15, 00-22)

The area is sparsely developed. Most parcels in the area are either vacant or contains an agricultural activity. This rezoning and subsequent development of the site will not encroach into existing or future residential areas. The Future Land Use designation of the area is DR/GR which only allows large lot residential and will not allow a residential subdivision in the area. Staff finds the request is **CONSISTENT** with Policy 5.1.5 of the Lee Plan.

Neighborhood Compatibility

The area is very sparsely developed with some large lot single family and some agricultural activities. There is a plant nursery in the vicinity of the site. There is also a fire station about 2,000 feet to the west. There are two large mobile home parks to the south but they don't have access to Snell Lane, their access is from Bonita Beach Road. Due to the limited amount of development in the area coupled with the size of the properties and the amount of vegetation in the area, this water tank should have minimal visual impact on neighboring properties and will not be incompatible with its surroundings.

Environmental Issues

The Division of Environmental Sciences staff reviewed the proposed rezoning request and field verified a habitat assessment of the site on May 15, 2009. Environmental staff conditions are listed herein and made a part of this staff report. Environmental Sciences staff did not find any environmental issues with the request.

The project site contains habitat with the potential to be utilized by listed species and is within the primary focus area of the state and federally listed Florida panther (*Felis concolor coryi*), the primary range of the state listed Florida black bear, and core foraging area of the state and federally listed woodstork (*Mycteria americana*). The project is currently under review by the South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) Application No. 090204-11 and United States Army Corps of Engineers (US Corps) application No. SAJ2009-00413 to address any additional potential listed species impacts and possible required mitigation

IV. SUBJECT PROPERTY:

- A. STRAP: The applicant indicates the STRAP number is: 32-47-26-00-00001.0020

V. ATTACHMENTS:

- A. Map of surrounding zoning
B. Master Concept Plan
C. Memorandum from Division of Environmental Sciences including ES Exhibit 1
D. Resolution Z-92-043

VI. EXHIBITS:

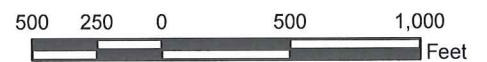
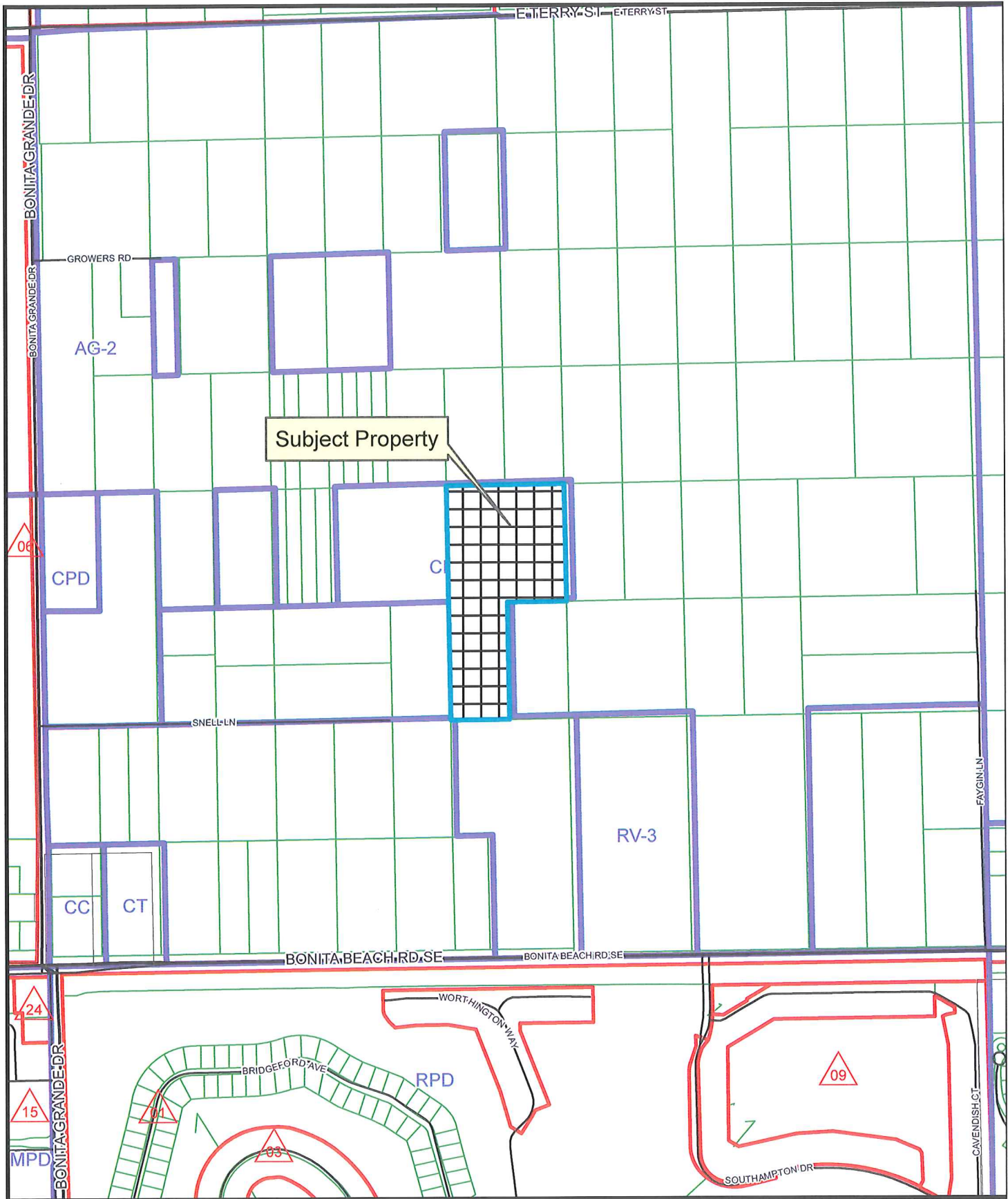
- A. Legal Description

cc: Applicant
County Attorney
Zoning File

Attachment "A" Zoning Map

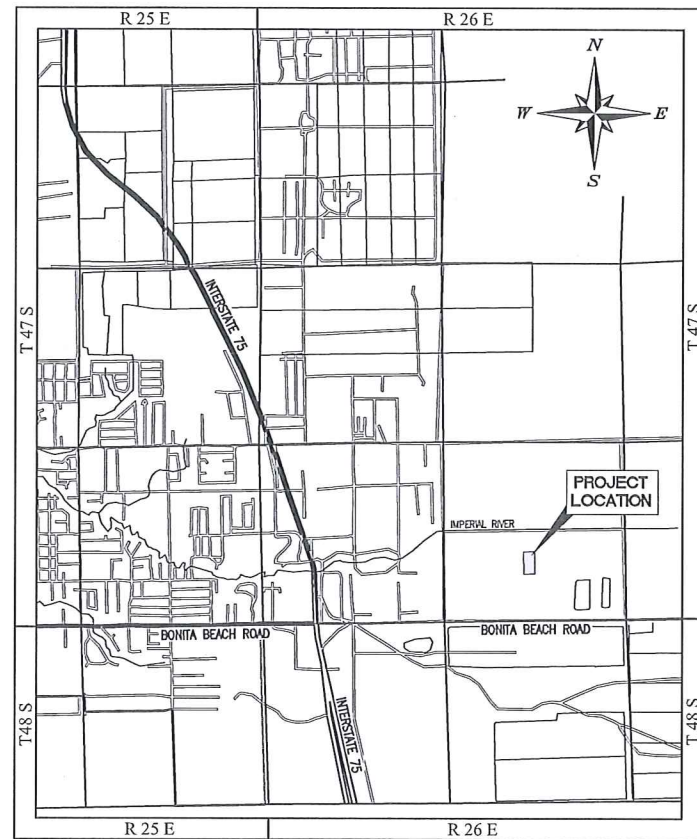
DCI2008-00045

2/8/2010

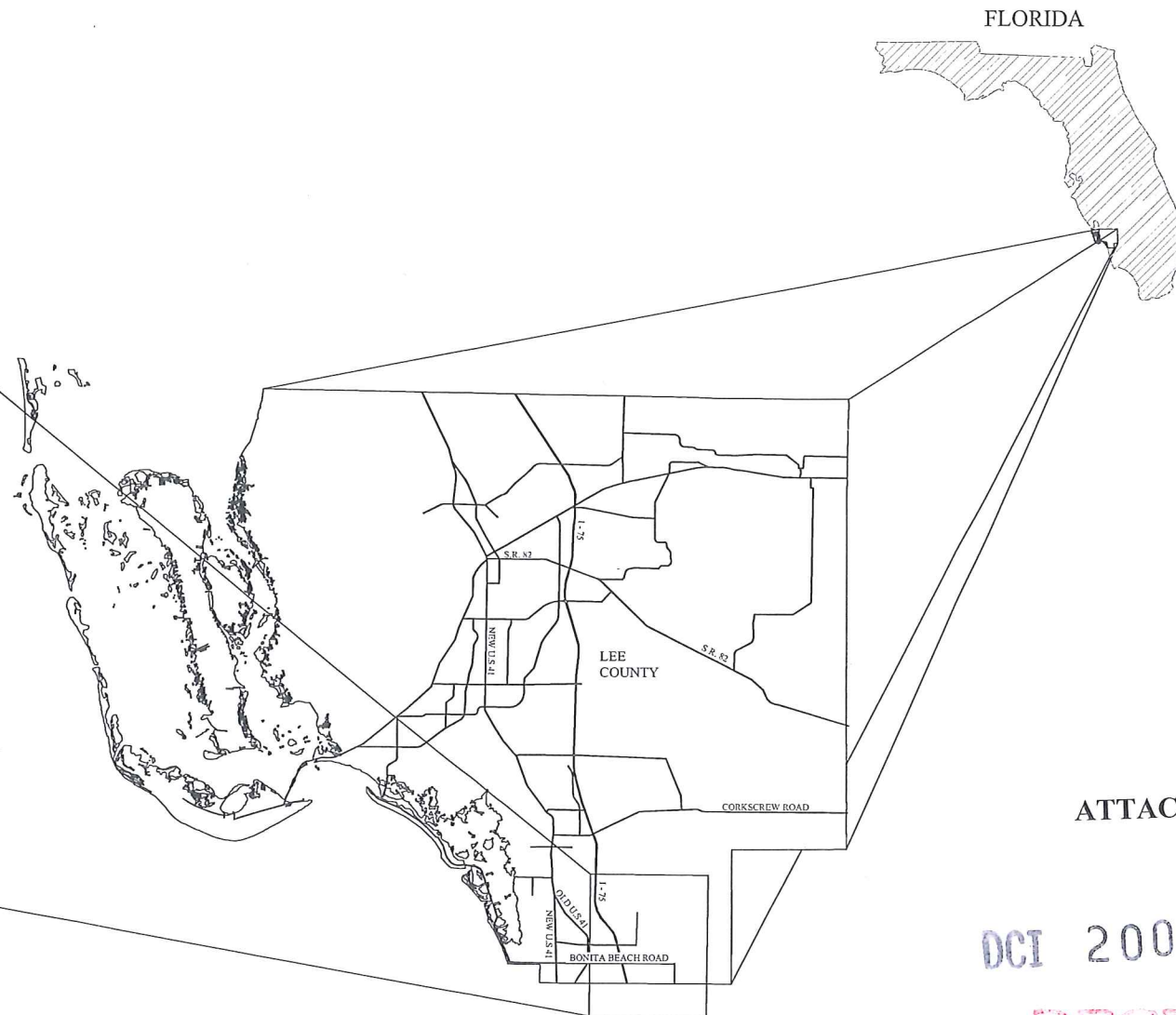


BBR EAST WATER STORAGE TANK

SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA



VICINITY MAP
N.T.S.



ATTACHMENT B

DCI 2008-00045

RECEIVED
FEB 01 2010

COMMUNITY DEVELOPMENT

PREPARED FOR:

BONITA SPRINGS UTILITIES

11860 EAST TERRY STREET
BONITA SPRINGS, FLORIDA 34135

CONTENTS

- SHEET 1 COVER SHEET
- SHEET 2 GENERAL NOTES & TABLES
- SHEET 3 MASTER CONCEPT PLAN

January 28, 2010 4:35 PM S:\2008\080097.00.00 Small Lane Ground Storage Tank\0027 CFPO Amendment Application Preparation\HCP\Rev 04\0800970002P01.dwg

REV	REVISION	DRAWN	CHECKED	DATE

RWA INC.
CONSULTING
INC.
Planning
Visualization
Civil Engineering
Surveying & Mapping

6610 Willow Park Drive, Suite 200, Naples, Florida 34109 (239) 597-0575 FAX: (239) 597-0573
1542 Carson Street, Fort Myers, Florida 33901 (239) 278-5224 FAX: (239) 278-5419

BBR EAST WATER STORAGE TANK

GENERAL NOTES & TABLES

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32.

THENCE N.01°00'38"W. ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 FOR 1,316.62 FEET, TO THE SOUTHEAST CORNER OF THE EAST HALF (1/2) OF THE SOUTHWEST QUARTER (1/4) OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32, ALSO BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE ALONG THE SOUTH LINE OF THE EAST HALF (1/2) OF THE SOUTHWEST QUARTER (1/4) OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32 S.89°11'39"W. FOR 327.67 FEET TO THE WEST LINE OF THE EAST HALF (E1/2) OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4);

THENCE ALONG THE WEST LINE OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32 N.00°57'50"W. FOR 1286.02 FEET, TO A POINT ON THE SOUTHERLY BOUNDARY OF A CANAL EASEMENT;

THENCE ALONG SAID CANAL EASEMENT N.89°05'23"E. FOR 653.30 FEET, TO A POINT ON THE EAST LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32;

THENCE ALONG THE EAST LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32 S.01°03'21"E. FOR 628.63 FEET, TO THE SOUTHEAST CORNER OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32;

THENCE ALONG THE SOUTH LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32 S.89°08'43"W. FOR 327.18 FEET, TO THE SOUTHWEST CORNER OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32;

THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32, S.01°00'38"E. FOR 658.31 FEET, TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.

CONTAINING 626,273 SQUARE FEET OR 14.4 ACRES, MORE OR LESS.

GENERAL NOTES:

1. THE MASTER CONCEPT PLAN DEPICTS THE PROJECT'S GENERAL CONFIGURATION FOR CONCEPTUAL ZONING REVIEW AND APPROVAL. THE FINAL PRESERVE AND PUBLIC FACILITY TRACTS ALONG WITH THE PROJECT'S OPEN SPACE, SURFACE WATER MANAGEMENT SYSTEMS, STRUCTURES, AND OTHER FUNCTIONAL ELEMENTS WILL BE DETERMINED AT THE TIME OF DEVELOPMENT ORDER PERMITTING.
2. PARKING WILL BE PROVIDED IN ACCORDANCE WITH LDC CHAPTER 34, DIVISION 26. THE DEVELOPMENT WILL BE AN UNMANNED ESSENTIAL SERVICE FACILITY AND WILL NOT REQUIRE OFF-STREET PARKING SPACES PURSUANT TO SECTION 34-2020(4)G.
3. THE SUBJECT PROPERTY DOES NOT CONTAIN ANY HISTORICAL OR ARCHAEOLOGICAL SITES.
4. IF THE CFPD IS EXPANDED TO INCLUDE ADDITIONAL ACREAGE IN THE FUTURE, THEN AN AMENDED MCP MUST BE APPROVED AND THE OPEN SPACE AND INDIGENOUS PRESERVATION AREAS INCLUDED AS PART OF THIS MCP WILL CONTRIBUTE TO FUTURE OPEN SPACE AND INDIGENOUS PRESERVATION REQUIREMENTS.
5. REQUIRED BUFFERS FOR EACH PHASE WILL BE PROVIDED AT TIME OF DEVELOPMENT ORDER FOR THE PHASE IN WHICH IT IS LOCATED.

SCHEDULE OF USES:

ACCESSORY USES AND STRUCTURES
 ESSENTIAL SERVICE FACILITIES: GROUP II (LIMITED TO ABOVE GROUND WATER STORAGE AND WATER TREATMENT FACILITIES, INCLUDING UNDERGROUND STORAGE)
 EXCAVATION, WATER RETENTION
 FENCES, WALLS
 MAINTENANCE FACILITY (ACCESSORY AND SUBORDINATE TO WATER STORAGE AND TREATMENT FACILITIES)
 PARKING LOT, ACCESSORY
 SIGNS, IN ACCORDANCE WITH CHAPTER 30 STORAGE, INDOOR ONLY (ACCESSORY AND SUBORDINATE TO WATER STORAGE AND TREATMENT FACILITIES)
 TEMPORARY USES (LIMITED TO CONSTRUCTION TRAILERS AND STORAGE SHEDS DURING THE DEVELOPMENT OF THE SITE, AND TEMPORARY USES DIRECTLY RELATED TO THE EXISTING PERMITTED USES ON THE SITE)

SITE DATA:

GROSS ACREAGE: 14.38 ACRES +/-
 STRAP #: 32-47-26-00-00001.0020

FUTURE LAND USE: DR/GR, WETLANDS
 EXISTING ZONING: CFPD
 EXISTING USE: VACANT
 PROPOSED ZONING: CFPD
 FLOODZONE: X
 FIRM (DATE): 12071C 067BF (8/28/08)

SITE DEVELOPMENT REGULATIONS:

WATER TANK MINIMUM SETBACKS:

STREET (SNELL LN): 100 FEET
 SIDES: 100 FEET
 REAR: 100 FEET
 PRESERVE: 30 FEET

ACCESSORY STRUCTURES MINIMUM SETBACKS:

STREET (SNELL LN): 100 FEET
 FEET
 SIDES: 30 FEET
 REAR: 30 FEET
 PRESERVE: 30 FEET

BUILDING SEPARATION AND HEIGHT:

ACCESSORY STRUCTURES TO WATER TANK: 0 FEET
 MAXIMUM HEIGHT (WATER TANK): 50 FEET
 MAXIMUM HEIGHT (OTHER STRUCTURES): 35 FEET

NOTE: STREET, SIDE, AND REAR SETBACKS ARE MEASURED FROM THE CFPD BOUNDARY.

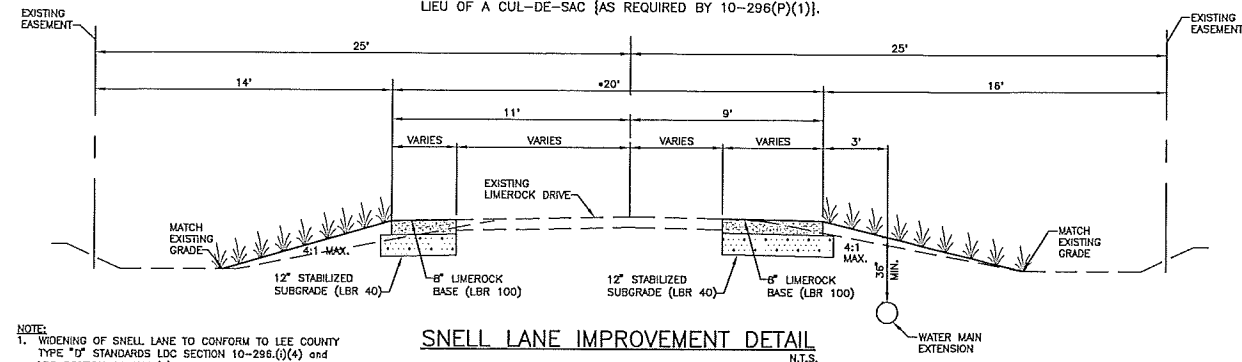
OPEN SPACE CALCULATIONS:

TOTAL ACREAGE: 14.38 ACRES
 LESS PUBLIC EASEMENTS: 1.45 ACRES
 PROJECT ACREAGE: 12.93 ACRES
 OPEN SPACE REQUIRED (30%): 3.88 ACRES
 OPEN SPACE PROVIDED: 4.30 ACRES
 EXISTING INDIGENOUS VEGETATION: 0.47 ACRES
 PRESERVED INDIGENOUS VEGETATION: 0.47 ACRES

OPEN SPACE CALCULATION TABLE	
DESCRIPTION	ACRES
Buffers	1.00
Compensating Storage	1.70
Preserve	1.60
Melaleuca, 424	0.77
Melaleuca, Hydric, 4241	0.28
Disturbed Land, 740	0.08
Hydric Pine, Disturbed [50-75%], 6259E3	0.47
TOTAL:	4.30

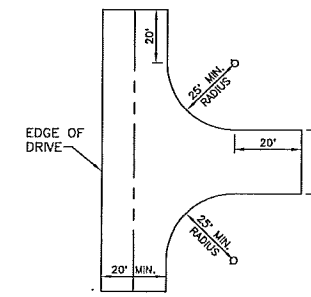
DEVIATIONS:

- ① DEVIATION FROM LDC SECTION 10-291(2) WHICH REQUIRES THAT ALL DEVELOPMENTS HAVE ACCESS TO A PUBLIC OR PRIVATE STREET DESIGNED, CONSTRUCTED AND IMPROVED TO MEET THE STANDARDS OF SECTION 10-296, TO ALLOW FOR ACCESS TO THE SITE FROM THE END OF THE PAVED PORTION OF SNELL LANE AS AN UNPAVED CATEGORY D ROAD WITH ALTERNATIVE CROSS SECTION AS ILLUSTRATED ON THE MCP AND WITH A T-TURN AROUND IN LIEU OF A CUL-DE-SAC [AS REQUIRED BY 10-296(P)(1)].



- NOTE:**
1. WIDENING OF SNELL LANE TO CONFORM TO LEE COUNTY TYPE "D" STANDARDS LDC SECTION 10-296.(3)(4) and LDC SECTION 10-710.(b)
 2. ALL AREAS DISTURBED DUE TO CONSTRUCTION ACTIVITIES TO BE STABILIZED AND SODDED IMMEDIATELY UPON COMPLETION OF CONSTRUCTION.

SNELL LANE IMPROVEMENT DETAIL
N.T.S.



TYPICAL T-TURN AROUND

- ② DEVIATION FROM LDC SECTION 10-261 WHICH REQUIRES THAT ALL NEW MULTIFAMILY RESIDENTIAL DEVELOPMENTS, COMMERCIAL BUSINESSES, AND INDUSTRIAL USES PROVIDE SUFFICIENT ON-SITE SPACE FOR THE PLACEMENT OF GARBAGE CONTAINERS OR RECEPTACLES, AND SUFFICIENT SPACE FOR RECYCLABLE MATERIALS COLLECTION CONTAINERS TO ALLOW THE UNMANNED COMMUNITY FACILITY TO BE CONSTRUCTED WITHOUT ON-SITE REFUSE COLLECTION.
- ③ DEVIATION FROM LDC SECTION 10-416(D)(1) WHICH REQUIRES BUFFERS ALONG THE ENTIRE PERIMETER OF THE PROPOSED DEVELOPMENT TO ALLOW PRESERVE AREAS WITH ENHANCED PLANTINGS TO SATISFY THE BUFFER REQUIREMENT.
- ④ DEVIATION FROM LDC SECTION 10-416(D)(1) WHICH REQUIRES BUFFERS ALONG THE ENTIRE PERIMETER OF THE PROPOSED DEVELOPMENT TO ELIMINATE THE REQUIRED BUFFER ADJACENT TO PROPERTY UNDER COMMON OWNERSHIP ALONG THOSE PORTIONS OF THE WESTERN PROPERTY BOUNDARY.
- ⑤ DEVIATION FROM LDC SECTION 10-416(D)(1), (3) AND (4) WHICH REQUIRES A TYPE C OR TYPE F BUFFER ALONG THE NORTHERN PROPERTY LINE OF THE PROPOSED DEVELOPMENT TO ALLOW FOR AN ALTERNATIVE LANDSCAPE PLAN ALONG THE NORTHERN PROPERTY LINE ADJACENT TO THE KEHL CANAL EASEMENT.

REV #	REVISION	DRAWN	CHECKED	DATE

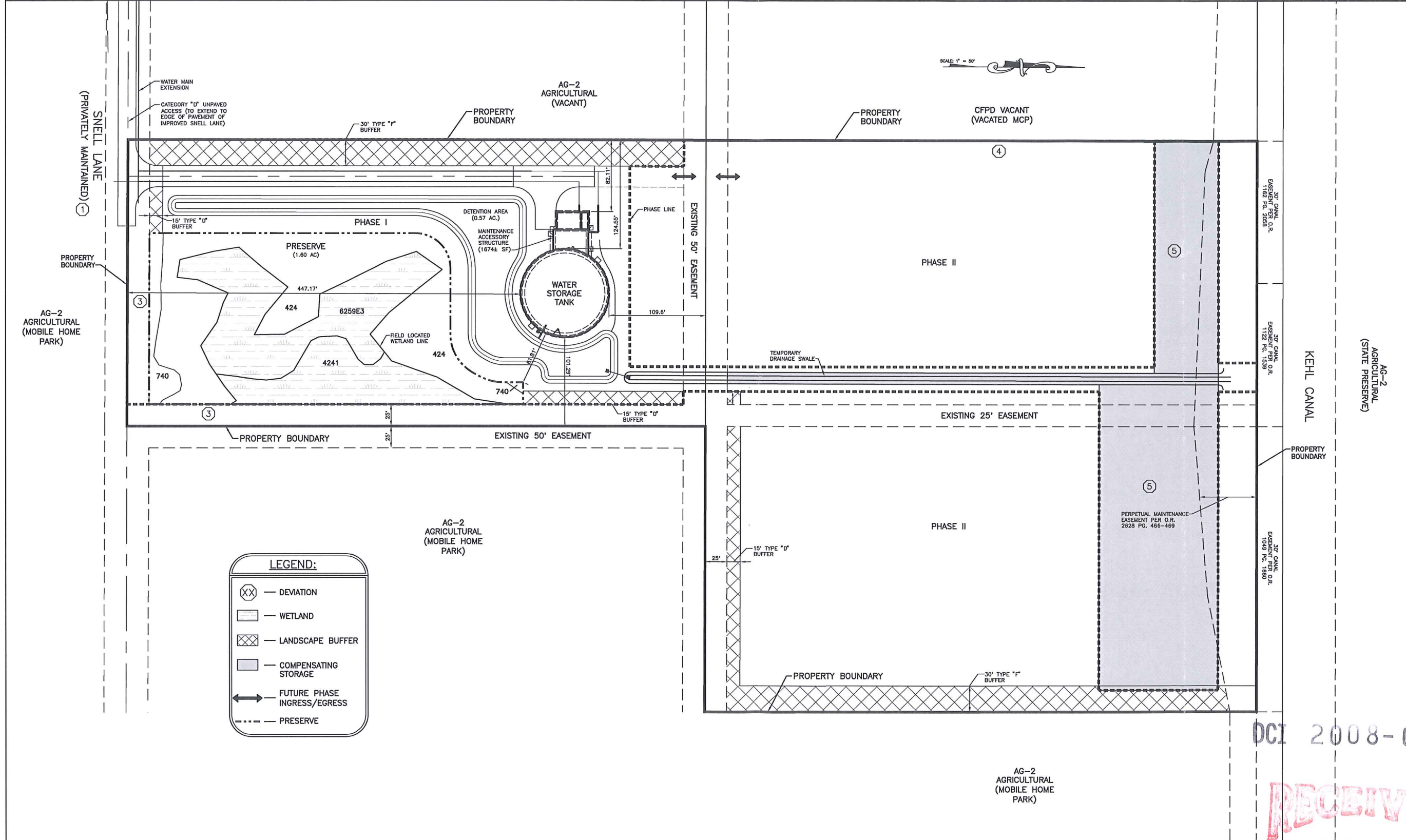
RWA CONSULTING INC.
 Planning
 Visualization
 Civil Engineering
 Surveying & Mapping
 6510 Willow Park Drive, Suite 200, Naples, Florida 34109
 (239) 597-0575 FAX: (239) 597-4578
 1542 Carson Street, Fort Myers, Florida 33901

BBR EAST WATER STORAGE TANK

BONITA SPRINGS UTILITIES
 PROJECT:
 CLIENT:
 TITLE:

DATE: AUGUST, 2008
 PROJECT NO: 080007.00.00
 FILE NO: 0800070000P02
 SHEET NUMBER: 2 OF 3
 SCALE: 1" = 50'
 DRAWN: R.M.L.
 CHECKED: P.V.

BBR EAST WATER STORAGE TANK MASTER CONCEPT PLAN



LEGEND:

- DEVIATION
- WETLAND
- LANDSCAPE BUFFER
- COMPENSATING STORAGE
- FUTURE PHASE INGRESS/EGRESS
- PRESERVE

February 1, 2010 8:12 AM S:\2009\080097.00.00 Snell Lane Ground Storage Tank\0007 CFPD Amendment Application Preparation\MCP\Rev 04\0800970000P03.dwg

REV #	REVISION	DRAWN	CHECKED	DATE

BBR EAST WATER STORAGE TANK

PROJECT: **BONITA SPRINGS UTILITIES MASTER CONCEPT PLAN**

CLIENT: **DCI 2008-00045**

TITLE: **MASTER CONCEPT PLAN**

SCALE: **1" = 50'**

DRAWN: **R.M.J.** CHECKED: **P.V.**

DATE: **AUGUST, 2008** FILE NO: **080097.00.00** SHEET NUMBER: **0800970000P03**

REV: **3** OF **3**

RECEIVED
FEB 01 2010
COMMUNITY DEVELOPMENT

RWA CONSULTING INC.
 Planning Visualization Civil Engineering & Mapping
 Surveying & Mapping
 6510 Willow Park Drive, Suite 200, Naples, Florida 34109
 1542 Carson Street, Fort Myers, Florida 33901
 (239) 597-0575 FAX: (239) 597-0578
 (239) 278-5224 FAX: (239) 278-5419

**STAFF REPORT
FROM
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF ENVIRONMENTAL SCIENCES**

Date: February 4, 2010

To: Chahram Badamtchain, Senior Planner
From: Susie Derheimer, Environmental Planner
Phone: (239) 533-8158
E-mail: SDerheimer@leegov.com



Project: BBR East Water Storage Tank REVISED
Case: DCI2008-00045
STRAP: 32-47-26-00-00001.0020

The Division of Environmental Sciences (ES) staff have reviewed the proposed Bonita Beach East Water Storage Tank Community Facilities Planned Development (CFPD) and offer the following analysis and recommended conditions:

PROJECT SITE:

The ±14.4 acre project site is part of a ±30.0 acre CFPD (vacated). The applicant requests is to rezone the ±14.4 acre portion from CFPD to CFPD.

VEGETATION:

A habitat assessment of the site was conducted by Passarella and Associates July 6 and 10, 2008 and March 25 and 27, 2009. The assessment and a Florida Land Use Cover and Classification System (FLUCCS) map was submitted by the applicant. The assessment was field verified by ES staff Susie Derheimer May 15, 2009. The subject site contains :

12.86 acres uplands;

- 2.45 acres melaleuca (FLUCCS 424)
- 9.8 acres disturbed land (FLUCCS 740)
- 0.61 acre spoil areas (FLUCCS 743)

1.01 acre state and federal jurisdictional wetlands;

- 0.47 acre hydric pine, disturbed with 50-75% exotic coverage (FLUCCS 6259 E3)
- 0.53 acre hydric melaleuca (FLUCCS 4241)

0.52 acre streams and waterways

PROTECTED SPECIES:

A protected species survey (PSS) for Lee County listed species meeting the requirements of Land Development Code (LDC) Section 10-473 was conducted by Passarella and Associates July 6 and 10, 2008 and March 25 and 27, 2009, last revised January 2010. The PSS documents one (1) active gopher tortoise (*Gopher polyphemus*) burrow found in a spoil pile (FLUCCS 743) and a squirrel nest found in a melaleuca tree (FLUCCS 424) both located within the north portion of the site. The PSS also documents that it is anticipated that the observed squirrel nests are inhabited by gray squirrels (*Sciurus carolinensis*). A protected species map was provided depicting transect lines and burrow and nest locations. The survey results were field verified by ES staff Susie Derheimer May 15, 2009.

Lee County Comprehensive Plan (Lee Plan) Objective 107.3: Wildlife. Maintain and enhance the fish and wildlife diversity and distribution within Lee County for the benefit of a balanced ecological system

Policy 107.3.1 encourages upland preservation in and around preserved wetlands to provide habitat diversity, enhance edge effect, and promote wildlife conservation.

The ±14.4 acre project proposes preservation and enhancement of existing wetlands (excluding roadway easements) with a minimum 15 foot, average 25 foot wide upland buffer for a total 1.6 acre preserve and planting of canopy and sub-canopy vegetation within the 1.7 acre flood compensation adjacent to Kehl Canal to provide on-site habitat for wildlife diversity **consistent with Objective 107.3 and Policy 107.3.1.**

Objective 107.4: Endangered and Threatened Species In General. Lee County will continue to protect habitats of endangered and threatened species and species of special concern in order to maintain or enhance existing population numbers and distribution of listed species.

Policy 107.4.4 restricts the use of protected plant and wildlife species habitat to that which is compatible with the requirements of endangered and threatened species and species of special concern. New developments must protect remnants of viable habitats when listed vegetation and wildlife species inhabit a tract slated for development, except where equivalent mitigation is provided.

The site contains habitat with the potential to be utilized by listed species and is within the primary focus area of the state and federally listed Florida panther (*Felis concolor coryi*), the primary range of the state listed Florida black bear, and core foraging area of the state and federally listed woodstork (*Mycteria americana*).

The project is currently under review by the South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) Application No. 090204-11 and United States Army Corps of Engineers (US Corps) application No. SAJ2009-00413 to address potential listed species impacts and possible required mitigation **consistent with Policy 107.4.4.**

A PSS preliminary management plan submitted by the applicant commits that prior to site clearing

activities, a Big Cypress fox squirrel survey of the project area will be conducted, and if an active nest is found, a minimum 125 foot buffer will be established around the nest tree until such time the nest is deemed inactive. The appropriate permit will then be obtained from Florida Fish and Wildlife Conservation Commission (FWC) to remove the nest tree, if necessary. Proposed activities are **in compliance with LDC Section 10-474(b) occupied habitat buffer areas and consistent with Lee Plan Policy 107.4.4**

Objective 107.8: Gopher Tortoises. The County will protect gopher tortoises through the enforcement of the protected species regulations.

Policy 107.8.1 requires to protect gopher tortoise burrow wherever they are found through avoidance or on site relocation and allowing off-site mitigation, in accordance with FWC, only if conflicts are unavoidable.

FWC requires projects to avoid any active/inactive gopher tortoise burrow by a minimum 25 feet radius from the burrow entrance with all construction activities. The proposed swale and floodway compensation area improvements required for Phase 1 are located greater than 30 feet from the spoil pile containing the active gopher tortoise burrow therefore the project will protect the gopher tortoise where it is found through avoidance.

The PSS preliminary management plan submitted by the applicant identifies that the Phase 1 project limits are greater than a 25 feet radius from the burrow entrance and commits that prior to site clearing activities temporary silt fencing to be placed around the construction site to prevent the gopher tortoise from accessing construction areas **in compliance with LDC Section 10-474(b) occupied habitat buffer areas and consistent with Lee Plan Policy 107.8.1**. The PSS preliminary management plan proposes no additional management activities or further protection measures for the gopher tortoise resulting from the development but acknowledges that any future development in Phase 2 may require the appropriate relocation permit from FWC.

In order to ensure the project is consistent with LDC Section 10-474 and Lee Plan Objective 107.3, Policy 107.3.1, 107.4 and Policy 107.4.4, ES staff recommends the following conditions:

Prior to local development order approval, the applicant must submit copies of the approved South Florida Water Management District (SFWMD) and United States Army Corps of Engineers (US Corps) permit. Any related permit requirements regarding listed species included in the state or federal permits or resulting from direct consultation with the appropriate wildlife agency will be incorporated as a condition of the local development order.

Prior to vegetation clearing approval, the property must be surveyed for active/inactive gopher tortoise burrows. If active/inactive burrows are found then buffers, as required the Land Development Code (LDC) Section 10-474(b), must be maintained. Or, if impacts to active gopher tortoise burrows are unavoidable, the applicant must first seek approval for on-site relocation before pursuing off-site relocation options. Communication with Florida Fish and Wildlife Conservation Commission (FWC) verifying on-site relocation attempts were made must be provided to the Division of Environmental Sciences (ES) staff. A copy of the appropriate gopher

tortoise relocation permit issued by the FWC must be submitted to the ES staff prior to excavation and moving of any gopher tortoises. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and the appropriate gopher tortoise management plan meeting the requirements of Land Development Code (LDC) Section 10-474 must be submitted for ES staff review and approval.

Prior to vegetation clearing approval, the property must be surveyed for the presence of Big Cypress fox squirrel. If any nest structures are located, the nests must be monitored for 5 days to determine if the nests are being utilized by Big Cypress fox squirrel and if nesting activities are taking place. If the nests are deemed to be active, a 125 foot natural vegetated buffer must remain undisturbed around the nest tree until nesting activities have been deemed complete by the FWC. Once the nests have been deemed inactive, any request for removal of the nest tree must be coordinated with FWC and ES staff and the appropriate FWC permit provided. In addition, if Big Cypress fox squirrels or evidence there of are documented on the site, a management plan meeting the requirements of LDC Section 10-474 must be submitted for ES staff review and approval.

OPEN SPACE:

LDC Section 10-415(a) requires large community facility developments to provide 30% of the total area of the project as open space. LDC Section 10-415(a) also requires Planned Development Zonings must provide open space as required chapter 34 and per the approved master concept plan (MCP) and resolution. LDC Section 34-935(g) requires community facility planned developments to provide no less than 30% of the total area of the project as open space; therefore, the proposed project is required to provide a minimum of 3.9 acres (12.9 x 0.3) as common open space. The MCP depicts the proposed 14.4 acre project site - 1.45 acres road right-of-way easements to provide a minimum of 4.3 acres of common open space through ±1.0 acres buffers, ±1.7 acre compensatory storage area, and ±1.6 acres preserves which exceeds LDC open space requirements.

ES staff recommend the following condition to ensure the open space, as committed to on the MCP, is met:

Prior to local development order approval, the development order plans must delineate a minimum 4.3 acres as open space in substantial compliance with the approved Master Concept Plan. Area within existing roadway right-of-way easements may not be used to meet open space requirements.

INDIGENOUS PRESERVATION AND BUFFER DEVIATIONS #3 & #5:

LDC Section 10-415(b)(1)(a.) requires large developments, with existing indigenous native vegetation communities provide 50 percent of their open space percentage through the onsite preservation of existing native vegetative communities or (b.) If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous

native trees, then 50 percent of their open space percentage requirement must be met through the onsite preservation of existing native trees clusters preservation/relocation area.

The ±14.4 acre site contains 0.47 acre of indigenous wetland pine community (FLUCCS 6259 E3) and scattered native trees within the non-indigenous habitat; therefore, the project is required to meet the indigenous requirement through the preservation of the 0.47 acre existing indigenous wetland pine community and 1.47 acres native tree clusters/relocation open space area.

The MCP depicts the preservation of 0.47 acres indigenous wetland pine community and 1.13 acres non-indigenous wetland habitat for a total 1.60 acre preserve. The applicant is proposing to enhance the 1.6 acre preserve through exotic removal and supplemental plantings (See ES Staff Exhibit 1 On-site Preserve ±1.6 acres Table 2). The applicant is proposing to provide a conservation easement to South Florida Water Management District (SFWMD) through Environmental Resource Permit (ERP) Application No. 090204-11. In addition, the applicant is proposing to provide supplemental canopy/sub-canopy tree plantings within the compensating storage area located along the Kehl Canal (See ES Staff Exhibit 1 Compensating Storage Area ±1.39 acres Table 1). Therefore, the MCP depicts a total 2.99 acres of enhanced indigenous preserve and native tree open space area which exceeds the minimum 1.94 LDC Section 10-416(b)(1) indigenous requirement.

Goal 77: Development Design Requirements. To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

Policy 77.3.4 encourages new developments to incorporate large, contiguous open space areas in the development design.

The MCP depicts the preservation of 1.6 acres of contiguous hydric pine and melaleuca habitats with a minimum 15 foot, average 25 foot wide upland pine and melaleuca buffer. The 1.60 preserve contains 0.77 acres of upland melaleuca with scattered Florida slash pines and cabbage palms and 0.47 acres of disturbed hydric pine habitat containing scattered native Florida slash pine and cabbage palm, with a few cypress. In addition, the non-indigenous habitat will be planted with native vegetation to enhance the preserve **consistent with Goal 77 and Policy 77.3.4.**

107.2.8 promote the long-term maintenance of natural systems through such instruments as conservation easements, transfer of development rights, restrictive zoning, and public acquisition.

ES staff recommend that Lee County be made a 3rd party to any conservation easement dedicated to SFWMD **for consistency with Policy 107.2.8.**

Policy 114.1.2: 4. requiring every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques and on- or off-site mitigation will only be permitted accordance with applicable state permits.

The ±14.4 acre project proposes preservation of all wetlands (excluding existing easements) with a minimum 15 foot, average 25 foot wide upland buffer. The proposed development footprint

(project entrance road, water storage tank, and detention), as depicted on the MCP, does not impact the on-site wetlands and provides dry detention adjacent to the preserved upland surrounding the wetland **consistent with Policy 114.1.2:4.**

The applicant request deviation #3 from LDC Section 10-416(d) which requires buffers along the entire perimeter of the proposed development to allow preserve areas, with enhanced plantings provided per the on-site preserve planting plan, to satisfy the Type D buffer requirements along the southeast property lines where the preserve abuts the road right-of-way easements.

Objective 77.3 requires new developments must use innovative open space design to preserve existing vegetation, provide visual relief, and buffer adjacent uses and proposed and /or existing right-of way. This objective and subsequent policies are to be implemented through the zoning process.

Policy 77.3.3 encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing right-of-ways.

The MCP depicts the 1.6 acre preserve, ±300 feet wide north to south and ±200 feet wide east to west, to provide the required Type D buffer within the south portion of the project site along east and south road right-of-ways. The on-site preserve planting plan proposes the 1.6 acre preserve to be enhanced with 60 canopy Slash pines, 4-8 feet at installation; 60 cabbage palms, 4-8 feet at installation; 218 sub-canopy trees, 3-8 feet at installation; 500 saw palmetto, 3 feet at installation; and 100 sand cordgrass, 3 feet at installation. Together with the existing scattered mature vegetation, the preserve widths and plant numbers far exceed the minimum Type D buffer requirements and provide a visual screen that mimics a natural community along the right-of-way **consistent with Objective 77.3 and Policy 77.3.3.**

The north property line abuts SFWMD and Department of Environmental Protection lands for conservation and/or recreation. The applicant requests deviation #5 from LDC Section 10-416(d)(1), (3), and (4) requiring a type C or F buffer along the northern property line to allow for the proposed restored native tree area, provided per the compensatory storage area planting plan along the northern property line adjacent to the Kehl Canal and perpetual maintenance easements, to provide the required buffer.

The north property line is within the Kehl Canal 60 foot wide easement and the project site contains an additional perpetual maintenance easement dedicated to Lee County varying in width along the shoreline. The proposed project location is within Southern Crew Imperial River Flow Way (CERP) project. The easements are needed to maintain and gain access to existing and future water flows. Planting the buffer in the required location and with required plant types within the easement area could possibly impede water flow and maintenance access to the canal.

Policy 107.2.10 requires developments adjacent to aquatic preserves and other nature preserves, wildlife refuges, and recreation areas must protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

The MCP depicts the ±1.7 acre, 45-130 foot wide compensating storage area located along the north property line adjacent to the Kehl Canal and planted as per the compensating storage planting plan to provide the required Type F buffer abutting the state owned lands to the north. The compensating storage planting plan proposes 1.39 acres of the storage area (excluding canal, maintenance and roadway easements) to be planted with 100 Slash pine, 4-8 feet at installation; 100 cabbage palm, 4-8 feet at installation; 100 dahoon holly, 4-8 feet at installation and 300 wax myrtle, 3 feet at installation. The buffer widths and plant types and numbers far exceed the minimum Type F buffer requirements and provide a visual screen to mimic a more natural community to protect the natural character of the adjacent state owned lands **consistent with Policy 107.2.10** without impeding water flows and access to water flows.

ES staff **recommends approval of Deviations #3 and #5** with the following conditions to ensure preservation and supplemental planting is provided as proposed for consistency with Lee Plan **Goal 77, Objective 77.3, Policy 77.3.3 Policy 77.3.4, Policy 107.2.8, Policy 107.2.10 and 114.1.2:4:**

Prior to local development order approval, development order plans must depict the minimum 1.6 acre preserve and minimum 1.39 planted compensating storage area in substantial compliance with the approved Master Concept Plan (MCP).

Prior to local development order approval, landscape plans must depict the preserve and compensating storage area to provide supplemental plantings as per ES staff Exhibit 1 Bonita Beach Road East Water Storage Tank Compensating Storage Area And On-Site Preserve Planting Plans, dated February 1, 2010, and existing sabal palms to be relocated on-site as per LDC Section 10-415(b)(2)(a). An Indigenous Management Plan meeting the requirements of LDC Section 10-415(b)(4) must be submitted for Division of Environmental Sciences staff review and approval.

Lee County must be made a 3rd party, to any conservation easement required by state and/or federal agencies.

**BONITA BEACH ROAD EAST WATER STORAGE TANK
COMPENSATING STORAGE AREA AND
ON-SITE PRESERVE PLANTING PLANS**

RECEIVED

February 1, 2010

FEB 01 2010

COMMUNITY DEVELOPMENT

Compensating Storage Area (1.39± Acres)

As a buffer to the adjoining property to the north of the Kehl Canal, plantings will be installed within the 1.39± acre compensating storage area located at the north end of the Project. The areas encumbered by the existing road easement and canal maintenance easement are excluded from the 1.39± acre area to be replanted, in order to ensure that access is maintained. To minimize the obstruction of flow into the canal, only canopy and sub-canopy plantings will be included. Ground cover will include sod or grass seed. The planting quantities and specifications are outlined in Table 1.

Table 1. Compensating Storage Area Supplemental Planting Specifications

Common Name	Scientific Name	Maximum Spacing	Minimum Height	Minimum Container	Strata	Quantity
Slash pine	<i>Pinus elliottii</i>	15 Feet	4-8 Feet	3 Gallon	Canopy	100
Cabbage palm	<i>Sabal palmetto</i>	15 Feet	4-8 Feet	3 Gallon	Canopy	100
Dahoon holly	<i>Ilex glabra</i>	15 Feet	4-8 Feet	3 Gallon	Canopy/ Sub-Canopy	100
Wax myrtle	<i>Myrica cerifera</i>	10 Feet	3 Feet	1 Gallon	Sub-Canopy	300
Total						600

On-Site Preserve (1.60± Acres)

To enhance the Project's 1.60± acre on-site preserve, located towards the south end of the Project, supplemental plantings will be installed within the 1.13± acres of non-native habitats within the preserve. Based on the revised FLUCFCS map dated January 27, 2010, the non-native habitats include 0.77± acre of Melaleuca (FLUCFCS Code 424); 0.28± acre of Melaleuca, Hydric (FLUCFCS Code 4241); and 0.08± acre of Disturbed Land (FLUCFCS Code 740). The planting quantities and specifications are outlined in Table 2. Existing native vegetation that is retained in this area will count toward the planting quantities.

Table 2. Non-Native Habitats Supplemental Planting Specifications

Common Name	Scientific Name	Maximum Spacing	Minimum Height	Minimum Container	Strata	Quantity
Slash pine	<i>Pinus elliottii</i>	20 Feet	4-8 Feet	3 Gallon	Canopy/ Upland & Wetland	60

Table 2. (Continued)

Common Name	Scientific Name	Maximum Spacing	Minimum Height	Minimum Container	Strata	Quantity
Cabbage palm	<i>Sabal palmetto</i>	20 Feet	4-8 Feet	3 Gallon	Canopy/ Upland & Wetland	60
Dahoon holly	<i>Ilex cassine</i>	15 Feet	4-8 Feet	3 Gallon	Sub- Canopy/ Upland & Wetland	109
Wax myrtle	<i>Myrica cerifera</i>	15 Feet	3 Feet	1 Gallon	Sub- Canopy/ Upland & Wetland	109
Sand cordgrass	<i>Spartina bakeri</i>	5 Feet	3 Feet	1 Gallon	Herbaceous /Wetland	100
Saw palmetto	<i>Serenoa repens</i>	5 Feet	3 Feet	1 Gallon	Herbaceous /Upland	500
Total						938

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Bonita Springs Utilities, Inc., has properly filed an application for a rezoning from AG-2 to Community Facilities Planned Development, and a request for a General Excavation Permit; and

WHEREAS, the subject property is located at 13402 Snell Lane, Bonita Springs, described more particularly as:

LEGAL DESCRIPTION: In Section 32, Township 47 South, Range 26 East, Lee County, Florida:

The West Half (W1/2) of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4), AND the East Half (E1/2) of the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the West Half (W1/2) of the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the East Half (E1/2) of the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) of Southwest Quarter (SW1/4), all in Section 32, Township 47 South, Range 26 East.

Comprising 15 acres more or less.

AND

The West Half (W1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the East Half (E1/2) of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), all in Section 32, Township 47 South, Range 26 East, comprising 10 acres more or less, EXCEPTING therefrom the North 30 feet for canal easement and the South 25 feet for road right-of-way.

AND

The East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section 32, Township 47 South, Range 26 East, Lee County, Florida, 5 acres, more or less, EXCEPTING the North 30 feet thereof for canal easement, and the South 25 feet thereof for county roadway right-of-way.

Containing 5 acres, more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 32-47-26-00-00001.0360, 32-47-26-00-00001.0020 and 32-47-26-00-00001.028A; and

WHEREAS, proper authorization has been given to Q. Grady Minor & Associates by T. Harvey Haines, President, Bonita Springs Utilities, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on July 21, 1992; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE WITH CONDITIONS a rezoning to Community Facilities Planned Development and a General Excavation Permit.

The rezoning and Master Concept Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development of the subject properties shall be in accordance with the three-page Master Concept Plan entitled "Bonita Springs Utilities, Inc., East Water Reclamation Facility," stamped received June 3, 1992, except as modified by the conditions herein.
2. Permitted uses are limited to those listed and shown on the Master Concept Plan and are further limited to the specified parcel as follows:
 - Uses permitted on the 24.65 acre± parcel only:
 - Essential Services Facility, Group II (Section 1001.13), to allow a Wastewater Treatment Facility only
 - Communication Tower (maximum of 95 feet in height) (Free Standing only)
 - Excavation/Water Retention (Section 509)
 - Uses permitted on the 5 acre± parcel only:
 - Excavation - Mining (Section 508)
3. The maximum height of all buildings and structures shall be 35 feet above average grade except the communications tower, which may have a maximum height of 95 feet. The communication tower shall be free standing.
4. Snell Lane shall be paved prior to the commencement of construction of the wastewater treatment facility.
5. Access to the wastewater treatment facility during construction and for subsequent operation shall be from Snell Lane only. However, as conditioned below, the trucks bringing fill material from the 5 acre±/parcel shall be prohibited from using Snell Lane.
6. The haul route from the 5 acre± parcel may be via the existing dirt road traversing the four parcels between this parcel and the 24.65 acre± parcel, if the developer purchases the four parcels or if the developer obtains a temporary construction easement. If these alternatives are not accomplished, then the existing 50-foot wide easement may be used for access for trucks transporting fill material from the 5 acre± parcel. In any case, the selected haul route shall be subject to the review and approval of the Division of Development Review, with improvements in accordance with the Development Standards Ordinance.

7. Excavation of the 5 acre± parcel shall be completed prior to the Certificate of Compliance approval of the wastewater treatment facility.
8. Blasting, crushing and dewatering activity shall be permitted during construction activity only and shall cease prior to the Certificate of Compliance. No blasting activity will be permitted on the 24.65 acre± parcel.
 - a. Blasting shall be in compliance with the Lee County Blasting Ordinance as amended.
 - b. Dewatering shall be in compliance with all applicable regulations, including those of the South Florida Water Management District.
9. The hours of operation for the excavation shall be limited to 7:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to noon on Saturday. No excavation or other heavy equipment operations shall be conducted on Sunday.
10. The developer shall comply with Lee County Noise Ordinance 82-32, as amended.
11. Upon completion of the excavation or at the expiration of the Excavation/ Mining Operation Permit, the developer shall commence with the reclamation and replanting plan.
12. A reclamation plan shall be in accordance with the Site Excavation and Reclamation Plan, page 3 of 3, stamped received June 3, 1992.
13. A gopher tortoise management plan shall be approved by the Division of Environmental Sciences prior to local Development Order Approval.
14. Should actual construction of the wastewater treatment facility not take place within five years of zoning resolution approval, a new protected species survey shall be provided and reviewed subject to approval by the Division of Environmental Sciences prior to local Development Order Approval.
15. The developer shall contact the Lee County Division of Emergency Management, Hazardous Material representative prior to the Certificate of Occupancy, to discuss the proposed development in relation to the type, use and storage of hazardous materials which will be located on the premises.
16. If access to this development is through a security gate or similar device that is not manned 24 hours per day, the security gate must be provided with an override switch installed in a glass cover for the use of emergency vehicles.
17. Deviation (1) would allow a deviation from Development Standards Ordinance Appendix D-3, from the required 6 foot wide shoulder to 3.5 foot wide shoulder. This deviation is APPROVED WITH THE CONDITION that a guardrail be provided if found necessary at Development Order stage.

Deviation (2) would allow a deviation from Zoning Ordinance Section 509.B, from the required maximum excavation depth of 12 feet to 20 feet or until the confining layer is reached (not penetrated). This deviation is APPROVED WITH THE CONDITIONS that:

- a. All excavation occurring on either parcel shall have a maximum excavation depth of 20 feet or until the confining layer is reached (not penetrated), and
- b. Upon completion of the excavation(s) and lake shoreline reclamation and annually thereafter for a period of 5 years, the developer or his successors or assigns, shall provide to the Division of Environmental Sciences (or other appropriate County authority) a report prepared by a qualified testing laboratory of the dissolved oxygen content of the lake for each 5-foot depth level greater than 15 feet.

In the event that it is determined that the dissolved oxygen levels as reported are insufficient to support active marine life at all lake levels, the developer or his successors or assigns shall install or cause to be installed a lake aeration system of a design approved by the Division of Environmental Sciences (or other appropriate County authority) and shall operate and maintain such aeration system in good order thereafter.

Deviation (3) would allow a deviation from Zoning Ordinance Section 800.B.1., from the requirement that all properties within a single application be contiguous, to allow a single application for non-contiguous properties. This deviation is APPROVED WITH THE FOLLOWING CONDITIONS:

- a. If the four parcels between the two subject parcels are purchased by the applicant, then these four parcels shall be rezoned to the CFPD zoning district by the applicant in order to create a contiguous parcel.
- b. The 5 acre parcel shall be used for the excavation of fill material for the wastewater treatment facility only.

Deviation (4) would allow a deviation from Zoning Ordinance Section 508.G.2.a.2., from the requirement of a 100-foot setback from a private property line under separate ownership to allow a 60 foot setback on the 5 acre parcel. This deviation is APPROVED WITH THE FOLLOWING CONDITION:

- a. The developer shall provide a berm as shown on the Site Excavation and Reclamation Plan.

Deviation (5) would allow a deviation from Zoning Ordinance Section 508.G.2.a.1. from the requirement of a 150-foot setback from an existing street right-of-way line or easement to allow a 60 foot setback on the 5 acre parcel. This deviation is APPROVED WITH THE FOLLOWING CONDITION:

- a. The developer shall provide a berm as shown on the Site Excavation and Reclamation Plan.

Deviation (6) would allow a deviation from Zoning Ordinance Section 509.G.4. from the requirement of a 150 foot setback from an existing street right-of-way line or easement, to allow a 60 foot setback. This deviation would apply to the excavation/water retention area proposed on the wastewater treatment facility site adjacent to Snell Lane only. This deviation is APPROVED.

Site Plan 92-043 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of Community Facilities Planned Development zoning:

- A. That the CFPD rezoning request was not caused by changed or changing conditions which necessitates the approval of the request.
- B. That the CFPD rezoning, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance.
- C. That the CFPD rezoning, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, and with the densities, intensities and general uses set forth in the Lee Plan.
- D. That the CFPD rezoning, as conditioned, meets or exceeds all performance or locational standards set forth for the proposed use.
- E. That the CFPD rezoning, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

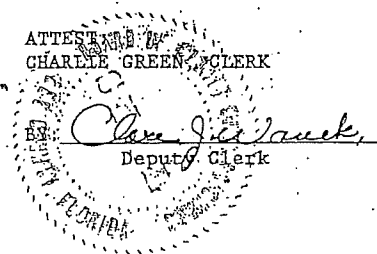
- F. That the CFPD rezoning, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.
- G. That the CFPD rezoning, as conditioned, does not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
- H. That the CFPD rezoning, as conditioned, will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.
- I. That each approved deviation, as conditioned, enhances the achievement of the objectives of the CFPD and protects or preserves the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner John E. Manning, and seconded by Commissioner Vicki Lopez-Wolfe and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Carny	Aye
Ray Judah	Aye
Vicki Lopez-Wolfe	Aye
Donald D. Slisher	Absent

DULY PASSED AND ADOPTED this 31st day of August, A.D., 1992.

ATTEST AND BE
CHARLES GREEN, CLERK



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *[Signature]*
Chairman

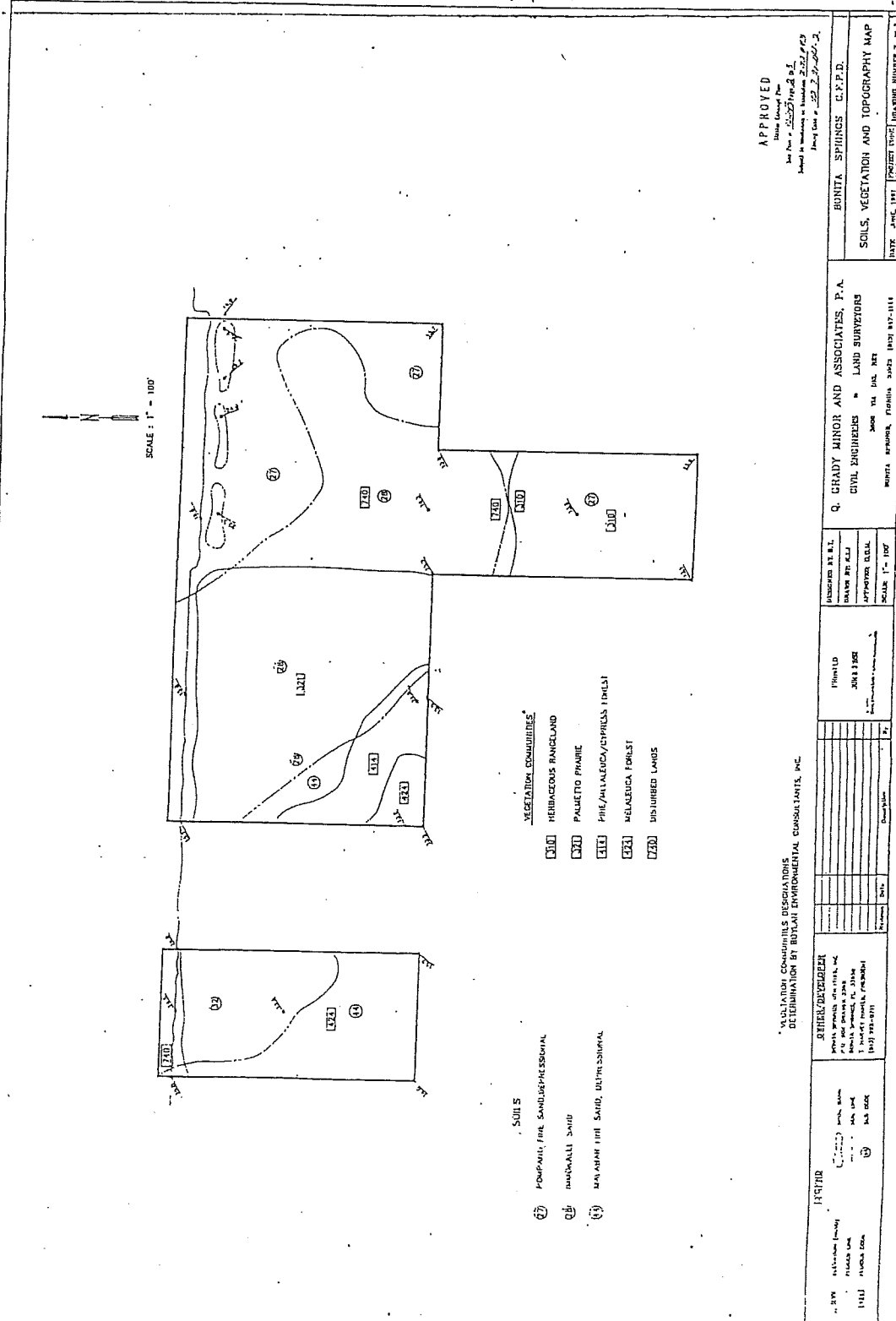
Approved as to form by:

[Signature]
County Attorney's Office

FILED

SEP 9 1992

CLERK CIRCUIT COURT
BY *[Signature]* D.C.



RECEIVED

FEB 01 2010

COMMUNITY DEVELOPMENT

DCI 2008-00045

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32.

THENCE N.01°00'38"W. ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 FOR 1,316.62 FEET, TO THE SOUTHEAST CORNER OF THE EAST HALF (1/2) OF THE SOUTHEAST QUARTER (1/4) OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32, ALSO BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE ALONG THE SOUTH LINE OF THE EAST HALF (1/2) OF THE SOUTHEAST QUARTER (1/4) OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32 S.89°11'39"W. FOR 327.67 FEET TO THE WEST LINE OF THE EAST HALF (E1/2) OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4);

THENCE ALONG THE WEST LINE OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32 N.00°57'50"W. FOR 1286.02 FEET, TO A POINT ON THE SOUTHERLY BOUNDARY OF A CANAL EASEMENT;

THENCE ALONG SAID CANAL EASEMENT N.89°05'23"E. FOR 653.30 FEET, TO A POINT ON THE EAST LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32;

THENCE ALONG THE EAST LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32 S.01°03'21"E. FOR 628.63 FEET, TO THE SOUTHEAST CORNER OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32;

THENCE ALONG THE SOUTH LINE OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32 S.89°08'43"W. FOR 327.18 FEET, TO THE SOUTHWEST CORNER OF THE WEST HALF (1/2) OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SAID SECTION 32;

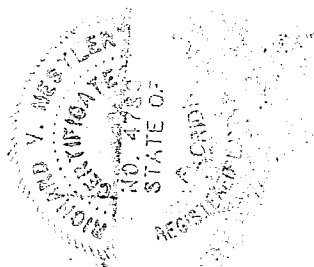
THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 32, S.01°00'38"E. FOR 658.31 FEET, TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.

CONTAINING 626,273 SQUARE FEET OR 14.4 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 AS BEING N.01°00'38"W.

APPROVED LEGAL

2/2/10
Pages 1 thru 2



1/29/10
SIGNING DATE

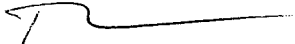
BY: 
RICHARD V. NESTLER, PROFESSIONAL SURVEYOR AND MAPPER LS# 4786
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

EXHIBIT A

REVISED 1-29-10 RVN
REVISED 1-27-10 RVN

SEE SHEET 2 OF 2 FOR SKETCH

January 29, 2010 9:09 AM Q:\2005\050217.00.01 Golden Gate Roadway - Additional Services\0002 Rev ROW Map-Lane Re-Design\050217 00 00 0008 Rv.dwg



DATE: 10/21/09	CLIENT: BONITA SPRINGS UTILITES
SCALE: N/A	TITLE: LEGAL DESCRIPTION
DRAWN BY: RVN	
CHECKED BY: RVN	
SEC: TWP: RGE: 32 47S 26E	PROJECT NUMBER: 080097.00.00
	SHEET NUMBER: 1 OF 2
	FILE NUMBER: 0002 SK15

SKETCH OF LEGAL DESCRIPTION
THIS NOT A SURVEY

SOUTH LINE OF 30'
CANAL EASEMENT

N89°05'23"E 653.30'

WEST LINE
E 1/2 OF
NW 1/4 OF
NW 1/4 OF
SE 1/4

S01°03'21"E 628.63'

N00°57'50"E 1286.02'

S89°09'43"W 327.18

SOUTH LINE
E 1/2 OF
NW 1/4 OF
NW 1/4 OF
SE 1/4

EAST LINE
E 1/2 OF
SW 1/4

S01°00'38"E 658.31'

RECEIVED
FEB 11 2010

COMMUNITY DEVELOPMENT

DCI 2008-00045

WEST LINE
E 1/2 OF
NE 1/4 OF
SW 1/4

SNELL LANE

POB

S89°11'39"W 327.67'

SOUTH LINE
E 1/2 OF
SE 1/4 OF
NE 1/4 OF
SW 1/4

EAST LINE
SW 1/4

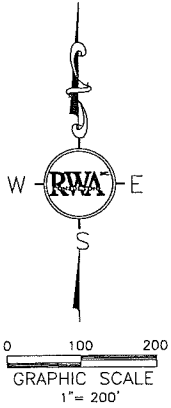
BEARING BASIS
N01°00'38"W 1316.62'

POC
SE CORNER
SW 1/4

SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST

BONITA BEACH ROAD S.E.

SECTION 5, TOWNSHIP 48 SOUTH, RANGE 26 EAST



LEGEND

POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
R/W = RIGHT OF WAY

REVISED 1-29-10 RVN

SEE SHEET 1 OF 2 FOR DESCRIPTION

January 29, 2010 9:09 AM G:\2005\050217.00.01 Golden Gate Roadway - Additional Services\0002 Rev ROW Map-Lane Re-Design\050217 00 00 0008 R.w.dwg

RWA INC.
CONSULTING
Planning
Visualization
Civil Engineering
Surveying & Mapping

6610 Willow Park Drive, Suite 200
Naples, Florida 34109
Phone: (239) 597-0575
FAX: (239) 597-0578
Florida Certificate of Authorization # 1b-6952

DATE: 10/21/09
SCALE: 1" = 200'
DRAWN BY: RVN
CHECKED BY: RVN
SEC: 32 TWP: 47S RGE: 26E

CLIENT:

BONITA SPRINGS UTILITES

TITLE:

SKETCH OF LEGAL DESCRIPTION

PROJECT NUMBER: 080097.00.00

SHEET NUMBER: 2 OF 2

FILE NUMBER: 0002 SK15

LEE COUNTY, FLORIDA
ZONING DIVISION
STAFF REPORT

TYPE OF CASE: PLANNED DEVELOPMENT/DCI

CASE NUMBER: DCI2008-00045

HEARING EXAMINER DATE: January 27, 2010

I. APPLICATION SUMMARY:

A. Applicant: Bonita Springs Utilities, Inc. In reference to BBR East Water Storage Tank

B. Request: Rezone 5± acres from CFPD (Bonita Springs Utilities, Resolution Z-92-043) to CFPD to allow for a water storage tank and associated accessory uses with a maximum building height of 50 feet. No development blasting is being requested.

C. Location: The subject property is located at 13471 Snell Lane, Bonita Springs, Southeast Lee County Planning Community, Lee County, FL. (District #3)

D. Future Land Use Plan Designation, Current Zoning and Use of Subject Property and Road Classification:

The subject property is zoned CFPD. The Future Land Use Plan designations of the property are "Density Reduction/ Groundwater Resource" and "Wetlands". The property is currently vacant. Snell Lane is classified as local road.

E. Surrounding Land Use:

<u>Existing Zoning & Land Use</u>	<u>Future Land Use Map</u>
North: Vacant, Bonita Springs Utilities' property, zoned CFPD	DR/GR and Wetlands
East: Vacant, zoned AG-2	Wetlands
South: Snell Lane, then a mobile home park (Saldivar Migrant Housing), zoned AG-2	DR/GR
West: Vacant, zoned AG-2	DR/GR and Wetlands

F. Size of Property: 5± acres

II. RECOMMENDATION:

Staff recommends **APPROVAL** of the Applicant's request for rezoning from CFPD to CFPD with the following conditions and deviations:

A. Conditions:

1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the 2 page Master Concept Plan entitled "BBR East Water Storage Tank," stamped received November 4, 2009, last revised 10/ 15/ 2009, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. Uses and Site Development Regulations

The following Limits apply to the project and uses:

a. Schedule of Uses

Accessory Uses and Structures

Essential Service Facilities: Group II (Limited to above ground water storage facilities)

Excavation, water retention

Fences, walls

Maintenance facility (Accessory and subordinate to water storage facilities)

Parking lot, Accessory, ~~Temporary~~

Signs, in accordance with Chapter 30

Storage, indoor only (Accessory and subordinate to water storage facilities)

Temporary Uses (limited to construction trailers and storage sheds during the development of the site, and temporary uses directly related to the existing permitted uses on the site)

b. Site Development Regulations

Minimum Setbacks	Water Tank	Accessory Structures
Street (Snell lane):	100 Feet	100 Feet
Side:	100 Feet	30 Feet
Rear:	100 Feet	30 Feet
Preserve:	30 Feet	30 Feet
Maximum Building Height:	Water Tank:	50 Feet
	Accessory Structures:	30 Feet

3. Environmental Conditions

- a) Prior to local development order approval, the applicant must submit any written correspondence sent to or received from state and/or federal wildlife agencies and copies of the approved South Florida Water Management District (SFWMD) and United States Army Corps of Engineers (US Corps) permit. Any related permit requirements regarding listed species included in the state or federal permits or resulting from direct consultation with the appropriate wildlife agency will be incorporated as a condition of the local development order.
- b) Prior to site clearing approval, the project site and any associated off-site improvement area must be surveyed for active/inactive gopher tortoise burrows and Big Cypress fox squirrel nest. If burrows and/or nest or found then buffers as required the LDC Section 10-474(b) and/or the FWC must be maintained and/or the appropriate jurisdiction regulatory agency permits and LDC Section 10-474 or 475 management plans provided.
- c) Environmental Sciences staff recommend the following revisions to the MCP prior to final adoption of the zoning resolution:
- (1) Revise the Open Space Calculations to reflect the LDC Section 34-935(g) 30% open space requirement; and
 - (2) Revise the Open Space Calculation Table to include the acreage of dry detention.
- d) Prior to local development order approval, the development order plans must delineate a minimum 3.0 acres as open space in substantial compliance with the approved Master Concept.
- e) Prior to local development order approval, development order plans must depict the 1.6 acre preserve in substantial compliance with the approved MCP. Lee County must be made a 3rd party, to any conservation easement required by state and/or federal agencies.
- f) Prior to local development order approval, the landscape plans must depict the preserve area to provide:
- at minimum 5 native trees per 100 linear feet, preserved and/or installed within the areas identified as melaleuca (FLUCCS 424) and melaleuca, hydric (FLUCCS 4241). Trees must be a minimum 10 feet in height; and
 - 66 native shrubs per 100 linear feet, preserved and/or installed within a 25 foot width adjacent to the east and south roadway easements. Supplemental plantings must be installed at minimum 5 foot on centers

to mimic more a natural system. Shrubs must be a minimum 24 inches in height and must be allowed to grow to natural height and form.

4. Vehicular/Pedestrian Impacts
Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
5. Concurrency
Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.
6. Compliance to LDC
This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.
7. Road Improvement
Bonita Springs Utilities must execute a maintenance covenant for the unpaved portion of Snell Lane extending from the end of the paved surface to the subject property's entrance with Lee County prior to the Development Order approval.
8. Road Extension
The applicant shall extend and improve Snell Lane from the end of the paved surface to the subject property's entrance as an unpaved category "D" road. This road improvement shall be considered site related and no Impact Fee credit shall be allowed for this improvement.
9. Buffer
In the event that the ownership of the property to the north changes and is no longer owned by the owners of the subject property, a type "D" landscape buffer shall be provided on the northern property line of the subject property.

B. Deviations

Deviation #1: Access Road

Deviation from LDC Section 10-292(2) which requires that all developments have access to a public or private street designed, constructed and improved to meet the standards of Section 10-296, to allow for access to the site from the end of the paved portion of Snell Lane as an unpaved Category "D" road and to allow for a T-turnaround in lieu of a cul-de-sac.

Staff recommends approval of this deviation subject to condition #7. Snell Lane is a paved road from Bonita Grande Drive east for approximately 650 feet, then it becomes a gravel

road for approximately 1,350 feet. The applicant will extend the gravel road for another 350 feet or so to provide access to this subject site. The site will be unmanned. It is anticipated that the site will generate one vehicle trip per week. Due to the amount of traffic generated by the site it is not necessary to require a cul-de-sac at the end of the road. A T-turnaround will be adequate at this location.

Deviation # 2: Solid waste and recycling containers

Deviation from LDC Section 10-261 which requires that all new multifamily residential developments, commercial businesses, and industrial uses provide sufficient on-site space for the placement of garbage containers or receptacles, and sufficient space for recyclable materials collection containers to allow the unmanned community facility (the subject property) to be developed without on-site refuse collection.

Staff recommends approval of this deviation. This site will be unmanned and only a weekly visit to the site to visually inspect the plant and perform any needed maintenance will be occurring on this site. There is no need to have trash collection on this site, as the employee who makes the weekly visit will be able to remove the trash generated by him and take it to their headquarters for proper disposal.

Deviation # 3: Buffers

Deviation from LDC Section 10-416(d)(1) which requires buffers along the entire perimeter of the proposed development to allow preserve areas with enhanced plantings to satisfy the buffer requirement.

Staff recommends approval of this deviation subject to the revision of the request to read as: ***“Deviation from LDC Section 10-416(d)(3) which requires Type D buffer abutting the roadway easement to allow preserve area with enhanced plantings to satisfy the buffer requirement.”***, and subject to Condition 3-f. There are areas of significant natural vegetation that will be preserved along portions of the property boundaries where it abuts road easements. In these instances, the proposed preserve areas will exceed the minimum buffer width and planting requirements, and with additional plantings will adequately screen adjacent road easements from the proposed use.

Deviation #4: Northern property line buffer

Deviation from LDC Section 10-416(d)(1) which requires buffers along the entire perimeter of the proposed development to eliminate the requires buffer adjacent to property under common ownership along the northern property boundary.

Staff recommends approval of this deviation subject to condition #9 of this staff report. This 5 acre parcel is a part of a larger parcel zoned CFPD with a vacated Master Concept Plan owned by Bonita Springs Utilities. The applicant applied to rezone the entire property from CFPD to CFPD; however, environmental and easement issues delayed the review of the rezoning. The applicant reduced the area of the subject rezone in order to accelerate the rezoning and construction of the needed water tank. The applicant still plans to rezone the remainder of the site for a large water treatment facility in the near future.

C. Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff makes the following findings and conclusions to support the recommendation of approval:

1. The applicant has proven entitlement to the rezoning to Community Facilities Planned Development (CFPD) by demonstrating compliance with the Lee Plan Policy 2.1.3, the Land Development Code Section 34-930(d), and other applicable codes and regulations.
2. The requested zoning as conditioned:
 - a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b) is consistent with the densities, intensities and general uses set forth in the Lee Plan Policy 1.4.5 and Objective 1.5.
 - c) is compatible with existing or planned uses in the surrounding area; Lee Plan Policy 5.1.5 and
 - d) will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
4. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.
5. The proposed use is appropriate at the subject location.
6. The recommended conditions to the master concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The deviations, as conditioned:
 - a) enhance the planned development; and
 - b) preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

III. BACKGROUND INFORMATION AND ANALYSIS:

Introduction/Synopsis

The subject parcel is a part of a 30 acre property owned by Bonita Springs Utilities and zoned CFPD. The CFPD zoning was approved in 1992 (Resolution Z-92-043) to allow for a wastewater treatment plant and other essential service facilities. The site was never developed and the Master Concept Plan was vacated in 1997. The applicant applied to rezone the entire property in 2008 from CFPD to CFPD. However, some easement and environmental issues delayed the review of the request. The applicant in order to expedite the approval and construction of a needed water tank decided to limit the size of the development to five acres and the use to water tank. They fully intend to rezone the remainder of the site to develop the site with a water treatment plant and associated uses. The request, as revised, is to rezone a five acre parcel from CFPD to CFPD and develop the site with a water storage tank. The access to the site will be via Snell Lane, which dead-ends about 350 feet from the site. The applicant is proposing to extend the existing gravel road to provide access to the site.

Master Concept Plan

The Master Concept Plan depicts a water storage tank closer to the northern property line of the parcel. The access to the site is from Snell Lane which abuts the southern property line of the site. A large preserve occupies most of the southeast corner of the site. There is a narrow and long storm water treatment area which parallels the access drive from south to north, then it envelops the water storage tank on three sides. Rather large buffers are shown on three sides of the site. Northern property line which abuts a large property under common ownership does not contain a buffer.

Lee Plan Considerations

POLICY 1.4.5: *The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.*

The request is for a water storage tank with about 9,500 square feet of footprint or 4.5% of the site area. The road leading to the site as well as the internal driveway will be graveled. The development, as proposed, will have minimal impact and will be compatible with maintaining surface and groundwater levels at their historic levels. By vertu of Policy

2.1.3. public uses and buildings and public facilities are permitted in all land use categories. Staff finds the request is **CONSISTENT** with Policy 1.4.5 of the Lee Plan.

OBJECTIVE 1.5: WETLANDS. *Designate on the Future Land Use Map those lands that are identified as Wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended in F.S. 373.4211. (Amended by Ordinance No. 94-30)*

POLICY 1.5.1: *Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan. (Amended by Ordinance No. 94-30)*

POLICY 1.5.2: *When the exact location of Wetlands boundaries is in question, Chapter XIII of this plan provides an administrative process, including a field check, to precisely define the boundary. (Amended by Ordinance No. 94-30)*

POLICY 1.5.3: *Wetlands that are conservation lands will be subject to the provisions of Policy 1.4.6 as well as the provisions of Objective 1.5. The most stringent provisions of either category will apply. Conservation wetlands will be identified on the FLUM to distinguish them from non-conservation wetlands. (Added by Ordinance No. 98-09)*

By vertu of Policy 2.1.3. the use is permitted in the wetlands land use category. All wetland areas are being preserved and will be enhanced and maintained by removing exotic vegetation. Staff finds the request is **CONSISTENT** with Objective 1.5 and Policies 1.5.1, 1.5.2, and 1.5.3 of the Lee Plan.

POLICY 1.7.6: *The Planning Communities Map and Acreage Allocation Table (see Map 16 and Table 1(b) and Policies 1.1.1 and 2.2.2) depicts the proposed distribution, extent, and location of generalized land uses for the year 2030. Acreage totals are provided for land in each Planning Community in unincorporated Lee County. No final development orders or extensions to final development orders will be issued or approved by Lee County which would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded.*

This project is a public utility development and not subject to Policy 1.7.6 of the Lee Plan.

POLICY 2.1.3: *All land use categories and Planning Community Map areas permit the consideration of churches and schools (except in Wetlands and Airport Noise Zones), public uses and buildings, public utilities and resource recovery facilities, public recreational uses (including franchised quasi-commercial uses in conjunction with a public use), and sites for compatible public facilities when consistent with the goals, objectives, policies, and standards in this plan and applicable zoning and development regulations. (Amended by Ordinance No. 94-30, 98-09)*

This Policy allows public uses and buildings as well as public utilities are permitted uses in all land use categories. The request is for a public utility water storage tank which will be owned and operated by Bonita Spring Utilities, Inc.

GOAL 53: POTABLE WATER INFRASTRUCTURE. *To ensure the public health, welfare, and safety by the provision of high-quality central potable water service throughout the future urban areas of unincorporated Lee County, and to ensure that the costs of providing facilities for the supply of potable water are borne by those who benefit from them.*

OBJECTIVE 53.1: *The County will ensure the provision of acceptable levels of potable water service throughout the future urban areas of the unincorporated county, either directly by Lee County Utilities, or indirectly through franchised utility companies. (Amended by Ordinance No. 94-30, 00-22, 03-04)*

This rezoning will enable Bonita Springs Utilities, Inc. to increase their potable water service capacity, which will further Goal 53 of the Lee Plan.

POLICY 5.1.5: *Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments. (Amended by Ordinance No. 94-30, 99-15, 00-22)*

The area is sparsely developed. Most parcels in the area are either vacant or contains an agricultural activity. This rezoning and subsequent development of the site will not encroach into existing or future residential areas. The Future Land Use designation of the area is DR/GR which only allows large lot residential and will not allow a residential subdivision in the area. Staff finds the request is **CONSISTENT** with Policy 5.1.5 of the Lee Plan.

Neighborhood Compatibility

The area is very sparsely developed. With some large lot single family with some agricultural activities. There is a plant nursery in the vicinity of the site. There is also a fire station about 2,000 feet to the west. There are two large mobile home parks to the south but they don't have access to Snell Lane, their access is from Bonita Beach Road. Due to the limited amount of development in the area coupled with the size of the properties and the amount of vegetation in the area, this water tank should have minimal visual impact on neighboring properties and will not be incompatible with its surroundings.

Environmental Issues

The Division of Environmental Sciences staff reviewed the proposed rezoning request and field verified a habitat assessment of the site on May 15, 2009. Environmental staff conditions are listed herein and made a part of this staff report. Environmental Sciences staff did not find any environmental issues with the request.

The project site contains habitat with the potential to be utilized by listed species and is within the primary focus area of the state and federally listed Florida panther (*Felis concolor coryi*), the primary range of the state listed Florida black bear, and core foraging area of the state and federally listed woodstork (*Mycteria americana*). The project is currently under review by the South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) Application No. 090204-11 and United States Army Corps of Engineers (US Corps) application No. SAJ2009-00413 to address any additional potential listed species impacts and possible required mitigation

IV. SUBJECT PROPERTY:

- A. STRAP: The applicant indicates the STRAP numbers are: 32-47-26-00-00001.0360; .028A; .0020

V. ATTACHMENTS:

- A. Map of surrounding zoning
- B. Master Concept Plan
- C. Memorandum from Division of Environmental Sciences
- D. Resolution Z-92-043

VI. EXHIBITS:

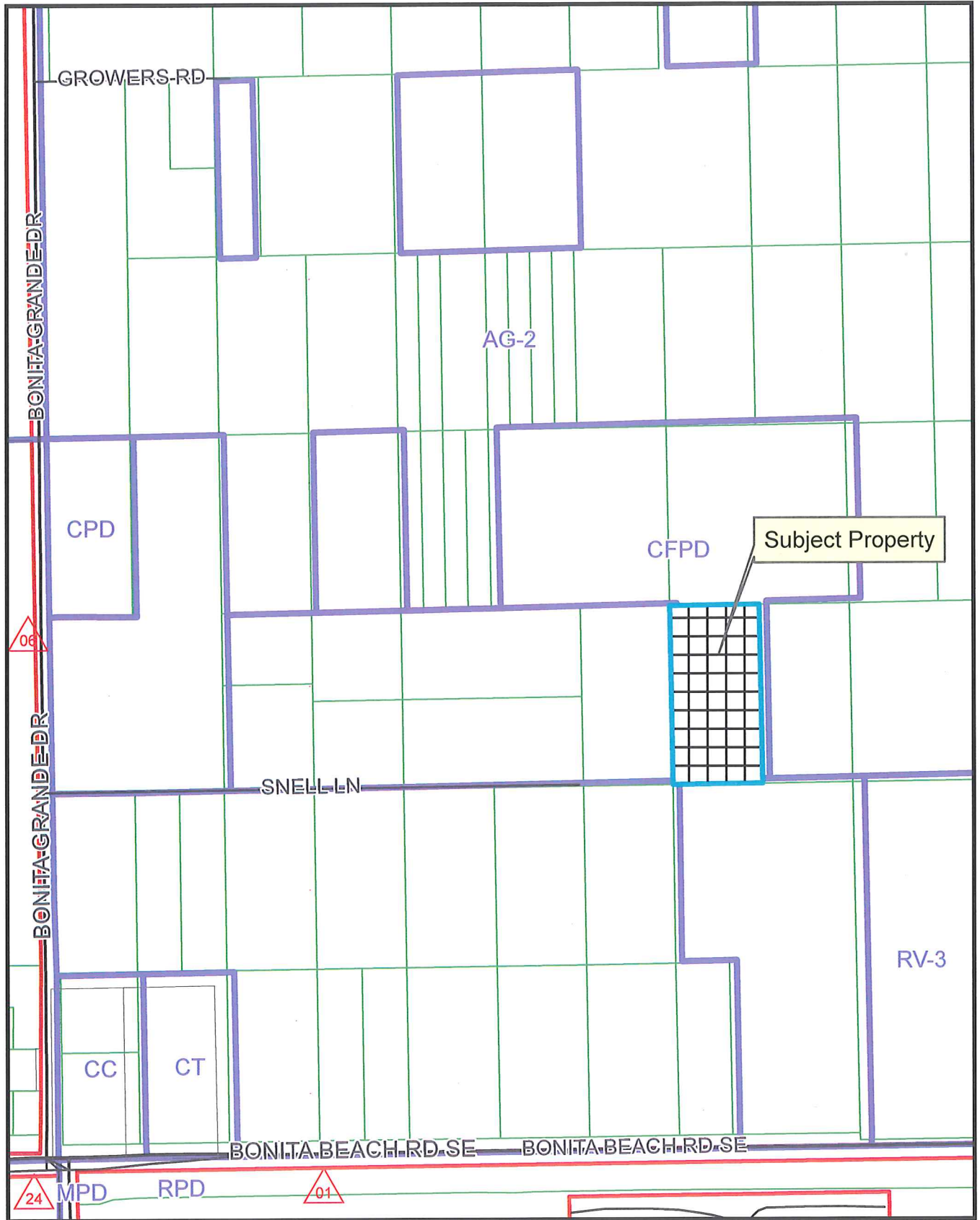
- A. Legal Description

cc: Applicant
County Attorney
Zoning File

Attachment "A" Zoning Map

DCI2008-00045

12/17/2009

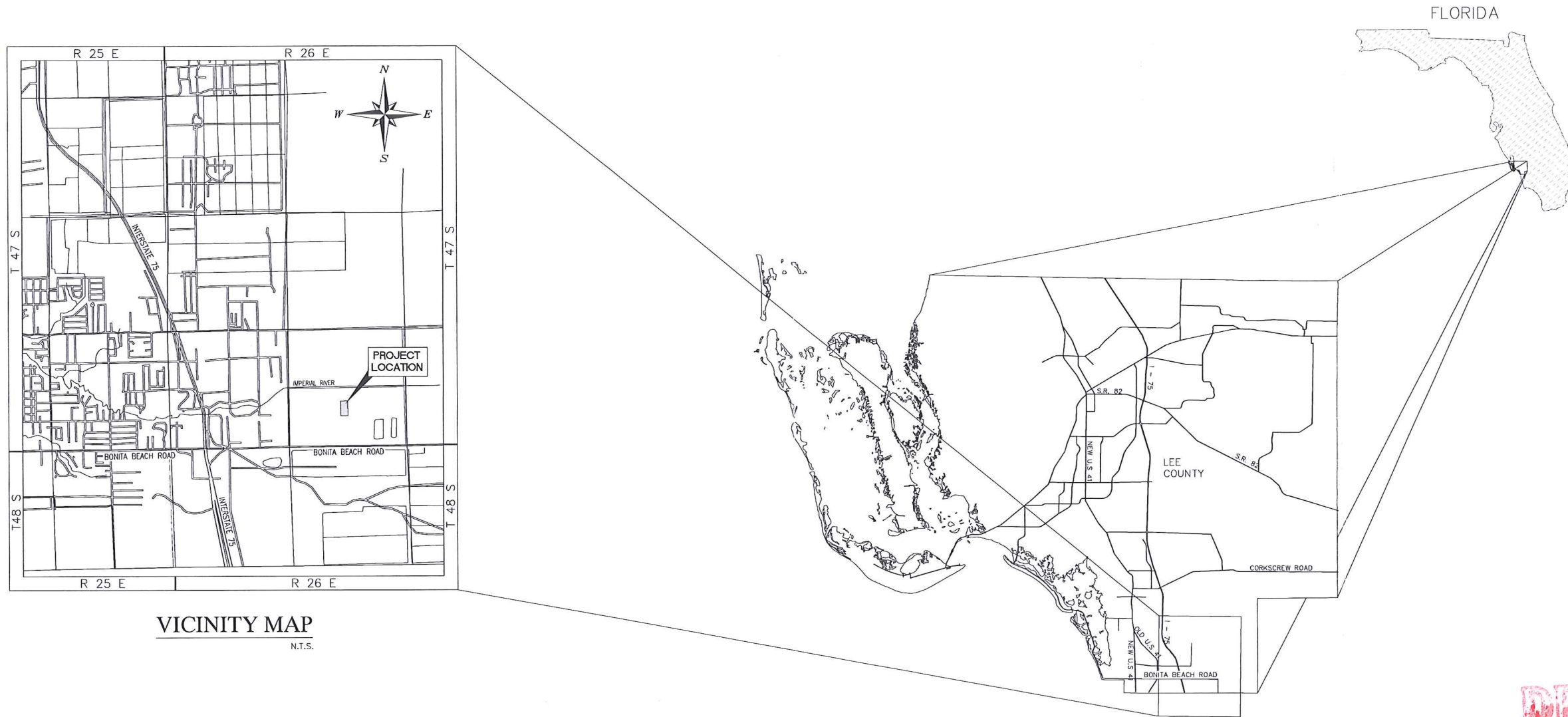


710 355 0 710



BBR EAST WATER STORAGE TANK

SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA



VICINITY MAP
N.T.S.

PREPARED FOR:

BONITA SPRINGS UTILITIES

11860 EAST TERRY STREET
BONITA SPRINGS, FLORIDA 34135

CONTENTS

- SHEET 1 COVER SHEET
- SHEET 2 MASTER CONCEPT PLAN

October 29, 2009 7:33 AM S:\2008\080927-00-00 Bonita Bch Rd East Water Storage Tank\0007 CFPD Amendment Application Preparation\MCP\Rev 03\0809270000P01.dwg

REV #	REVISION	DESIGN	CHECKED	DATE
△	REVISED PER CLIENT COMMENTS	M.S.J.	C.S.	10/15/09
△	REVISED PER LEE COUNTY ZONING COMMENTS (DATED 05/28/09)	M.S.J.	C.S.	09/09/09
△	REVISED PER LEE COUNTY ZONING COMMENTS (DATED 01/12/09)	M.S.J.	C.S.	05/04/09

RECEIVED

NOV 04 2009

COMMUNITY DEVELOPMENT

DCI 2008-00045

RWA INC.
CONSULTING
Planning
Visualization
Civil Engineering
Surveying & Mapping

6610 Willow Park Drive, Suite 200, Naples, Florida 34109 (239) 597-0575 FAX: (239) 597-0578
1542 Carson Street, Fort Myers, Florida 33901 (239) 278-5224 FAX: (239) 278-5419

BBR EAST WATER STORAGE TANK MASTER CONCEPT PLAN

SITE DATA:

GROSS ACREAGE: 4.95 ACRES +/-
 STRIP #: 32-47-26-00-00001.0020
 FUTURE LAND USE: DR/GR, WETLANDS
 EXISTING ZONING: CFPD
 EXISTING USE: VACANT
 PROPOSED ZONING: CFPD
 FLOODZONE: X
 FIRM (DATE): 12071C 0678F (8/28/08)

SITE DEVELOPMENT REGULATIONS:

WATER TANK MINIMUM SETBACKS:

STREET (SNELL LN): 100 FEET
 SIDES: 100 FEET
 REAR: 100 FEET
 PRESERVE: 30 FEET

ACCESSORY STRUCTURES MINIMUM SETBACKS:

STREET (SNELL LN): 100 FEET
 SIDES: 30 FEET
 REAR: 30 FEET
 PRESERVE: 30 FEET

BUILDING SEPARATION AND HEIGHT:

ACCESSORY STRUCTURES TO WATER TANK: 0 FEET
 MAXIMUM HEIGHT (WATER TANK): 50 FEET
 MAXIMUM HEIGHT (OTHER STRUCTURES): 35 FEET

NOTE: STREET, SIDE, AND REAR SETBACKS ARE MEASURED FROM THE CPD BOUNDARY.

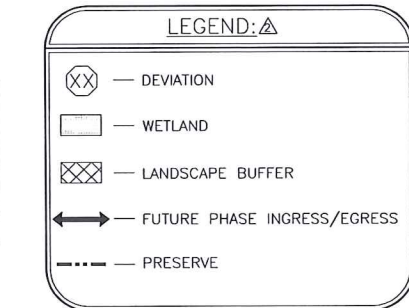
SCHEDULE OF USES:

ACCESSORY USES AND STRUCTURES [NOTE (1), 34-1711 ET SEQ., 34-2441 ET SEQ., 34-1863, 34-2141 ET SEQ., 34-3106]
 ESSENTIAL SERVICE FACILITIES (GROUP I) [NOTE (1), 34-1611 ET SEQ., 34-1741 ET SEQ., 34-2141 ET SEQ.]
 EXCAVATION, WATER RETENTION [34-1651]
 FENCES, WALLS [NOTE (1), 34-1741 ET SEQ.]
 MAINTENANCE FACILITY
 PARKING LOT, ACCESSORY, TEMPORARY [34-2022]
 SIGNS (ON ACCORDANCE WITH CHAPTER 30) [NOTE (1)]
 STORAGE, INDOOR ONLY [NOTE (1), 34-3001 ET SEQ.]
 TEMPORARY USES [NOTE (1), 34-3041 ET SEQ.]

OPEN SPACE CALCULATIONS:

TOTAL ACREAGE: 4.95 ACRES
 OPEN SPACE REQUIRED: 0.99 ACRES
 OPEN SPACE PROVIDED: 2.091 +/- ACRES

DESCRIPTION	ACRES
Buffers	0.495
Preserve*	1.596
Pine, Disturbed (50-75% Exotics), 4159E3	0.680
Hydric Pine, Disturbed (50-75% Exotics), 6259E3	0.474
Melaleuca, 424	0.086
Melaleuca, Hydric, 4241	0.282
Disturbed Land, 740	0.074
TOTAL:	2.091



GENERAL NOTES:

1. THE MASTER CONCEPT PLAN DEPICTS THE PROJECT'S GENERAL CONFIGURATION FOR CONCEPTUAL ZONING REVIEW AND APPROVAL. THE FINAL PRESERVE AND PUBLIC FACILITY TRACTS ALONG WITH THE PROJECT'S OPEN SPACE, SURFACE WATER MANAGEMENT SYSTEMS, STRUCTURES, AND OTHER FUNCTIONAL ELEMENTS WILL BE DETERMINED AT THE TIME OF DEVELOPMENT ORDER PERMITTING.
2. PARKING WILL BE PROVIDED IN ACCORDANCE WITH LDC CHAPTER 34, DMSION 26.
3. THE SUBJECT PROPERTY DOES NOT CONTAIN ANY HISTORICAL OR ARCHAEOLOGICAL SITES.
4. THE CFPD IS CLASSIFIED AS A SMALL DEVELOPMENT BY THE LEE COUNTY LDC SECTION 10-1, AS THE PROJECT IS LESS THAN TEN ACRES IN LAND AREA (4.95 ACRES) AND LESS THAN TWO ACRES IN IMPERVIOUS AREA (0.56 ACRES). IF THE CFPD IS EXPANDED TO LARGE DEVELOPMENT IN THE FUTURE, THE ENTIRE CFPD MUST MEET ANY ADDITIONAL REQUIREMENTS FOR LARGE DEVELOPMENTS, INCLUDING INCREASED OPEN SPACE AND PRESERVATION OF INDIGENOUS PLANT COMMUNITIES. INDIGENOUS PLANT COMMUNITIES LOCATED WITHIN PHASE 1 PRESERVE AREA WILL CONTRIBUTE TO FUTURE INDIGENOUS PRESERVATION REQUIREMENTS.

DEVIATIONS:

1. DEVIATION FROM LDC SECTION 10-291(2) WHICH REQUIRES THAT ALL DEVELOPMENTS HAVE ACCESS TO A PUBLIC OR PRIVATE STREET DESIGNED, CONSTRUCTED AND IMPROVED TO MEET THE STANDARDS OF SECTION 10-296, TO ALLOW FOR ACCESS TO THE SITE FROM THE END OF THE PAVED PORTION OF SNELL LANE AS AN UNPAVED CATEGORY "D" ROAD AND TO ALLOW FOR A T-TURN AROUND IN USE OF A CUL-DE-SAC.
2. DEVIATION FROM LDC SECTION 10-261 WHICH REQUIRES THAT ALL NEW MULTIFAMILY RESIDENTIAL DEVELOPMENTS, COMMERCIAL BUSINESSES, AND INDUSTRIAL USES PROVIDE SUFFICIENT ON-SITE SPACE FOR THE PLACEMENT OF GARBAGE CONTAINERS OR RECEPTACLES, AND SUFFICIENT SPACE FOR RECYCLABLE MATERIALS COLLECTION CONTAINERS TO ALLOW THE UNMANNED COMMUNITY FACILITY TO BE CONSTRUCTED WITHOUT ON-SITE REFUSE COLLECTION.
3. DEVIATION FROM LDC SECTION 10-416(0)(1) WHICH REQUIRES BUFFERS ALONG THE ENTIRE PERIMETER OF THE PROPOSED DEVELOPMENT TO ALLOW PRESERVE AREAS WITH ENHANCED PLANTINGS TO SATISFY THE BUFFER REQUIREMENT.
4. DEVIATION FROM LDC SECTION 10-416(0)(1) WHICH REQUIRES BUFFERS ALONG THE ENTIRE PERIMETER OF THE PROPOSED DEVELOPMENT TO ELIMINATE THE REQUIRED BUFFER ADJACENT TO PROPERTY UNDER COMMON OWNERSHIP ALONG THE NORTHERN PROPERTY BOUNDARY.

1. *THE CFPD IS CONSIDERED A SMALL DEVELOPMENT BY THE LEE COUNTY LDC, AS THE PROJECT IS LESS THAN TEN ACRES IN LAND AREA (4.95) AND LESS THAN TWO ACRES IN IMPERVIOUS AREA (0.56). SMALL DEVELOPMENTS ARE REQUIRED TO PROVIDE 20% OF THE PROJECT'S OPEN SPACE. THE ON-SITE PRESERVATION OF INDIGENOUS PLANT COMMUNITIES IS NOT REQUIRED FOR SMALL DEVELOPMENTS (SECT. 10-415(0)(1)).

LEGAL DESCRIPTION

THE EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32.

THENCE N.01°00'38"W, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 FOR 1,316.62 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32, ALSO BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE ALONG THE SOUTH LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) S.89°11'39"W, FOR 327.67 FEET TO THE SOUTHWEST CORNER OF SAID EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);

THENCE ALONG THE WEST LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) N.00°57'50"W, FOR 658.01 FEET TO THE NORTHWEST CORNER OF SAID EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);

THENCE ALONG THE NORTH LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) N.89°09'11"E, FOR 327.13 FEET TO THE NORTHEAST CORNER OF SAID EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);

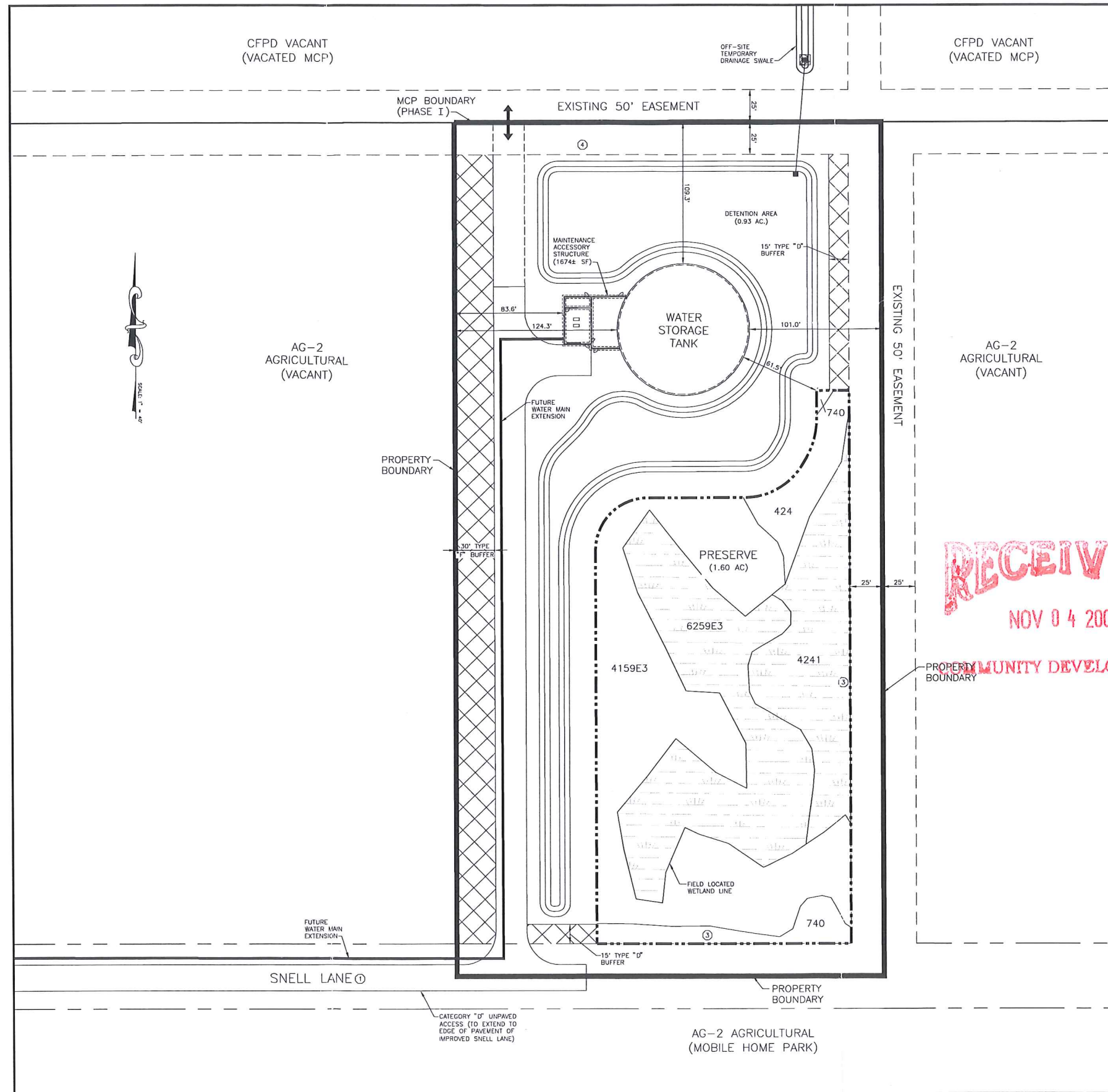
THENCE ALONG THE EAST LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) S.01°00'38"E, FOR 658.31 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.

CONTAINING 215,480 SQUARE FEET OR 5.0 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 AS BEING N.01°00'38"W.

November 3, 2009 9:23 AM S:\2008\080907\01.00 Bonita Bch Rd East Water Storage Tank\2007 CFPD Amendment Application Preparation\WCPR\Rev 03\080907000P02.dwg

REV #	REVISION	DRAWN	CHECKED	DATE
1	REVISED PER LEE COUNTY ZONING COMMENTS (DATED 05/28/09)	M.S.J.	C.S.	09/09/09
2	REVISED PER LEE COUNTY ZONING COMMENTS (DATED 01/12/09)	M.S.J.	C.S.	05/04/09



PWA CONSULTING INC.
 Planning Visualization Civil Engineering Surveying & Mapping
 6510 Wilbur Park Drive, Suite 200, Naples, Florida 34109
 (239) 597-0575 FAX: (239) 597-0578
 1542 Carlson Street, Fort Myers, Florida 33901
 (239) 278-8224 FAX: (239) 278-8419

BBR
 EAST WATER STORAGE TANK
 MASTER CONCEPT PLAN

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 COMMUNITY DEVELOPMENT

DATE	SEC	TYP	RGE	CLIENT	TITLE
AUGUST, 2008	32	47S	26E	BONITA SPRINGS UTILITIES	MASTER CONCEPT PLAN
PROJECT NO. 080097.00.00	SCALE: 1" = 40'	DRAWN: R.M.J.	CHECKED:		
REV. NO. 080097.00.00					
SHEET NUMBER					
2					

DCI 2008-00045

**STAFF REPORT
FROM
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF ENVIRONMENTAL SCIENCES**

Date: December 15, 2009

To: Chahram Badamtchain, Senior Planner
From: Susie Derheimer, Environmental Planner
Phone: (239) 533-8158
E-mail: SDerheimer@leegov.com

Project: BBR East Water Storage Tank
Case: DCI2008-00045
STRAP: portion of 32-47-26-00-00001.0020



The Division of Environmental Sciences (ES) staff have reviewed the proposed Bonita Beach East Water Storage Tank Community Facilities Planned Development (CFPD) and offer the following analysis and recommended conditions:

PROJECT SITE:

The subject property is a ±5.0 acre portion of Parcel strap #32-47-26-00-00001.0020 which is part of a ±30.0 acre CFPD (vacated). The applicant requests is to rezone the ±5.0 acre project site from CFPD to CFPD.

VEGETATION:

A habitat assessment of the site was conducted by Passarella and Associates July 6 and 10, 2008 and March 25 and 27, 2009. The assessment and a Florida Land Use Cover and Classification System (FLUCCS) map was submitted by the applicant. The assessment was field verified by ES staff Susie Derheimer May 15, 2009.

The subject site contains ±4.04 acres uplands:

- 1.88 acre pine, disturbed with 50-75% exotic coverage (FLUCCS 4159E3)
- 0.23 acre melaleuca (FLUCCS 424)
- 1.93 acre disturbed land (FLUCCS 740)

and ±0.96 acre potential state and federal jurisdictional wetlands:

- 0.47 acre hydric pine, disturbed with 50-75% exotic coverage (FLUCCS 6259 E3)
- 0.49 acre hydric melaleuca (FLUCCS 4241)

PROTECTED SPECIES:

A protected species survey (PSS) for Lee County listed species meeting the requirements of Land Development Code (LDC) Section 10-473 was conducted by Passarella and Associates July 6 and 10, 2008 and March 25 and 27, 2009. The PSS documents one (1) active gopher tortoise (*Gopher polyphemus*) burrow found in a spoil pile and a squirrel nest found in a melaleuca tree both located north of the 5 acre project site. The PSS also documents that it is anticipated that the observed squirrel nests are inhabited by gray squirrels (*Sciurus carolinensis*). A protected species map was provided depicting transect lines and burrow and nest locations. The survey results were field verified by ES staff Susie Derheimer May 15, 2009. No state or federal listed species or evidence there of was observed on the 5 acre project site.

Lee County Comprehensive Plan (Lee Plan) Objective 107.3: Wildlife. Maintain and enhance the fish and wildlife diversity and distribution within Lee County for the benefit of a balanced ecological system

Policy 107.3.1 encourages upland preservation in and around preserved wetlands to provide habitat diversity, enhance edge effect, and promote wildlife conservation.

The ±5.0 acre project proposes preservation of all wetlands (outside existing easements) with a minimum 15 foot, average 25 foot wide upland buffer for a total 1.6 acre preserve **consistent with Policy 107.3.1.**

Objective 107.4: Endangered and Threatened Species In General. Lee County will continue to protect habitats of endangered and threatened species and species of special concern in order to maintain or enhance existing population numbers and distribution of listed species.

Policy 107.4.4 restricts the use of protected plant and wildlife species habitat to that which is compatible with the requirements of endangered and threatened species and species of special concern. New developments must protect remnants of viable habitats when listed vegetation and wildlife species inhabit a tract slated for development, except where equivalent mitigation is provided.

The project site contains habitat with the potential to be utilized by listed species and is within the primary focus area of the state and federally listed Florida panther (*Felis concolor coryi*), the primary range of the state listed Florida black bear, and core foraging area of the state and federally listed woodstork (*Mycteria americana*).

The PSS preliminary management plan submitted by the applicant commits that prior to site clearing activities, a Big Cypress fox squirrel survey of the project area will be conducted, and if an active nest is found, a minimum 125 foot buffer will be established around the nest tree until such time the nest is deemed inactive. The appropriate permit will then be obtained from Florida Fish and Wildlife Conservation Commission (FWC) to remove the nest tree, if necessary. Proposed activities are **in compliance with LDC Section 10-474(b) occupied habitat buffer areas and consistent with Lee Plan Policy 107.4.4**

The project is currently under review by the South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) Application No. 090204-11 and United States Army Corps of Engineers (US Corps) application No. SAJ2009-00413 to address any additional potential listed species impacts and possible required mitigation **consistent with Policy 107.4.4.**

Objective 107.8: Gopher Tortoises. The County will protect gopher tortoises through the enforcement of the protected species regulations.

Policy 107.8.1 requires to protect gopher tortoise burrow wherever they are found through avoidance or on site relocation and allowing off-site mitigation, in accordance with FWC, only if conflicts are unavoidable.

FWC requires projects to avoid any active/inactive gopher tortoise burrow by a minimum 25 feet radius from the burrow entrance with all construction activities. The 5 acre project site is located ±350 feet from the spoil pile containing the active gopher tortoise burrow. A required off-site temporary drainage swale extending from the project site, north to Kehl Canal, is currently under review by the SFWMD and US Corps application. The proposed swale is located greater than 30 feet from the spoil pile containing the active gopher tortoise burrow.

The PSS preliminary management plan submitted by the applicant identifies that the active gopher tortoise burrow is greater than a 25 feet radius from the burrow entrance and commits that prior to site clearing activities temporary silt fencing to be placed around the construction site to prevent the gopher tortoise from accessing construction areas **consistent with Lee Plan Policy 107.8.1.** The PSS preliminary management plan proposes no additional management activities or further protection measures for the gopher tortoise resulting from the 5.0 acre development with off-site improvements but acknowledges that any future amendment of the vacated CFPD portion may require the appropriate relocation permit from FWC.

In order to ensure the project is consistent with Lee Plan Objective 107.3, Policy 107.3.1, 107.4 and Policy 107.4.4, ES staff recommends the following condition:

Prior to local development order approval, the applicant shall submit any written correspondence sent to or received from state and/or federal wildlife agencies and copies of the approved South Florida Water Management District (SFWMD) and United States Army Corps of Engineers (US Corps) permit. Any related permit requirements regarding listed species included in the state or federal permits or resulting from direct consultation with the appropriate wildlife agency will be incorporated as a condition of the local development order.

Prior to site clearing approval, the project site and any associated off-site improvement area must be surveyed for active/inactive gopher tortoise burrows and Big Cypress fox squirrel nest. If burrows and/or nest or found then buffers as required the LDC Section 10-474(b) and/or the FWC must be maintained and/or the appropriate jurisdiction regulatory agency permits and LDC Section 10-474 or 475 management plans provided.

OPEN SPACE:

LDC Section 10-415(a) requires small community facility developments to provide 20% of the total area of the projects as open space, but LDC Section 10-415(a) also requires Planned Development Zonings must provide open space as required chapter 34 and per the approved master concept plan (MCP) and resolution. LDC Section 34-935(g) requires community facility planned developments to provide no less than 30% of the total area of the project as open space; therefore, the proposed project is required to provide a minimum of 1.5 acres (5.0 x 0.3) as common open space. The MCP depicts the proposed 5.0 acre project to provide ±0.5 acres buffers, ±0.93 acre dry detention, and ±1.6 acres preserves for a total of ±3.0 acres of area meeting open space requirements which exceeds LDC open space requirements.

ES staff has two concerns with the Open Space Calculations depicted on the MCP. First, the calculation reflects open space as required by LDC Section 10-415 for conventionally zoned parcels-20%, not as required by LDC Section 34 for planned developments-30%; and second, the area of dry detention is not included in the calculations.

ES staff recommend the following revisions to the MCP prior to final adoption of the zoning resolution:

(1) Revise the Open Space Calculations to reflect the LDC Section 34 -935(g) 30% open space requirement; and

(2) Revise the Open Space Calculation Table to include the acreage of dry detention.

ES staff recommend the following condition to ensure the open space, as committed to on the MCP, is met:

Prior to local development order approval, the development order plans must delineate a minimum 3.0 acres as open space in substantial compliance with the approved Master Concept.

PRESERVATION:

The ±5.0 acre project proposes preservation of 1.6 acres of wetland pine and melaleuca with a minimum 15 foot, average 25 foot wide upland pine and melaleuca buffer. The applicant is proposing to provide a conservation easement to South Florida Water Management District (SFWMD) through Environmental Resource Permit (ERP) Application No. 090204-11.

The MCP contains General Note 4. which states “The CFPD is classified as a small development by the Lee County LDC Section 10-1. As the project is less than ten acres in lands area (4.95 acres) and less than two acres in impervious are (0.56 acres). If the CFPD is expanded to large development in the future, the entire CFPD must meet any additional requirements for large developments, including increased open space and preservation of indigenous plant communities. Indigenous plant communities located in Phase 1 Preserve area will contribute to future indigenous preservation requirements”. ES staff is in agreement with this statement.

Goal 77: Development Design Requirements. To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

Policy 77.3.4 encourages new developments to incorporate large, contiguous open space areas in the development design.

The MCP depicts the preservation of 1.6 acres of contiguous hydric pine and melaleuca habitats with a minimum 15 foot, average 25 foot wide upland pine and melaleuca buffer. The 1.60 preserve contains 0.68 acres of disturbed upland pine and 0.47 acres of disturbed hydric pine habitat containing scattered native Florida slash pine and cabbage palm, with a few cypress **consistent with Policy 77.3.4.**

107.2.8 promote the long-term maintenance of natural systems through such instruments as conservation easements, transfer of development rights, restrictive zoning, and public acquisition.

ES staff recommend that Lee County be made a 3rd party to any conservation easement dedicated to SFWMD.

Policy 114.1.2: 4. requiring every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques and on- or off-site mitigation will only be permitted accordance with applicable state permits.

The ±5.0 acre project proposes preservation of all wetlands (outside existing easements) with a minimum 15 foot, average 25 foot wide upland buffer. The proposed development footprint (project entrance road, water storage tank, and detention), as depicted on the MCP, does not impact the on-site wetlands and provides dry detention adjacent to the preserved upland surrounding the wetland **consistent with Policy 114.1.2:4.**

ES staff recommends the following conditions to ensure consistency with Lee Plan **Goal 77, Policy 77.3.4, Policy 107.2.8, and 114.1.2:4:**

Prior to local development order approval, development order plans must depict the 1.6 acre preserve in substantial compliance with the approved MCP. Lee County must be made a 3rd party, to any conservation easement required by state and/or federal agencies.

BUFFERS AND DEVIATION #3:

The MCP depicts the proposed buffers as required by LDC Section 10-416(d)(3) for water treatment plant to provide a 30 foot wide Type F buffer along the west property line abutting agricultural zoned and utilized property and a 15 foot wide Type D buffer along the north east property line abutting the 50' foot wide road access easements. The provided buffer is in compliance with the proposed water storage tank use of the ±5.0 acre property and potential water treatment facilities use of the total ±30.0 acre CFPD (vacated) property.

In addition, the applicant requests and the MCP depicts deviation #3 from LDC Section 10-416(d)(1) requiring buffers along the east and south perimeter of the proposed development to allow preserve areas with enhanced plantings to satisfy the buffer requirement.

The applicant proposes to preserve 1.6 acres, a minimum 25 foot maximum 195 foot wide, containing scattered native slash pine and cabbage palm with a few cypress abutting the 50' wide roadway easements to the south and east. The applicant proposes to provide supplemental plantings meeting the intent of the Type D buffer where, as a result of extensive exotic removal, the existing native vegetation does not provide a continuous visual screen.

Goal 77: Development Design Requirements. To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

Objective 77.3 requires new developments must use innovative open space design to preserve existing vegetation, provide visual relief, and buffer adjacent uses and proposed and /or existing right-of way. This objective and subsequent policies are to be implemented through the zoning process.

Policy 77.3.3 encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing right-of-ways.

The MCP depicts the 1.6 acre preserve area abutting the 50' wide roadway easement located along the south and east property lines thus proposing the minimum 25 foot wide, maximum 195 foot wide enhanced preserve to provide the required buffer **consistent with Goal 77, Objective 77.3, and Policy 77.3.3.**

ES staff has two concerns with the deviation as requested and supplemental plantings as proposed. First, the deviation should be requested from LDC Section 10-416(d)(3) requiring Type D buffers abutting roadway easements along the east and south perimeter of the proposed development to allow preserve areas with enhanced plantings to satisfy the buffer requirement; and second, the applicant proposes to install the supplemental plantings as a double staggered hedge row within 15 feet of the eastern and southern boundary in order to create a continuous visual screen. ES staff finds the staggered double hedge row inconsistent with the natural ecosystem of the preserve.

ES staff recommend approval of Deviation #3 with the following revision to be made prior to final adoption of the zoning resolution:

(1) Revise deviation #3 to request a deviation from LDC Section 10-416(d)(3) required Type D buffer abutting the roadway easement to allow preserve area with enhanced plantings to satisfy the buffer requirement.

ES staff recommend approval of Deviation #3 with the following condition to ensure the enhanced plantings mimic a natural ecosystem but still provide visual screening:

Prior to local development order approval, the landscape plans must depict the preserve area to provide:

- at minimum 5 native trees per 100 linear feet, preserved and/or installed within the areas identified as melaleuca (FLUCCS 424) and melaleuca, hydric (FLUCCS 4241). Trees must be a minimum 10 feet in height; and*
- 66 native shrubs per 100 linear feet, preserved and/or installed within a 25 foot width adjacent to the east and south roadway easements. Supplemental plantings must be installed at minimum 5 foot on centers to mimic more a natural system. Shrubs must be a minimum 24 inches in height and must be allowed to grow to natural height and form.*

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Bonita Springs Utilities, Inc., has properly filed an application for a rezoning from AG-2 to Community Facilities Planned Development, and a request for a General Excavation Permit; and

WHEREAS, the subject property is located at 13402 Snell Lane, Bonita Springs, described more particularly as:

LEGAL DESCRIPTION: In Section 32, Township 47 South, Range 26 East, Lee County, Florida:

The West Half (W1/2) of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4), AND the East Half (E1/2) of the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the West Half (W1/2) of the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the East Half (E1/2) of the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) of Southwest Quarter (SW1/4), all in Section 32, Township 47 South, Range 26 East.

Comprising 15 acres more or less.

AND

The West Half (W1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the East Half (E1/2) of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), all in Section 32, Township 47 South, Range 26 East, comprising 10 acres more or less, EXCEPTING therefrom the North 30 feet for canal easement and the South 25 feet for road right-of-way.

AND

The East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section 32, Township 47 South, Range 26 East, Lee County, Florida, 5 acres, more or less, EXCEPTING the North 30 feet thereof for canal easement, and the South 25 feet thereof for county roadway right-of-way.

Containing 5 acres, more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 32-47-26-00-00001.0360, 32-47-26-00-00001.0020 and 32-47-26-00-00001.028A; and

WHEREAS, proper authorization has been given to Q. Grady Minor & Associates by T. Harvey Haines, President, Bonita Springs Utilities, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on July 21, 1992; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE WITH CONDITIONS a rezoning to Community Facilities Planned Development and a General Excavation Permit.

The rezoning and Master Concept Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development of the subject properties shall be in accordance with the three-page Master Concept Plan entitled "Bonita Springs Utilities, Inc., East Water Reclamation Facility," stamped received June 3, 1992, except as modified by the conditions herein.
2. Permitted uses are limited to those listed and shown on the Master Concept Plan and are further limited to the specified parcel as follows:
 - Uses permitted on the 24.65 acre± parcel only:
 - Essential Services Facility, Group II (Section 1001.13), to allow a Wastewater Treatment Facility only
 - Communication Tower (maximum of 95 feet in height) (Free Standing only)
 - Excavation/Water Retention (Section 509)
 - Uses permitted on the 5 acre± parcel only:
 - Excavation - Mining (Section 508)
3. The maximum height of all buildings and structures shall be 35 feet above average grade except the communications tower, which may have a maximum height of 95 feet. The communication tower shall be free standing.
4. Snell Lane shall be paved prior to the commencement of construction of the wastewater treatment facility.
5. Access to the wastewater treatment facility during construction and for subsequent operation shall be from Snell Lane only. However, as conditioned below, the trucks bringing fill material from the 5 acre±-parcel shall be prohibited from using Snell Lane.
6. The haul route from the 5 acre± parcel may be via the existing dirt road traversing the four parcels between this parcel and the 24.65 acre± parcel, if the developer purchases the four parcels or if the developer obtains a temporary construction easement. If these alternatives are not accomplished, then the existing 50-foot wide easement may be used for access for trucks transporting fill material from the 5 acre± parcel. In any case, the selected haul route shall be subject to the review and approval of the Division of Development Review, with improvements in accordance with the Development Standards Ordinance.

7. Excavation of the 5 acre± parcel shall be completed prior to the Certificate of Compliance approval of the wastewater treatment facility.
8. Blasting, crushing and dewatering activity shall be permitted during construction activity only and shall cease prior to the Certificate of Compliance. No blasting activity will be permitted on the 24.65 acre± parcel.
 - a. Blasting shall be in compliance with the Lee County Blasting Ordinance as amended.
 - b. Dewatering shall be in compliance with all applicable regulations, including those of the South Florida Water Management District.
9. The hours of operation for the excavation shall be limited to 7:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to noon on Saturday. No excavation or other heavy equipment operations shall be conducted on Sunday.
10. The developer shall comply with Lee County Noise Ordinance 82-32, as amended.
11. Upon completion of the excavation or at the expiration of the Excavation/Mining Operation Permit, the developer shall commence with the reclamation and replanting plan.
12. A reclamation plan shall be in accordance with the Site Excavation and Reclamation Plan, page 3 of 3, stamped received June 3, 1992.
13. A gopher tortoise management plan shall be approved by the Division of Environmental Sciences prior to local Development Order Approval.
14. Should actual construction of the wastewater treatment facility not take place within five years of zoning resolution approval, a new protected species survey shall be provided and reviewed subject to approval by the Division of Environmental Sciences prior to local Development Order Approval.
15. The developer shall contact the Lee County Division of Emergency Management, Hazardous Material representative prior to the Certificate of Occupancy, to discuss the proposed development in relation to the type, use and storage of hazardous materials which will be located on the premises.
16. If access to this development is through a security gate or similar device that is not manned 24 hours per day, the security gate must be provided with an override switch installed in a glass cover for the use of emergency vehicles.
17. Deviation (1) would allow a deviation from Development Standards Ordinance Appendix D-3, from the required 6 foot wide shoulder to 3.5 foot wide shoulder. This deviation is APPROVED WITH THE CONDITION that a guardrail be provided if found necessary at Development Order stage.

 Deviation (2) would allow a deviation from Zoning Ordinance Section 509.B, from the required maximum excavation depth of 12 feet to 20 feet or until the confining layer is reached (not penetrated). This deviation is APPROVED WITH THE CONDITIONS that:
 - a. All excavation occurring on either parcel shall have a maximum excavation depth of 20 feet or until the confining layer is reached (not penetrated), and
 - b. Upon completion of the excavation(s) and lake shoreline reclamation and annually thereafter for a period of 5 years, the developer or his successors or assigns, shall provide to the Division of Environmental Sciences (or other appropriate County authority) a report prepared by a qualified testing laboratory of the dissolved oxygen content of the lake for each 5-foot depth level greater than 15 feet.

In the event that it is determined that the dissolved oxygen levels as reported are insufficient to support active marine life at all lake levels, the developer or his successors or assigns shall install or cause to be installed a lake aeration system of a design approved by the Division of Environmental Sciences (or other appropriate County authority) and shall operate and maintain such aeration system in good order thereafter.

Deviation (3) would allow a deviation from Zoning Ordinance Section 800.B.1., from the requirement that all properties within a single application be contiguous, to allow a single application for non-contiguous properties. This deviation is APPROVED WITH THE FOLLOWING CONDITIONS:

- a. If the four parcels between the two subject parcels are purchased by the applicant, then these four parcels shall be rezoned to the CFPD zoning district by the applicant in order to create a contiguous parcel.
- b. The 5 acre parcel shall be used for the excavation of fill material for the wastewater treatment facility only.

Deviation (4) would allow a deviation from Zoning Ordinance Section 508.G.2.a.2., from the requirement of a 100-foot setback from a private property line under separate ownership to allow a 60 foot setback on the 5 acre± parcel. This deviation is APPROVED WITH THE FOLLOWING CONDITION:

- a. The developer shall provide a berm as shown on the Site Excavation and Reclamation Plan.

Deviation (5) would allow a deviation from Zoning Ordinance Section 508.G.2.a.1. from the requirement of a 150-foot setback from an existing street right-of-way line or easement to allow a 60 foot setback on the 5 acre± parcel. This deviation is APPROVED WITH THE FOLLOWING CONDITION:

- a. The developer shall provide a berm as shown on the Site Excavation and Reclamation Plan.

Deviation (6) would allow a deviation from Zoning Ordinance Section 509.G.4. from the requirement of a 150 foot setback from an existing street right-of-way line or easement, to allow a 60 foot setback. This deviation would apply to the excavation/water retention area proposed on the wastewater treatment facility site adjacent to Snell Lane only. This deviation is APPROVED.

Site Plan 92-043 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of Community Facilities Planned Development zoning:

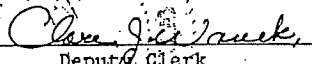
- A. That the CFPD rezoning request was not caused by changed or changing conditions which necessitates the approval of the request.
- B. That the CFPD rezoning, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance.
- C. That the CFPD rezoning, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, and with the densities, intensities and general uses set forth in the Lee Plan.
- D. That the CFPD rezoning, as conditioned, meets or exceeds all performance or locational standards set forth for the proposed use.
- E. That the CFPD rezoning, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

- F. That the GFPD rezoning, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.
- G. That the GFPD rezoning, as conditioned, does not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
- H. That the GFPD rezoning, as conditioned, will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.
- I. That each approved deviation, as conditioned, enhances the achievement of the objectives of the GFPD and protects or preserves the public health, safety and welfare.

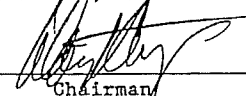
The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner John E. Manning, and seconded by Commissioner Vicki Lopez-Wolfe and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Vicki Lopez-Wolfe	Aye
Donald D. Slisher	Absent

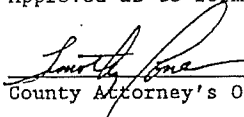
DULY PASSED AND ADOPTED this 31st day of August, A.D., 1992.

ATTESTED BY
 CHARLE GREEN, CLERK

 Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
 OF LEE COUNTY, FLORIDA

BY: 
 Chairman

Approved as to form by:


 County Attorney's Office

FILED

SEP 9 1992

CLERK CIRCUIT COURT
 BY Charle Green, D.C.

RECEIVED

NOV 04 2009

DCI 2008-00045
COMMUNITY DEVELOPMENT

LEGAL DESCRIPTION

THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 32, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32.

THENCE N.01°00'38"W. ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 FOR 1,316.62 FEET TO THE SOUTHEAST CORNER OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32, ALSO BEING THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;
THENCE ALONG THE SOUTH LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) S.89°11'39"W. FOR 327.67 FEET TO THE SOUTHWEST CORNER OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);
THENCE ALONG THE WEST LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) N.00°57'50"W. FOR 658.01 FEET TO THE NORTHWEST CORNER OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);
THENCE ALONG THE NORTH LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) N.89°08'31"E. FOR 327.13 FEET TO THE NORTHEAST CORNER OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4);
THENCE ALONG THE EAST LINE OF SAID EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) S.01°00'38"E. FOR 658.31 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.

CONTAINING 215,480 SQUARE FEET OR 5.0 ACRES, MORE OR LESS.

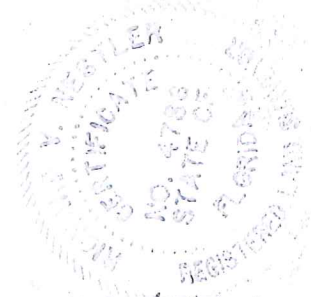
BEARINGS ARE BASED ON THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 32 AS BEING N.01°00'38"W.

RWA, INC.
SURVEYING & MAPPING, CIVIL ENGINEERING, PLANNING AND VISUALIZATION
6610 WILLOW PARK DRIVE, SUITE 200
NAPLES, FLORIDA 34109


BY:


RICHARD V. NESTLER, PROFESSIONAL SURVEYOR AND MAPPER LS# 4786

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



10/19/09
SIGNING DATE

Applicant's Legal Checked
by  11-5-09
SEE SHEET 2 OF 2 FOR SKETCH

October 19, 2009 1:33 PM S:\2008\080097.00.00 Bonita Bch Rd East Water Storage Tank\0002 Boundary Survey\SKETCHES AND DESCR\0800970000SK05Z.dwg

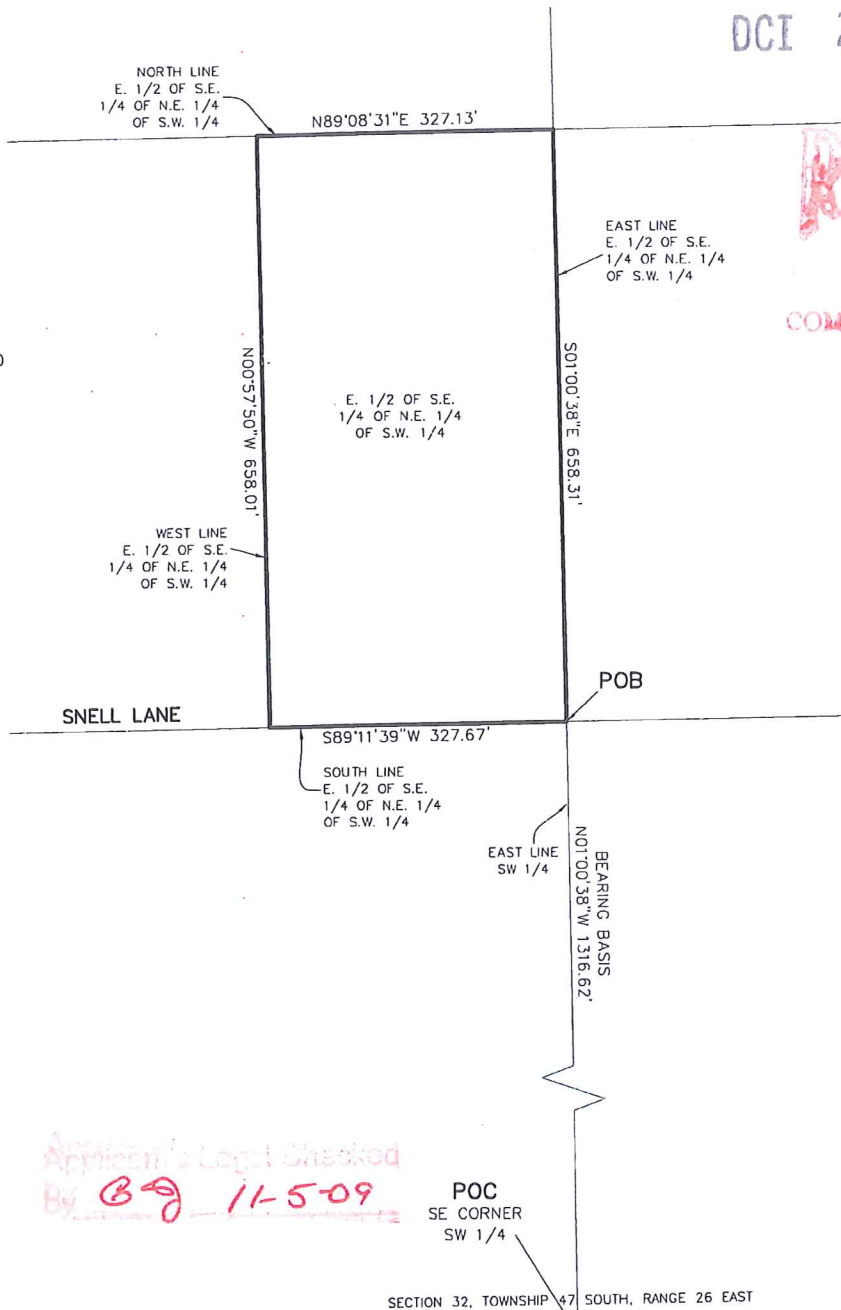
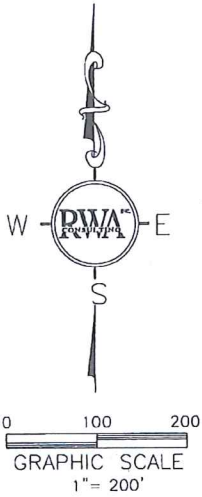
RWA INC.
CONSULTING
Planning
Visualization
Civil Engineering
Surveying & Mapping

6610 Willow Park Drive, Suite 200
Naples, Florida 34109
Phone: (239) 597-0575
FAX: (239) 597-0578
Florida Certificate of Authorization # 1b-6952

DATE: 10/19/09	CLIENT: BONITA SPRINGS UTILITIES
SCALE: 1"=200'	TITLE: SKETCH OF LEGAL DESCRIPTION
DRAWN BY: RVN	PROJECT NUMBER: 080097.00.00
CHECKED BY: RVN	SHEET NUMBER: 1 OF 2
SEC TWP RCE 32 47S 26E	FILE NUMBER: 0002 SK5Z

SKETCH OF LEGAL DESCRIPTION
THIS NOT A SURVEY

DCI 2008-00045



LEGEND
 POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT
 R/W = RIGHT OF WAY

BONITA BEACH ROAD S.E.
 SECTION 5, TOWNSHIP 48 SOUTH, RANGE 26 EAST

SEE SHEET 1 OF 2 FOR DESCRIPTION

October 19, 2009 1:33 PM S:\2008\080097.00.00 Bonita Bch Rd East Water Storage Tank\0002 Boundary Survey\SKETCHES AND DESCR\0800970000SK05Z.dwg

RWA CONSULTING INC.
 Planning Visualization
 Civil Engineering
 Surveying & Mapping

6610 Willow Park Drive, Suite 200
 Naples, Florida 34109
 Phone: (239) 597-0575
 FAX: (239) 597-0578
 Florida Certificate of Authorization # 1b-6952

DATE: 10/19/09	CLIENT: BONITA SPRINGS UTILITIES
SCALE: 1"=200'	TITLE: SKETCH OF LEGAL DESCRIPTION
DRAWN BY: RVN	PROJECT NUMBER: 080097.00.00
CHECKED BY: RVN	SHEET NUMBER: 2 OF 2
SEC: 32 TWP: 47S RGE: 26E	FILE NUMBER: 0002 SK5Z

INSTRUCTIONS

(Section C.1.c., Lee County Administrative Code AC 2-8)

A zoning sign must be posted on the parcel subject to any zoning application for a minimum of fifteen CALENDAR (15) days in advance of the Hearing Examiner's Public Hearing and maintained through the Board of County Commissioners Hearing, if any. This sign will be provided by the Zoning Division in the following manner:

- a. Signs for case #DCI2008-00045 must be posted by **Tuesday, January 12, 2010.** ✓
- b. The sign must be erected in full view of the public, not more than five (5) feet from the nearest street right-of-way or easement.
- c. The sign must be securely affixed by nails, staples or other means to a wood frame or to a wood panel and then fastened securely to a post, or other structure. The sign may not be affixed to a tree or other foliage.
- d. The applicant must make a good faith effort to maintain the sign in place, and readable condition until the requested action has been heard and a final decision rendered.
- e. If the sign is destroyed, lost, or rendered unreadable, the applicant must report the condition to the Zoning Division, and obtain duplicate copies of the sign from the Zoning Division.

The Division may require the applicant to erect additional signs where large parcels are involved with street frontages extending over considerable distances. If required, such additional signs must be placed not more than three hundred (300) feet apart.

When a parcel abuts more than one (1) street, the applicant must post signs along each street. When a subject parcel does not front a public road, the applicant must post the sign at a point on a public road which leads to the property, and the sign must include a notation which generally indicates the distance and direction to the parcel boundaries and the dimensions of the parcel.

NOTE: AFTER THE SIGN HAS BEEN POSTED, THE AFFIDAVIT OF POSTING NOTICE, BELOW, SHOULD BE RETURNED NO LATER THAN THREE (3) WORKING DAYS BEFORE THE INITIAL HEARING DATE TO LEE COUNTY ZONING DIVISION, 1500 MONROE ST., FT. MYERS, FL 33901.

(Return the completed Affidavit below to the Zoning Division as indicated in previous paragraph.)

AFFIDAVIT OF POSTING NOTICE

STATE OF FLORIDA
COUNTY OF LEE

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED David McKee
WHO ON OATH SAYS THAT HE/SHE HAS POSTED PROPER NOTICE AS REQUIRED BY SECTION 34-236(b) OF THE LEE COUNTY LAND DEVELOPMENT CODE ON THE PARCEL COVERED IN THE ZONING APPLICATION REFERENCED BELOW:

David E McKee
SIGNATURE OF APPLICANT OR AGENT

David McKee
NAME (TYPED OR PRINTED)

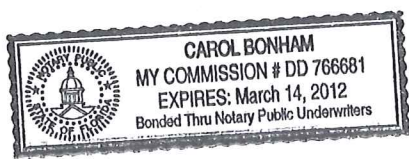
11860 E Terry St
ST. OR PO BOX

Bonita Springs, FL 34135
CITY, STATE & ZIP

#DCI2008-00045/BBR EAST WATER STORAGE TANK /01/27/2010/JLP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to and subscribed before me this 11 day of January, 2010 by David McKee Pres., personally known to me or who produced PK as identification and who did/did not take an oath.



Carol Bonham
Signature of Notary Public

Printed Name of Notary Public

My Commission Expires:
(Stamp with serial number)

INSTRUCTIONS

Section C.1.c., Lee County Administrative Code AC 2-8)

A zoning sign must be posted on the parcel subject to any zoning application for a minimum of fifteen CALENDAR (15) days in advance of the Hearing Examiner's Public Hearing and maintained through the Board of County Commissioners Hearing, if any. This sign will be provided by the Zoning Division in the following manner:

a. Signs for case #DC12008-00045 must be posted by **Tuesday, February 9, 2010.**

b. The sign must be erected in full view of the public, not more than five (5) feet from the nearest street right-of-way or easement.

c. The sign must be securely affixed by nails, staples or other means to a wood frame or to a wood panel and then fastened securely to a post, or other structure. The sign may not be affixed to a tree or other foliage.

d. The applicant must make a good faith effort to maintain the sign in place, and readable condition until the requested action has been heard and a final decision rendered.

e. If the sign is destroyed, lost, or rendered unreadable, the applicant must report the condition to the Zoning Division, and obtain duplicate copies of the sign from the Zoning Division.

The Division may require the applicant to erect additional signs where large parcels are involved with street frontages extending over considerable distances. If required, such additional signs must be placed not more than three hundred (300) feet apart.

When a parcel abuts more than one (1) street, the applicant must post signs along each street. When a subject parcel does not front a public road, the applicant must post the sign at a point on a public road which leads to the property, and the sign must include a notation which generally indicates the distance and direction to the parcel boundaries and the dimensions of the parcel.

NOTE: AFTER THE SIGN HAS BEEN POSTED, THE AFFIDAVIT OF POSTING NOTICE, BELOW, SHOULD BE RETURNED NO LATER THAN THREE (3) WORKING DAYS BEFORE THE INITIAL HEARING DATE TO LEE COUNTY ZONING DIVISION, 1500 MONROE ST., FT. MYERS, FL 33901.

(Return the completed Affidavit below to the Zoning Division as indicated in previous paragraph.)

AFFIDAVIT OF POSTING NOTICE

STATE OF FLORIDA
COUNTY OF LEE

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED

David Mckee

WHO ON OATH SAYS THAT HE/SHE HAS POSTED PROPER NOTICE AS REQUIRED BY SECTION 34-236(b) OF THE LEE COUNTY LAND DEVELOPMENT CODE ON THE PARCEL COVERED IN THE ZONING APPLICATION REFERENCED BELOW:

SIGNATURE OF APPLICANT OR AGENT

David Mckee

NAME (TYPED OR PRINTED)

11500 E Terry St

ST. OR PO BOX

Bonita Springs, FL 34135

CITY, STATE & ZIP

#DC12008-00045/BBR EAST WATER STORAGE TANK /02/24/2010/JLP

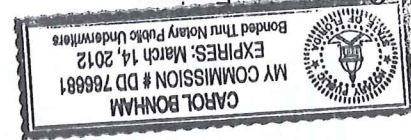
STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to and subscribed before me this 5 day of February, 2010 by David Mckee, personally known to me or who produced PR as identification and who did/did not take an oath

Signature of Notary Public

Carol Bonham

Printed Name of Notary Public



My Commission Expires: (Stamp with serial number)



APPLICATION FOR PUBLIC HEARING
FOR ZONING ACTION
UNINCORPORATED AREAS ONLY

Applicant's Name: Bonita Springs Utilities, Inc.

DCI 2008-00045

Project Name: BBR East Water Storage Tank

STRAP Number(s): 32-47-26-00-00001.0360; 028A; 0020

TYPE OF APPLICATION

- Special Exception (attach Supplement A)
Variance (attach Supplement B)
Conventional Zoning (attach Supplement C)
Planned Development (not PRFPD) (attach Supplement D)
Amendment to built Planned Development (Supplement D may be required)
Private Recreational Facilities Planned Development (attach Supplement D)
Extension of a Master Concept Plan (attach Supplement E)
Reinstatement of a Master Concept Plan (attach Supplement F)
N/A DRI - with rezoning (submit completed DRI Application Form {do not use this form} and Supplement D)
N/A DRI - without rezoning (submit completed DRI Application Form {do not use this form})

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Is this project located in the Estero Planning Community, or the Captiva Planning Community, or in the Caloosahatchee Shores Planning Community?

YES* NO *If YES, please note PARTS 4G, 4.H, and 4.I below for meeting summary document requirements.

STAFF USE ONLY

Case Number: PRFPD DCI 2008-00045 Commission District: 300
Current Zoning: CFPD Fee Amount: 8000.00
Land Use Classification: Wetlands Intake by: Cwm
Planning Community: SE Lee County

LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (239) 533-8585PART 1

PART 1
APPLICANT/AGENT INFORMATION

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A. Name of applicant: Bonita Springs Utilities, Inc. (c/o: Mr. Michael Liggins)

Address: Street : 11860 East Terry Street

City: Bonita Springs State: FL Zip: 34135

Phone: Area Code: 239 Number: 390-4834 Ext: _____

Fax: Area Code: 239 Number: 390-4934

E-mail address: mliggins@bsu.com

DCI 2008-00045

B. Relationship of Applicant to owner (check one):

_____ Applicant (including an individual or husband & wife) is the sole owner of the property. [34-201(a)(1)a.1.]

_____ Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.2. (See Part 1 Exhibit Form A1 attached hereto for suggested Affidavit Form for an individual.) [34-202(b)(1)c.]

Applicant has been authorized by the owner(s) to represent them for this action.

Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.2. (Please select the appropriate Affidavit Form from the suggested forms in Part 1 Exhibits attached hereto.) [34-202(b)(1)c.]

_____ Applicant is a contract purchaser/vendee. [34-202(b)(1)d.]

_____ Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.2. [34-202(b)(1)c.] (Please select the appropriate Affidavit Form from the suggested forms in Part 1 Exhibits attached hereto.)

_____ Application is County initiated. BOCC authorization is attached as Exhibit PH-1.B.3

C. Authorized Agent: Name of the person who is to receive all County-initiated correspondence regarding this application. [34-202(b)(1)c.]

C.1. Company Name: RWA, Inc.

Contact Person: Patrick Vanasse, AICP

Address: Street : 1542 Carson Street

City: Fort Myers State: FL Zip: 33901

Phone: Area Code: 239 Number: 278-5224 Ext: _____

Fax: Area Code: 239 Number: 278-5419

E-mail address: pvanasse@consult-rwa.com

C.2. Additional Agent(s): The names of other agents that the County may contact concerning this application are attached as Exhibit PH-1.C.2. [34-202(b)(1)c.]

PART 2
PROPERTY OWNERSHIP

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A. Property Ownership: Single owner (individual or husband & wife only) [34-201(a)(1)a.1.]

A.1. Name: _____

Mailing Address: Street: _____
City: _____ State: _____ Zip: _____
Phone: Area Code: _____ Number: _____ Ext: _____
Fax: Area Code: _____ Number: _____
E-mail: _____

DCI 2008-00045

B. Property Ownership: Multiple owners (Corporation, partnership, trust, association) [34-201(a)(1)].

B.1. Disclosure of (Ownership) Interests Form is attached as Exhibit PH-2.B.1. [34-201(b)2]

C. Multiple parcels

C.1. Property owners list is attached as Exhibit PH-2.C.1. [34-202(a)(5)]

C.2. Property owners map is attached as Exhibit PH-2.C.2. [34-202(a)(5)]

D. Date property was acquired by present owner(s): 3/1/1983 and 6/19/2002

PART 3
PROPERTY INFORMATION

A. STRAP Number(s): 32-47-26-00-00001.0360 32-47-26-00-00001.028A
32-47-26-00-00001.0020

B. Street Address of Property: 13471 Snell Lane, Bonita Springs, FL 34135

C. Legal Description

- Legal description (on 8 1/2" by 11" paper) is attached as Exhibit PH-3.C.1. [34-202(a)(1)]
 Sealed sketch of the legal description is attached as Exhibit PH-3.C.2. [34-202(a)(1)]

D. Boundary Survey

- A Boundary survey, tied to the state plane coordinate system, is attached as Exhibit PH-3.D.1. [34-202(a)(2)]
N/A The property consists of one or more undivided platted lots in a subdivision recorded in the Official County Plat Books. A copy of the applicable plat book page is attached as Exhibit PH-3.D.2. [34-202(a)(2)]

E. Planning Community: Southeast Lee County



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F. General Location of Property:

F.1. ✓ Area location map (for all applications other than Planned Developments) is attached as Exhibit PH-3.F. [34-202(a)(4)] {NOTE: For Planned Development Applications see Supplement D [34-373(a)(4)b.]}

F.2. Directions to property:

From Bonita Beach Road and I-75, travel east on Bonita Beach Road approximately 0.7 miles. Turn left onto Bonita Grande Drive and travel north for approximately a quarter mile. Turn right (East) onto Snell Lane (portions unpaved) and travel east approximately a half mile to the subject property. The subject property is located on the north side of Snell Lane right-of-way and south of Kehl Canal.

G. Surrounding property owners:

G.1. ✓ List of surrounding property owners is attached as Exhibit PH-3.G.1. [34-202(a)(6)]

G.2. ✓ Map of surrounding property owners is attached as Exhibit PH-3.G.2. [34-202(a)(7)]

G.3. ✓ 2 sets of mailing labels are attached as Exhibit PH-3.G.3. [34-202(a)(6)]

H. Current Zoning of Property: CFPD

H.1. ✓ Copies of all Zoning Resolutions and Zoning Approvals applicable to the subject property are attached as Exhibit PH-3.H.1 [34-202(a)(8)]

I. Current use of property:

I.1. Current use(s) of the property are:

Vacant

I.2. N/A If buildings or structures exist on the property, an affidavit is required stating that buildings & structures will be removed or that the proposed use of buildings, structures and land is or will be in compliance with all requirements of the LCLDC. Attach as Exhibit PH-3.I.2. and entitle "Structure Affidavit". [34-202(b)(3)]

I.3. N/A If the property owner intends to continue an existing agricultural use on the property subsequent to the zoning approval an Existing Agricultural Use Affidavit is attached as Exhibit PH-3.I.3. and entitled "Agricultural Uses at Time of Zoning Application". [34-202(b)(7)]

J. Land Use Classification:

DR/GR	17.3	Acres	57.67	% of total
Wetlands	12.7	Acres	42.33	% of total
		Acres		% of total
		Acres		% of total

K. Flood Hazard (write NA if not applicable) [34-202(a)(8)]

N/A The property is within an Area of Special Flood Hazard as indicated in the Flood Insurance Rate Maps (FIRM)s.

The minimum elevation required for the first habitable floor is _____ NGVD (MSL)

L. Deed Restrictions [34-202(b)(2)]

- L.1. There are no deed restrictions or other covenants on this property that affect this request. [34-202(b)(2)]
- L.2. N/A Deed restrictions\ covenants that may affect this request are attached as **Exhibit PH-3.L.2.** [34-202(b)(2)]
- L.3. N/A A narrative explanation as to how the deed restrictions or covenants may affect this request. is attached as **Exhibit PH-3.L.3** [34-202(b)(2)]

M. Property Dimensions [34-202(a)(8)]

- 1. Width (average if irregular parcel): 980 +/- Feet
- 2. Depth (average if irregular parcel): 658 +/- Feet
- 3. Total area: 29.65 +/- Acres or square feet
- 4. Frontage on road or street: 327.6 +/- Feet on Snell Ln Esmt Street
- 2nd Frontage on road or street: _____ Feet on _____ Street

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**PART 4
ACTION REQUESTED**

DCI 2008-00045

A. Action Requested: [check applicable action(s)]

- N/A Special Exception for _____ **Attached is Supplement A**
- N/A Variance for _____ **Attached is Supplement B**
- N/A Conventional Rezoning from: _____ to _____ **Attached is Supplement C**
- Planned Development Rezoning from CFPD to CFPD
 - DCI - Major: **Attached is Supplement D**
 - _____ DCI - Minor: **Attached is Supplement D**
 - _____ Request is for PRFPD zoning in the Private Recreational Facilities Overlay Area. **Attached is Supplement D**
- Planned Development Amendment. Attached is Supplement D**

B. Blasting:

- No blasting will be used in the excavation of lakes or other site elements.
- _____ If blasting is proposed, Information Regarding Proposed Blasting (including soil borings, a map indicating the general location of the proposed blasting, and other required information) is attached as **Exhibit PH-4.B** [34-202(b)(6)]

C. Bonus Density: (put NA if not applicable)

N/A Bonus density will be used. Attached is **Exhibit PH-4.C** showing calculations. [34-202(b)(5)]

D. Hazardous materials: (put NA if not applicable)

N/A A Hazardous materials emergency plan is attached as **Exhibit PH-4.D** [34-202(b)(4)]

E. Mobile Home Park: (put NA if not applicable)

N/A Request includes rezoning of a Mobile Home Park. **Attached is Exhibit PH-4.E** [34-203(d)]

F. Aviation Hazard: (put NA if not applicable)

N/A Property is subject to Airport Hazard District regulations. **Attached is Exhibit PH-4.F** [34-1001 et seq]

_____ A tall structures permit will be required.

_____ Property is located within Noise zone:

G. Estero Planning Community (put NA if not applicable)

N/A A summary of public informational session. Attached is **Exhibit PH-4.G** [34-373(a)(10); Lee Plan Policy 19.5.3]

H. Captiva Planning Community (put NA if not applicable)

N/A A summary of public informational session. Attached is **Exhibit PH-4.H** [Lee Plan Policy 13.1.7]

I. Caloosahatchee Shores Community Plan (put NA if not applicable)

N/A A summary of public informational session. Attached is **Exhibit PH-4.I** [Lee Plan Policy 21.6.3]

J. Waivers from Application Submission Requirements: The following waivers, approved by the Director of Zoning Services, are attached as **Exhibit PH-4.J** [Section 34-202(a)]

Section Number	Name of item
34-373(a)(7)	Traffic Impact Statement
34-373(a)(4)(a)	Boundary Survey

K. Potable Water & Central Sewer. Will the project be connected to potable water and central sewer as part of any development of the property? YES (Water). NO (Sewer).

If the answer is **NO**, please explain why the connection to potable water and/or central sewer is not planned. Label explanation as **Exhibit PH 4-K**.

If the answer is **YES**, please indicate the name of the Utility to which the connection(s) are proposed. Bonita Springs Utilities **[BOCC POLICY]**

THE NUMBER OF COPIES REQUIRED FOR EACH EXHIBIT IS BASED ON THE ACTION REQUESTED AS INDICATED BELOW. TO BE SUBMITTED FOR EACH OF THE FOLLOWING EXHIBITS IS AS FOLLOWS:

Number of Copies*			Exhibit Number	SUBMITTAL ITEMS
Var. or Spe. Exc.	Conv. Rez.	PDs		
1	3	15 ✓		Completed application for Public Hearing [34-201(b)]
1	1	1 ✓		Filing Fee - [34-202(a)(9)]
Var. or Spe. Exc..	Conv. Rez.	PDs	SUP	SUPPLEMENTAL FORMS (select applicable request/form)
1	0	0	SUP A	Special Exception request
1	0	0	SUP B	Variance request
0	3	0	SUP C	Conventional Rezoning request
0	0	15	SUP D	Planned Development Rezoning request
0	0	15 ✓	SUP D	Planned Development Amendment request
0	0	15	SUP D	PRFPD in in Overlay Area Rezoning request
0	0	8	SUP E	Master Concept Plan Extension request
0	0	8	SUP F	Master Concept Plan Reinstatement request
Var. or Spe. Exc.	Conv. Rez.	PDs	Exhibit Number	SUBMITTAL ITEMS
1	3	3 ✓	PH-1.B.2	Notarized Affidavit of Authorization Form [34-202(b)(1)c]
1	3	1	PH-1.B.3	BOCC authorization (if applicable)
1	3	15 ✓	PH-1.C.2	Additional Agents [34-202(b)(1)c.]
1	3	3 ✓	PH-2.B.1	Disclosure of Interest Form [34-201(b)(2)a]
1	3	3 ✓	PH-2.C.1	Subject property owners list (if applicable) [34-202(a)(5)]
1	3	3 ✓	PH-2.C.2	Subject Property Owners map (if applicable) [34-202(a)(5)]
1	3	15 ✓	PH-3.A.1	List of STRAP Numbers (if additional sheet is required) [34-202(a)(1)]
2	2	5 ✓	PH-3.C.1	Legal Description (2 originals required) [34-202(a)(1)]
2	2	5 ✓	PH-3.C.2	Sealed Sketch of Legal Description (2 originals required) [34-202(a)(1)]
1	2	5 ✓	PH-3.D.1	Boundary Survey (tied to State Plane Coordinate System) (2 originals required) [34-202(a)(2)] {NOTE: This is a required submittal for all Planned Development Applications (see Supplement D for that requirement)} [34-373(a)(4)a.]}
1	3	N/A	PH-3.D.2	Copy of Plat Book Page (if applicable) [34-202(a)(1)]
1	3	0	PH-3.F	Area Location Map on 8 by 11 paper pursuant to LCLDC Section 34-202(a)(4). (Non Planned Developments)
0	0	15 ✓		Area Location Map for Planned Developments - see Supplement D [34-373(a)(4)b.]

Var. or Spe. Exc.	Conv. Rez.	PDs		
1	1	3 ✓	PH-3.G.1	List of Surrounding Property Owners [34-202(a)(6)]
1	1	3 ✓	PH-3.G.2	Map of Surrounding Property Owners [34-202(a)(7)]
2	2	2 ✓	PH-3.G.3	Mailing labels [34-202(a)(6)]
1	1	3 ✓	PH-3.H.1	Zoning Resolutions and Zoning Approvals [34-202(a)(8)]
1	3	3 ✓	PH-3.I.2.	Structure Affidavit (if applicable) [34-202(b)(3)]
1	3	3	PH-3.I.3.	Affidavit entitled "Existing Agricultural Uses at Time of Zoning Application" (if applicable) [34-202(b)(7)]
1	3	3	PH-3.L.2	Deed Restrictions\Covenants (if applicable) [34-202(b)(2)]
1	3	3	PH-3.L.3	Narrative addressing effect of Deed Restrictions (if applicable) [34-202(b)(2)]
1	3	15	PH-4.B	Information Regarding Proposed Blasting (if applicable). [34-202(b)(6)]
0	0	4	PH-4.C	Bonus Density units (if applicable) [34-202(b)(5)]
1	3	4	PH-4.D	Hazardous materials emergency plan (if applicable) [34-202(b)(4)]
0	3	4	PH-4.E	Mobile Home Park Information (if applicable) [34-203(d)]
1	3	4	PH-4.F	Aviation Hazard (if applicable) [34-1001 et seq.]
0	0	4	PH-4.G	Summary of Public Informational Session for Planned Development Applications, Special Exceptions and Variance Requests and Conventional Rezoning Actions located within Estero Planning Community (if applicable) [34-373-(a)(10); 33-54(a) & (b); Lee Plan Policy 19.5.3]
1	3	4	PH-4.H	Summary of Public Informational Session for Rezoning Actions, Special Exception and Variance Applications located within Captiva Planning Community (if applicable) [Lee Plan Policy 13.1.7]
0	0	4	PH-4.I	Summary of Public Informational Session for Rezoning Actions, Special Exception and Variance Applications located within Boca Grande Planning Community (if applicable) [Lee Plan Policy 22.1.5]
0	0	4	PH-4.J	Summary of Public Informational Session for Planned Development Applications located within Caloosahatchee Shores Planning Community (if applicable) [Lee Plan Policy 21.6.3]
1	3	15	PH-4.K	Approved Waivers.(if applicable) [34-202(a)]
0	0	4	PH-4.L	Potable Water & Central Sewer. If the answer to Item 6.D was NO, an explanation must be attached providing the reason(s) why connection to potable water and central sewer system is not proposed as part of any development of the parcel subject to the rezoning request. [BOCC POLICY]

* At least one copy must be an original.

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LETTER OF AUTHORIZATION

COMMUNITY DEVELOPMENT

TO WHOM IT MAY CONCERN:

I hereby authorize RWA, Inc. and Pavese Law Firm

To serve as my Agent in a request to coordinate with Lee County regarding the rezoning and related documentation affecting the property identified in the Application.

Signed: *Mill / 2* Date: *8/11/2008*
Client

I hereby certify that I have the authority to make the foregoing application, and that the application is true, correct and complete to the best of my knowledge.

Signed: *Mill / 2* Date: *8/11/2008*
Client

STATE OF (Florida)
COUNTY OF (Lee)

Sworn to and subscribed before me this *11* day of *August*, 2008.

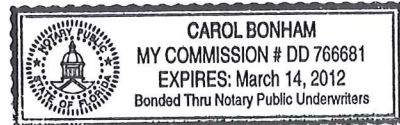
By: *Carol Bonham* MY COMMISSION EXPIRES: *031412*
(Notary Public)

CHOOSE ONE OF THE FOLLOWING:

- who is personally known to me,
- who has produced _____ as identification

and

- did take an Oath
- did not take an Oath



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COMMUNITY DEVELOPMENT
PART 1 AFFIDAVIT A2
(EXHIBIT PH-1.B.2)

DCI 2008-00045

AFFIDAVIT FOR PUBLIC HEARING
APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, * _____ as _____ of _____, swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I am hereby authorizing the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Bonita Springs Utilities, Inc.

*Name of Entity (corporation, partnership, LLP, LC, etc)

[Signature]
Signature

MICHAEL J. LIGGINS

(Type or printed name)

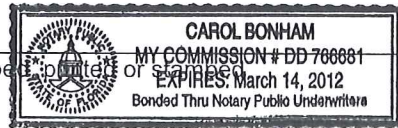
ASSISTANT DIRECTOR EXECUTIVE DIRECTOR
(title of signatory)

STATE OF Florida
COUNTY OF Lee

The foregoing instrument was sworn to (or affirmed) and subscribed before me this 081108 (date) by Michael J. Liggins (name of person providing oath or affirmation), who is personally known to me or who has produced PK (type of identification) as _____ identification.

[Signature]
Signature of person taking oath or affirmation

Name typed, printed or stamped



Legal Clerk

Title or rank

Serial number, if any

*Notes:

- If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.
- If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should typically be signed by the Company's "Managing Member."
- If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.
- If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.
- If the applicant is a trustee, then they must include their title of "trustee."
- In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.

**Exhibit PH-1.C.2:
Additional Agents**

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COMMUNITY DEVELOPMENT

Planning/Agent:

RWA, Inc.
Patrick Vanasse, AICP
1542 Carson Street
Fort Myers, FL 33901
V: (239) 278-5224 F: (239) 278-5419
pvanasse@consult-rwa.com

DCI 2008-00045

Engineering:

RWA, Inc.
Mark Sunyak, PE
6610 Willow Park Drive, Suite 200
Naples, FL 34109
V: (239) 597-0575 F: (239) 597-0578
mjs@consult-rwa.com

Legal:

Pavese Law Firm
Neale Montgomery
P. O. Box 1507
Ft. Myers, FL 33902
V: (239) 334-2195 F: (239) 332-2243
nealemontgomery@paveselaw.com

Environmental:

Passarella and Associates, Inc.
Ken Passarella
13620 Metropolis Avenue, Suite 200
Fort Myers, FL 33912
V: (239) 274-0067 F: (239) 274-0069
kenp@passarella.net

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EXHIBIT PH-2.B.1
DISCLOSURE OF INTEREST FORM FOR:

COMMUNITY DEVELOPMENT

32-47-26-00-00001.0020

32-47-26-00-00001.028A

DCI 2008-00045

STRAP NO. 32-47-26-00-00001.0360 CASE NO. _____

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address	Percentage of Ownership
Bonita Springs Utilities, Inc.	100%

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name and Address	Percentage of Stock

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership

OCI 2008-00045

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name and Address	Percentage of Stock

Date of Contract: _____

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address	

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For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: Michael J. Liggins (Applicant)

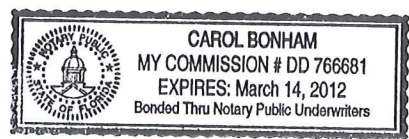
MICHAEL J. LIGGINS ASSISTANT EXECUTIVE DIRECTOR
(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 11 day of August 20 08
by Michael J. Liggins who is personally known to me or who has produced
PK as identification.

(SEAL)

Carol Bonham
Signature of Notary Public
CAROL BONHAM
Printed Name of Notary Public



**Exhibit PH-2.C.1:
Property Owner's List**

- 1: Bonita Springs Utilities, Inc.
ATTN: Michael Liggins
11860 East Terry Street
Bonita Springs, FL 34135

STRAP # 32-47-26-00-00001.0020
- 2: Bonita Springs Utilities, Inc.
ATTN: Michael Liggins
11860 East Terry Street
Bonita Springs, FL 34135

STRAP # 32-47-26-00-00001.028A
- 3: Bonita Springs Utilities, Inc.
ATTN: Michael Liggins
11860 East Terry Street
Bonita Springs, FL 34135

STRAP # 32-47-26-00-00001.0360

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CONSULTANT TEAM

Planning/Agent:

RWA, Inc.
Patrick Vanasse, AICP
1542 Carson Street
Fort Myers, FL 33901
V: (239) 278-5224 F: (239) 278-5419
pvanasse@consult-rwa.com

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Engineering:

RWA, Inc.
Mark Sunyak, PE
6610 Willow Park Drive, Suite 200
Naples, FL 34109
V: (239) 597-0575 F: (239) 597-0578
mjs@consult-rwa.com

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Legal:

Pavese Law Firm
Neale Montgomery
P. O. Box 1507
Ft. Myers, FL 33902
V: (239) 334-2195 F: (239) 332-2243
nealemontgomery@paveselaw.com

Environmental:

Passarella and Associates, Inc.
Ken Passarella
13620 Metropolis Avenue, Suite 200
Fort Myers, FL 33912
V: (239) 274-0067 F: (239) 274-0069
kenp@passarella.net

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**PUBLIC HEARING
SUPPLEMENT D**

COMMUNITY DEVELOPMENT

**ADDITIONAL REQUIRED INFORMATION FOR
A PLANNED DEVELOPMENT APPLICATION
UNINCORPORATED LEE COUNTY**

Case Number: DCI 2008-00045

Project Name: BBR East Water Storage Tank

Applicant's Name: Bonita Springs Utilities, Inc. C/O: Michael Liggins

STRAP Number(s): 32-47-26-00-00001.0360 32-47-26-00-00001.028A
32-47-26-00-00001.0020 _____

Select one application type only

- DRI (rezoning required)
- CS DCI-Major
- DCI-Minor
- DCI-Minor - Existing Development ⁽¹⁾
- DCI-Minor - Amendment to approved Master Concept Plan ⁽²⁾
- Amendment to built Planned Development meeting DCI threshold ⁽³⁾
- PRFPD in Private Recreational Facilities Overlay Area [(34-341(a)(2))]

Notes:

- (1) Existing development. A development that has already been developed but does not conform to the regulations for a conventional district and is requesting a rezoning to a Planned Development classification. It will be reviewed in the same manner as a minor Planned Development except that a Traffic Impact Statement will not be required. [34-341(b)(2)d.1.]
- (2) Amendments to approved Master Concept Plan. Application to amend an approved major or minor Master Concept Plan or its attendant documentation, or for the extension of a vacated Master Concept Plan originally approved prior to December 2, 1991 will be treated procedurally as minor Planned Developments. These applications will require only as much information, as deemed necessary by the Director, needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in development, environment and background (surrounding land use, traffic volumes, water, wastewater and other service availability, etc.), that have occurred since the original application. [34-341(b)(2)d.2.]

If a proposed amendment to an approved Planned Development would, if taken by itself, constitute a Major Planned Development {Development of County Impact - see LCLDC Section 34-341(b)(1)} then the application to amend must proceed as a new and separate Major Planned Development. [34-380(c)]

- (3) Amendments to built planned developments (PD). Any part or all of a planned development that is built may be the subject of an application for a variance or other approval covered by this chapter wherein the subject property is the only part of the original planned development that will be affected by the requested approval. The application may include a legal description and sketch of the portion of the overall planned development that will be directly affected by the rezoning request. The application must include a legal description and sketch of the entire planned development boundary.

If the subject property meets the threshold for a development of county impact, it will be reviewed in accordance with the provisions in this chapter that apply to developments of county impact. If the subject property is not a development of county impact, it will be reviewed in accordance with the provisions in this chapter that apply to conventional zoning districts. In either case, the applicant will be the owner of the subject property and the consent of the owners of the remainder of the original planned development will be unnecessary. However, these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property.

For purposes of this subsection, the term "built" means that all of the roads, utilities, buffering, open space, surface water management features and structures, common space, common amenities, common landscaping, gatehouses, entrance signs, entrance ways and other similar items identified as part of the final approved master concept plan have been constructed and acknowledged by the county as complete. In the case of residential planned developments or mixed developments that include residential structures, the term "built" does not mean that all residential structures must have been constructed on individual platted lots. [34-373(c)]

- (4) Applications for Rezoning in the Greater Pine Island Planning Community/Greater Pine Island Concurrency and Traffic-Based Growth Limitations. Concurrency compliance and traffic-based growth limitations for property located in Greater Pine Island, as identified on the future land use map and described in section 33-1002, will be determined in accordance with the level of service and restrictions set forth in Lee Plan policies 14.2.1 and 14.2.2 to the extent the policies provide additional restrictions that supplement other provisions of this code. These policies require the following:

- (a) The minimum acceptable level of service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is level of service D on an annual average peak-hour basis and level of service E on a peak-season peak-hour basis using methodologies from the 1985 Highway Capacity Manual Special Report 209. This standard will be measured at the county's permanent count station #3 on Little Pine Island at the western edge of Matlacha and will apply to all of Greater Pine Island.

- (b) In addition, when traffic on Pine Island Road at the western edge of Matlacha reaches 810 peak-hour annual average two-way trips, rezonings in Greater Pine Island that increase traffic on Pine Island Road may not be granted. During the rezoning process only, three types of exceptions to this rule may be considered:

- (1) Minor rezonings on infill properties surrounded by development at similar densities or intensities. A minor rezoning under this exception may not rezone more than five acres of land or have a net effect of allowing more than 15 additional dwelling units.

- (2) Rezoning that would have insignificant or trivial effects on traffic flows at the western edge of Matlacha during peak periods in the peak (busier) direction, or would have positive effects by reducing trips during those peak flow periods.

- (3) Rezoning to accommodate small enterprises that promote the natural features or cultural heritage of Greater Pine Island. Small enterprises are those that operate with five or fewer full-time employees. **[33-1011(a) & (b)]**

**LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (239) 533-8585**

**PART 1
GENERAL INFORMATION**

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A. Comprehensive Plan Amendments (check one):

- There are **NO** LEE Plan Amendments pending that could affect the future use of this property.
- The following LEE Plan Amendments **ARE** pending and could affect the future use of this property. (List uses and brief explanation of their effect on this application):

_____ **DCI 2008-00045**

B. Archaeological/Historical (check one):

- There are **NO** known or recorded historical or archaeological sites on the property and no part of the property is located within a level 1 or level 2 zone of archaeological sensitivity pursuant to LCLDC Chapter 22 [22-106]. [34-373(a)(4)h.]
- There are known or recorded historical or archaeological sites on the property or part of the property is located within a level 1 or level 2 zone of archaeological sensitivity pursuant to LCLDC Chapter 22 [22-106]. Attached as **Exhibit D-1-B** is a map indicating the nature and location of known or recorded historical or archaeological or areas of the property located within level 1 or level 2 zones of archaeological sensitivity including the outline of historic buildings and approximate extent of archaeological sites. [34-373(a)(4)h.]

C. Public Transit (check one):

- Property is **NOT** within the Lee Tran public transit service area.
- Property is within the Lee Tran public transit service area. A map or other depiction of the property in relation to existing and proposed public transit routes, as well as to bus stops must be provided. Label as **Exhibit D-1-C**.

D. Density

- There are no residential dwelling units proposed for this development.
- The property is located within one or more Future Land Use categories. Density has been calculated in **Part 3** of this application and is summarized below:

Intensive Development	_____	Proposed dwelling units (MCP Option 1)
Central Urban	_____	Proposed dwelling units
Urban Community	_____	Proposed dwelling units
Suburban	_____	Proposed dwelling units
Outlying Suburban	_____	Proposed dwelling units
University Community	_____	Proposed dwelling units
Rural	_____	Proposed dwelling units
Outer Islands	_____	Proposed dwelling units
Rural Community Preserve	_____	Proposed dwelling units
Open Lands	_____	Proposed dwelling units
DR/GR	_____	Proposed dwelling units
Coastal Rural	_____	Proposed dwelling units
Wetlands	_____	Proposed dwelling units
New Community	_____	Proposed dwelling units
TOTAL	_____	Proposed dwelling units

**PART 2
TYPES OF LAND AREA ON PROPERTY**

A.	Gross Acres (total area within described parcel)	<u>30.0</u>	Acres
1.	Submerged land subject to tidal influence:	_____	Acres
2.	Other non-freshwater Wetlands:	_____	Acres
3.	R-O-W providing access to non-residential uses:	_____	Acres
4.	Non-residential use areas ⁽¹⁾	_____	30.0 Acres
B.	Total area not eligible as gross residential acreage. Items A.1. + A.2 + A.3. + A.4.	<u>30.0</u>	Acres
C.	Gross residential acres. (A minus B) ⁽²⁾	<u>0.00</u>	Acres
D.	Gross residential acres by Land Use Category		
1.	a. Intensive development - upland	_____	Acres
	b. Intensive development - freshwater wetland	_____	Acres
2.	a. Central Urban - upland	_____	Acres
	b. Central Urban - freshwater wetland	_____	Acres
3.	a. Urban Community or Suburban - upland	_____	Acres
	b. Urban Community or Suburban freshwater wetland	_____	Acres
4.	a. Outlying Suburban - upland	_____	Acres
	b. Outlying Suburban - freshwater wetland	_____	Acres
5.	a. Rural, Outer Island, Rural Community Preserve - upland	_____	Acres
	b. Rural, Outer Island, Rural Community Preserve - freshwater wetland	_____	Acres
6.	a. Open Lands - upland	_____	Acres
	b. Open Lands - freshwater wetland	_____	Acres
7.	a. DR/GR - upland	_____	Acres
	b. DR/GR - freshwater wetland	_____	Acres
8.	a. Wetlands - freshwater	_____	Acres
	b. Wetlands - not freshwater	_____	Acres
9.	a. New Community - Upland	_____	Acres
	b. New Community - freshwater wetland	_____	Acres
10.	a. University Community - upland	_____	Acres
	b. University Community - freshwater wetland	_____	Acres
11.	a. Coastal Rural - upland	_____	Acres
	b. Coastal Rural - upland	_____	Acres
	TOTAL (should equal "C" above)	_____	Acres

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NOTES:

- (1) Lands for commercial, office, industrial uses, natural water bodies, and other non-residential uses must not be included.
- (2) Lands to be used for residential uses including land within the development proposed to be used for streets and street rights of way, utility rights-of-way, public and private parks, recreation and open space, schools, community centers, and facilities such as police, fire and emergency services, sewage and water, drainage, and existing man-made waterbodies.

**PART 3
RESIDENTIAL DEVELOPMENTS
PRELIMINARY DENSITY CALCULATIONS***

- * Note: i. Complete only if living units are proposed in a Future Land Use Category.
 ii. If more than one classification, calculations for each classification must be submitted.
 iii. If wetlands are located on the property, density calculations are considered preliminary pending a wetlands jurisdictional determination.

A. Intensive Development Category

	Maximum standard density	Units
1. Preliminary Standard Units		
a. Total upland Acres (from Part 2, D.1.a.)	_____ times 14 equals	_____
b. Total freshwater wetland Acres (from Part 2, D.1.b.)	_____ times 14 equals	_____
c. Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2. Maximum Permitted Units	Maximum permitted	Units
a. Total upland Acres (from Part 2, D.1.a.)	_____ times 18 equals	_____
3. Total allowed standard units (A.1.c. or A.2.a., whichever is less)		_____
4. Bonus Units⁽²⁾		
a. Low-moderate housing density:		_____
b. TDR units:		_____
c. Sub-total (A.4.a. plus A.4.b.)		_____
5. Total Permitted Units (A.3. plus A.4.c.):⁽¹⁾		_____

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B. Central Urban Category

	Maximum standard density	Units
1. Preliminary Standard Units		
a. Total upland Acres (from Part 2, D.2.a.)	_____ times 10 equals	_____
b. Total freshwater wetland Acres (from Part 2, D.2.b.)	_____ times 10 equals	_____
c. Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2. Maximum Permitted Units	Maximum permitted	Units
a. Total upland Acres (from Part 2, D.2.a.)	_____ times 12.5 equals	_____
3. Total allowed standard units (B.1.c. or B.2.a., whichever is less)		_____
4. Bonus Units⁽²⁾		
a. Low-moderate housing density:		_____
b. TDR units:		_____
c. Sub-total (B.4.a. plus B.4.b.)		_____
5. Total Permitted Units (B.3. plus B.4.c.):⁽¹⁾		_____

Notes:

- (1) Subject to revision if wetlands jurisdictional determination indicates a different acreage of wetlands.
 (2) If low-moderate housing density credits or Transfer of Development Rights (TDRs) credits are included, attach the calculations and approvals hereto.

C. Urban Community Category

1. Preliminary Standard Units	Maximum standard density	Units
a. Total upland Acres (from Part 2, D.3.a.)	_____ times 6 equals	_____
b. Total freshwater wetland Acres (from Part 2, D.3.b.)	_____ times 6 equals	_____
c. Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2. Maximum Permitted Units	Maximum permitted	Units
a. Total upland Acres (from Part 2, D.3.a.)	_____ times 8 equals	_____
3. Total allowed standard units (C.1.c. or C.2.a, whichever is less)		_____
4. Bonus Units ⁽²⁾		
a. Low-moderate housing density:		_____
b. TDR units:		_____
c. Sub-total (D.4.a. plus D.4.b.)		_____
5. Total Permitted Units (C.3. plus C.4.c.): ⁽¹⁾		_____

Notes:

- (1) Subject to revision if wetlands jurisdictional determination indicates a different acreage of wetlands.
- (2) If Low-moderate housing density credits or Transfer of Development Rights (TDRs) credits are included, attach the calculations and approvals hereto.

D. Suburban Category

1. Preliminary Standard Units	Maximum standard density	Units
a. Total upland Acres (from Part 2, D.3.a.)	_____ times 6 equals	_____
b. Total freshwater wetland Acres (from Part 2, D.3.b.)	_____ times 6 equals	_____
c. Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2. Maximum Permitted Units	Maximum permitted	Units
a. Total upland Acres (from Part 2, D.3.a.)	_____ times 8 equals	_____
3. Total allowed standard units (D.1.c. or D.2.a., whichever is less)		_____

E. Outlying Suburban Category

1. Preliminary Standard Units	Maximum standard density	Units
a. Total upland Acres (from Part 2, D.4.a.)	_____ times 3 equals	_____
b. Total freshwater wetland Acres (from Part 2, D.4.b.)	_____ times 3 equals	_____
c. Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2. Maximum Permitted Units	Maximum permitted	Units
a. Total upland Acres (from Part 2, D.4.a.)	_____ times 4 equals ⁽¹⁾	_____
3. Total allowed standard units (E.1.c. or E.2.a., whichever is less)		_____

Notes:

- (1) Outlying Suburban land located north of the Caloosahatchee River and east of Interstate-75, north of Pondella Road and south of Pine Island Road (SR 78), and in the Buckingham area (see Goal 19 of the LEE Plan): the maximum upland density is two (2) units per acre plus one (1) for a total of three (3) units per acre.

**PART 4
COMMERCIAL, INDUSTRIAL, MINING, ASSISTED LIVING FACILITIES,**

**HOTELS & MOTELS
PRELIMINARY INTENSITY CALCULATIONS**

A. Commercial		Habitable Stories	Height	Total Floor Area
A.1.	Medical	_____	_____	_____ Sq. Ft.
A.2.	General Office	_____	_____	_____ Sq. Ft.
A.3.	Retail	_____	_____	_____ Sq. Ft.
A.4.	Other	_____	_____	_____ Sq. Ft.
A.5.	TOTAL FLOOR AREA	_____	_____	_____ Sq. Ft.
B. Industrial		Habitable Stories	Height	Total Floor Area
B.1.	Under Roof	_____	_____	_____ Sq. Ft.
B.2.	Not under Roof	NA	_____	_____ Sq. Ft.
B.3.	TOTAL FLOOR AREA	_____	_____	_____ Sq. Ft.
C. Mining			Depth	Total Acres
C1.	Area to be excavated	NA	_____	_____ Acres
D. Assisted Living Facilities		Habitable Stories	Height	Total Number of Beds/Units
D.1.	Dependent Living Units	_____	_____	_____ Beds/Units
D.2.	Independent Living Units	_____	_____	_____ Beds/Units
D.3.	TOTAL BEDS/UNITS	_____	_____	_____ Beds/Units
E. Hotels/Motels			Height	Number of Rental Units
	Room Size	Habitable Stories		
E.1.	< 425 sq. ft.	_____	_____	_____ Units
E.2.	426-725 sq. ft.	_____	_____	_____ Units
E.3.	725 < sq. ft.	_____	_____	_____ Units
E.4.	TOTAL UNITS	_____	_____	_____ Units

PART 5
ENVIRONMENTAL ISSUES

A. **Topography:** Describe the range of surface elevations of the property:

The property is relatively flat and ranges in topography from 8.79 to 17.60 feet NGVD. Kehl Canal is located along the northern property boundary.

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B. **Sensitive Lands:** Identify any environmentally sensitive lands, including, but not limited to, wetlands (as defined in the LEE Plan Section XII), flowways, creek beds, sand dunes, other unique land forms [see LEE Plan Policy 77.1.1 (2)] or listed species occupied habitat [see LCLDC Section 10-473].

The property is entirely located within the DR/GR future land use area and includes significant wetland areas.

The wetland areas have been field verified and are shown on the MCP. Please see Exhibit D-7-T Protected Species Survey.

continued

**PART 6
SANITARY SEWER & POTABLE WATER FACILITIES**

A. **Special Effluent:** If the discharge of any special effluent is anticipated, please specify what it is and what strategies will be used to deal with its' special characteristics:

N/A

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B. **Private On-Site Facilities:** If a private on-site wastewater treatment and disposal facility is proposed, please provide a detailed description of the system including:

1. Method and degree of treatment:

N/A

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2. Quality of the effluent:

N/A

3. Expected life of the facility:

N/A

4. Who will operate and maintain the internal collection and treatment facilities:

N/A

5. Receiving bodies or other means of effluent disposal:

N/A

continued

C. **Spray Irrigation:** If spray irrigation will be used, specify:

1. The location and approximate area of the spray fields:

N/A

2. Current water table conditions:

N/A

3. Proposed rate of application:

N/A

4. Back-up system capacity:

N/A

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PART 7 - SUBMITTAL REQUIREMENTS

COMMUNITY DEVELOPMENT

Copies* Required	Exhibits	Item
PUBLIC HEARING APPLICATION FORM		
15	✓	Public Hearing Application Form (Application for Public Hearing for Zoning Action Form, OR, if a DRI with Rezoning, submit Application for Public Hearing for a DRI Form). [34-373(a)(1)]
1	✓	Application Fee. [34-373(a)(2)]
DESCRIPTION OF EXISTING CONDITIONS		
4	D-1-B ✓	Historical or Archaeological sites: The nature and location of any known or recorded historical or archaeological sites as listed on the Florida Master Site File or the Lee County Historical Site Survey, and the location of any part of the property that is located within level 1 or level 2 zones of archaeological sensitivity pursuant to LCLDC Chapter 22 [22-106]. The plan must show the outline of historic buildings and approximate extent of archaeological sites. A description of proposed improvements that may impact archaeological or historical resources must also be provided. [34-373(a)(4)h.]
15	D-1-C ✓	Public Transit. A map or other depiction of the property in relation to existing and proposed public transit routes, as well as to bus stops, if located within the Lee Tran public transit service area. [34-373(a)(4)g.]
5	D-7-A ✓	A Boundary Survey, prepared and sealed by a professional surveyor, that meets the minimum technical standards set forth in chapter 61G-17-6, F.A.C. The boundary survey must identify and depict all easements effecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection. [34-373(a)(4)a.]
15	D-7-B ✓	Area Location Map (on 8.5" x 11" paper). A map marked to show the location of the property to be developed in relation to arterial and collector streets <u>as well as the location of existing easements and rights-of-way on or abutting the property.</u> [34-373(a)(4)b.]
15	D-7-C ✓	Existing Zoning and Current Land Uses. A map or other depiction of the existing zoning and current land uses (i.e. single family residence, multiple-family building, retail commercial, office building, etc.) surrounding the tract or parcel to a distance of 500 feet. [34-373(a)(4)c.]
15	D-7-D ✓	Aerial Photograph with the site clearly delineated. [34-373(a)(4)d.] Originals only - photocopies are not acceptable.
4	D-7-E ✓	Soils Map. Maps drawn at the same scale as the Master Concept Plan marked or overprinted to show the soils classified in accordance with the USDA/SCS System. [34-373(a)(4)e.i.]
4	D-7-F ✓	FLUCCS Map. A Florida Land Use, Cover and Classification System (FLUCCS) map, at the same scale as the Master Concept Plan, prepared by an environmental consultant. The FLUCCS map must clearly delineate any Federal and State jurisdictional wetlands and other surface waters, including the total acreage of Federal and State wetlands. [34-373(a)(4)e.ii.]
4	D-7-G ✓	Rare & Unique Upland Habitat Map. Maps drawn at the same scale as the Master Concept Plan marked or overprinted to show significant areas of rare and unique upland habitat as defined in the LEE Plan Section XII. [34-373(a)(4)e.iii.]
4	D-7-H ✓	Topographic Map. A County topographic map (if available) or a USGS quadrangle map showing the subject property. [34-373(a)(4)e.iv.]
4	D-7-I ✓	Existing and Historic Flow-Ways Map. Map(s) drawn at the same scale as the master concept plan marked or overprinted to show existing and historic flow-ways. [34-373(a)(4)e.v.]

NARRATIVE COMPLIANCE STATEMENTS		
15	D-7-J	LEE Plan Compliance. A narrative explanation as to how the proposed development complies with the LEE Plan. [34-373(a)(5)]
3	D-7-K	Design Standards Compliance. A narrative explanation as to how the proposed development complies with the Design Standards set forth in LCLDC Section 34-411. [34-373(a)(5)]
3	D-7-L	Decision-Making Compliance. A narrative explanation as to how the proposed development complies with the guidelines for decision-making embodied in LCLDC Sections 34-145(c)(2)a & e. and 34-145(d)(3). [34-373(a)(5)]
MASTER CONCEPT PLAN		
2 & 15	D-7-M.1 (24X 36) & D-7-M.2 (11 X 17)	Master Concept Plan, Non-PRFPD . A graphic illustration (Master Concept Plan) of the proposed development, showing and identifying the information required by LCLDC Section 34-373(a)(6)a - i. Copies of the Master Concept Plan must be provided in two sizes, 24" x 36" (2 copies), and 11" x 17" (15 copies - 2 originals required) in size and must clearly legible and drawn at a scale sufficient to adequately show and identify the required information. {See Instructions, Part 7, below.} [34-373(a)(6)]
15	D-7-N	Master Concept Plan, PRFPD : A clearly legible drawing, no less than 24" x 36" in size and drawn at a scale sufficient to adequately show and identify the information required by LCLDC Section 34-941(g).{See Instructions, Part 7, below.} [34-941(g)]
N/A 5	D-7-O	Traffic Impact Statement. A traffic impact statement in a format and to the degree of detail required by the County and in conformance with the adopted Lee County Administrative Code. [34-373(a)(7)] TIS is not required for an existing development. [34-341(b)(2)d.1.]
15	D-7-P	Schedule of Uses. A schedule of uses keyed to the Master Concept Plan as well as a summary for the entire property including the information required by LCLDC Section 34-373(a)(8). [34-373(a)(8)]
15	D-7-Q	Schedule of Deviations and Written Justification. A schedule of deviations and a written justification for each deviation requested as part of the Master Concept Plan. The location of each requested deviation must be located/shown on the Master Concept Plan. Deviation documentation and detail drawings including sample detail drawings must be provided illustrating how each deviation will operate to the benefit, or at least not to the detriment, of the public interest. [34-373(a)(9); 34-412(a)]
ADDITIONAL REQUIREMENTS FOR MAJOR PDs		
4	D-7-R	Surface Water Management Plan A written description of the surface water management plan as required by LCLDC Section 34-373(b)(1)a. - e. [34-373(b)(1)]
15	D-7-S	Phasing program. If the development is to be constructed in phases or if the Traffic Impact Statement utilized phasing, then a description of the phasing program must be submitted. [34-373(b)(3)]
ADDITIONAL REQUIREMENTS FOR LARGE PROJECTS		
4	D-7-T	Protected species survey. A protected species survey is required for large developments (as defined in LCLDC Section 10-1) as specified in LCLDC Section 10-473. [34-373(b)(2)]
ADDITIONAL REQUIREMENTS FOR AMENDMENTS TO BUILT PLANNED DEVELOPMENTS		
4	D-7-U	Proof of Notice to Other Property Owners. The consent of the owners of the remainder of the original planned development is not required, but these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property. [34-373(c)]

ADDITIONAL REQUIREMENTS FOR DRIs		
15	D-7-V	Binding letter of interpretation from DCA or a complete and sufficient ADA (See also Application for Public Hearing for DRI Form) [34-373(d)(2)]
ADDITIONAL EXHIBITS - PRFPDs		
4	D-7-W	Conceptual Surface Water Management Plan. A Conceptual Surface Water Management Plan must be submitted. The plan must be viable and take into consideration any natural flowway corridors, cypress heads, natural lakes, and the restoration of impacted natural flowway corridors. [34-941(d)(3)b.i.1]
15	D-7-X	Well Drawdown Information. If within an area identified as an anticipated drawdown area for existing or future well development, demonstration of compliance with LCLDC Section 34-941(d)(3)d.i & ii. must be provided. [34-941(d)(3)d.]
15	D-7-Y	Preliminary Indigenous Restoration Plan. A Preliminary Indigenous Restoration Plan must be provided if on-site indigenous restoration is being used to meet the indigenous native plant community preservation requirement. [34-941(e)(5)f.iii.]
15	D-7-Z	Environmental Assessment. An Environmental Assessment must be provided which includes, at a minimum, an analysis of the environment, historical and natural resources. [34-941(g)(2)]
15+	D-7-AA	Demonstration of Compatibility. Written statements concerning how the applicant will assure the compatibility of the proposed development with nearby land uses (by addressing such things as noise, odor, lighting and visual impacts), and the adequate provision of drainage, fire and safety, transportation, sewage disposal and solid waste disposal must be provided. [34-941(g)(4)]

* At least one copy must be an original.

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DEC 14 2008

RESOLUTION NUMBER Z-92-043

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
COMMUNITY DEVELOPMENT

OF LEE COUNTY, FLORIDA

DCI 2008-00045

WHEREAS, Bonita Springs Utilities, Inc., has properly filed an application for a rezoning from AG-2 to Community Facilities Planned Development, and a request for a General Excavation Permit; and

WHEREAS, the subject property is located at 13402 Snell Lane, Bonita Springs, described more particularly as:

LEGAL DESCRIPTION: In Section 32, Township 47 South, Range 26 East, Lee County, Florida:

The West Half (W1/2) of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4), AND the East Half (E1/2) of the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the West Half (W1/2) of the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the East Half (E1/2) of the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) of Southwest Quarter (SW1/4), all in Section 32, Township 47 South, Range 26 East.

Comprising 15 acres more or less.

AND

The West Half (W1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the East Half (E1/2) of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), all in Section 32, Township 47 South, Range 26 East, comprising 10 acres more or less, EXCEPTING therefrom the North 30 feet for canal easement and the South 25 feet for road right-of-way.

AND

The East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section 32, Township 47 South, Range 26 East, Lee County, Florida, 5 acres, more or less, EXCEPTING the North 30 feet thereof for canal easement, and the South 25 feet thereof for county roadway right-of-way.

Containing 5 acres, more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 32-47-26-00-00001.0360, 32-47-26-00-00001.0020 and 32-47-26-00-00001.028A; and

WHEREAS, proper authorization has been given to Q. Grady Minor & Associates by T. Harvey Haines, President, Bonita Springs Utilities, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on July 21, 1992; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE WITH CONDITIONS a rezoning to Community Facilities Planned Development and a General Excavation Permit.

The rezoning and Master Concept Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development of the subject properties shall be in accordance with the three-page Master Concept Plan entitled "Bonita Springs Utilities, Inc., East Water Reclamation Facility," stamped received June 3, 1992, except as modified by the conditions herein.
2. Permitted uses are limited to those listed and shown on the Master Concept Plan and are further limited to the specified parcel as follows:
 - Uses permitted on the 24.65 acre± parcel only:
 - Essential Services Facility, Group II (Section 1001.13), to allow a Wastewater Treatment Facility only
 - Communication Tower (maximum of 95 feet in height) (Free Standing only)
 - Excavation/Water Retention (Section 509)
 - Uses permitted on the 5 acre± parcel only:
 - Excavation - Mining (Section 508)
3. The maximum height of all buildings and structures shall be 35 feet above average grade except the communications tower, which may have a maximum height of 95 feet. The communication tower shall be free standing.
4. Snell Lane shall be paved prior to the commencement of construction of the wastewater treatment facility.
5. Access to the wastewater treatment facility during construction and for subsequent operation shall be from Snell Lane only. However, as conditioned below, the trucks bringing fill material from the 5 acre±/parcel shall be prohibited from using Snell Lane.
6. The haul route from the 5 acre± parcel may be via the existing dirt road traversing the four parcels between this parcel and the 24.65 acre± parcel, if the developer purchases the four parcels or if the developer obtains a temporary construction easement. If these alternatives are not accomplished, then the existing 50-foot wide easement may be used for access for trucks transporting fill material from the 5 acre± parcel. In any case, the selected haul route shall be subject to the review and approval of the Division of Development Review, with improvements in accordance with the Development Standards Ordinance.

7. Excavation of the 5 acre± parcel shall be completed prior to the Certificate of Compliance approval of the wastewater treatment facility.
8. Blasting, crushing and dewatering activity shall be permitted during construction activity only and shall cease prior to the Certificate of Compliance. No blasting activity will be permitted on the 24.65 acre± parcel.
 - a. Blasting shall be in compliance with the Lee County Blasting Ordinance as amended.
 - b. Dewatering shall be in compliance with all applicable regulations, including those of the South Florida Water Management District.
9. The hours of operation for the excavation shall be limited to 7:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to noon on Saturday. No excavation or other heavy equipment operations shall be conducted on Sunday.
10. The developer shall comply with Lee County Noise Ordinance 82-32, as amended.
11. Upon completion of the excavation or at the expiration of the Excavation/Mining Operation Permit, the developer shall commence with the reclamation and replanting plan.
12. A reclamation plan shall be in accordance with the Site Excavation and Reclamation Plan, page 3 of 3, stamped received June 3, 1992.
13. A gopher tortoise management plan shall be approved by the Division of Environmental Sciences prior to local Development Order Approval.
14. Should actual construction of the wastewater treatment facility not take place within five years of zoning resolution approval, a new protected species survey shall be provided and reviewed subject to approval by the Division of Environmental Sciences prior to local Development Order Approval.
15. The developer shall contact the Lee County Division of Emergency Management, Hazardous Material representative prior to the Certificate of Occupancy, to discuss the proposed development in relation to the type, use and storage of hazardous materials which will be located on the premises.
16. If access to this development is through a security gate or similar device that is not manned 24 hours per day, the security gate must be provided with an override switch installed in a glass cover for the use of emergency vehicles.
17. Deviation (1) would allow a deviation from Development Standards Ordinance Appendix D-3, from the required 6 foot wide shoulder to 3.5 foot wide shoulder. This deviation is APPROVED WITH THE CONDITION that a guardrail be provided if found necessary at Development Order stage.

Deviation (2) would allow a deviation from Zoning Ordinance Section 509.B, from the required maximum excavation depth of 12 feet to 20 feet or until the confining layer is reached (not penetrated). This deviation is APPROVED WITH THE CONDITIONS that:

- a. All excavation occurring on either parcel shall have a maximum excavation depth of 20 feet or until the confining layer is reached (not penetrated), and
- b. Upon completion of the excavation(s) and lake shoreline reclamation and annually thereafter for a period of 5 years, the developer or his successors or assigns, shall provide to the Division of Environmental Sciences (or other appropriate County authority) a report prepared by a qualified testing laboratory of the dissolved oxygen content of the lake for each 5-foot depth level greater than 15 feet.

In the event that it is determined that the dissolved oxygen levels as reported are insufficient to support active marine life at all lake levels, the developer or his successors or assigns shall install or cause to be installed a lake aeration system of a design approved by the Division of Environmental Sciences (or other appropriate County authority) and shall operate and maintain such aeration system in good order thereafter.

Deviation (3) would allow a deviation from Zoning Ordinance Section 800.B.1., from the requirement that all properties within a single application be contiguous, to allow a single application for non-contiguous properties. This deviation is APPROVED WITH THE FOLLOWING CONDITIONS:

- a. If the four parcels between the two subject parcels are purchased by the applicant, then these four parcels shall be rezoned to the CFPD zoning district by the applicant in order to create a contiguous parcel.
- b. The 5 acre parcel shall be used for the excavation of fill material for the wastewater treatment facility only.

Deviation (4) would allow a deviation from Zoning Ordinance Section 508.G.2.a.2., from the requirement of a 100-foot setback from a private property line under separate ownership to allow a 60 foot setback on the 5 acre± parcel. This deviation is APPROVED WITH THE FOLLOWING CONDITION:

- a. The developer shall provide a berm as shown on the Site Excavation and Reclamation Plan.

Deviation (5) would allow a deviation from Zoning Ordinance Section 508.G.2.a.1. from the requirement of a 150-foot setback from an existing street right-of-way line or easement to allow a 60 foot setback on the 5 acre± parcel. This deviation is APPROVED WITH THE FOLLOWING CONDITION:

- a. The developer shall provide a berm as shown on the Site Excavation and Reclamation Plan.

Deviation (6) would allow a deviation from Zoning Ordinance Section 509.C.4. from the requirement of a 150 foot setback from an existing street right-of-way line or easement, to allow a 60 foot setback. This deviation would apply to the excavation/water retention area proposed on the wastewater treatment facility site adjacent to Snell Lane only. This deviation is APPROVED.

Site Plan 92-043 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of Community Facilities Planned Development zoning:

- A. That the CFPD rezoning request was not caused by changed or changing conditions which necessitates the approval of the request.
- B. That the CFPD rezoning, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance.
- C. That the CFPD rezoning, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, and with the densities, intensities and general uses set forth in the Lee Plan.
- D. That the CFPD rezoning, as conditioned, meets or exceeds all performance or locational standards set forth for the proposed use.
- E. That the CFPD rezoning, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

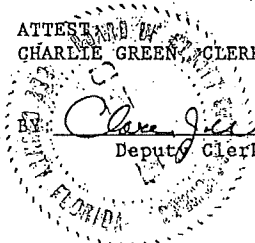
- F. That the GFPD rezoning, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.
- G. That the GFPD rezoning, as conditioned, does not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
- H. That the GFPD rezoning, as conditioned, will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.
- I. That each approved deviation, as conditioned, enhances the achievement of the objectives of the GFPD and protects or preserves the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner John E. Manning, and seconded by Commissioner Vicki Lopez-Wolfe and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Vicki Lopez-Wolfe	Aye
Donald D. Slisher	Absent

DULY PASSED AND ADOPTED this 31st day of August, A.D., 1992.

ATTEST AND BY
 CHARLE GREEN, CLERK
 BY: Clare J. Green
 Deputy Clerk



BOARD OF COUNTY COMMISSIONERS
 OF LEE COUNTY, FLORIDA

BY: [Signature]
 Chairman

Approved as to form by:

[Signature]
 County Attorney's Office

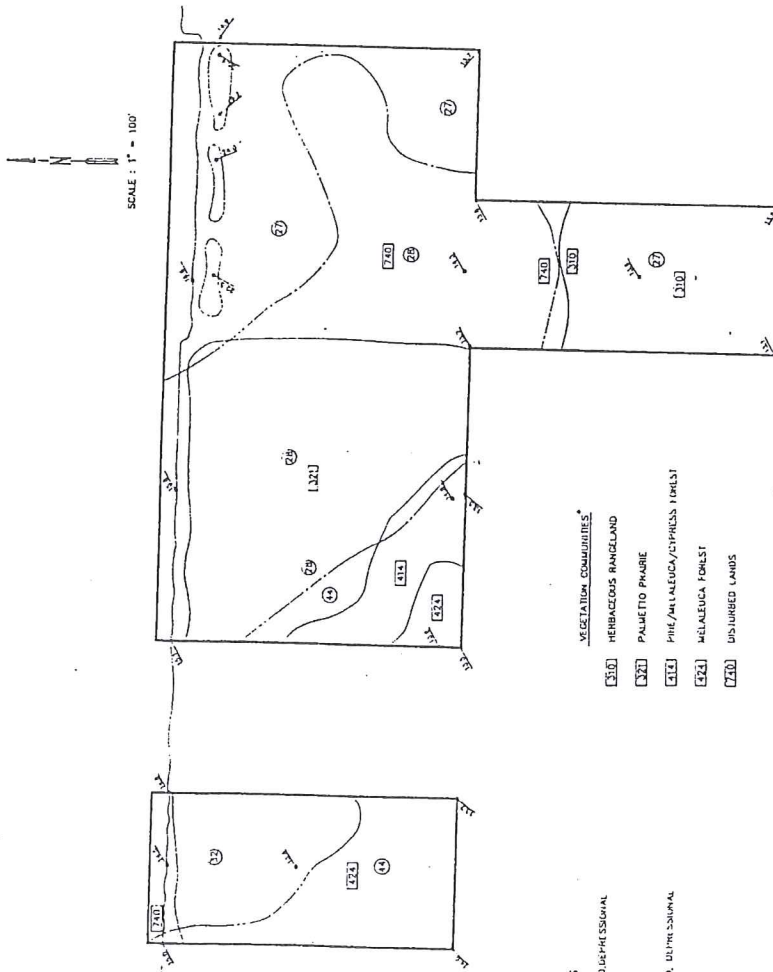
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SEP 9 1992

CLERK CIRCUIT COURT
 BY Clare J. Green, D.C.

DCI 2008-00045

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 DEC 17 2008
 COMMUNITY DEVELOPMENT



APPROVED
 BONITA SPRINGS C.F.P.D.
 SOILS, VEGETATION AND TOPOGRAPHY MAP

Q. GRADY MINOR AND ASSOCIATES, P.A.
 CIVIL ENGINEERS & LAND SURVEYORS
 2000 W. 1st St. #202
 BONITA SPRING, FLORIDA 33425-1111

ISSUED BY: B.L.
 DRAWN BY: G.L.J.
 APPROVED: G.L.J.
 SCALE: 1" = 100'

FILED
 JUN 8 2008
 CIVIL ENGINEER

VEGETATION COMMUNITIES DESIGNATIONS
 DETERMINATION BY BOTANICAL ENVIRONMENTAL CONSULTANTS, INC.

DESIGNED BY: B.L.
 DRAWN BY: G.L.J.
 APPROVED: G.L.J.
 SCALE: 1" = 100'

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 APPROVED: G.L.J.
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**REQUEST FOR PUBLIC HEARING
SUBMITTAL REQUIREMENT WAIVER
FOR UNINCORPORATED AREAS ONLY**

Upon written request, the Director may modify the submittal requirements for Public Hearings (and other administrative applications) where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request and the Director's written response must accompany the application submitted and will become a part of the permanent file.

APPLICATION FOR WAIVER OF REQUIRED SUBMITTAL ITEMS
(indicate the appropriate application type)

PRE2008-00262

- Public Hearing - General Requirements (34-202)
- Public Hearing - Additional Requirements for:
 - Development of Regional Impact (34-203(a))
 - Planned Developments (34-203(b))
 - Master Concept Plan Extension (34-381(c))
 - Master Concept Plan Reinstatement (34-381(d))
 - Rezoning other than Planned Developments (34-203 (c))
 - Mobile Home Park (34-203(d))
 - Special Exception (34-203(e))
 - Variances (34-203(f))
- Administrative Action Requirements

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COMMUNITY DEVELOPMENT

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DEC 17 2008

PLEASE PRINT OR TYPE:

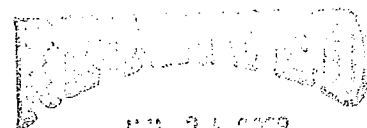
STRAP Number:		32-47-26-00-00001.0020; 0360; 028A				COMMUNITY DEVELOPMENT
Name of Project:		Bonita Beach Road East Water Storage Tank				
Name of Agent:		Patrick Vanasse, AICP		DCI 2008-00045		
Street Address:		1542 Carson Street				
City:	Fort Myers	FL	Zip:	33901		
Phone #:	(239) 278-5224	F	(239) 278-5419			
E-mail:	pvanasse@consult-rwa.com					
Name of Applicant*:		Bonita Springs Utilities				
Street Address:		11860 East Terry Street				
City:	Bonita Springs	State:	FL	Zip:	34135	
Phone #:	(239) 390-4834	Fax #:	(239) 390-4934			
E-mail:	mliggins@bsu.com					

**LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (239) 533-8585**

A. SPECIFIC SECTION(S) AND REQUIREMENT(S) FOR WHICH A WAIVER IS SOUGHT:		
Section Number		Requirement
#1 34-373(a)(7)		Traffic Impact Statement
#2 34-373 (a)(4)(a)		Boundary Survey
#3		
#4		
#5		
#6		
#7		
#8		
#9		

B. SCOPE OF PROJECT AND REASON(S) FOR REQUEST:

Please provide an explanation of the scope of the project and the reason(s) why you think the request for submittal waiver(s) should be approved. Use additional sheets if necessary and attach to this application form. (Please print or type) Please see the following page.



JUL 24 2008

COMMUNITY DEVELOPMENT

BSU had a CFPD approved on the subject property in 1992, as outlined in attached resolution Z-92-043. The project was never built and consequently, the MCP expired. BSU will be submitting a zoning amendment to have a new MCP approved which would allow for the development of a potable water storage tank and ASR well on the subject property.

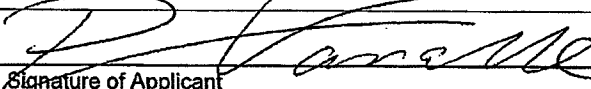
The property is located east of Boca Grand and south of Kehl Canal in the south-eastern portion of the DRGR lands that abut the City of Bonita Springs. The property is within the DR/GR Future Land Use category and is zoned CFPD.

A waiver to the TIS requirement is requested because the proposed potable water facility will be unmanned and will therefore not generate any trips, other than periodic maintenance and inspection on a bi-weekly basis. Inspection and maintenance trips will be de minimums and will have no impact to the existing roadway network.

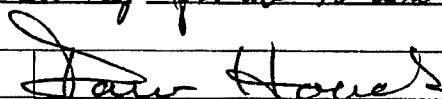
As for the survey, a waiver is requested since the project boundary remains the same as originally approved and conditions on site have not changed. The applicant is requesting the ability to provide a sketch and description for the CFPD boundary and recent survey for the 15-acre parcel where the water storage facility will be situated strap # 32-47-26-00-00001.0020.

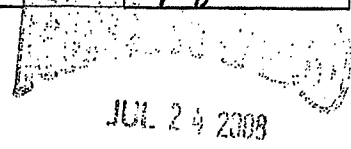
The proposed project represents an essential service facility that will provide benefit to the residents of Bonita Springs. The additional costs and time associated with obtaining a TIS and boundary survey for the entire property place an unnecessary burden on the applicant and all utility members.

Under penalties of perjury, I declare that I have read the foregoing application and that the facts stated in it are true.



Signature of Applicant

Directors Decision:	<input checked="" type="checkbox"/>	Request Approved	<input type="checkbox"/>	Request Denied
Comments:	with the condition that the applicant will submit state plane coordinates for the original CFPD & the new survey for the 15 acre parcel.			
Signature:			Date:	9.9.08



COMMUNITY DEVELOPMENT

**Exhibit PH-4.L:
Potable Water & Central Sewer**

The improvements proposed as part of this CFPD will consist of a water storage facility that will be unmanned and will only require periodic maintenance. Potable water will be provided on site, in that the site will include a water storage tank. However, the development will not include potable water and central sewer in any other capacity, as these services are not needed.

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DCI 2008-00045

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Bonita Springs Utilities, Inc.
Bonita Beach Road East Water Storage Tank
Lee County, FL

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DEC 14 2008

COMMUNITY DEVELOPMENT

Exhibit D-7-J:
LEE Plan Compliance

COMMUNITY DEVELOPMENT

The Lee County Future Land Use Map (FLUM) identifies the property in the Non-Urban Area, and provides a future land use designation of **Density Reduction/Groundwater Resources (DR/GR)** and **Wetlands**. Areas designated as DR/GR include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development and are favorable locations for physical withdrawal of water from those aquifers. Wetlands, as defined by F.S. 373.019(17), are areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soils. Please see Exhibit D-7-J.1: Future Land Use Map.

Bonita Springs Utilities (BSU) had a Community Facility Planned Development (CFPD) approved on the subject property in 1992, as outlined in attached Resolution Z-92-043. The project was never built and consequently, the master concept plan (MCP) expired. BSU is proposing a zoning amendment to have a new MCP approved which would allow for the development of a potable water storage facility in two phases. The first phase includes a water storage tank and accessory maintenance structure. The second phase will be designed at a later date and include additional water storage facilities, including a potential Aquifer Storage and Recovery well (ASR), on the balance of the subject property.

The proposed CFPD for the Bonita Beach Road East Water Storage Tank will continue to further the Goals, Objectives and Policies of the Lee Plan through compliance with the following elements:

FUTURE LAND USE ELEMENT:

POLICY 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.

Private Recreational Facilities may be permitted in accordance with the site locational requirements and design standards, as further defined in Goal 16. No Private recreational facilities may occur within the DR/GR land use category

DCI 2008-00045

without a rezoning to an appropriate planned development zoning category, and compliance with the Private Recreation Facilities performance standards, contained in Goal 16 of the Lee Plan. (Amended by Ordinance No. 91-19, 94-30, 99-16, 02-02)

The Bonita Beach Road East Water Storage Tank CFPD proposes to develop a potable water facility, including a storage tank, on the subject property. The proposed use of the property is consistent with the DR/GR Future Land Use Category, in that essential service facilities, including water storage tanks, are a permitted land use that is compatible with maintaining surface and groundwater levels at their historic levels.

OBJECTIVE 2.1: DEVELOPMENT LOCATION. Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Amended by Ordinance No. 94-30, 00-22)

POLICY 2.1.3: All land use categories and Planning Community Map areas permit the consideration of churches and schools (except in Wetlands and Airport Noise Zones), public uses and buildings, public utilities and resource recovery facilities, public recreational uses (including franchised quasi-commercial uses in conjunction with a public use), and sites for compatible public facilities when consistent with the goals, objectives, policies, and standards in this plan and applicable zoning and development regulations. (Amended by Ordinance No. 94-30, 98-09)

The proposed CFPD will allow for the development of public utilities, which can be located in all land use categories and Planning Community Map areas. The development of the property will be consistent with the Lee Plan and comply with the regulations outlined in the Lee County Land Development Code. The MCP has been designed to preserve significant areas of natural vegetation and open space, and minimize impacts to surrounding properties and the environment.

COMMUNITY FACILITIES AND SERVICES ELEMENT:

OBJECTIVE 53.1: The County will ensure the provision of acceptable levels of potable water service throughout the future urban areas of the unincorporated county, either directly by Lee County Utilities, or indirectly through franchised utility companies. (Amended by Ordinance No. 94-30, 00- 22, 03-04)

POLICY 53.1.4: The Board of County Commissioners urges all utilities to construct and install sufficient treatment facilities and distribution systems that will meet or exceed the minimum acceptable service standards and with the capacity to deliver water at a pressure of 20 pounds per square inch (wp PSI static) at the meter anywhere on the individual system (excluding fire flow conditions). In

addition, by September 30, 1994, all utilities are urged to deliver water pressure of 40 pounds per square inch (static pressure, excluding fire flow conditions). Each utility is encouraged to advise the planning and engineering staffs of the county regarding system expansions or modifications to ensure coordination with other utilities and with all other issues of public interest and to prevent duplication of facilities and services. (Amended by Ordinance No. 92-35)

The Bonita Beach Road East Water Storage Tank CFPD will allow BSU to construct an additional water storage tank in order to increase the overall system storage and maintain acceptable levels of service and sufficient water pressure in eastern Bonita Springs.

OBJECTIVE 61.1: WATER SUPPLY PLANNING. *All county water supply planning will include the recognition of surface water runoff as a possible resource and will consider integrating the use of surface water runoff in any supply program or strategy that results. (Amended by Ordinance No. 00- 22)*

POLICY 61.1.2: *The county will explore, and implement where financially and technically feasible, all existing options for storing and utilizing excess surface water runoff for human consumption and other uses. Such options may include surface impoundments; back-pumping to reservoirs, to upland wetlands, or to ground storage; and ground storage by exfiltration systems or by aquifer storage and recovery systems. Maximum contaminant levels consistent with Florida DEP and USEPA regulations governing receiving waters will be met through treatment as required. Excess surface water runoff will be defined as that water not required to maintain or restore estuarine waters or other valued wetland systems. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 61.1.4: *The county's Surface Water Management Master Plan will place particular emphasis on 1) routing surface water runoff from areas of excess to areas where additional subsurface storage is available; and 2) maintaining and increasing historic surface and groundwater levels in the Density Reduction/ Groundwater Resource land use category. (Amended by Ordinance No. 00-22)*

Surface water generated from the development will utilize best management practices for above-ground storage and treatment before discharge to the Kehl Canal. Additionally, the CFPD proposes to include an ASR component as a future phase to help maintain and increase historic groundwater levels, in compliance with the Lee Plan. The ASR will be consistent Florida DEP and USEPA regulations and will assist in maintaining and increasing historic groundwater levels in the DR/GR land use category.

PARKS, RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 77.3: *New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing rights-of-way. This objective and subsequent*

policies are to be implemented through the zoning process. (Added by Ordinance No. 02-02)

POLICY 77.3.1: Any new development with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Any new development with existing native trees without associated native groundcover or understory is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged. (Added by Ordinance No. 02-02)

POLICY 77.3.2: Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees. (Added by Ordinance No. 02-02)

POLICY 77.3.4: The county encourages new developments to incorporate large, contiguous open space areas in the development design. (Added by Ordinance No. 02-02)

POLICY 77.3.5: Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas. (Added by Ordinance No. 02-02)

The Bonita Beach Road East Water Storage Tank CFPD incorporates large areas of open space that is comprised of indigenous vegetation. Half of the open space as required by the Lee County LDC is comprised of existing native plant communities. As shown on the MCP, these preservation areas, totaling 4.5-acres, are situated on the site to buffer the proposed uses from adjacent properties and are of a sufficient width to allow for the continued growth and viability of native trees.

CONSERVATION AND COASTAL MANAGEMENT ELEMENT

OBJECTIVE 114.1: The natural functions of wetlands and wetland systems will be protected and conserved through the enforcement of the county's wetland protection regulations and the goals, objectives, and policies in this plan. "Wetlands" include all of those lands, whether shown on the Future Land Use Map or not, that are identified as wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended by F.S. 373.4211. (Amended by Ordinance No. 94-30, 00-22)

POLICY 114.1.1: Development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands

category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII of this plan, and except that owners of wetlands adjacent to Intensive Development, Central Urban, Urban Community, Suburban, and Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership in accordance with Footnotes 9b and 9c of Table 1(a), Summary of Residential Densities. (Amended by Ordinance No. 94-30, 00-22)

The subject property includes areas identified on the Future Land Use Map as Wetlands. Wetlands have been field verified, will be placed into a permanent conservation easement, and no development activity will take place within these areas.

OBJECTIVE 117.1: WATER SUPPLIES. *Insure water supplies of sufficient quantity and quality to meet the present and projected demands of all consumers and the environment, based on the capacity of the natural systems.*

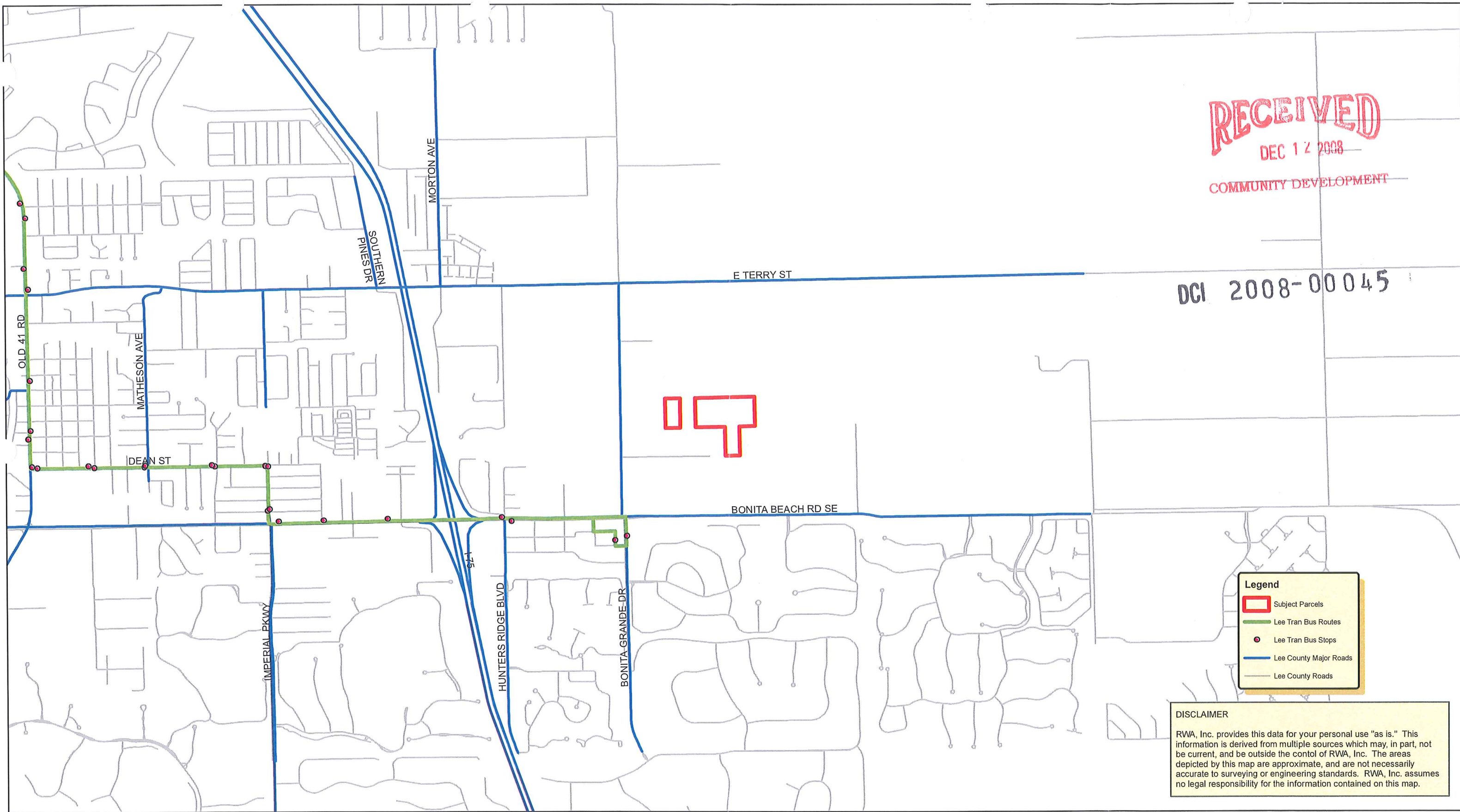
POLICY 117.1.1: *Natural water system features which are essential for retention, detention, purification, runoff, recharge, and maintenance of stream flows and groundwater levels shall be identified, protected, and managed.*

POLICY 117.1.2: *The county will recognize and encourage water and wastewater management, provided that such management does not exceed the natural assimilative capacity of the environment or applicable health standards. Appropriate water and wastewater management includes, but is not limited to, aquifer recharge, dual water systems, use of low volume irrigation systems, use of water-conserving vegetation, and other conservation and recycling techniques. (Amended by Ordinance No. 94-30, 00-22)*

The proposed CFPD will allow for BSU to provide water supplies of sufficient quality and quantity to meet the demands of existing population in Bonita Springs. The proposed water storage tank and future improvements will not degrade existing natural water system features.

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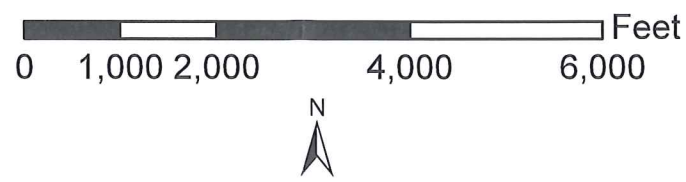


Legend

- Subject Parcels
- Lee Tran Bus Routes
- Lee Tran Bus Stops
- Lee County Major Roads
- Lee County Roads

DISCLAIMER
RWA, Inc. provides this data for your personal use "as is." This information is derived from multiple sources which may, in part, not be current, and be outside the control of RWA, Inc. The areas depicted by this map are approximate, and are not necessarily accurate to surveying or engineering standards. RWA, Inc. assumes no legal responsibility for the information contained on this map.

**Bonita Beach Road East
Water Storage Tank**
Exhibit D-1-C: Public Transit Map

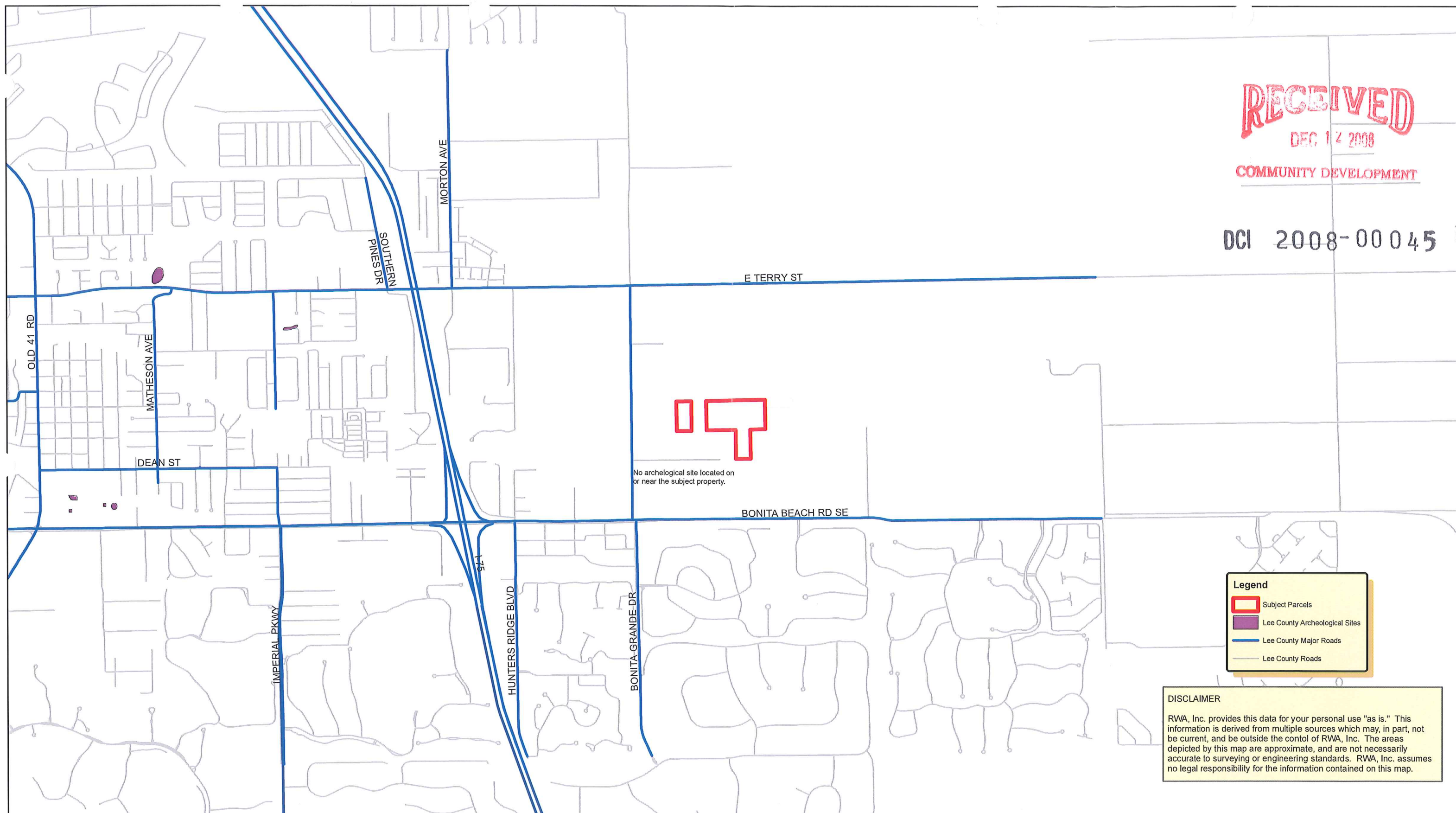


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No archeological site located on or near the subject property.

Legend

- Subject Parcels
- Lee County Archeological Sites
- Lee County Major Roads
- Lee County Roads

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Bonita Beach Road East Water Storage Tank

Exhibit D-1-B Historic or Archeological Map



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**Waiver Approved
See EXHIBIT PH-4.J**

**Exhibit D-7-P:
Schedule of Uses**

Accessory Uses and Structures {Note (1), 34-1711 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq., 34-3106}
Communication Facility, wireless {34-1441 et seq. (Note 2), Maximum Height 95'}
Essential Service Facilities (Group II) {Note (1), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq.}
Excavation, Water Retention {34-1651}
Fences, Walls {Note (1), 34-1741 et seq.}
Maintenance Facility
Parking Lot, Accessory, Temporary {34-2022}
Signs (In accordance with Chapter 30) {Note (1)}
Storage, Indoor Only {Note (1), 34-3001 et seq.}
Temporary Uses {Note (1), 34-3041 et seq.}

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Bonita Springs Utilities, Inc.
Bonita Beach Road East Water Storage Tank
Lee County, FL

COMMUNITY DEVELOPMENT Exhibit D-7-Q:

Schedule of Deviations and Written Justifications

- 1. Deviation from LDC Section 10-291(2) which requires that all developments have access to a public or private street designed, constructed and improved to meet the standards of Section 10-296, to allow for access to the site from Snell Lane, which is a non-conforming road.**

Justification: Access to the site is provided by Snell Lane, which is predominantly unimproved. The proposed CFPD will be unmanned and generate a negligible number of vehicular trips. This development will not impact the local transportation system. A TIS waiver has been requested and approved by the County. The proposed development will generate fewer trips than a residential subdivision, which is permitted to utilize existing non-conforming access routes with an approved deviation (Section 12-296(m)). Since the water system facility will generate fewer trips than a single-family dwelling, the development should not be responsible for improving Snell Lane. The proposed extension of the existing road surface will serve this single use and will be provided as shown on the MCP to control stormwater runoff and allow for safe vehicular travel.

- 2. Deviation from LDC Section 34-201(b)(1) which requires that all properties within a single application must be abutting to allow for a Planned Development application for non-contiguous properties.**

Justification: Section 34-201(b)(1) allows the director to authorize a single application for non-contiguous parcels where it is in the public interest due to the size or scope and nature of the request. The properties included in this application received CFPD approval in 1992 (Z-92-043) with the same deviation. The MCP associated with that approval has since expired resulting in the proposed CFPD zoning amendment. The non-contiguous parcel is intended to solely be used for excavation of fill material to be placed on site. There has been no change in conditions that would warrant eliminating this deviation.

- 3. Deviation from LDC Section 10-(d)(1) which requires buffers along the entire perimeter of the proposed development to allow preserve areas along the property perimeter to satisfy the buffer requirement.**

Justification: The proposed site contains areas of significant natural vegetation that will be preserved along portions of the property boundaries as shown on the MCP. In these instances, the proposed preservation areas will exceed the minimum buffer width required for the development, and will adequately screen adjacent properties from the proposed use. Therefore, requiring an additional buffer between the proposed improvements and these preserve areas is not warranted.

4. Deviation from LDC Section 10-(d)(1), (3) and (4) which requires a Type C or F buffer along the northern property line of the proposed development to allow a Type B Buffer along the northern property line adjacent to the Kehl Canal Easement.

Justification: The northern property line of the subject property includes half of a 60 foot canal easement. The majority of the adjacent property to the north of Kehl Canal is owned by Florida DEP and SFWMD and will not be developed. The other properties are vacant and zoned Agriculture. These properties are identified as Wetlands by the Future Land Use Map, and are unlikely to ever be developed. The LDC requires a 30 foot Type F Buffer comprised of native vegetation adjacent to preserve areas. Because the existing canal easement provides sufficient separation between the proposed use and the adjacent properties and does not allow for a continuation of native vegetation as intended by the LDC, an additional 30 foot Type F Buffer is not warranted. In lieu of this requirement, the development proposes to include a 15 foot Type B.

Exhibit D-7-R

Surface Water Management Plan

**Exhibit D-7-R:
Surface Water Management Plan**

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Bonita Beach Road East Water Storage Tank MCP

Conceptual Water Management Report

Prepared for:
Bonita Springs Utilities

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Prepared by:

RWA INC.
CONSULTING
• Planning • Visualization
• Civil Engineering • Surveying & Mapping

DCI 2008-00045

6610 Willow Park Drive
Suite 200
Naples, FL 34104

September 2008

INTRODUCTION

This document presents the Conceptual Water Management Report for the proposed Bonita Beach Road East Water Storage Tank MCP, which is located approximately ½ mile east of the intersection of Bonita Grande Drive and Snell Lane, in Section 32, Township 47 South, Range 26 East, Lee County, Florida. Potable and reused water facilities are proposed for the site.

EXISTING CONDITIONS

The subject parcel is bounded to the north by the Kehl Canal, to the east and west by vacant agricultural land, and to the south by Snell Lane.

Currently, the site is undeveloped. The existing site elevation ranges from 8.79' NGVD to 17.60' NGVD.

The natural flow pattern of the property varies. The north half of the property generally flows to the north, draining into the Kehl Canal. The south half of the property generally flows to the southeast, draining into the adjacent wetlands. The existing site contains a small perimeter berm preventing off-site flows from entering the site. No offsite flows have been included in the water management analysis for the site.

PROPOSED CONDITIONS

The proposed surface water management plan will incorporate best management practices including water quality facilities for the aboveground surface water treatment and storage prior to discharge. The proposed surface water management system will consist of one basin. The project will discharge to the north into the Kehl Canal. All construction activities will employ best management practices, limiting the potential for pollutant discharge in accordance with the United States Environmental Protection Agency – National Pollutant Discharge Elimination System.

The proposed Bonita Beach Road East Water Storage Tank MCP will be located on a 29.65 acre parcel. The system will be designed to treat and attenuate the runoff from the entire drainage area located within the development limit. The surface water management system will consist of a series of dry detention areas.

The proposed stormwater management system will consist of four (4) interconnected dry detentions areas that will provide water quality treatment and attenuation of the runoff from basin 1. The operation of the proposed stormwater management system includes the collection of surface water runoff by a series of swales and closed pipe systems that convey the runoff to the dry detention areas. Discharge will occur through one (1) control structure, located along the north side of the Project near the Kehl Canal.

As the stormwater runoff is collected and conveyed to the dry detention areas, water quality treatment will begin at control elevation. Once water quality treatment has been achieved, the treated surface water will be permitted to flow over the crest of the weir of the control structure without exceeding the maximum offsite discharge rate of 59 CSM in accordance with the maximum discharge rate for projects within the Imperial River basin or SFWMD basin rules, whichever is more restrictive. Stormwater will discharge through the proposed control structure to the Kehl Canal.

Minimum finished floor elevations of living areas will be dictated by the 100-year 3-day storm routing analysis performed using XP-SWMM software. Minimum road centerline elevations will be set equal to or above the 25-year 3-day storm elevation. The perimeter berm will be set at the 25-year, 3-day storm elevation.

Exhibit D-7-T

Protected Species Survey

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**BONITA BEACH ROAD EAST WATER STORAGE TANK
LEE COUNTY PROTECTED SPECIES SURVEY**

December 2008

Prepared For:

RWA, Inc.
6610 Willow Park Drive, Suite 200
Naples, Florida 34109
(239) 597-0575

Prepared By:

Passarella & Associates, Inc.
13620 Metropolis Avenue, Suite 200
Fort Myers, Florida 33912
(239) 274-0067

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INTRODUCTION

On July 10, 2008, Passarella & Associates, Inc. conducted a protected species survey for the Bonita Beach Road East Water Storage Tank (Project). The purpose of the survey was to review the site for Lee County protected species as outlined in Lee County's Land Development Code (LDC) Chapter 10, Article III, Division 8 (Protection of Habitat). The following report reflects the site conditions as they were during the survey.

The Project totals 14.83± acres and is located within the City of Bonita Springs in Section 32, Township 47 South, Range 26 East, Lee County (Figure 1). More specifically, it is found approximately 0.5 mile east of Bonita Grande Drive, near the east end of Snell Lane, and along the south bank of the Kehl Canal. The Project is a combination of historically cleared land and forested habitats.

LAND USES AND COVER TYPES

The vegetation mapping for the subject property was conducted using Lee County 2007 rectified color aerials. Groundtruthing to map the vegetative communities was conducted on July 6 and 10, 2008 utilizing the Florida Land Use, Cover and Forms Classification System (FLUCFCS) Levels III and IV. Level IV FLUCFCS was utilized to denote hydrological conditions and disturbance. "E" codes were used to show levels of exotic species invasion (i.e., melaleuca (*Melaleuca quinquenervia*) and Brazilian pepper (*Schinus terebinthifolius*)). AutoCAD Map 3D 2009 software was used to determine the acreage of each mapping area, produce summaries, and generate the FLUCFCS map for the subject property. The FLUCFCS delineations depicted on a 2007 color aerial photograph are provided as Figure 2. Table 1 provides the breakdown of the FLUCFCS codes by acreage, while a description of each of the classifications follows.

Table 1. Vegetation Associations and Land Use Acreages

FLUCFCS Code	Description	Acreage	Percent of Total
4159 E3	Pine, Disturbed (50-75% Exotics)	1.88	12.7
4221	Brazilian Pepper, Hydric	<0.01	0.00
424	Melaleuca	0.56	3.8
4241	Melaleuca, Hydric	0.53	3.6
510	Streams and Waterways (Kehl Canal)	0.97	6.5
6259 E3	Hydric Pine, Disturbed (50-75% Exotics)	0.47	3.2
740	Disturbed Land	9.81	66.1
743	Spoil Area	0.61	4.1
Total		14.83	100.0

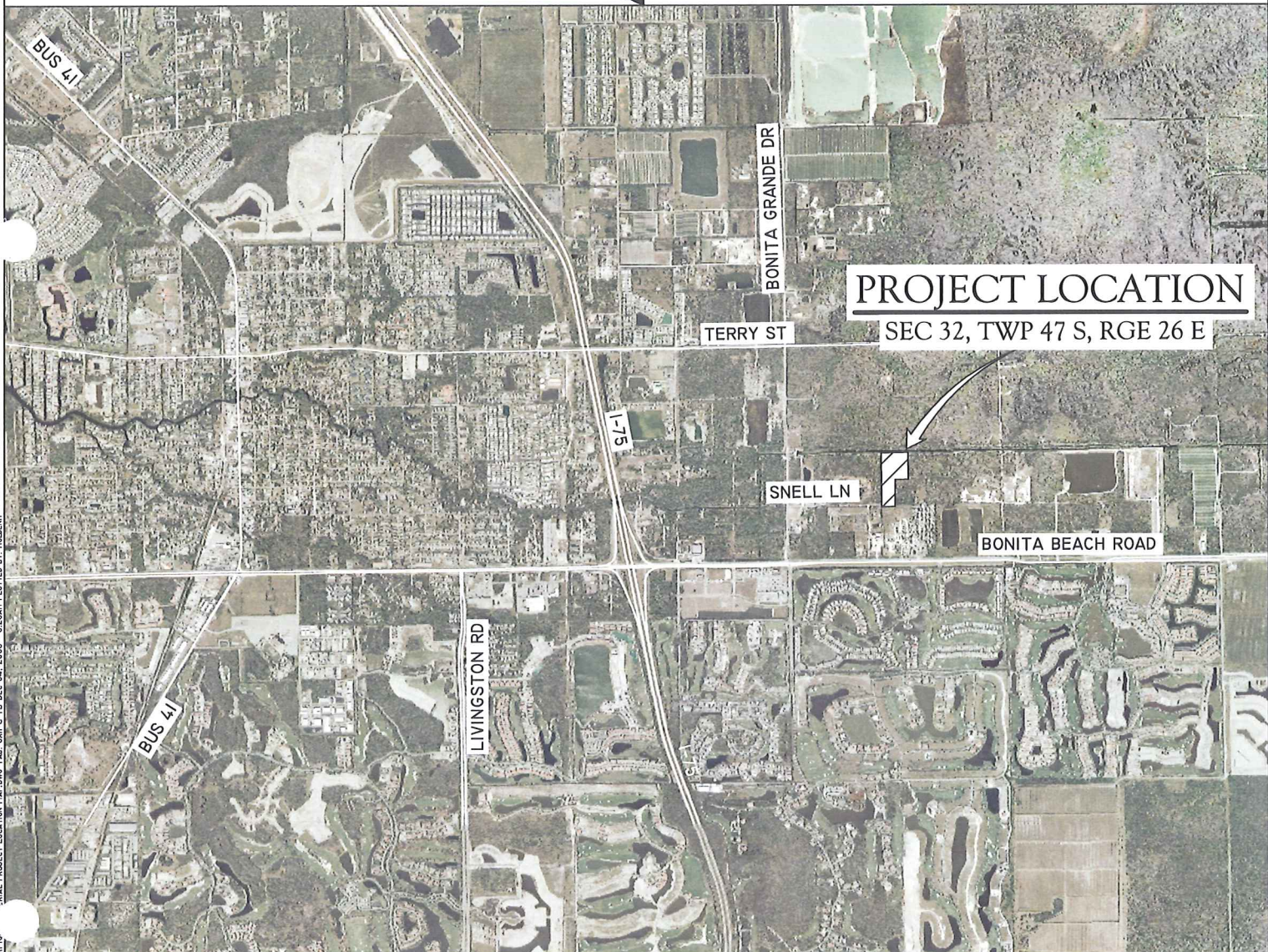
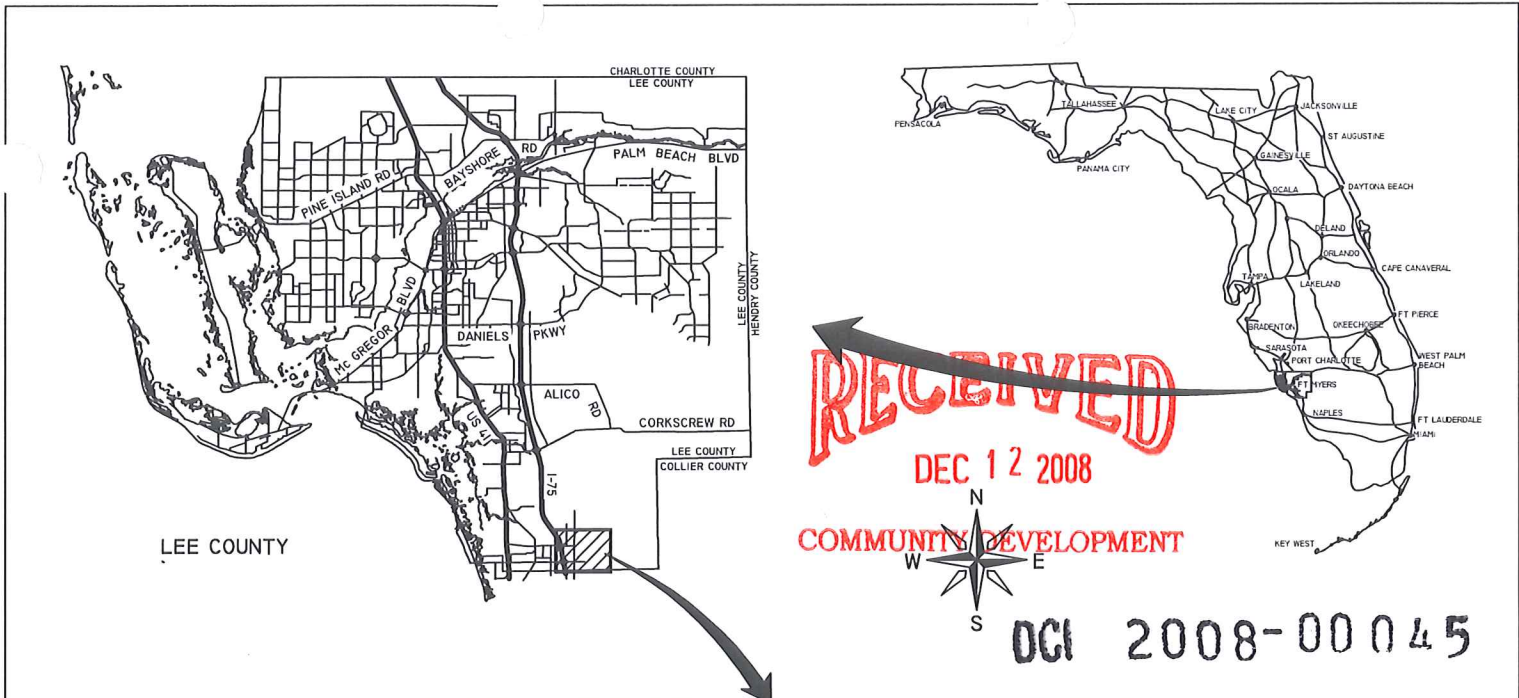


FIGURE 1. PROJECT LOCATION MAP
BBR EAST WATER STORAGE TANK

DRAWN BY	DATE
D.B./F.L.	11/21/08
REVIEWED BY	DATE
C.R.	11/21/08
REVISED	DATE






J:\12007\07\8511\15\10000\PASS\Fig1
 SERIAL PROJECT LOCATION MAP.DWG TABI SHI C TB DEC 04, 2008 - 6:28AM PLOTTED BY: HODJENH



SCALE: 1" = 100'



LEGEND:

-  POTENTIAL SFWMD AND COE WETLANDS (1.00 AC.±)
-  POTENTIAL SFWMD "OTHER SURFACE WATERS" AND COE "WATERS OF THE U.S." (0.97 AC.±)
-  SURVEYED WETLAND LINE

FLUCFCS CODES	DESCRIPTIONS	ACREAGE	% OF TOTAL
4159 E3	PINE, DISTURBED (50-75% EXOTICS)	1.88 AC.±	12.7%
4221	BRAZILIAN PEPPER, HYDRIC	<0.01 AC.±	0.00%
424	MELALEUCA	0.56 AC.±	3.6%
4241	MELALEUCA, HYDRIC	0.53 AC.±	3.6%
510	STREAMS AND WATERWAYS (KEHL CANAL)	0.97 AC.±	6.5%
6259 E3	HYDRIC PINE, DISTURBED (50-75% EXOTICS)	0.47 AC.±	3.2%
740	DISTURBED LAND	9.81 AC.±	66.1%
745	SPOIL AREA	0.61 AC.±	4.1%
TOTAL		14.83 AC.±	100.0%

NOTES:

AERIAL PHOTOGRAPHS WERE ACQUIRED THROUGH THE LEE COUNTY PROPERTY APPRAISER'S OFFICE WITH A FLIGHT DATE OF AUGUST - NOVEMBER 2007. FLUCFCS LINES ESTIMATED FROM 1"=200' AERIAL PHOTOGRAPHS AND LOCATIONS APPROXIMATED. FLUCFCS PER FLORIDA LAND USE, COVER AND FORMS CLASSIFICATION SYSTEM (FLUCFCS) (FDOT 1999). PROPERTY BOUNDARY AND SURVEYED WETLAND LINES PER RWA, INC. DRAWING NO. 2008-11-20 BSU E TANK SITE.DWG DATED NOVEMBER 21, 2008. UPLAND/WETLAND LIMITS HAVE NOT BEEN REVIEWED BY ANY REGULATORY AGENCY AND ARE SUBJECT TO CHANGE.

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H.H./F.L.
11/21/08

REVIEWED BY
C.R.
11/21/08

DATE

13620 Metropolis Avenue
Suite 200
Fort Myers, Florida 33912
Phone (239) 274-0067
Fax (239) 274-0069



BBR EAST WATER STORAGE TANK
AERIAL PHOTOGRAPH WITH PRELIMINARY
FLUCFCS AND WETLANDS MAP

DRAWING No.
07BSU1715

SHEET No.
FIGURE 2

Pine, Disturbed (50-75% Exotics) (FLUCFCS Code 4159 E3)

This upland community occurs on the southern portion of the property and occupies 1.88± acres or 12.7 percent of the Project area. The canopy and sub-canopy are composed of slash pine (*Pinus elliottii*), melaleuca, and scattered earleaf acacia (*Acacia auriculiformis*). The ground cover contains bahiagrass (*Paspalum notatum*), saw palmetto (*Serenoa repens*), muscadine grape (*Vitis rotundifolia*), spermacoce (*Spermacoce verticillata*), pineland heliotrope (*Heliotropium polyphyllum*), and scattered little blue maidencane (*Amphicarpum muhlenbergianum*).

Brazilian Pepper, Hydric (FLUCFCS Code 4221)

This community type is found at the southeastern corner of the property and occupies less than 0.01± acre or 0.00 percent of the Project area. The canopy is open and the sub-canopy is composed of Brazilian pepper and scattered melaleuca. The ground stratum is primarily open with scattered little blue maidencane and muscadine grape.

Melaleuca (FLUCFCS Code 424)

This community type is found on the southeastern portion of the Project and occupies 0.56± acre or 3.8 percent of the Project area. The canopy and sub-canopy are dominated by melaleuca along with scattered earleaf acacia, slash pine, and Brazilian pepper. The groundcover is comprised of bahiagrass, muscadine grape, spermacoce, pineland heliotrope, little blue maidencane, partridge pea (*Chamechrista* sp.), and dog fennel (*Eupatorium capillifolium*).

Melaleuca, Hydric (FLUCFCS Code 4241)

This community type is found along the eastern boundary and it occupies 0.53± acre or 3.6 percent of the Project area. The canopy and sub-canopy are dominated by melaleuca along with scattered earleaf acacia and Brazilian pepper. The groundcover is comprised of little blue maidencane, spermacoce, umbrellasedge (*Fuirena breviseta*), pineland heliotrope, Gulf dune paspalum (*Paspalum monostachyum*), partridge pea, dog fennel, and scattered paragrass.

Streams and Waterways (Kehl Canal) (FLUCFCS Code 510)

This land use is comprised of the Kehl Canal waterway which forms the Project's north boundary. The canal occupies 0.97± acre or 6.5 percent of the Project area.

Hydric Pine, Disturbed (50-75% Exotics) (FLUCFCS Code 6259 E3)

This community type is found in the southeastern portion of the property, and it occupies 0.47± acre or 3.2 percent of the Project area. The canopy is composed of melaleuca, slash pine, earleaf acacia, and scattered cabbage palm. The sub-canopy is dominated by melaleuca, with earleaf acacia, Brazilian pepper, slash pine, cabbage palm, and widely scattered cypress (*Taxodium distichum*) present. The groundcover is dominated by little blue maidencane, along with spermacoce, umbrellasedge, pineland heliotrope, Gulf dune paspalum, partridge pea, and widely scattered maidencane (*Panicum hemitomom*).

Disturbed Land (FLUCFCS Code 740)

This upland community comprises most of the northern portion of the site, and it occupies 9.81± acres or 66.1 percent of the Project. The canopy and sub-canopy are open, except for widely scattered Brazilian pepper, slash pine, melaleuca, live oak (*Quercus virginiana*), earleaf acacia and carrotwood (*Cupaniopsis anacardioides*). The groundcover is dominated by bahiagrass (*Paspalum notatum*), along with smutgrass (*Sporobolus indicus*), spermacoce, pineland heliotrope, cogongrass (*Imperata cylindrica*), rattlebox (*Crotalaria* sp.), and partridge pea.

Spoil Area (FLUCFCS Code 743)

This cover type is found in the northwestern portion of the property and it occupies 0.61± acre or 4.1 percent of the Project area. The canopy is mostly open with widely scattered slash pine and melaleuca. The sub-canopy is dominated by Brazilian pepper, along with scattered cabbage palm. The groundcover is composed of bahiagrass, smutgrass, ragweed (*Ambrosia* sp.), and muscadine grape.

METHODOLOGY AND DISCUSSION

Surveys for Lee County protected species are based on the presence of specific vegetation associations and habitat types noted on-site as outlined in the LDC. The frequency of transects performed in these habitats, unless otherwise discussed, were designed to meet the 80 percent minimum coverage requirement. A cursory review was also conducted in those habitats not technically required to be surveyed per the LDC. Based on experience and past conversations with Lee County’s Environmental Sciences staff, these areas were reviewed for certain protected species as a precautionary measure. Table 2 outlines the protected species that may inhabit or utilize a particular vegetation association according to the LDC and personal experience, as well as those habitats reviewed as a precautionary measure.

Table 2. Potential Lee County Protected Species by Habitat Type

FLUCFCS Code and Description		Potential Protected Species
4159 E3	Pine, Disturbed (50-75% Exotics)*	Eastern Indigo Snake (<i>Drymarchon corais couperi</i>)
		Gopher Tortoise (<i>Gopherus polyphemus</i>)
		Gopher Frog (<i>Rana areolata</i>)
		Southeastern American Kestrel (<i>Falco sparverius paulus</i>)
		Red-Cockaded Woodpecker (<i>Picoides borealis</i>)
		Florida Panther (<i>Puma concolor coryi</i>)
		Big Cypress Fox Squirrel (<i>Sciurus niger avicennia</i>)
		Florida Black Bear (<i>Ursus americanus floridanus</i>)
		Fakahatchee Burmannia (<i>Burmannia flava</i>)
		Satinleaf (<i>Chrysophyllum olivaeforme</i>)
		Beautiful Paw-Paw (<i>Deeringothamnus pulchellus</i>)
Florida Coontie (<i>Zamia floridana</i>)		
4221	Brazilian Pepper, Hydric*	N/A
424	Melaleuca*	Big Cypress Fox Squirrel (<i>Sciurus niger avicennia</i>)
4241	Melaleuca, Hydric*	Big Cypress Fox Squirrel (<i>Sciurus niger avicennia</i>)
510	Streams and Waterways	American Alligator (<i>Alligator mississippiensis</i>)
		Roseate Spoonbill (<i>Ajaia ajaja</i>)
		Limpkin (<i>Aramus guarauna</i>)
		Little Blue Heron (<i>Egretta caerulea</i>)
		Reddish Egret (<i>Egretta rufescens</i>)
		Snowy Egret (<i>Egretta thula</i>)
		Tri-Colored Heron (<i>Egretta tricolor</i>)
Everglades Mink (<i>Mustela vison evergladensis</i>)		

Table 2. (Continued)

FLUCFCS Code and Description		Potential Protected Species
6259 E3	Hydric Pine, Disturbed (50-75% Exotics)	Little Blue Heron (<i>Egretta caerulea</i>)
		Snowy Egret (<i>Egretta thula</i>)
		Tri-Colored Heron (<i>Egretta tricolor</i>)
		Gopher Frog (<i>Rana areolata</i>)
		Everglades Mink (<i>Mustela vison evergladensis</i>)
		Big Cypress Fox Squirrel (<i>Sciurus niger avicennia</i>)
		Arctic Peregrine Falcon (<i>Falco peregrinus tundrius</i>)
740	Disturbed Land*	Eastern Indigo Snake (<i>Drymarchon corais couperi</i>)
		Gopher Tortoise (<i>Gopherus polyphemus</i>)
		Gopher Frog (<i>Rana areolata</i>)
743	Spoil Areas*	Eastern Indigo Snake (<i>Drymarchon corais couperi</i>)
		Gopher Tortoise (<i>Gopherus polyphemus</i>)
		Gopher Frog (<i>Rana areolata</i>)

*Habitat surveyed for the species noted as a precautionary measure, although not required per the LDC.

The protected species survey was conducted by a qualified ecologist on July 10, 2008. The type of survey utilized included meandering pedestrian transects, per WilsonMiller, Inc. methodology previously approved by Lee County. The weather was partly cloudy with temperatures in the high 80's to the low 90's, and a light wind from the west during the survey. Visibility in the surveyed habitats varied due to the density of vegetation. A summary of the limits of visibility, number, length of transects walked, and percent of coverage by habitat type for the site is provided in Table 3.

Table 3. Summary of Habitat Coverage

FLUCFCS Code	Description	Total Area (Acres)	Transects Total Length (Feet)	Average Visibility (Feet) ¹	Percent Coverage
4159 E3	Pine, Disturbed (50-75% Exotics) ²	1.88	1,300	30	95
4221	Brazilian Pepper, Hydric ²	<0.01	15	15	100
424	Melaleuca ²	0.56	385	30	95
4241	Melaleuca, Hydric ²	0.53	350	30	91
510	Streams and Waterways	0.97	650	35	100
6259 E3	Hydric Pine, Disturbed (50-75% Exotics)	0.47	325	30	95
740	Disturbed Land ²	9.81	6200	50	100
743	Spoil Areas ²	0.61	430	30	97

¹Average visibility of transect to one side

²Habitat surveyed as a precautionary measure

SURVEY RESULTS

The results of the July 10, 2008 Lee County Protected Species Survey found signs for one protected specie on-site. One gopher tortoise (*Gopherus polyphemus*) burrow (GT-1, Appendix A) was found in the Spoil Areas (FLUCFCS Code 743) habitat. Additionally, one squirrel nest was found on-site, with another three squirrel nests found just off-site. No Big Cypress fox (*Sciurus niger avicennia*) squirrels were observed on-site or in the surrounding vicinity. It is anticipated the observed squirrel nests are inhabited by gray squirrels (*Sciurus carolinensis*).

A copy of the 2007 aerial photograph with the survey transects is provided as Appendix A. Table 4 summarizes the protected species survey findings, while Table 5 depicts the Lee County protected species density calculations.

Table 4. Lee County Protected Species Abundance Calculations

Protected Species Density:

$$= \frac{n}{L(w_1+w_1)} \{ (43,560 \text{ ft.}^2/\text{ac.}) (C) \}$$

Where n = number of individuals observed

L = length of transect

w₁ = distance of visibility to the right of transect

w₁ = distance of visibility to the left of transect

C = 1 / percent coverage (numerical) of FLUCFCS code

Gopher Tortoise Density:

FLUCFCS Code 743

$$\text{Density} = \frac{1 \text{ GT}}{430(30+30)} \{ (43,560 \text{ ft.}^2/\text{ac.}) (1/0.97) \}$$

$$= (3.88 \times 10^{-5} \text{ GT}/\text{ft.}^2) (43,560 \text{ ft.}^2/\text{ac.}) (1.03)$$

$$= 1.74 \text{ GT}/\text{ac.}$$

Table 5. Lee County Protected Species Survey Summary

Protected Species	FLUCFCS Code/Area	Percent Area Surveyed	Individuals Present	Individuals Absent	Density (per acre)
Reptiles					
Eastern Indigo Snake	4159 E3	95		X	
	740	100		X	
	743	97		X	
Gopher Tortoise	4159 E3	95		X	
	740	100		X	
	743	97	X		1.74
Gopher Frog	4159 E3	95		X	
	6259 E3	95		X	
	740	100		X	

Table 5. Lee County Protected Species Survey Summary

Protected Species	FLUCFCS Code/Area	Percent Area Surveyed	Individuals Present	Individuals Absent	Density (per acre)
Reptiles (Continued)					
Gopher Frog (Continued)	743	97		X	
American Alligator	510	100		X	
Birds					
Arctic Peregrine Falcon	6259 E3	95		X	
Southeastern American Kestrel	4159 E3	95		X	
Red-Cockaded Woodpecker	4159 E3	95		X	
Little Blue Heron	510	100		X	
	6259 E3	95		X	
Snowy Egret	510	100		X	
	6259 E3	95		X	
Tri-Colored Heron	510	100		X	
	6259 E3	95		X	
Limpkin	510	100		X	
Reddish Egret	510	100		X	
Roseate Spoonbill	510	100		X	
Mammals					
Big Cypress Fox Squirrel	4159 E3	95		X	
	424	93		X	
	4241	91		X	
	6259 E3	96		X	
Florida Black Bear	4159 E3	95		X	
Florida Panther	4159 E3	95		X	
Everglades Mink	510	100		X	
	6259 E3	95		X	
Plants					
Fakahatchee Burmannia	4159 E3	95		X	
Beautiful Paw-Paw	4159 E3	95		X	
Florida Coontie	4159 E3	95		X	
Satinleaf	4159 E3	95		X	

MANAGEMENT PLAN

One inactive gopher tortoise burrow was found on the northern portion of the site; however, it is located over 200± feet from the proposed development activities which are to occur on the southern portion of the property. As a result, no relocation activities are proposed. Temporary silt screen will be placed around the construction site to prevent the gopher tortoise from getting into harms way. No management plan or further protections measures for this species are anticipated. Prior to site clearing activities, a Big Cypress fox squirrel survey of the Project area will be conducted. If a Big Cypress fox squirrel is found with young in the nest, a 125± foot buffer will

be established around the nest tree. The buffer will be maintained until the young have left the nest. Once gone, the appropriate permit will be obtained from the FWCC to remove the nest tree.

REFERENCES

Florida Department of Transportation. 1999. Florida Land Use, Cover and Forms Classification System. Procedure No. 550-010-001-a. Third Edition.

APPENDIX A

**AERIAL PHOTOGRAPH WITH PRELIMINARY FLUCFCS
AND WETLANDS WITH SURVEYED TRANSECTS
AND PROTECTED SPECIES LOCATION MAP**

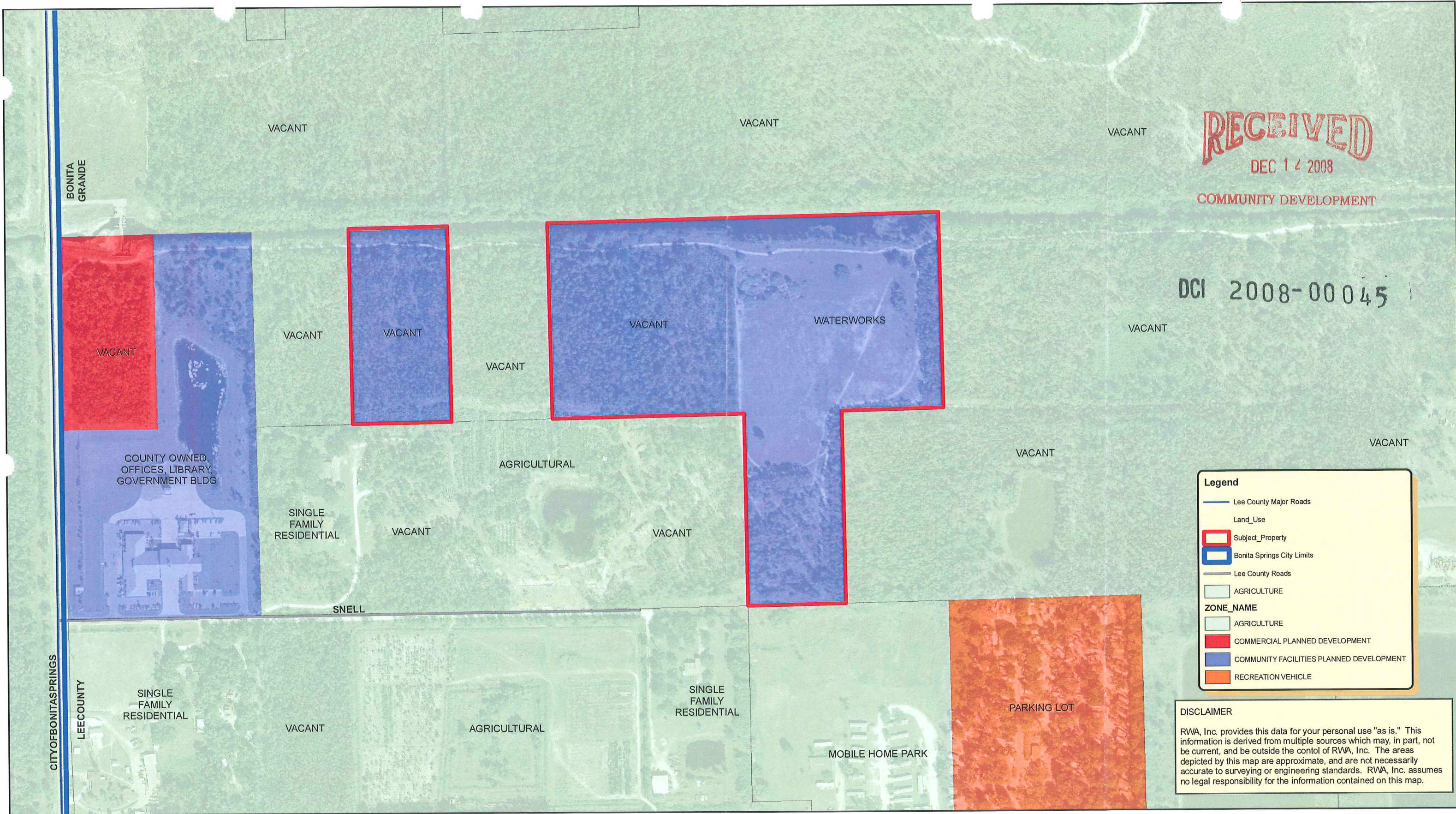
Bonita Springs Utilities, Inc.
Bonita Beach Road East Water Storage Tank
Lee County, FL

RECEIVED
DEC 17 2008

COMMUNITY DEVELOPMENT

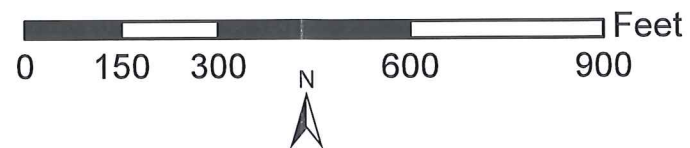
Boundary Survey
is provided as
Exhibit PH-3.D.1

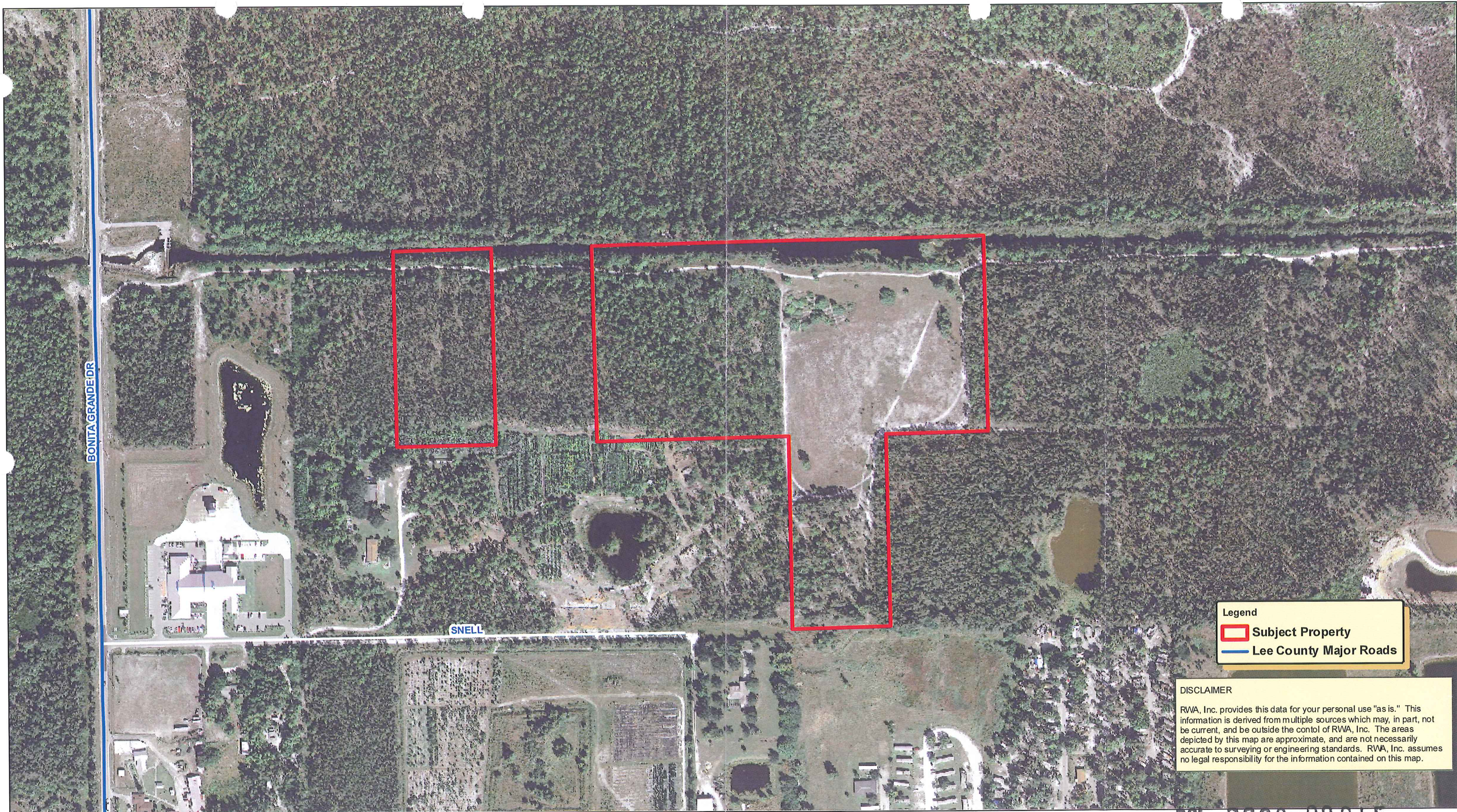
DCI 2008-00045



Bonita Beach Road East Water Storage Tank

Exhibit D-7-C: Existing Zoning & Current Land Use Map





Legend

- Subject Property
- Lee County Major Roads

DISCLAIMER
 RWA, Inc. provides this data for your personal use "as is." This information is derived from multiple sources which may, in part, not be current, and be outside the control of RWA, Inc. The areas depicted by this map are approximate, and are not necessarily accurate to surveying or engineering standards. RWA, Inc. assumes no legal responsibility for the information contained on this map.

**Bonita Beach Road East
 Water Storage Tank**
Exhibit D-7-D: Aerial Photograph



DCI 2008-00075

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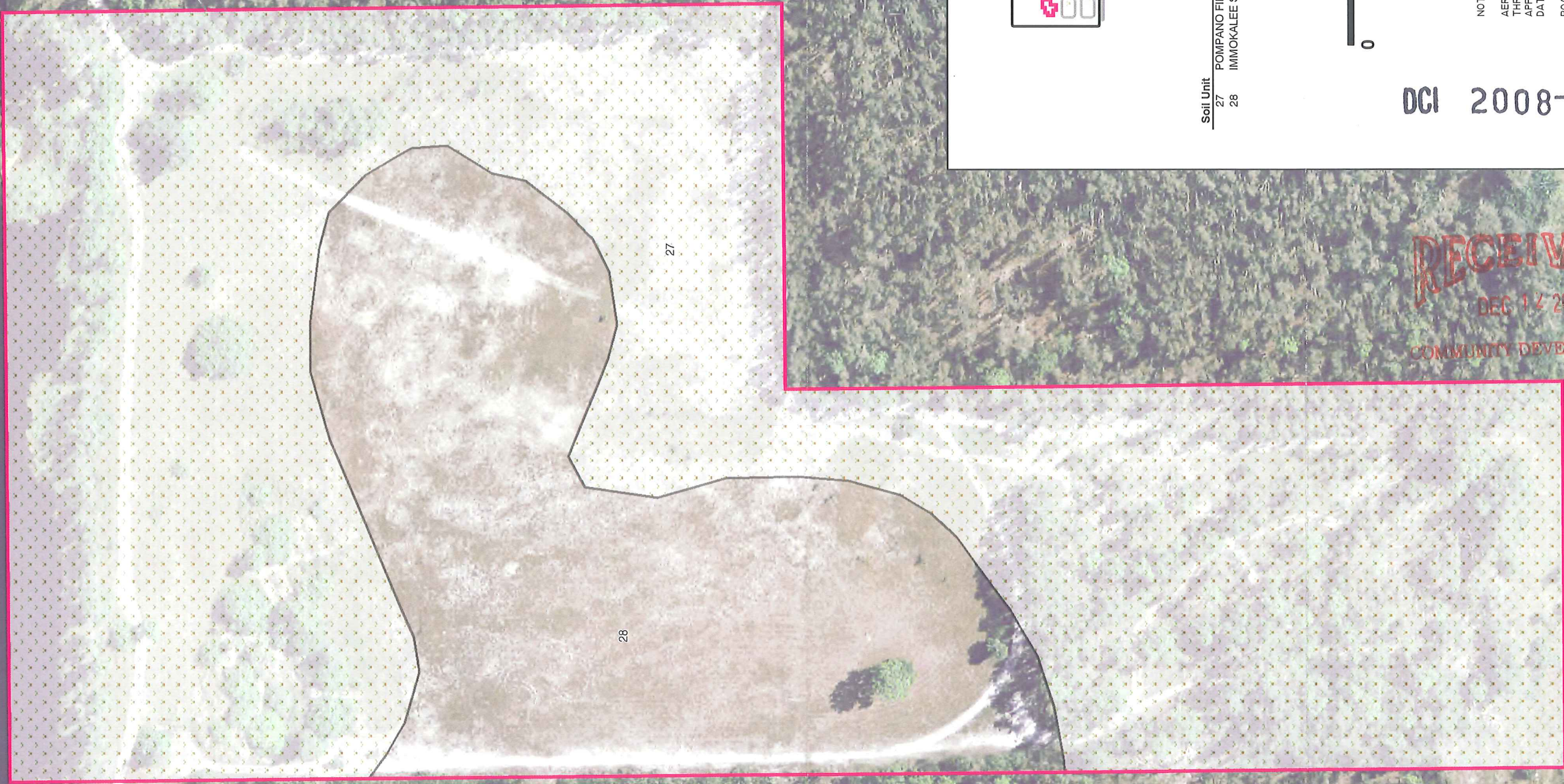
RWA INC.
 CONSULTING
 • Planning • Visualization
 • Civil Engineering • Surveying & Mapping

Prepared By: vjpelegrino
 Printing Date: September 3, 2008
 File: T:\Projects\2008\080097.00.00
 Bonita Beach_RdAerial.mxd



COMMUNITY DEVELOPMENT



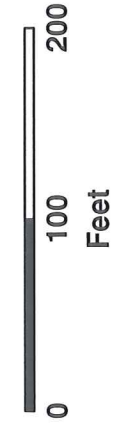
PROJECT LOCATION



LEGEND

-  BSU EAST WATER TANK
-  HYDRIC
-  NON-HYDRIC

Soil Unit	Description	Hydric
27	POMPANO FINE SAND; DEPRESSIONAL	YES
28	IMMOKALEE SAND	NO



DCI 2008-00045

NOTES:

AERIAL PHOTOGRAPHS WERE ACQUIRED THROUGH THE LEE COUNTY PROPERTY APPRAISER'S OFFICE WITH A FLIGHT DATE OF AUGUST - NOVEMBER 2007.

ROADWAY NETWORKS WERE ACQUIRED FROM THE FLORIDA GEOGRAPHIC DATA LIBRARY WEBSITE.

SOILS MAPPING WAS ACQUIRED FROM THE FLORIDA GEOGRAPHIC DATA LIBRARY WEBSITE OCTOBER 2007 AND CREATED BY THE NATURAL RESOURCES CONSERVATION SERVICE 1990.

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 COMMUNITY DEVELOPMENT

DRAWN BY	D.B./F.L.	DATE	11/21/08
REVIEWED BY	C.R.	DATE	11/21/08
REVISION		DATE	

13620 Metropolis Avenue
 Suite 200
 Fort Myers, Florida 33912
 Phone (239) 274-0067
 Fax (239) 274-0069



BBR EAST WATER STORAGE TANK
 SOILS MAP

DRAWING No.	07BSU1715
SHEET No.	D-7-E