



Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (239) 533-8585
FAX: (239) 485-8319

APPLICATION FOR A
COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D: REC'D BY:

APPLICATION FEE: TIDEMARK NO:

THE FOLLOWING VERIFIED:

Zoning Commissioner District

Designation on FLUM

(To be completed by Planning Staff)

Plan Amendment Cycle: Normal Small Scale DRI Emergency

Request No:

APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is:

Submit 6 copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Up to 90 additional copies will be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages. Staff will notify the applicant prior to each hearing or mail out.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

5/22/10 DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

I. APPLICANT/AGENT/OWNER INFORMATION

PINE TARR, LLC and LAKE JEFFERSON, LLC

APPLICANT

3050 Horseshoe Drive, Suite 105

ADDRESS

Naples, FL 34104

CITY, STATE, ZIP

(239) 775-2230

TELEPHONE NUMBER

(239) 775-1398

FAX NUMBER

Matthew D. Uhle, Esq.

AGENT*

1617 Hendry Street, Suite 411

ADDRESS

Fort Myers, FL 33901

CITY, STATE, ZIP

(239) 226-4500

TELEPHONE NUMBER

(239) 334-1446

FAX NUMBER

Same as Applicant

OWNER(s) OF RECORD

ADDRESS

CITY, STATE, ZIP

TELEPHONE NUMBER

FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application.

* This will be the person contacted for all business relative to the application.

Additional Agents:

Thomas R. Lehnert, Jr., P.S.M.

President

Banks Engineering

10511 Six Mile Cypress Parkway

Fort Myers, Florida 33966

Ph: 239-939-5490 Fax: 239-939-2523

E-Mail: tlehnert@bankseng.com

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

Text Amendment

Future Land Use Map Series Amendment
(Maps 1 thru 24)

List Number(s) of Map(s) to be amended

1. Future Land Use Map amendments require the submittal of a complete list, map, and two sets of mailing labels of all property owners and their mailing addresses, for all property within 500 feet of the perimeter of the subject parcel. The list and mailing labels may be obtained from the Property Appraisers office. The map must reference by number or other symbol the names of the surrounding property owners list. The applicant is responsible for the accuracy of the list and map.

At least 15 days before the Local Planning Agency (LPA) hearing, the applicant will be responsible for posting signs on the subject property, supplied by the Division of Planning, indicating the action requested, the date of the LPA hearing, and the case number. An affidavit of compliance with the posting requirements must be submitted to the Division of Planning prior to the LPA hearing. The signs must be maintained until after the final Board adoption hearing when a final decision is rendered.

B. SUMMARY OF REQUEST (Brief explanation):

Amendment to Policy 14.1.5 to permit clearing of wetlands in accordance with an approved ERP for commercial planned developments on parcels meeting specified criteria in the Pine Island Center Urban area.

**III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY
(for amendments affecting development potential of property)**

A. Property Location:

1. Site Address: 5100 Pine Island Road N.W., Bokeelia, FL 33922

2. STRAP(s): 28-44-22-00-00012.0000; 28-44-22-00-00012.002A (portion);
28-44-22-00-00012.002B

B. Property Information

Total Acreage of Property: 26.77 acres

Total Acreage included in Request: 26.77 acres

Total Uplands: 19 ± acres

Total Wetlands: 7.78 acres

Current Zoning: C-1A and AG-2

Current Future Land Use Designation: Urban Community and Wetlands

Area of each Existing Future Land Use Category: 19 AC Urban Community and
7.7 AC Wetlands

Existing Land Use: Vacant

C. State if the subject property is located in one of the following areas and if so how does the proposed change affect the area:

Lehigh Acres Commercial Overlay: N/A

Airport Noise Zone 2 or 3: N/A

Acquisition Area: N/A

Joint Planning Agreement Area (adjoining other jurisdictional lands): N/A

Community Redevelopment Area: N/A

D. Proposed change for the subject property:

Text amendment affecting location of uses on site

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density N/A

Commercial intensity N/A

Industrial intensity N/A

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density N/A

Commercial intensity N/A

Industrial intensity N/A

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats.)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

1. Provide any proposed text changes.
2. Provide a current Future Land Use Map at an appropriate scale showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.
3. Provide a proposed Future Land Use Map at an appropriate scale showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.
4. Map and describe existing land *uses* (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.
5. Map and describe existing zoning of the subject property and surrounding properties.
6. The certified legal description(s) and certified sketch of the description for the property subject to the requested change. A metes and bounds legal description must be submitted specifically describing the entire perimeter boundary of the property with accurate bearings and distances for every line. The sketch must be tied to the state plane coordinate system for the Florida West Zone (North America Datum of 1983/1990 Adjustment) with two coordinates, one coordinate being the point of beginning and the other an opposing corner. If the subject property contains wetlands or the proposed amendment includes more than one land use category a metes and bounds legal description, as described above, must be submitted in addition to the perimeter boundary of the property for each wetland or future land use category.

7. A copy of the deed(s) for the property subject to the requested change.
8. An aerial map showing the subject property and surrounding properties.
9. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

1. Traffic Circulation Analysis

The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range – 20-year Horizon:

- a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
- b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);
- c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;
- d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
- e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
- f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range – 5-year CIP horizon:

- a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
 - b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;
Projected 2030 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
 - c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
 - d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.
2. Provide an existing and future conditions analysis for (see Policy 95.1.3):
- a. Sanitary Sewer
 - b. Potable Water
 - c. Surface Water/Drainage Basins
 - d. Parks, Recreation, and Open Space
 - e. Public Schools.

Analysis should include (but is not limited to) the following (see the Lee County Concurrency Management Report):

- Franchise Area, Basin, or District in which the property is located;
- Current LOS, and LOS standard of facilities serving the site;
- Projected 2030 LOS under existing designation;
- Projected 2030 LOS under proposed designation;
- Existing infrastructure, if any, in the immediate area with the potential to serve the subject property.
- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).
- Provide a letter of service availability from the appropriate utility for sanitary sewer and potable water.

In addition to the above analysis for Potable Water:

- Determine the availability of water supply within the franchise area using the current water use allocation (Consumptive Use Permit) based on the annual average daily withdrawal rate.

- Include the current demand and the projected demand under the existing designation, and the projected demand under the proposed designation.
 - Include the availability of treatment facilities and transmission lines for reclaimed water for irrigation.
 - Include any other water conservation measures that will be applied to the site (see Goal 54).
3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including:
 - a. Fire protection with adequate response times;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - d. Solid Waste;
 - e. Mass Transit; and
 - f. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).
2. A map and description of the soils found on the property (identify the source of the information).
3. A topographic map depicting the property boundaries and 100-year flood prone areas indicated (as identified by FEMA).
4. A map delineating the property boundaries on the Flood Insurance Rate Map effective August 2008.
5. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.
6. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

D. Impacts on Historic Resources

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.
2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2030 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.
2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.
3. Describe how the proposal affects adjacent local governments and their comprehensive plans.
4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment.

F. Additional Requirements for Specific Future Land Use Amendments

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)
 - a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
 - b. Provide data and analysis required by Policy 2.4.4,
 - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.
2. Requests moving lands from a Non-Urban Area to a Future Urban Area
 - a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.
3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
Map Amendment > 20 Acres	\$2,000.00 and \$20.00 per 10 acres
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

AFFIDAVIT

I, Matthew D. Uhle, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize 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 through this application.

Matthew D. Uhle
Signature of owner or owner-authorized agent

9/27/10
Date

Matthew D. Uhle
Typed or printed name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me September 27, 2010 (date), by Matthew D. Uhle, who is personally known to me or who has produced _____ as identification.

(SEAL)



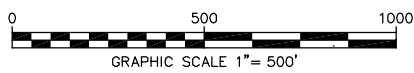
Zsuzsanna Weigel
Signature of notary-public

ZSUZSANNA WEIGEL
Printed name of notary public

PROPOSED TEXT AMENDMENT

Policy 14.1.5: New development, including "planned development" zoning approvals, new subdivisions, and agriculture, that adjoin state-designated aquatic preserves and associated wetlands and natural tributaries must preserve or create a 50-foot-wide native vegetated buffer area between the development and the waterbody or associated wetlands. This requirement will not apply to existing subdivided lots. For commercial planned developments in excess of 25 acres on property with Pine Island Road frontage in the Pine Island Center Urban Community area, the buffer (including any fill necessary to facilitate the survival of the required upland species within it), must be located between the development areas on the site and all wetlands required to be preserved by an approved state environmental resource permit. For agriculture, this requirement:

- will be implemented through the notice-of-clearing process in chapter 14 of the Land Development Code;
- will include a requirement to use this area as a riparian forest buffer with an adjoining filter strip wherever farmland abuts wetlands; and
- if native vegetation does not currently exist, native tree cover will be established within three years of issuance of the notice of clearing.



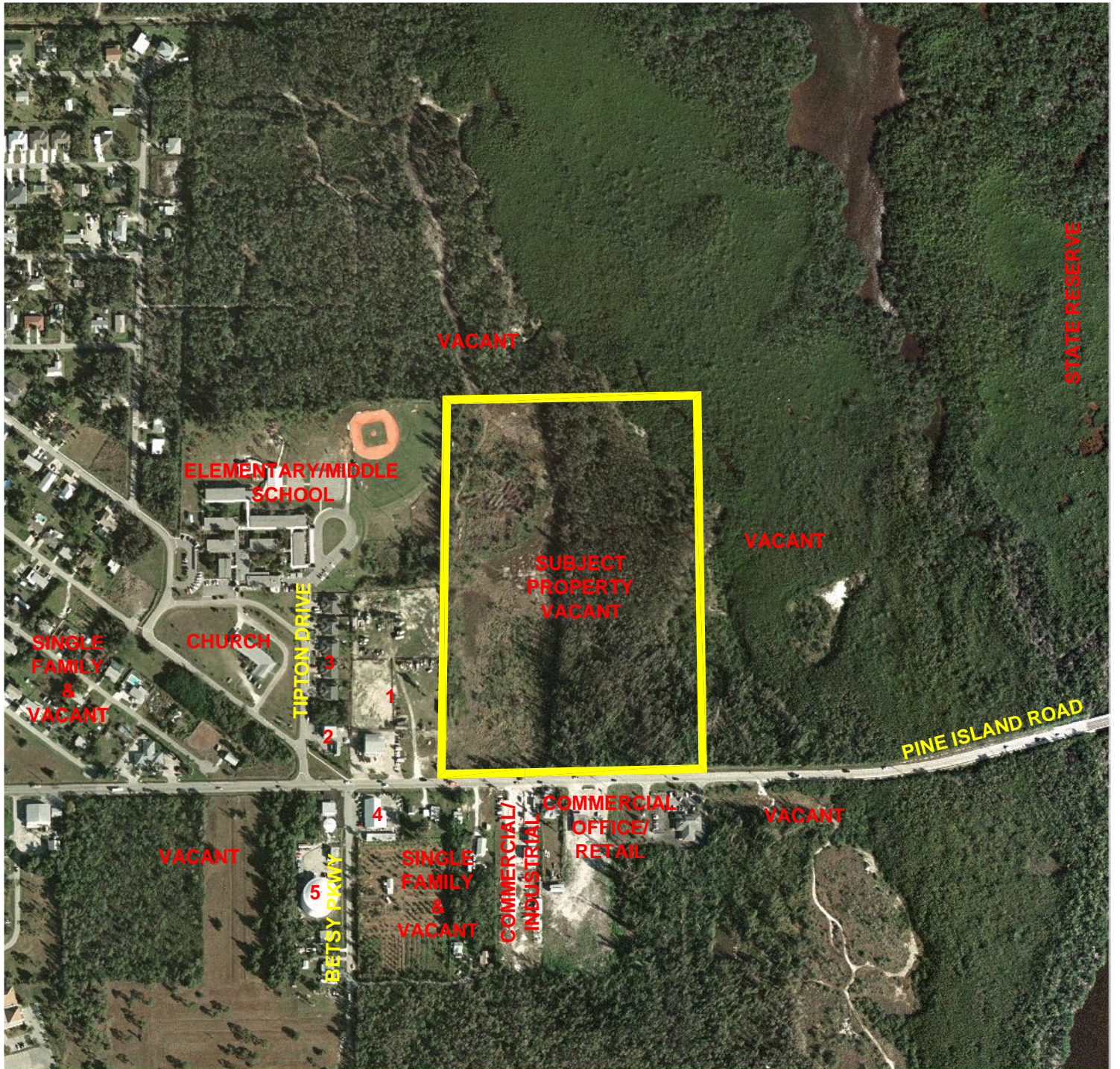
Banks Engineering

Professional Engineers, Planners & Land Surveyors

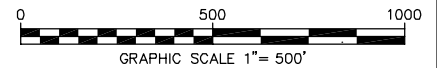
10511 SIX MILE CYPRESS PARKWAY - SUITE 101
 FORT MYERS, FLORIDA 33966
 PHONE: (239) 939-5490 FAX: (239) 939-2523
 ENGINEERING LICENSE # EB 6469
 SURVEY LICENSE # LB 6690

EXHIBIT IV.A.2
PINE TARR/LAKE JEFFERSON PROPERTY
 LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09/21/2010	1585HC	_AER	SDJ	SEH		1"=500'	1	1	(28-44-22)



- 1. COMMERCIAL - AUTO REPAIR/GLASS STORE
- 2. UTILITY - SPRINT
- 3. MULTI-FAMILY
- 4. RETAIL/OFFICE/STORAGE
- 5. UTILITY - PINE ISLAND WATER ASSOCIATION



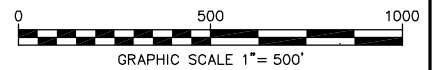
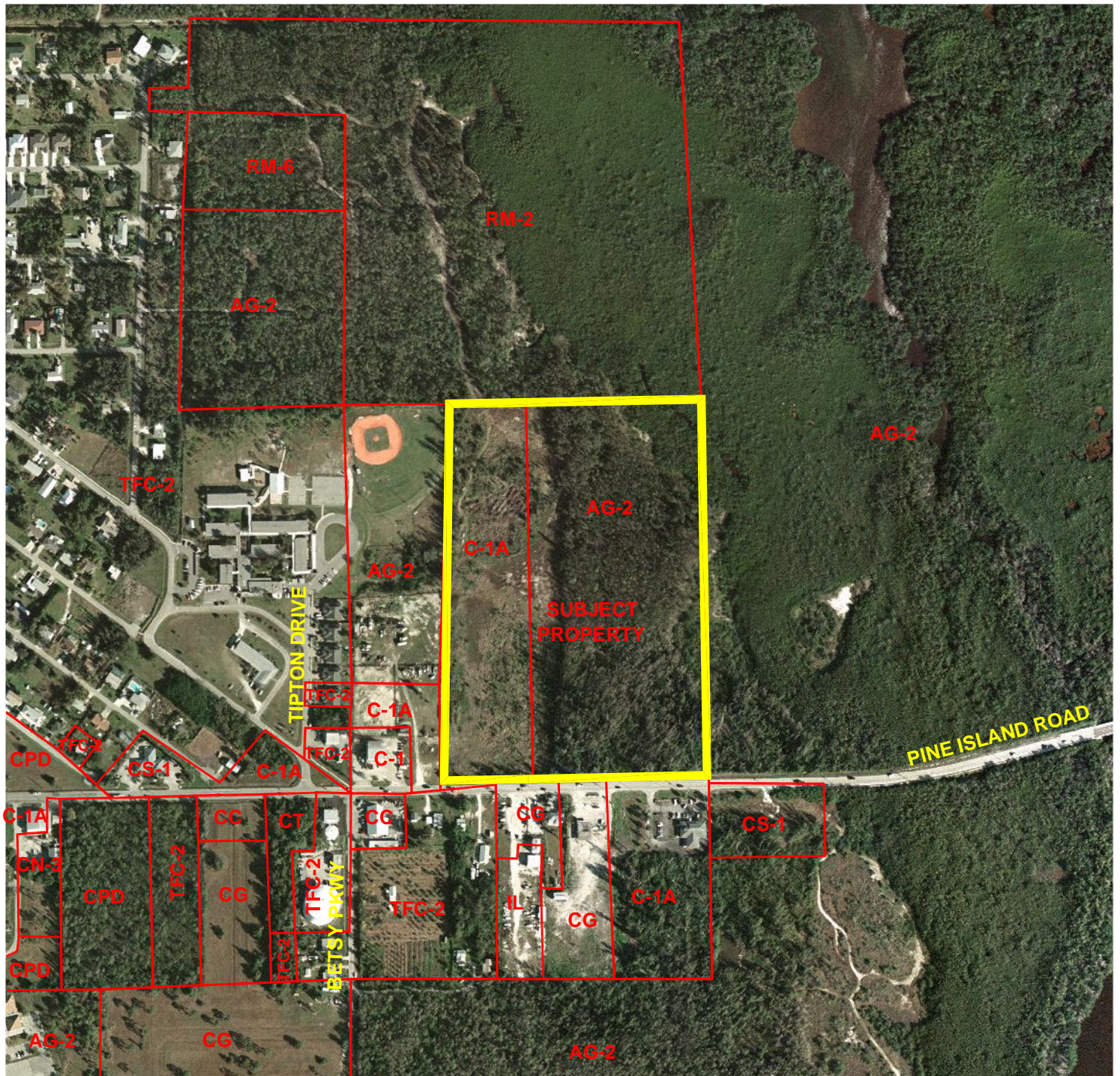
Banks Engineering

Professional Engineers, Planners & Land Surveyors

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 PHONE: (239) 939-5490 FAX: (239) 939-2523
 ENGINEERING LICENSE # EB 6469
 SURVEY LICENSE # LB 6690

EXHIBIT IV.A.4 - EXISTING LAND USES
PINE TARR/LAKE JEFFERSON PROPERTY
 LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
8/24/2007	1585HC	_AER	SDJ	SDJ		1"=500'	1	1	(28-44-22)



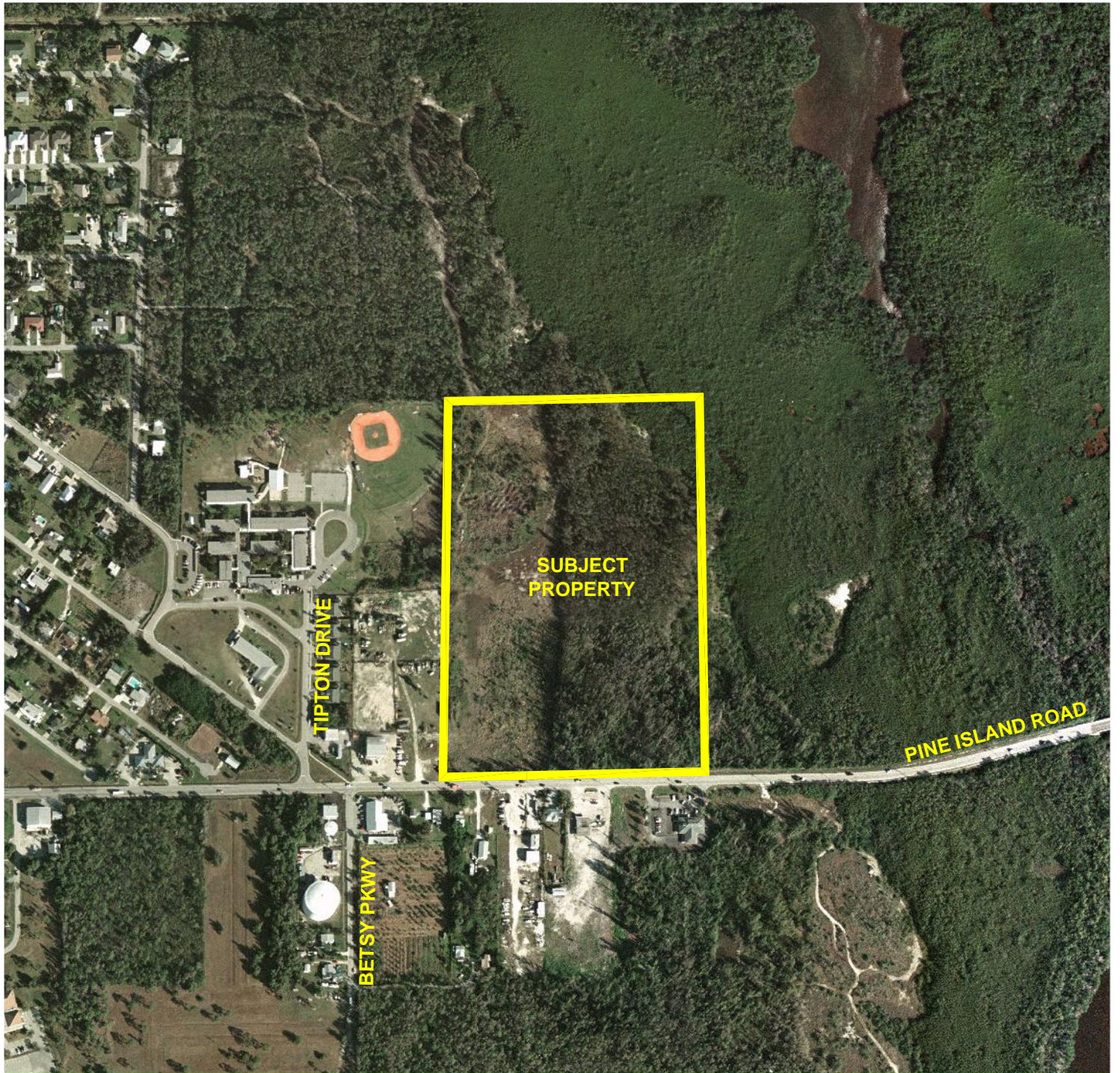
Banks Engineering

Professional Engineers, Planners & Land Surveyors

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 FORT MYERS, FLORIDA 33966
 PHONE: (239) 939-5490 FAX: (239) 939-2523
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 SURVEY LICENSE # LB 6690

EXHIBIT IV.A.5 – EXISTING ZONING
PINE TARR/LAKE JEFFERSON PROPERTY
 LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
8/24/2007	1585HC	_AER	SDJ	SDJ		1"=500'	1	1	(28-44-22)

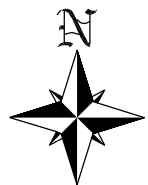
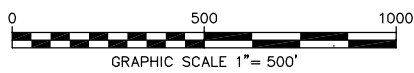


SUBJECT
PROPERTY

TIPTON DRIVE

PINE ISLAND ROAD

BETSY PKWY



Banks Engineering

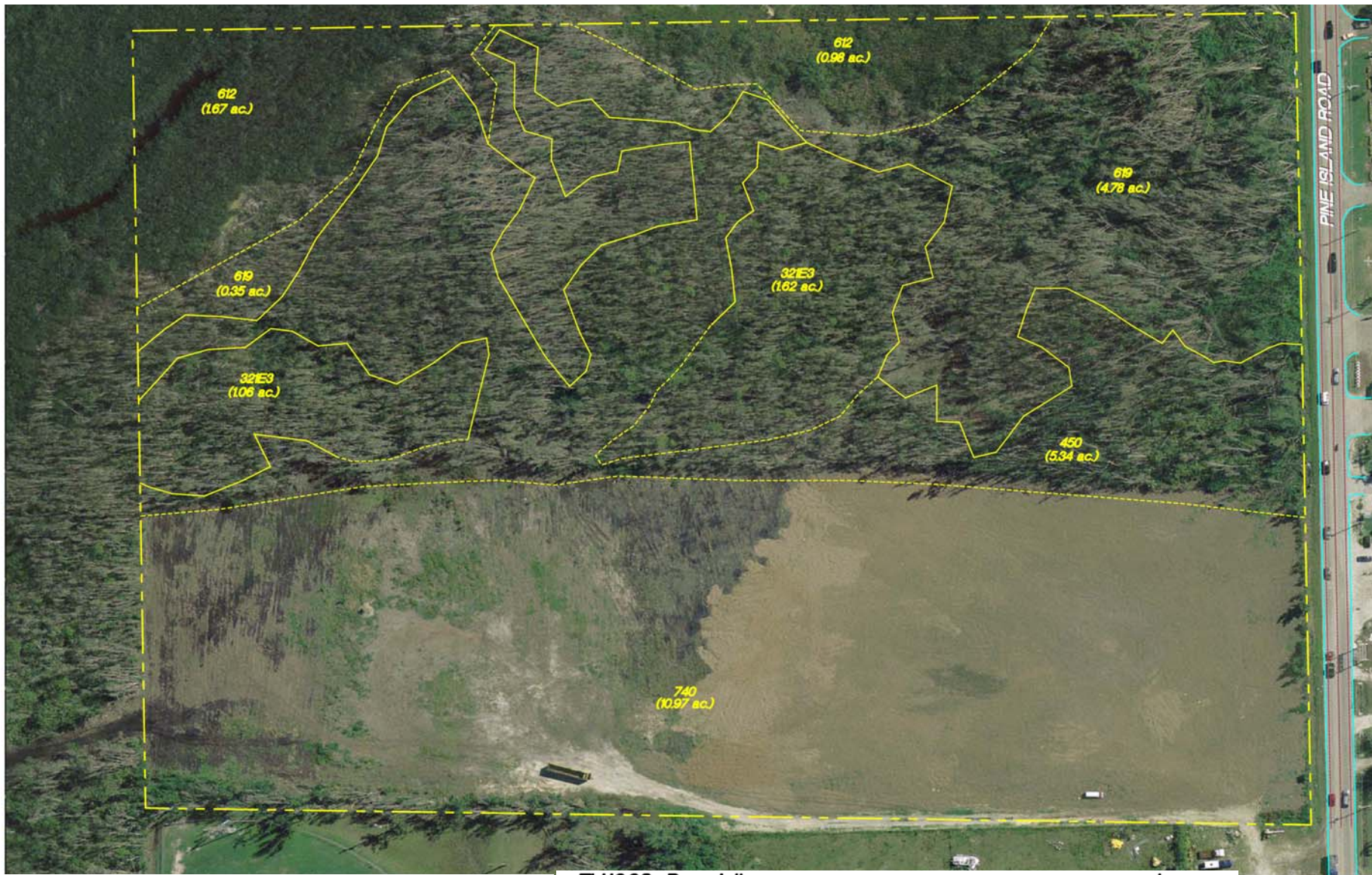
Professional Engineers, Planners & Land Surveyors

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FORT MYERS, FLORIDA 33966
PHONE: (239) 939-5490 FAX: (239) 939-2523
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SURVEY LICENSE # LB 6690

EXHIBIT IV.A.8 – AERIAL
PINE TARR/LAKE JEFFERSON PROPERTY
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09/24/2010	1585HC	_AER	SDJ	SEH		1"=500'	1	1	(28-44-22)

Pine Tarr/Lake Jefferson Property - FLUCCS Map - EXHIBIT IV.C.1



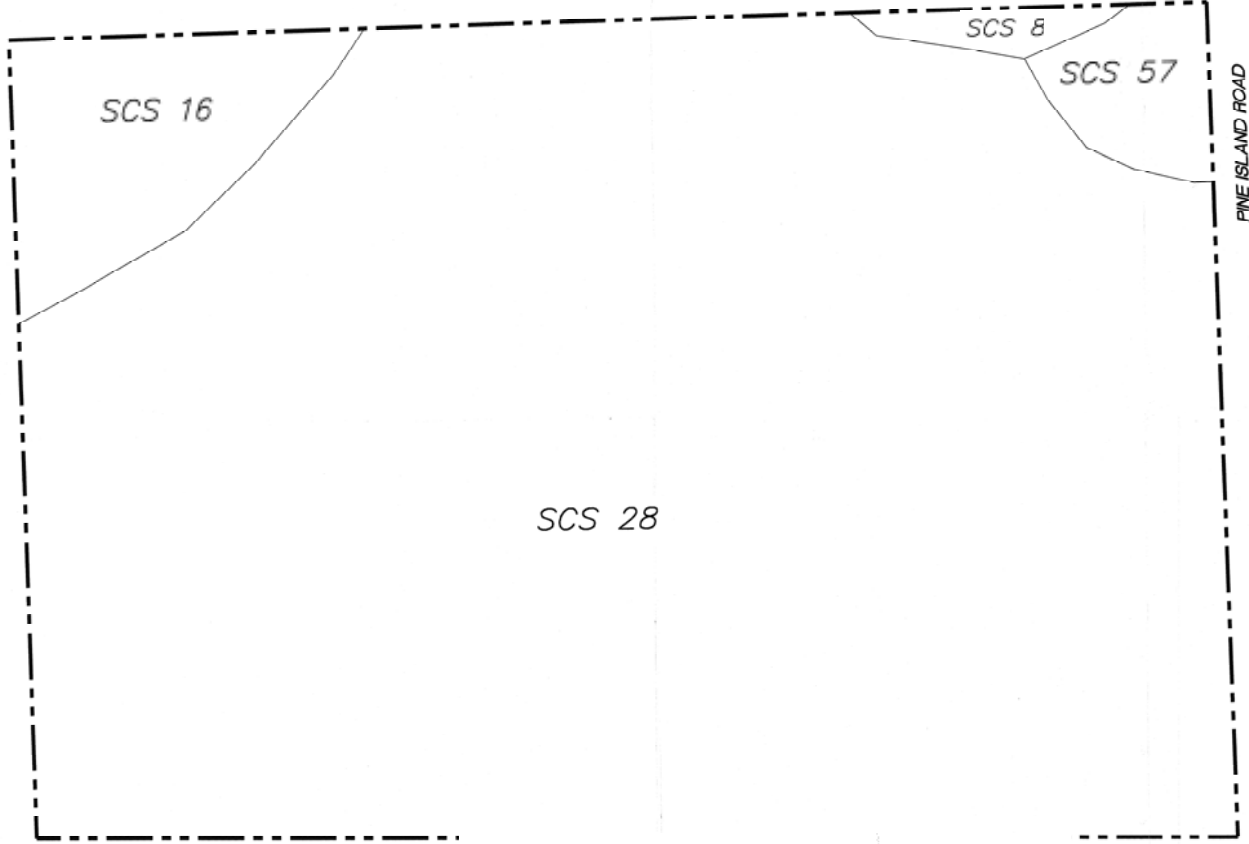
- Notes:**
1. Property boundary and surveyed wetland line obtained from Banks Engineering, Inc.
 2. Mapping based on photointerpretation of 2005 aerial photography and ground truthing in March 2008.
 3. Delineation of jurisdictional wetlands field approved by the South Florida Water Management District on September 25, 2008.

<u>FLUCCS</u>	<u>Description</u>	<u>Acreage</u>
321E3	Palmetto Prairies invaded by Exotics (51-75%)	2.68 ac.
450	Mixed Exotic Upland Forest	5.34 ac.
●612	Mangrove Swamps	2.65 ac.
●●619	Exotic Wetland Hardwoods	5.13 ac.
740	Disturbed Land	10.97 ac.
TOTAL		26.77 ac.



SECTION 28
TOWNSHIP 44
RANGE 22

SOIL MAP



Soil Legend

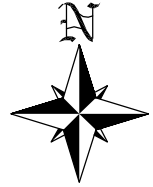
- SCS 08 - Hallandale fine sand, tidal
- SCS 16 - Peckish mucky fine sand
- SCS 28 - Immokalee sand
- SCS 57 - Boca fine sand, tidal

Notes:
1. Property boundary obtained from Danks Engineering, Inc.
2. Soil information has been obtained from the Lee County Property Appraiser's website.

W. DEXTER BENDER & ASSOCIATES, Inc.
ENVIRONMENTAL & MARINE CONSULTING
FORT MYERS 889/224-3869 241/285-1162
ORCHID COVE COMMERCIAL TRACT
EXHIBIT 1.A
SHEET

EXHIBIT

OF
A PARCEL OF LAND LYING IN
SECTION 28, TOWNSHIP 44 SOUTH,
RANGE 22 EAST,
LEE COUNTY, FLORIDA



1" = 160'

NOTES:

ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88). THE MARK IS A SURVEY DISC SET IN THE TOP OF A CONCRETE MONUMENT. THE MARK DESIGNATION IS F 241 STAMPED F 241 1965. THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D. 29) ELEVATION IS 6.73' CONVERTED TO (NAVD 88) WITH CORPSCON 6.0.1. SOFTWARE OBTAINED FROM THE U.S. ARMY CORPS OF ENGINEERS ELEVATION = 5.54' (NAVD 88).

SITE TOPO PROVIDED BY A.J. WATSON LAND SURVEYING, INC.

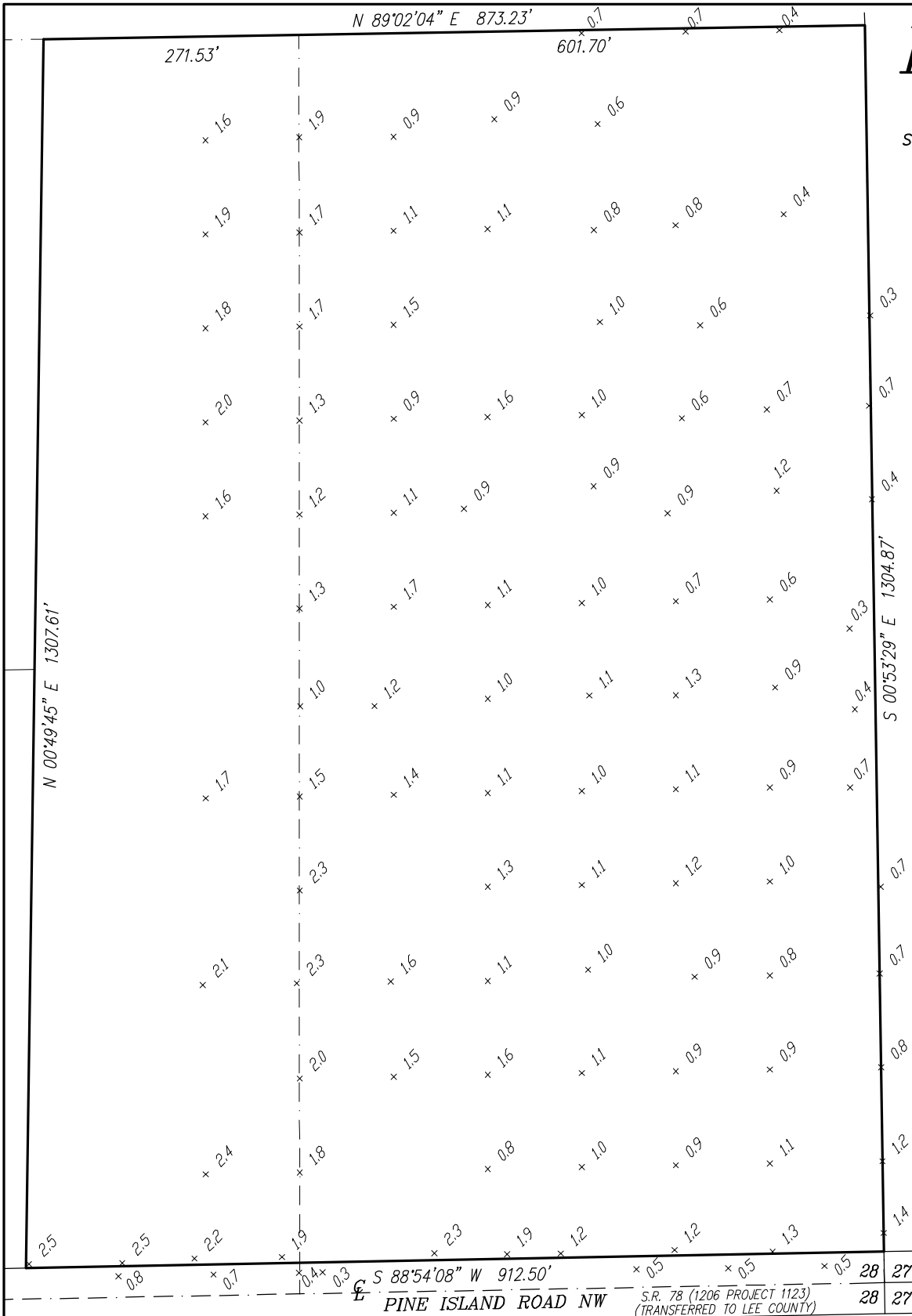
THE SUBJECT PARCEL IS LOCATED IN A SPECIAL FLOOD HAZARD AREA ON THE NATIONAL FLOOD INSURANCE PROGRAM'S FLOOD INSURANCE RATE MAPS.

PER FLOOD INSURANCE RATE MAP NUMBER 12071C0380F, EFFECTIVE DATE AUGUST 28, 2008 THE SUBJECT PARCEL LIES IN FLOOD ZONE "AE" HAVING A NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) BASE FLOOD ELEVATION OF 7.

NO FLOODWAY AREAS ARE WITHIN THE SITE.

LEGEND:

- ⊕ INDICATES CENTERLINE
- S.R. INDICATES STATE ROAD
- ⊕.1. INDICATES EXISTING ELEVATION



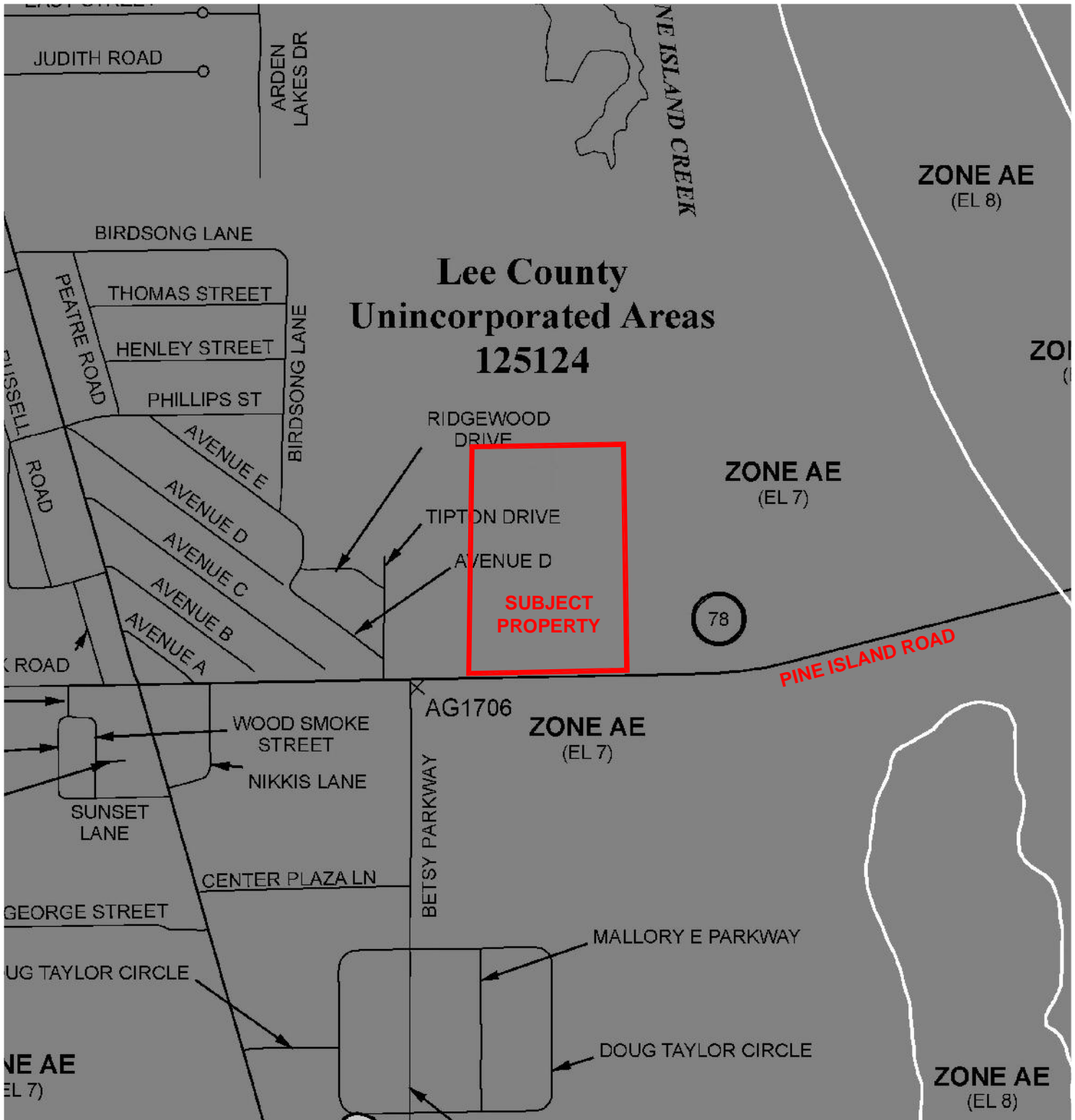
THIS IS NOT A SURVEY

Banks Engineering

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690
10511 SIX MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33966
(239) 939-5490

EXHIBIT IV.C.3 - TOPOGRAPHIC MAP
PINE TARR/LAKE JEFFERSON PROPERTY
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
9-24-2010	1585HC	1585HC-TP0		AMV	SEH	1"=160'	1	1	28-44-22



Banks Engineering

Professional Engineers, Planners & Land Surveyors

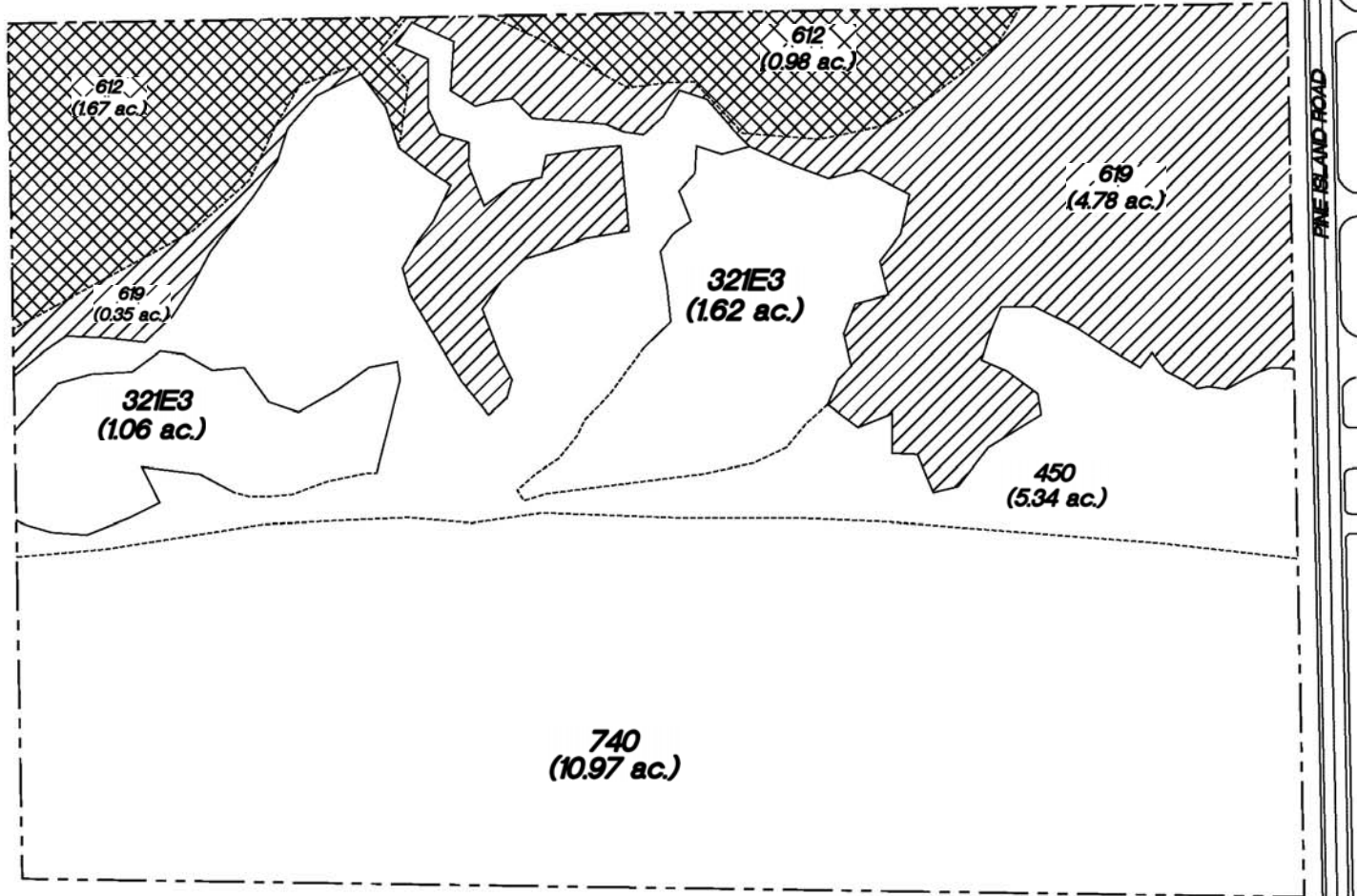
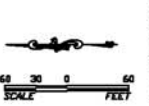
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 FORT MYERS, FLORIDA 33966
 PHONE: (239) 939-5490 FAX: (239) 939-2523
 ENGINEERING LICENSE # EB 6469
 SURVEY LICENSE # LB 6690

EXHIBIT IV.C.4 - FIRM MAP
PINE TARR/LAKE JEFFERSON PROPERTY
 LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09/24/2010	1585HC	_AER	SDJ	SEH		NTS	1	1	(28-44-22)

SECTION: 28
 TOWNSHIP: 44
 RANGE: 22

WETLAND MAP



- Notes:**
1. Property boundary and surveyed wetland line obtained from Banks Engineering, Inc.
 2. Mapping based on photointerpretation of 2005 aerial photography and ground truthing in March 2008.
 3. Delineation of jurisdictional wetlands field approved by the South Florida Water Management District on September 25, 2008.

<u>FLUCCS</u>	<u>Description</u>	
321E3	Palmetto Prairies invaded by Exotics (51-75%)	
450	Mixed Exotic Upland Forest	
*612	Mangrove Swamps	☒ *High Quality Potential Jurisdictional Wetland (2.65 ac.)
**619	Exotic Wetland Hardwoods	☒ **Low Quality Potential Jurisdictional Wetland (5.13 ac.)
740	Disturbed Land	— Surveved Line
TOTAL		

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 PINE TARR/LAKE JEFFERSON PROPERTY
 EXHIBIT IILB

EXHIBIT IV.C.5

Exhibit IV.C.6

**Pine Tarr LLC/Lake Jefferson LLC Property
Protected Species Assessment**

Section 28, Township 44 South, Range 22 East
Lee County, Florida

June 2008

Prepared for:

**Banks Engineering
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Prepared by:

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INTRODUCTION

The 26.8± acre project is located within a portion of Section 28, Township 44 South, Range 22 East, on Pine Island in Lee County, Florida. The Orchid Cove residential project (permitted but not yet developed) is located to the north. Mangrove wetlands are present to the east. Pine Island Road forms the south property line. Existing commercial development and Pine Island Elementary School are present to the west.

SITE CONDITIONS

The majority of this site has been disturbed in the past and has become overgrown by exotics. Mangrove dominated wetlands are present in the eastern portion of the site.

VEGETATIVE CLASSIFICATIONS

The predominant vegetation associations were mapped in the field on 2005 digital 1" = 60' scale aerial photography. Five vegetation associations were identified using the Florida Land Use, Cover and Forms Classification System (FLUCCS). The attached map depicts the approximate location and configuration of these vegetation associations and the acreages are summarized by FLUCCS code in Table 1. A brief description of each FLUCCS code is also provided below.

Table 1. Acreage Summary by FLUCCS Code

FLUCCS CODE	DESCRIPTION	ACREAGE
321E3	Palmetto Prairies invaded by Exotics (51 – 75%)	2.6
450	Mixed Exotic Upland Forest	5.5
612	Mangrove Swamps	2.7
619	Exotic Wetland Hardwoods	5.1
740	Disturbed Land	10.9
	Total	26.8

FLUCCS Code 411E3, Palmetto Prairies invaded by Exotics (51 – 75%)

The canopy of these areas of the site consists of widely scattered slash pine (*Pinus elliotii*) with abundant Australian pine (*Casuarina* sp.) and melaleuca (*Melaleuca quinquenervia*). The midstory consists of Brazilian pepper (*Schinus terebinthifolius*), downy rose-myrtle (*Rhodomyrtus tomentosa*), myrsine (*Myrsine guianensis*), wax myrtle (*Myrica cerifera*), and white indigo berry (*Randia aculeata*). Saw palmetto (*Serenoa repens*) is the dominant ground cover.

FLUCCS Code 450, Mixed Exotic Upland Forest

A significant portion of the site is vegetated by a dense growth of Australian pine and melaleuca. Clumps of Brazilian pepper and widely scattered cabbage palm (*Sabal*

palmetto), myrsine, saw palmetto, white indigo berry, and buttonwood (*Conocarpus erecta*) are also present. Ground cover consists primarily of a thick layer of Australian pine needle duff.

FLUCCS Code 612, Mangrove Swamps

The eastern portion of the property consists of mangrove dominated wetlands. These areas are vegetated by black mangrove (*Avicennia germinans*), buttonwood, and white mangrove (*Laguncularia racemosa*). Ground cover is typically sparse and consists of species such as saltwort (*Batis maritima*), salt grass (*Distichlis spicata*), and glasswort (*Salicornia virginica*).

FLUCCS Code 619, Exotic Wetland Hardwoods

A majority of the wetlands on-site are dominated by melaleuca with scattered areas dominated by Australian pine and Brazilian pepper. Widely scattered buttonwood and cabbage palm are also present. The ground cover consists primarily of melaleuca/Australian pine duff with scattered leather fern (*Acrostichum* sp.), sand cordgrass (*Spartina bakeri*), swamp fern (*Blechnum serrulatum*), and fringe-rush (*Fimbristylis* sp.).

FLUCCS Code 740, Disturbed Land

The western portion of the property consists of a field that was cleared prior to 1977. The field has been recently maintained and currently consists primarily of bare ground. Scattered Australian pine, earleaf acacia (*Acacia auriculiformis*), and non-native landscape palms are present. Ground cover vegetation present includes Bermuda grass (*Cynodon dactylon*), dog fennel (*Eupatorium capillifolium*), hurricane grass (*Fimbristylis spathacea*), Caesar weed (*Urena lobata*), water-hyssops (*Bacopa monnieri*), ragweed (*Ambrosia artemisiifolia*), joint grass (*Paspalum vaginatum*), and wedelia (*Wedelia trilobata*).

SURVEY METHOD

Lee County Protected Species Ordinance No. 89-34 lists several protected species of animals that could potentially occur on-site based on the general vegetative associations found on the subject parcel. Each habitat type was surveyed for the occurrence of these and any other listed species likely to occur in the specific habitat types. The survey was conducted using meandering linear pedestrian belt transects. This survey methodology is based on the Lee County administratively approved Meandering Transect Methodology. In order to provide at least 80 percent visual coverage, transects were spaced approximately 50 feet apart (FLUCCS Codes 411E3 and 450). Within the open field (FLUCCS Code 740) transects were spaced approximately 100 feet apart. The mangrove dominated wetlands (FLUCCS Code 612) will not be impacted by any proposed development and therefore observations of this habitat types were made from the perimeter. The approximate location of all direct sighting or signs (such as tracks, nests, and droppings) of a listed species (if any), were denoted on the aerial photography. The attached 1" = 60' scale aerial Protected

Species Assessment Map depicts the approximate location of the survey transects and the results of the survey. The listed species survey was conducted during the mid-day hours of May 8, 2008. During the survey the weather was sunny and warm with a light breeze.

Species listed as endangered, threatened, or species of special concern by the Florida Fish and Wildlife Conservation Commission (FWC) or the United States Fish and Wildlife Service (FWS) that could potentially occur on the subject parcel according to the Lee County Protected Species Ordinance are shown in Table 2. This list from the Lee County Protected Species Ordinance is general in nature, does not necessarily reflect existing conditions within or adjacent to the 26.8± acre property, and is provided for general informational purposes only.

Prior to conducting the protected species survey, a search of the FWC listed species database (updated in June 2007) was conducted to determine the known occurrence of listed species in the project area. This search revealed no known protected species occurring on or immediately adjacent to the site.

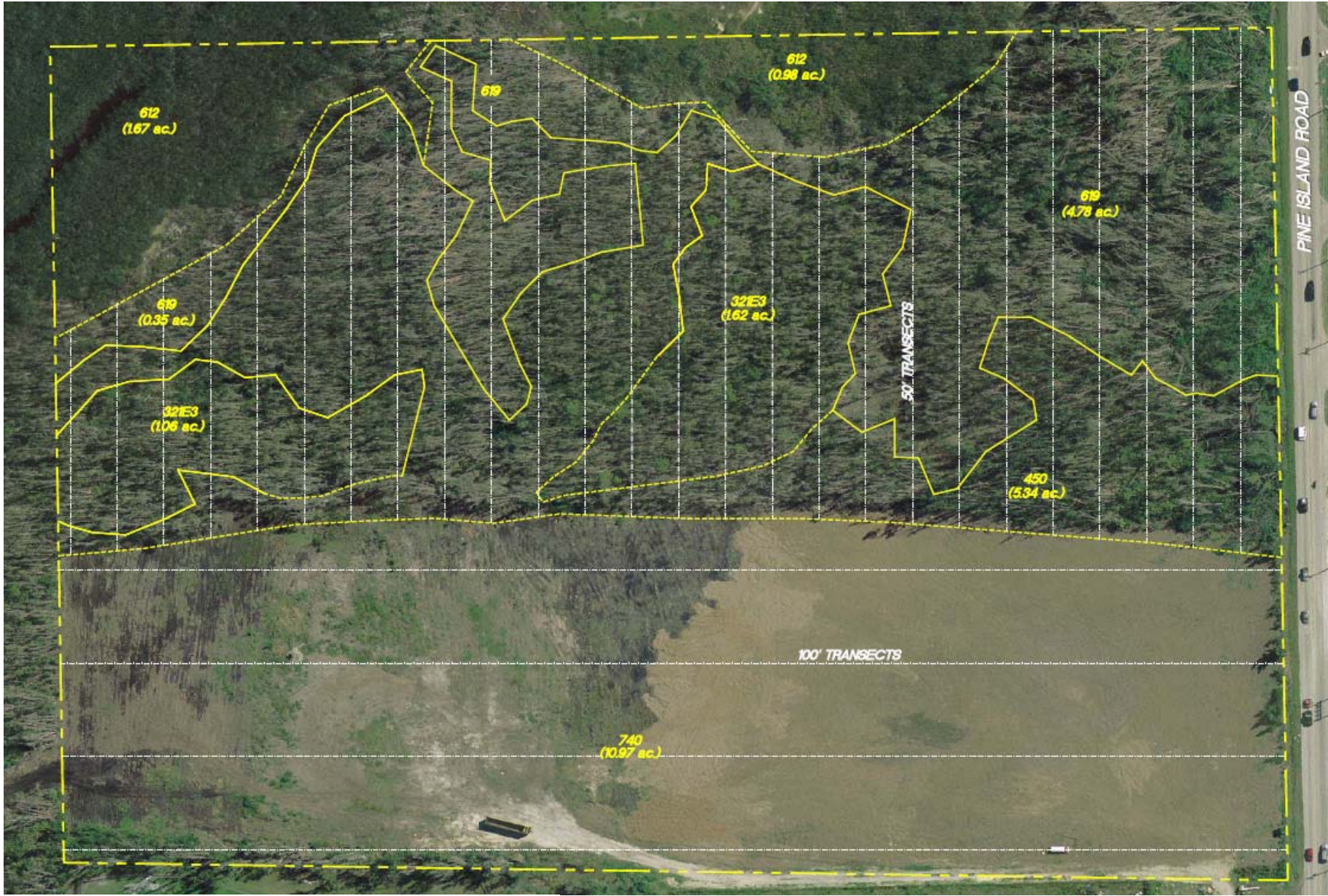
Table 2. Listed Species That Could Potentially Occur On-site

FLUCCS CODE	Percent Survey Coverage	Species Name	Present	Absent
321E3	80	Gopher Frog (<i>Rana areolata</i>)		√
		Eastern Indigo Snake (<i>Drymarchon corais couperi</i>)		√
		Gopher Tortoise (<i>Gopherus polyphemus</i>)		√
		Red-cockaded Woodpecker (<i>Picoides borealis</i>)		√
		Southeastern American Kestrel (<i>Falco sparverius paulus</i>)		√
		Big Cypress Fox Squirrel (<i>Sciurus niger avicennia</i>)		√
		Florida Black Bear (<i>Ursus americanus floridanus</i>)		√
		Florida Panther (<i>Felis concolor coryi</i>)		√
		Beautiful Pawpaw (<i>Deeringothamnus pulchellus</i>)		√
		Fakahatchee Burmannia (<i>Burmannia flava</i>)		√
		Florida Coontie (<i>Zamia floridana</i>)		√
		Satinleaf (<i>Chrysophyllum olivaeforme</i>)		√
450	80	None		

612	50	Brown Pelican (<i>Pelecanus occidentalis</i>) Little Blue Heron (<i>Egretta caerulea</i>) Roseate Spoonbill (<i>Ajaia ajaja</i>) Snowy Egret (<i>Egretta thula</i>) Tricolored Heron (<i>Egretta tricolor</i>) Florida Black Bear (<i>Ursus americanus floridanus</i>)		√ √ √ √ √ √
619	80	None		
740	95	None		

SURVEY RESULTS

No species listed by either the FWS or the FWC were observed on the site during the protected species survey. In addition to the site inspection, a search of the FWC species database (updated in 2007) revealed no known protected species within or immediately adjacent to the project limits.



- Notes:**
1. Property boundary and surveyed wetland line obtained from Banks Engineering, Inc.
 2. Mapping based on photointerpretation of 2005 aerial photography and ground truthing in March 2008.
 3. Delineation of jurisdictional wetlands field approved by the South Florida Water Management District on Se

FLUCCS	Description	Acreage
321E3	Palmetto Prairies invaded by Exotics (51-75%)	2.68 ac
450	Mixed Exotic Upland Forest	
*612	Mangrove Swamps	ac.
**619	Exotic Wetland Hardwoods	5.13 ac.
740	Disturbed Land	10.97 ac.
08.	TOTAL	26.77 ac.



EXHIBIT IV.E.1

IMPACT TO POPULATION PROJECTIONS

The proposed amendment would permit commercial development to utilize marginal wetland areas on one site on Pine Island. As such, it has no impact on the County's population projections, Table 1(b), or the capacity of the FLUM.

EXHIBIT IV.E.2

CONSISTENCY WITH LEE PLAN

The proposed text amendment is consistent with the following goals, objectives, and policies of the Lee Plan:

1. **Objective 2.1:** The amendment will enhance the applicant's ability to construct a large commercial project in an area that has been specifically identified as the commercial center of Pine Island. As such, it will facilitate a contiguous and compact growth pattern.
2. **Objective 2.2:** The proposed commercial project will be served by adequate public facilities at the site.
3. **Objective 14.1:** The amendment is limited to commercial planned developments with approved ERPs. These two extensive review processes will provide assurance that no further degradation of estuarine and wetland resources will occur as a result of any development on the site.
4. **Policy 14.4.1:** As noted above, this policy targets Pine Island Center for most of the island's future commercial uses.
5. **Policies 107.2.4 and 107.2.9:** The wetland that the property owner wishes to remove is heavily infested with exotics and is not, therefore, a high quality natural plant community.
6. **Objective 107.4:** There are no endangered species on the site.
7. **Objective 104.1; Policy 104.1.1; Objective 113.1; Policy 113.1.1; Policy 113.1.; Policy 113.1.5; and Policy 115.1.2:** These objectives and policies all mandate the protection of coastal resources and water quality. This will be done through the limitation of the amendment to commercial planned developments with approved ERPs.
8. **Objective 114.1 and Policy 114.1.2:** The County's general policy, as articulated in Policy 114.1.2, is to use the ERP process to establish compliance with avoidance and minimization requirements and to determine the adequacy of proposed mitigation. The proposed amendment provides the County with assurances that any wetland removal will be reviewed through both the ERP and the planned development process in order to protect wetland and estuarine functions.

EXHIBIT IV.E.3

IMPACT ON ADJACENT LOCAL GOVERNMENTS

There are no local governments "adjacent" to the subject property. The intent of the amendment is to facilitate a commercial center on Pine Island. It is anticipated that virtually all of the customers for this project would be residents of Pine Island. To the extent that the amendment would have any impact on Cape Coral, therefore, it would be a slight improvement to the level of service on Pine Island Road.

EXHIBIT IV.E.4

CONSISTENCY WITH STATE AND REGIONAL PLANS

The proposed amendment is consistent with the following state and regional plan provisions:

STATE PLAN

1. **Policies 8(b)4 and 8(b)6:** The protection of coastal resources will be assured through the requirements for an approved ERP and a CPD.
2. **Policy 9(b)7:** The ecological functions of wetland systems will be protected through the ERP and CPD processes.
3. **Policies 15(b)2 and 15(b)3:** Using an infill parcel within the Urban Community area of Pine Island Center for a large commercial project is consistent with these policies.

REGIONAL PLAN

1. **Natural Resources Element, Goal 4:** The removal of a marginal wetland, with appropriate mitigation, as permitted through the ERP and CPD processes will facilitate the development of a badly needed shopping center in Pine Island Center and will therefore make Pine Island a more "livable community".
2. **Economic Element, Strategy to ensure adequacy of commercial lands (particularly Action 5):** The amendment will facilitate commercial development on an infill parcel with adequate public services on Pine Island.

EXHIBIT IV.G

JUSTIFICATION FOR AMENDMENT

The applicants own three contiguous parcels north of Pine Island Road on the eastern end of Pine Island. The easternmost of the three parcels contains two areas of jurisdictional wetlands: a block of mangroves abutting the eastern property line; and an irregularly-shaped non-mangrove wetland that is heavily infested with exotics located to the west of the mangroves. The latter of these two areas intrudes into the center of the property and makes development of the site for a large scale commercial project implausible unless it can be altered through the permitting process.

The applicants filed an application for a rezoning of approximately 26 acres of its property (not all of their holdings were included) to CPD in 2008. During the review process, the applicants filed for and obtained an Environmental Resource Permit for the project which included the filling of 2.64 acres of the marginal wetlands (no mangrove filling was requested). Mitigation for the filling was provided by removing exotics and by purchasing credits from the nearby Little Pine Island Mitigation Bank. Lee County staff ultimately recommended denial of the zoning request, based, in part, on the purported inconsistency of the application with language in Policy 14.1.5 which requires a 50 foot natural buffer between development in specified areas of Pine Island and "associated wetlands" (i.e., "associated" with an aquatic preserve). Staff interpreted this language to require the buffer to be located immediately adjacent to the existing wetland line, not the line which would be created by the filling of the wetlands in accordance with the ERP. The zoning application was subsequently withdrawn.

One of the applicants then filed a request for a Notice of Clearing for agricultural purposes on the 18 acre parcel which included the marginal wetlands described above for the purpose of obtaining a definitive determination as to the proper interpretation of Policy 14.1.5. The staff approved the Notice of Clearing, but required the 50 foot buffer to be located immediately west of the existing wetland line, not the line shown after the filling of the marginal wetlands pursuant to the ERP. This decision was appealed to the Hearing Examiner, who found that the staff's interpretation of the agricultural clearing language in the LDC (and, therefore, Policy 14.1.5 by implication) was correct. This decision has the practical effect of prohibiting the clearing of any "associated wetlands," as that term is defined in the LDC, on Pine Island regardless of the quality of those wetlands, the value of the proposed project, or the amount and quality of the approved mitigation, even though the policy itself says nothing about clearing wetlands, and there was no evidence that the public understood that the policy was intended to completely prohibit wetland clearing during the public hearing process.

This proposed plan amendment would create an exception to Policy 14.1.5 under very limited circumstances. To the knowledge of the applicants, the parcel that was the subject of the zoning application is the only property on Pine Island which would meet the objective standards in the amendment. These include:

1. The property in question must be located in the Pine Island Center Urban Community area. This is consistent with Policy 14.4.1, which identifies the Center as being the appropriate location for most new commercial uses on the island.
2. The property must contain a minimum of 25 acres. Numerous studies have shown that Pine Island already has more than sufficient areas zoned for small scale commercial uses which would not require the use of the exception. There is only one commercial development of over 100,000 square feet on Pine Island. The amendment would permit (if approved through zoning) a second such development on an infill parcel for the shopping convenience of Pine Island residents.
3. The property must be zoned as a CPD. This is consistent with the acreage thresholds for planned developments in the LDC and provides assurances that any environmental impacts of the project can be fully addressed in the public hearing process.
4. The property must abut Pine Island Road. It would be inappropriate to permit a large commercial project which did not have arterial road frontage.
5. The project must obtain an ERP. The County's legitimate concerns regarding the impact of the project to coastal and estuarine resources can be fully addressed through the state review process. This is consistent with Policy 114.1.2.

Approval of the amendment will create a small degree of flexibility in the development process so as to permit the filling of marginal wetlands, with appropriate mitigation, to facilitate the development of a shopping center serving Pine Island residents in an area which has already been identified by the Pine Island Plan as being the most appropriate area on the island for future commercial growth. All environmental, planning, infrastructure, and aesthetic issues raised by the project will be fully addressed in the CPD process.