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

WHEREAS, Michael Neal, on behalf of MML II, LLC, as its Authorized Member, filed an application on behalf of the property owners, Burkett Property Assoc & Doragh Pete & Cynthia, to rezone a 19.99± acre parcel from Agricultural (AG-2) to Residential Planned Development (RPD) in reference to Orange River Blvd RPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Donna Marie Collins, was advertised and held on September 16, 2021. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the Applicant to submit written submissions to her Office on or before September 23, 2021; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2021-00005 and recommended Approval of the Request; and

WHEREAS, a second public hearing was advertised and held on November 3, 2021 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners 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 a 19.99± acre parcel from AG-2 to RPD, to allow up to 120 residential dwelling units.

The property is located in the Urban Community Future 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

Development of this project must be consistent with the two-page Master Concept Plan (MCP) entitled "Orange River Boulevard RPD," prepared by Banks Engineering, date dated April 30, 2021, received June 15, 2021, and attached hereto as Exhibit C, except as modified by the conditions below. Development must comply with all requirements of the 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 MCP are subsequently pursued, appropriate approvals will be necessary.

Development Parameters: Up to 120 dwelling units.

2. Permitted Uses and Site Development Regulations

a. Schedule of Uses

Accessory uses and structures
Administrative offices
Clubs, private
Dwelling units:
- Single-Family
- Single-Family, Attached
- Duplex
- Two-Family Attached
- Townhouse
- Zero-Lot Line

Entrance Gate and Gatehouse
Essential Services
Essential Service Facilities: Group I
Excavation: water retention
Fences, walls
Home Occupations
Models:
- Homes
- Units

Parking lot, Accessory
Real Estate Sales Office (temporary, within model home or unit)
Recreation Facilities:
- Personal
- Private, on-site

Residential Accessory Uses
Signs
Temporary Uses, limited to a construction trailer or modular unit and associated parking for purposes of managing on-site construction activities

b. Site Development Regulations

Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Structure Height	Minimum Side Setback	Minimum Front (street) Setback	Minimum Rear Setback (Principal)	Minimum Rear Setback (Accessory)
Single-Family	4,500 SF	45'	75'	45'/3-stories	5'	20'	10'	5'
Single-Family, Attached	2,500 SF	20'	75'	45'/3-stories	5'	20'	10'	5'
Duplex/Two-Family Attached	5,000 SF	60'	75'	45'/3-stories	5'	20'	10'	5'
Townhouse	10,000 SF	100'	75'	45'/3-stories	5'	20'	10'	5'
Zero-Lot Line	2,500 SF	35'	65'	45'/3-stories	2.5' on one side; 5' on one side	20'	10'	5'
Recreational Facilities	5,000 SF	50'	75'	25'/1-story	5'	20'	10'	5'

Notes:

1. Project perimeter setbacks not less than 15'.
2. Project perimeter buffers shown on MCP.

3. Model Homes/Units and Real Estate Sales

a. Each Model home/unit must be a unique example. Multiple examples of the same home/unit are prohibited.

b. Model Home Sites must be designated on development order plans. Developer must buffer parking areas supporting model home/units with a single-row hedge and tree canopy.

c. Developer must depict model home/units on a preliminary plat prior to construction. Developer must file the preliminary plat concurrently with the development order application. Model home/unit construction must comply with property development regulations set forth in condition 2.b.

d. No more than five model homes/units may be active at one time.

e. Real estate sales are limited to sale of lots/units within the development.

f. Hours of operation for models and real estate sales are Monday through Sunday 8 a.m. to 8 p.m.

g. Model homes and real estate sales will be valid for a period of up to 5 years from the date of the certificate of occupancy of a model home.

4. Agricultural Uses

Existing bona fide agricultural uses (livestock pasture/grazing) may continue onsite subject to the following:

a. Termination of Agriculture Use. Agricultural uses must terminate in project areas receiving development order approval for vertical development and prior to county issuance of a vegetation removal permit. Development order approvals for plats, infrastructure improvements, landscaping, surface water management, or other non- vertical development do not trigger termination.

b. Additional Clearing Prohibited. Additional clearing of trees or vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained (i.e. mowed), but not cleared or expanded. This prohibition does not preclude County approval requests to remove invasive exotic vegetation.

c. Proof of Termination. Upon approval of local development order for vertical development and prior to vegetation removal permit issuance, the property owner must provide written proof, of the following, subject to review/approval by the County Attorney's Office:

i. Affidavit. Sworn affidavit from the property owner confirming:

(a) Date agricultural uses ceased.

(b) Legal description of the property subject to development order approval for vertical development.

(c) Affirmative statement acknowledging and agreeing agricultural uses are illegal and prohibited on the property. Further, that the property owner covenants with the County not to resume agricultural uses until the property is rezoned to permit agricultural; and

(d) The affidavit constitutes a binding covenant between the property owner and Lee County including the property owner's successors. The covenant must recorded in public record of Lee County at the property owner's expense.

ii. Termination of Tax Exemption. The property owner must terminate the agricultural tax exemption on the portions of the property with a development order for vertical development. Proof of termination must include a copy of the property owner's request to terminate the tax

exemption with the Property Appraiser.

SECTION C. DEVIATIONS:

1. Deviation (1) withdrawn.

2. Deviation (2) Street Design and Construction Standards, seeks relief from the LDC §10-296(k), requiring circular turnarounds at the end of dead-end streets, to allow two street stub-outs at the end of the dead-end street stubs located in the southeast and northern portions of the property consistent with the MCP. This deviation is APPROVED SUBJECT TO the following condition:

   Prior to approval of the development order the developer must submit a letter of no objection to the dead-end street stub from the applicable Fire District.

3. Deviation (3) Required Street Access, seeks relief from the LDC§10-291(3), which requires residential developments greater than five acres to provide more than one means of ingress or egress to the project, to allow a single point of access to Orange River Boulevard consistent with the MCP. This deviation is APPROVED SUBJECT TO the following condition:

   Prior to approval of the development order allowing construction of the access to the development, the developer must record a notice to future owners in the public records of Lee County. The notice must detail the emergency access plan and provide information as to where a copy of the plan may be obtained from the developer or its successor.

4. Deviation (4) Excavations, seeks relief from the LDC §10-329(d)(1)a.3, which requires no excavation within 50 feet of private property lines under separate ownership, to allow water retention excavations to be located within 35' of the property boundary. This deviation is APPROVED SUBJECT TO the following condition:

   The developer must install a fence no less than 4 feet in height along the entire western portion of Proposed Lake #1 and along the entire eastern and northern portion of Proposed Lake #2 as reflected on the MCP.

SECTION D. EXHIBITS:

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

SECTION E. FINDINGS AND CONCLUSIONS:

Based upon its review, the Board of County Commissioners adopts the recommendation of the Hearing Examiner, including the following findings and conclusions:

1. The proposed Residential Planned Development complies with the Lee Plan. Lee Plan Vision Statement Paragraph 4 (Fort Myers Shores), Lee Plan Goals 2, 4, 5, 21, Objectives 5.1, 21.1, 135.1, Policies 1.1.4, 5.1.1, 5.1.7, 135.1.9, 135.9.5, 135.9.6.

2. As conditioned, the Residential Planned Development:

   a. Meets the LDC and other county regulations or qualifies for deviations. LDC §§ 10-321, 10-415, 10-416(d), 34-411, 34-413, 34-491, 34-612(2);

   b. Is compatible with existing and planned uses in the surrounding area. Lee Plan Policies 1.1.4, 2.1.2, 2.2.1, 5.1.2, 5.1.5, 135.9.5;

   c. Provides access sufficient to support the proposed development intensity. Expected impacts on transportation facilities will be addressed by county regulations and conditions of approval. Lee Plan Objective 39.1, Policies 2.2.1, 38.1.1, 39.1.1; LDC §§ 34-411(d) and (e);

   d. Will not adversely affect environmentally critical areas and natural resources. Lee Plan Goals 61, 77, Objectives 77.1, 126.2, Policies 61.3.1, 61.3.6, 61.3.8, 61.3.11, 126.2.1, 135.9.6; and

   e. Will be served by public services including paved roads, potable water, sanitary sewer, urban surface water management, police, fire, and emergency services. Lee Plan Glossary, Lee Plan Goals 2, 4, Objectives 2.1, 4.1, 5.1, Policies 2.2.1, 135.9.7, Standards 4.1.1 and 4.1.2 and Maps 6, 7; LDC §34-411(d).

3. The proposed uses are appropriate at the proposed location. Lee Plan Goal 5, Objective 2.1, Policies 2.1.1, 2.1.2, 135.1.9, 135.9.5, 135.9.7.

4. Recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. In addition, recommended conditions reasonably relate to impacts expected from the proposed development. Lee Plan Policies 5.1.5, 135.9.6; LDC §§ 34-377(a)(3), 34-411, 34-932(b) and (c).

5. As conditioned, the requested deviations:

   a. Enhance the planned development; and

   b. Preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

SECTION F. SCRIVENER'S ERRORS

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

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

Adopted by unanimous consent.

Kevin Ruane	Aye
Cecil Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 3rd day of November, 2021.

ATTEST:
LINDA DOGGETT, CLERK

BY:_____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY:_____
Kevin Ruane, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

Michael D. Jacob
Deputy County Attorney
County Attorney's Office

2021 NOV 15 AM 9:28
RECEIVED
MINUTES OFFICE

Exhibit A

BANKS ENGINEERING

Professional Engineers, Planners & Land Surveyors

DESCRIPTION
OF
A PARCEL OF LAND LYING IN
SECTION 2, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 2, TOWNSHIP 44 SOUTH, RANGE 25 EAST, BEING A PORTION OF BLOCK 2, TERRY TICE & VANDAWALKERS, RECORDED IN PLAT BOOK 1, PAGE 46, PUBLIC RECORDS OF SAID LEE COUNTY AND BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER, NORTHEAST EAST QUARTER, NORTHWEST QUARTER OF SAID SECTION 2; THENCE N 89°18'35" E ALONG THE NORTH LINE OF SAID SECTION FOR 112.50 FEET TO THE **POINT OF BEGINNING** OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N 89°18'35" E ALONG SAID NORTH LINE FOR 547.51 FEET; THENCE S 00°43'07" E FOR 1,641.04 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF ORANGE RIVER BOULEVARD (58 FEET WIDE RIGHT-OF-WAY); THENCE N 80°48'26" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 553.75 FEET; THENCE N 00°47'36" W FOR 1,545.99 FEET TO THE **POINT OF BEGINNING**.

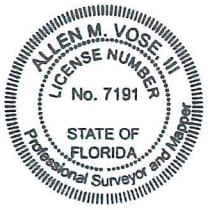
SAID PARCEL CONTAINS: 19.99 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

NORTH IS BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83/2011 (CORS), WHEREIN NORTH LINE OF SECTION 2, TOWNSHIP 44 SOUTH, RANGE 25 EAST BEARS N 89°18'35" E.

DESCRIPTION PREPARED: 02-12-2021

Digitally signed by Allen M Vose III
Date: 2021.02.12 11:05:02 -05'00'



ALLEN M. VOSE III, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATION NO. 7191
DATE SIGNED 02-12-2021
S:\Jobs\85XX\8595\Survey\Descriptions\ORANGE RIVER BOULEVARD LGL.DOC
S:\Jobs\85XX\8595\Survey\Descriptions\ORANGE RIVER BOULEVARD SKT.DWG

REVIEWED
DCI2021-00005
Rick Burris, Principal Planner
Lee County DCD/Planning
5/17/2021

• SERVING THE STATE OF FLORIDA •

10511 Six Mile Cypress Parkway • Suite 101 • Fort Myers, Florida 33966
Phone 239-939-5490 • www.bankseng.com • Fax 239-939-2523
Engineering License No. EB 6469 • Surveying License No. LB 6690

DCI2021-00005 Lee County ePlan

BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State of Florida

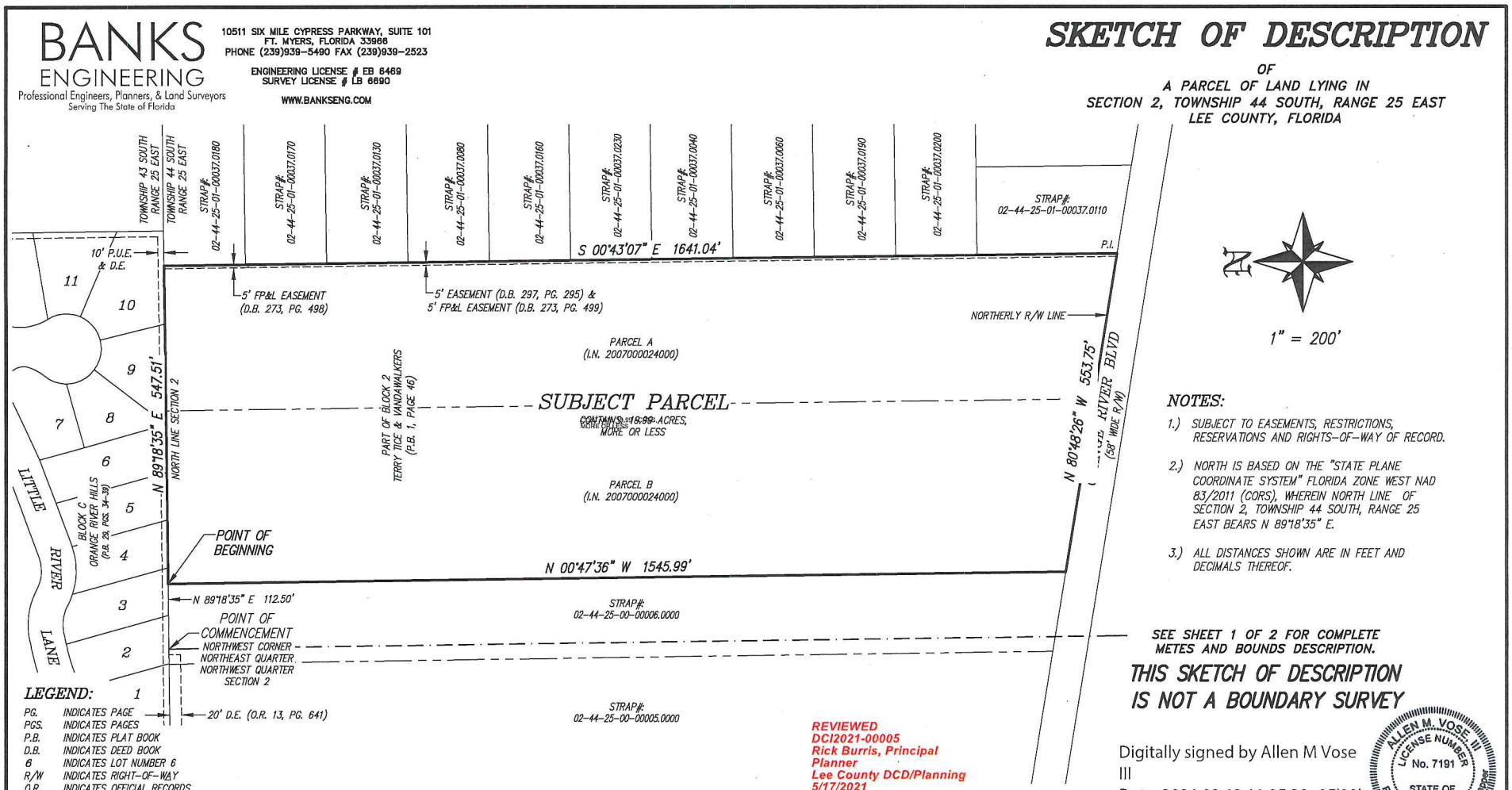
10511 SIX MILE CYPRESS PARKWAY, SUITE 101
FT. MYERS, FLORIDA 33966
PHONE (239)939-5490 FAX (239)939-2523

ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690

WWW.BANKSENG.COM

SKETCH OF DESCRIPTION

OF
A PARCEL OF LAND LYING IN
SECTION 2, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA



1" = 200'

NOTES:

1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

2.) NORTH IS BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83/2011 (CORS), WHEREIN NORTH LINE OF SECTION 2, TOWNSHIP 44 SOUTH, RANGE 25 EAST BEARS N 89°18'35" E.

3.) ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.

LEGEND:

PG.	INDICATES PAGE
PGS.	INDICATES PAGES
P.B.	INDICATES PLAT BOOK
D.B.	INDICATES DEED BOOK
6	INDICATES LOT NUMBER 6
R/W	INDICATES RIGHT-OF-WAY
O.R.	INDICATES OFFICIAL RECORDS
D.E.	INDICATES DRAINAGE EASEMENT
I.N.	INDICATES INSTRUMENT NUMBER
P.I.	INDICATES POINT OF INTERSECTION
P.U.E.	INDICATES PUBLIC UTILITY EASEMENT
FP&L	INDICATES FLORIDA POWER AND LIGHT
P.S.M.	INDICATES PROFESSIONAL SURVEYOR AND MAPPER
CORS	INDICATES CONTINUOUSLY OPERATING REFERENCE STATION

S:\JOBS\85XX\8595\SURVEY\DESCRIPTIONS\ORANGE RIVER BOULEVARD SKT.DWG
S:\JOBS\85XX\8595\SURVEY\DESCRIPTIONS\ORANGE RIVER BOULEVARD LGL.DOC

SEE SHEET 1 OF 2 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

REVIEWED
DCI2021-00005
Rick Burris, Principal Planner
Lee County DCD/Planning
5/17/2021

Digitally signed by Allen M Vose III
Date: 2021.02.12 11:05:20 -05'00'

ALLEN M. VOSE III LICENSE NUMBER No. 7191 STATE OF FLORIDA Professional Surveyor and Mapper

ALLEN M. VOSE III, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATION NO. 7191
- DATE SIGNED: 02-12-2021
- THIS SKETCH OF DESCRIPTION IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED 02-12-2021
SHEET 2 OF 2



DCI2021-00005

Zoning

EXHIBIT B

Subject Property

N

0 260 520

Feet

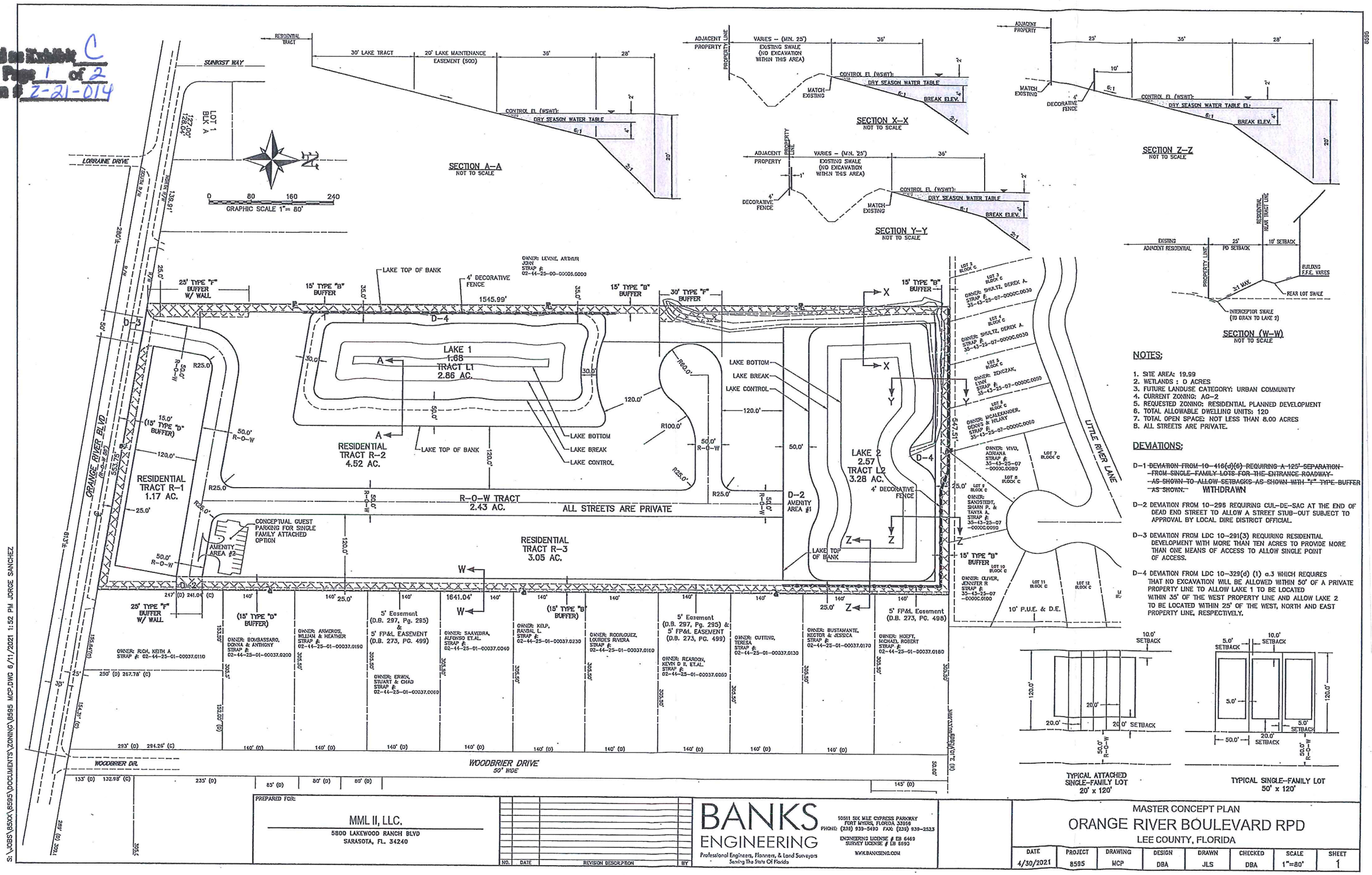
Lee County

Southwest Florida

Additional Info Dated 06-15-21

Approved as Exhibit C
DCI Page 1 of 2
Resolution # Z-21-014

EXHIBIT B-1



DCI2021-00005 Lee County ePlan

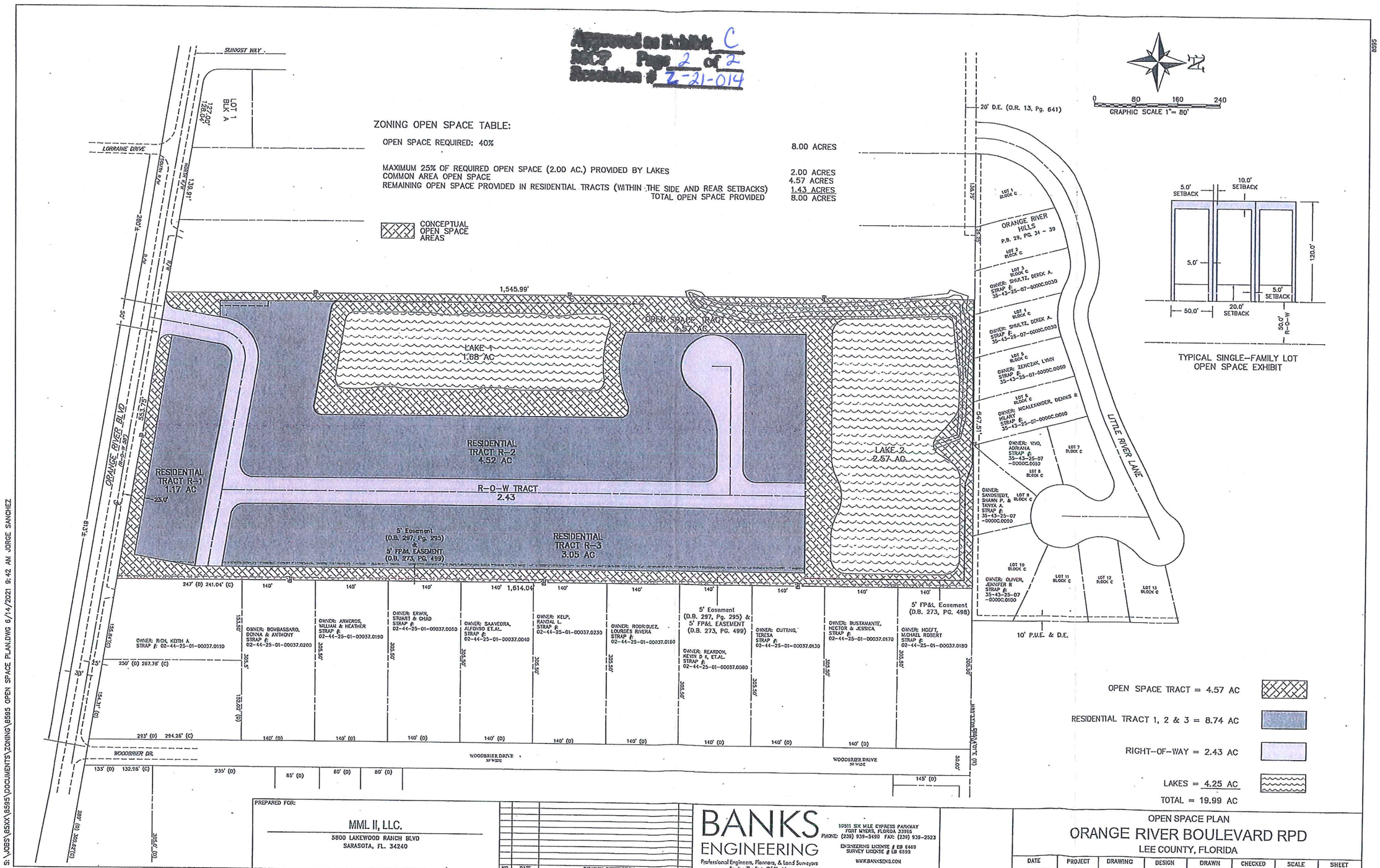
Additional Info Dated 06-15-21

Approved as Exhibit C
BCP Page 2 of 2
Resolution # Z-21-014

ZONING OPEN SPACE TABLE:

OPEN SPACE REQUIRED: 40%	8.00 ACRES
MAXIMUM 25% OF REQUIRED OPEN SPACE (2.00 AC.) PROVIDED BY LAKES	2.00 ACRES
COMMON AREA OPEN SPACE	4.57 ACRES
REMAINING OPEN SPACE PROVIDED IN RESIDENTIAL TRACTS (WITHIN THE SIDE AND REAR SETBACKS)	1.43 ACRES
TOTAL OPEN SPACE PROVIDED	8.00 ACRES

CONCEPTUAL OPEN SPACE AREAS



TYPICAL SINGLE-FAMILY LOT
OPEN SPACE EXHIBIT

OPEN SPACE TRACT = 4.57 AC

RESIDENTIAL TRACT 1, 2 & 3 = 8.74 AC

RIGHT-OF-WAY = 2.43 AC

LAKES = 4.25 AC

TOTAL = 19.99 AC

PREPARED FOR:

MML II, LLC.
5800 LAKEWOOD RANCH BLVD
SARASOTA, FL. 34240

NO.	DATE	REVISION DESCRIPTION	BY

BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida
10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33966
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6593
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OPEN SPACE PLAN
ORANGE RIVER BOULEVARD RPD
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
4/30/2021	8595	OPEN SPACE	DBA	JLS	DBA	1"=80'	1

S:\JOBS\8595\DOCUMENTS\ZONING\8595 OPEN SPACE PLAN.DWG 6/14/2021 9:42 AM JORGE SANCHEZ