

Summary of Hearing Examiner Recommendation

CRANE LANDING

(by Morris-Depew Associates, Inc., in reference to
Crane Landing, aka Palermo)

Request: Amend the Crane Landing (aka Palermo) Residential Planned Development (RPD) to modify the Master Concept Plan, Schedule of Uses, Site Development Regulations, Conditions, and Deviations.

Location: Del Prado Boulevard, one mile east of North Tamiami Trail
North Fort Myers Planning Community
(District 4)

Size: 385.64± acres

Recommendation: Approval

Deviations: 2 existing, 5 requested, 1 denied, 1 withdrawn

Conditions of Note: Water Quality Monitoring

Public Concerns: None

Hearing Examiner Remarks:

Applicant seeks to update the development plan of an existing RPD without increasing density. Residential units will replace lands previously approved as a golf course. Requested changes are internal to the development and will not create additional impacts.

Staff and Applicant disagree on two items: (1) water quality monitoring; and (2) building permit issuance prior to plat approval. Discussion on these matters is found in the "Disputed Issues" section herein.

Detailed recommendation follows

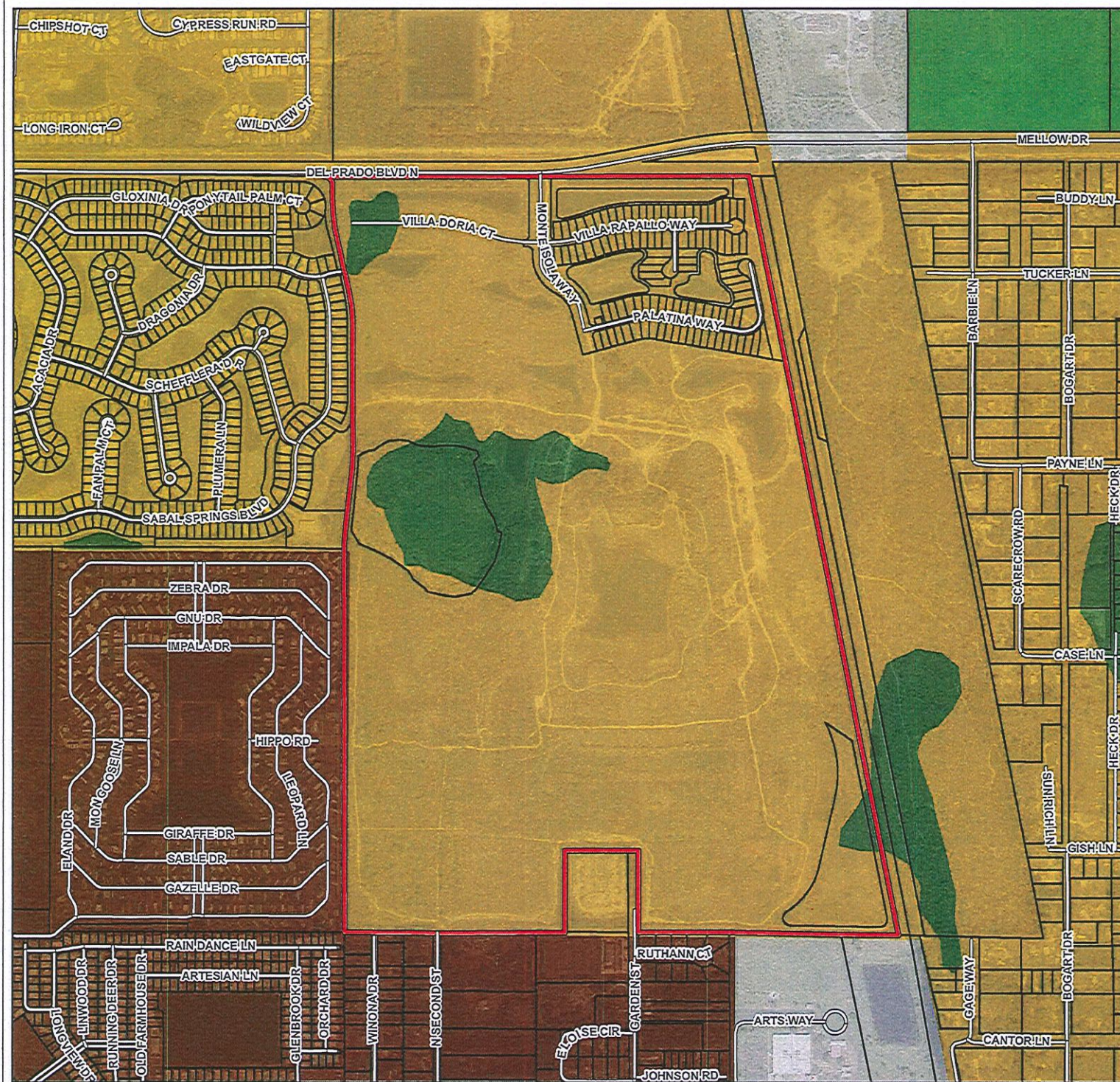
DCI2021-00016 Future Land Use

Legend

-  Subject Parcel
-  Central Urban
-  Suburban
-  Public Facilities
-  Conservation Lands - Upland
-  Wetlands



0 600
Feet



DCI2021-00016
Aerial

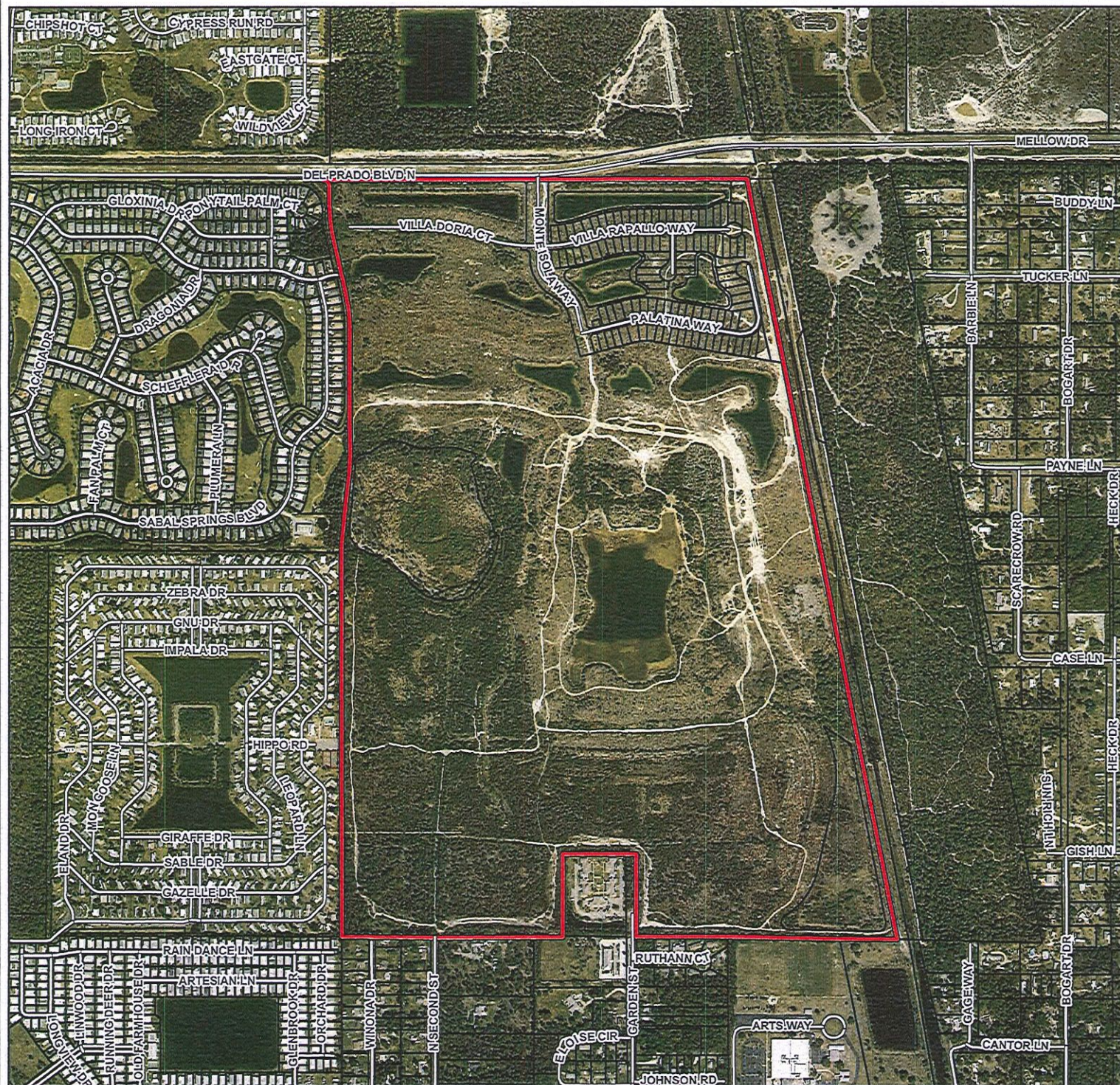
Legend

 Subject Parcel



0 600
Feet

ATTACHMENT B



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00016

Regarding: CRANE LANDING

Location: Del Prado Boulevard, one mile east of North Tamiami Trail

North Fort Myers Planning Community
(District 4)

Hearing Date: November 10, 2021

I. Request

Amend the 385.64± acre Crane Landing (aka Palermo) Residential Planned Development (RPD) to modify the Master Concept Plan (MCP), Schedule of Uses, Site Development Regulations, Conditions, and Deviations.

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to conditions and deviations in Exhibit B.

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to amend an existing RPD.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.² Specifically, the Hearing Examiner must find the request compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources, and urban services.³ The

¹ LDC 34-145(d)(1)(a) & (2)(a).

² LDC 34-145(d)(3).

³ LDC 34-145(d)(4).

Hearing Examiner may take judicial notice of previous Board decisions.⁴ The Hearing Examiner's recommendation must be based on competent and substantial evidence.⁵

Discussion supporting the recommendation of approval of the proposed RPD amendment follows below.

Synopsis of Request

The 385± acre property is in the North Fort Myers Planning Community, approximately one mile east of the US 41/Del Prado Boulevard intersection.

The request eliminates the golf course with attendant site plan redesign. The approved unit count remains the same but distributed over the entire site.⁶ Residential unit types and location are recalibrated to accommodate market demand.

The site plan reflects one point of entry on Del Prado Boulevard.⁷ A second access on Garden Street is limited to emergency vehicles and resident egress.⁸

The new site plan requires new deviations and condition modifications. Staff recommended approval, finding the proposed RPD amendment satisfied LDC review criteria.⁹

Zoning Review Criteria

Before recommending approval, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC and other applicable County regulations or qualifies for deviations;
- C. Is compatible with existing and planned uses in the surrounding area;
- D. Will provide access sufficient to support the proposed development intensity;
- E. Addresses impacts on transportation facilities by County regulations or conditions of approval;

⁴ Lee Co. Admin. Code 2-6, 2.3.D(4)(b).

⁵ Lee Co. Admin. Code 2-6, 3.3.A(2); LDC 34-83(a)(4)(a)(1)(a).

⁶ Testimony of Tina Ekblad (Transcript pg. 14).

⁷ See Applicant's Ex. 2 (Revised MCP).

⁸ *Id.*; Testimony of Tina Ekblad (pg. 13-14).

⁹ Staff did not support proposed deviation 5.

- F. Will not adversely affect environmentally critical/sensitive areas or natural resources; and
- G. Will be served by urban services if located in a Future Urban area.¹⁰

When the requested zoning action is a planned development, the Hearing Examiner must also find:

- H. The proposed use/mix of uses is appropriate at the proposed location;
- I. Recommended conditions (1) provide sufficient safeguards to the public interest, and (2) reasonably relate to impacts on the public interest expected from the proposed development; and
- J. Requested deviations (1) enhance achievement of the objectives of the planned development, and (2) promote the LDC's intent to protect public health, safety, and welfare.¹¹

Zoning History and Character of the Area

The property is located east of US 41, south of Del Prado Boulevard.¹² Commercial uses are concentrated along the US 41 corridor. Residential developments otherwise dominate the area.¹³

The Board first zoned the site RPD in 2004.¹⁴ Subsequent administrative amendments followed.¹⁵

The 2004 rezoning included additional lands not subject to this request.¹⁶ Accordingly, that Resolution must remain in effect and is not rescinded by this action.¹⁷

The RPD is subject to a phased development plan. Applicant obtained a development order in 2005 and recorded the first plat in 2021.¹⁸ Applicant's planner

¹⁰ LDC 34-145(d)(4)(a)(1).

¹¹ LDC 34-145(d)(4)(a)(2).

¹² Urban services are in place to serve the proposed development. Applicant's Ex. 1 (slide 5).

¹³ See Applicant's Ex. 1 (slide 6); Staff Report (pg. 1-2). The average density in the area is 3.5 to 4 units per acre. *Id.* at pg. 1.

¹⁴ Z-04-019, ADD2020-00033. Recommended conditions and deviations represent a codification of prior development approvals.

¹⁵ See Staff Report (pg. 2), citing ADD2005-00154, ADD2006-00122, ADD2007-00023A, ADD2019-00083, and ADD2020-00033.

¹⁶ Resolution Z-04-019 contained two distinct requests – one affecting Cranes Landing and the other affecting Sabal Springs. See Staff Report (pg. 2, Attachment L).

¹⁷ Z-04-019 remains in effect for the Sabal Springs development.

¹⁸ Testimony of Tina Ekblad (Transcript pg. 7); Applicant's Ex. 1 (slide 3).

testified the Phase II plat is pending review.¹⁹ Phase III development order and plat applications are forthcoming.²⁰ The South Florida Water Management District issued a development permit and accepted conservation easements over preserve areas.²¹



Lee Plan Consistency and Compatibility

All planned developments must be consistent with the Lee Plan.²² Requests for rezoning must be compatible with existing/planned uses in the surrounding area.²³ Planned developments must be located to minimize negative effects of proposed uses on neighboring properties.²⁴

¹⁹ Testimony of Tina Ekblad (Transcript pg. 8).

²⁰ *Id.*

²¹ *Id.*

²² LDC 34-411(a).

²³ LDC 34-145(d)(4)(a).

²⁴ LDC 34-411(c) and (i).

The Lee Plan Future Land Use Map classifies the site as Suburban and Wetlands.²⁵

Suburban areas are predominantly residential, providing housing near more urban areas.²⁶ The standard density range is one to six units per acre.²⁷ Applicant proposes a density below the maximum permitted, consistent with the Suburban category.²⁸

Wetlands consist of very low density residential and recreational uses without adversely affecting ecological function.²⁹ Applicant placed 20± wetland acres under conservation easement, consistent with the Wetlands designation.³⁰

The site lies within the North Fort Myers Planning Community.³¹ The proposal to diversity residential use types complies with planning community directives and continues established development patterns.³²

The Board previously found the Crane Landing RPD compatible with the surrounding area and in compliance with the Lee Plan.³³ Applicant proposes no changes to alter this finding. Indeed, reallocating units over lands previously slated for golf course use promotes a clustered and centralized development plan.³⁴

Transportation/Traffic

Planned developments must have access to roads with sufficient capacity to support proposed intensity.³⁵ Existing regulations or conditions of approval must address expected impacts on transportation facilities.³⁶

²⁵ See Lee Plan Map 1-A, Policy 1.1.5, 1.5.1; Staff Report (Attachment B).

²⁶ Lee Plan Policy 1.1.5.

²⁷ *Id.*

²⁸ Applicant proposes 1,229 units on 385.64 acres, yielding a density of 3.18 units per acre. Maximum permitted density is 2,314 units per acre. Testimony of Tina Ekblad (Transcript pg. 9); Applicant's Ex. 1 (Slide 3).

²⁹ Lee Plan Policy 1.5.1.

³⁰ See Staff Report (pg. 3).

³¹ Lee Plan Map 1-B and 2-A; Lee Plan Goal 30.

³² See Lee Plan Goal 30, Objectives 2.1, 2.2, Policies 2.2.1, 2.2.2, 135.1.9, 158.1.9; Applicant's Ex. 1 (slide 32).

³³ Z-04-019; LDC 34-145(d)(4)(a)(1)(c); Staff Report (pg. 2-4); Applicant's Ex. 1.

³⁴ Testimony of Tina Ekblad (Transcript pg. 13).

³⁵ LDC 34-145(d)(4)(a)(1)(d); 34-411(d)(1).

³⁶ LDC 34-145(d)(4)(a)(1)(e); 34-411(d)(2).

The project has direct access to Del Prado Boulevard.³⁷ The approved access remains unchanged.³⁸ Applicant proposes a second access onto Garden Street limited to emergencies and resident egress.³⁹

Del Prado Boulevard is an arterial road intersecting US 41 to the west and Slater Road to the east.⁴⁰ The Traffic Impact Statement concludes this segment of Del Prado will operate at a failing level of service after project buildout.⁴¹ The Long-Range Transportation Plan (Plan) identifies Del Prado for future widening.⁴² Applicant's traffic engineer testified the request does not require improvements beyond those identified in the Plan.⁴³

Applicant demonstrated the request provides sufficient access to support proposed development.⁴⁴ Site related impacts will be evaluated during development order review.⁴⁵

Environmental and Natural Resources

Planned development design should reflect creative use of open space.⁴⁶ Developers must make an effort to protect and preserve natural site features.⁴⁷

The proposed development exceeds LDC open space requirements.⁴⁸ The MCP denotes enhanced preserve areas along the western and southeastern borders.⁴⁹ The MCP also reflects adequate buffers to minimize off-site impacts.⁵⁰

³⁷ See Staff Report (Attachment B).

³⁸ Z-04-019.

³⁹ See Applicant's Ex. 2. Garden Street is a county maintained local road. See LDC 10-291; Testimony of Tina Ekblad (Transcript pg. 9, 13-14). Applicant provides the secondary access to comply with current LDC requirements.

⁴⁰ See Staff Report (Attachment F).

⁴¹ See Applicant's Ex. 3.

⁴² Applicant's Ex. 1 (slide 12); Testimony of Stephen Leung (Trans. pg. 17-22). Mr. Leung testified this roadway segment is prioritized #71 for widening to four lanes. He explained this means funding is not yet allocated to the project, but is targeted for future expansion as funding becomes available.

⁴³ See Applicant's Ex. 3; Testimony of Stephen Leung (Transcript pg. 16-22). No intersection improvements are expected due to project development. See Staff Report (Attachment F); Applicant's Ex. 3. Mr. Leung estimates Applicant will pay \$11.7 million to the county in road impact fees.

⁴⁴ LDC 34-145(d)(4)(a)(1)(d); Applicant's Ex. 1 (slides 12), Ex. 3; Staff Report (pg. 2-3, Attachment F, O).

⁴⁵ Site related improvements include capital improvements and right-of-way dedications for "direct access" improvements to the project. Direct access improvements include site driveways and roads, median cuts made necessary by driveways and roads, right-turn left-turn and deceleration/acceleration lanes serving driveways and roads, traffic control measures, and roads/intersection improvements whose primary purpose at the time of construction is to provide access to the development. See, Lee Plan Glossary and LDC 2-264; Lee Plan Objective 39.1, Policy 39.1.1. LDC 2-66 *et. seq.*

⁴⁶ LDC 34-411(h).

⁴⁷ LDC 34-411(g).

⁴⁸ Lee Plan Goal 77, Objective 77.2; See Applicant's Ex. 2: MCP (pg. 2). Open Space Calculation table reflects 106 acres of open space required. Applicant is providing 114.64 acres.

⁴⁹ See Staff Report (Attachment E); Applicant's Ex. 2: MCP. Roughly 7% of the site is wetland/preserve.

⁵⁰ See Applicant's Ex. 2: MCP; Staff Report (Attachment E).

Urban Services

Urban services are the facilities, capital improvements, and infrastructure necessary to support development.⁵¹ The Lee Plan requires an evaluation of available urban services during the rezoning process.⁵²

A host of urban services and infrastructure serve the property including roads, potable water, sanitary sewer, police, fire, and emergency medical services.⁵³

Disputed Issues

The parties agree on all but two issues: (1) water quality monitoring; and (2) building permit issuance prior to plat approval.

Water Quality Monitoring

The parties disagree on a condition pertaining to water quality monitoring. The project is located in the Powel Creek watershed, impaired for fecal coliform.⁵⁴

Applicant's expert provided extensive testimony demonstrating the project is unlikely to generate fecal coliform as there are no agricultural uses or septic tanks proposed.⁵⁵

Staff agreed, but requests Applicant to report water quality data for nutrients related to fertilizer use.⁵⁶ Applicant agrees to monitoring, but disagrees on the number and timing of required tests.⁵⁷

Applicant presented sufficient evidence supporting its proposed monitoring schedule.⁵⁸ The Hearing Examiner recommends adopting Applicant's preferred wording.

⁵¹ Lee Plan Glossary; Urban services include; public water and sewer, paved streets and roads, public transit, parks and recreation facilities, urban levels of police, fire and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries and community centers.

⁵² Lee Plan Policy 2.2.1.

⁵³ Applicant's Ex. 1 (slide 5); Staff Report (pg. 3-4).

⁵⁴ Applicant's Ex. 1 (slides 13-21).

⁵⁵ Mr. Brown testified agricultural uses and septic tanks are the largest nonpoint sources of fecal coliform into waterbodies. Testimony of Mr. Brown (Transcript pg. 22-43); Applicant's Ex. 1 (slides 13-21).

⁵⁶ Testimony of Mr. DiFilippo (Transcript pg. 85-100).

⁵⁷ Applicant seeks an annual test during wet season; Staff desires two tests during this period.

⁵⁸ Although Powell Creek is an impaired watershed, it is not impaired for the nutrients Staff is requiring Applicant to monitor. Further, Applicant sufficiently evidenced the need for flexibility in testing due to the inability to test outside of the wet season, which may occur by the June date Staff requested.

Plat/Building Permit Deviation Request

Applicant requests relief from platting requirements prior to obtaining building permits.⁵⁹

Project boundaries are platted, including contours of conservation easements, but most land is simply divided into large tracts reserved for future development.⁶⁰ Two development phases are in plat review.⁶¹ However, individual lots have only been platted for Phase I.⁶²

The LDC requires subdivisions to be platted prior to building permit issuance.⁶³ The only exception is for model homes/sales centers.⁶⁴ Staff testified that even this exception is problematic.⁶⁵ Without the benefit of lot lines, developers need additional zoning actions to correct construction errors.⁶⁶

The deviation is driven by economic considerations.⁶⁷ Applicant asserts the platting process delays construction, incurring substantial expense.⁶⁸ Applicant believes existing county and SFWMD approvals provide development guardrails to establish the general development pattern.⁶⁹ As an alternative to platting before permits, Applicant offers to condition the deviation on demonstrating unified control and withholding certificates of occupancy until plat recordation.⁷⁰

In turn, Staff argues: (1) proposed conditions mimic the model home exception and have not curtailed the need for developers to undertake corrective actions; and (2) the absence of individual lot lines prior to construction increases the likelihood of permitting issues.⁷¹ Essentially, Staff found platting before permitting essential to development.⁷²

⁵⁹ See LDC 10-211.

⁶⁰ Testimony of David Underhill (Transcript pg. 49-50).

⁶¹ Testimony of Tina Ekblad (Transcript pg. 48-49). Ms. Ekblad stated Phase I is platted, Phase II is under plat review, and Phase II platting is forthcoming.

⁶² *Id.* at pg. 8.

⁶³ See LDC 10-211(2).

⁶⁴ See LDC 10-211(5).

⁶⁵ Testimony of Chahram Badamtchian (Transcript pg. 62-63, 82).

⁶⁶ *Id.*

⁶⁷ Testimony of Tina Ekblad (Transcript pg. 47-49, 65-69), Testimony of David Underhill (Transcript pg. 49-63).

⁶⁸ Testimony of Tina Ekblad (Transcript pg. 46-49); Testimony of David Underhill (Transcript pg. 49-63).

⁶⁹ Testimony of Tina Ekblad (Transcript pg. 47-49, 65-69, 103-05), Testimony of David Underhill (Transcript pg. 49-63). Applicant further argued the project is sufficiently unique to avoid similar deviation requests from other projects.

⁷⁰ *Id.*

⁷¹ Testimony of Chahram Badamtchian (Transcript pg. 62-63, 82); Staff Report (Attachment H). Staff also argued the project is similar to many others, leading to repetitive requests for the same relief.

⁷² *Citing* Staff Report (Attachment H).

Platting is inherently a process about the minutia of detailed development parameters.⁷³ Plats provide development certainties. Issuing building permits prior to platting undermines the permitting process. For these reasons, the Hearing Examiner does not recommend approval of the deviation request.

Deviations

"Deviations" are departures from LDC regulations.⁷⁴ The RPD has two previously approved deviations.⁷⁵ Applicant withdraws one existing and proposes five new deviations.⁷⁶ Staff supports the requested deviations except for the request to deviate from platting requirements.⁷⁷

The Hearing Examiner's standard of review requires a finding that the deviation:

1. Enhances achievement of objectives of the planned development; and
2. Preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.⁷⁸

Applying LDC deviation standards of review to testimony and evidence in the record, the Hearing Examiner concludes requested deviations 3-4 and 6-7 meet approval criteria.⁷⁹ The Hearing Examiner does not recommend approval of deviation 5.⁸⁰

Conditions

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to anticipated impacts from the proposed development and must be pertinent to mitigation of those impacts on the public health, safety, and welfare.⁸¹

The RPD will be subject to several conditions of approval. The conditions relate to impacts anticipated from the project.⁸² The Hearing Examiner recommends:

1. Revisions to conditions to improve clarity; and

⁷³ See generally F.S. ch. 177; LDC Ch. 10 division 5; Lee Co. Admin. Code 13-19.

⁷⁴ LDC 34-2.

⁷⁵ Z-04-019.

⁷⁶ Applicant withdraws Deviation 1 as approved in Z-04-019.

⁷⁷ See Staff Report (pg. 4-5, Attachment C and H); Testimony of Chahram Badamtchian (Transcript pg. 79, 82-85).

⁷⁸ LDC 34-145(d)(4).

⁷⁹ LDC 34-377(a)(4).

⁸⁰ See *supra* Disputed Issues discussion.

⁸¹ LDC 34-932(b).

⁸² LDC 34-83(b)(4)a.3.

2. Deletion of conditions that restate LDC standards and criteria applicable to the project pursuant to Condition 1.

Public

Applicant held a community meeting in the North Fort Myers Planning Community as mandated by the LDC.⁸³

No members of the public attended the hearing.

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation the requested amendment to the Crane Landing RPD meets LDC approval criteria.

IV. Findings and Conclusions

The Hearing Examiner makes the following findings and conclusions based on the testimony and evidence in the record:


- A. *As conditioned herein*, the proposed amendment to the Crane Landing RPD:
 1. Complies with the Lee Plan. See, Lee Plan Goals 2, 4, 5, 30, 39, 77, Objectives 2.1, 2.2, 5.1, and Policies 1.1.5, 1.5.1, 135.9.7; Lee Plan Maps 1A-B, 2A.
 2. Complies with the LDC and other County regulations. See, LDC Chapters 10 and 34; 33-1531 *et. seq.*
 3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.5, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 135.1.9, 135.9.5; LDC 34-411(c), (i), and (j).
 4. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goals 77, Objectives 4.1, 77.1, LDC 34-411(h).
 5. Will be served by urban services. See, Lee Plan Glossary, Map 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policies 2.2.1, 135.9.7 and Standards 4.1.1 and 4.1.2; LDC 34-411(d).
- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval

⁸³ The meeting was held on June 10, 2021. See Staff Report Attachment J.

will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC 34-411(d).

- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.5, 2.1.1, 5.1.5, and 135.1.9.
- D. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, Lee Plan Policies 5.1.5, 135.9.6; See *also*, LDC Chapters 10, 33, and 34.
- E. As conditioned herein, the deviations:
 - 1. Enhance the objectives of the planned development; and
 - 2. Promote the intent of the LDC to protect the public health, safety, and welfare. See, 34-377(b)(4).

Date of Recommendation: February 2, 2022.



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Deputy Hearing Examiner

Lee County Hearing Examiner
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Exhibits to Hearing Examiner's Recommendation

Exhibit A Legal Description and Vicinity Map
Exhibit B Recommended Conditions and Deviations
Exhibit C Exhibits Presented at Hearing
Exhibit D Hearing Participants
Exhibit E Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

LEGAL DESCRIPTION

TRACTS A-1, B-1, B-2, B-3, B4, F-1, L-1, L-3, L-4, P-1, P-2, U-1 AND RW OF LAND, CRANE LANDING, A SUBDIVISION, LOCATED IN SECTIONS 22 AND 23, TOWNSHIP 43 SOUTH, RANGE 24 EAST, ACCORDING TO THE PLAT THEREOF ON FILE AND RECORDED WITH INSTRUMENT NUMBER 2021000027470 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

STRAP NOS.

234324L1040000010	234324L1040000350	234324L1040000690	234324L1040U10000
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234324L1040000070	234324L1040000410	234324L1040000810	234324L2040000760
234324L1040000080	234324L1040000420	234324L1040000820	234324L2040000770
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REVIEWED
DCI2021-00016
Hunter Searson, GIS
Planner
Lee County Government
8/30/2021

DCI2021-00016 Zoning

Legend

 Subject Parcel



0 600
Feet



Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

All references to uses are as defined in the Lee County Land Development Code (LDC). This zoning approval separates and rescinds Request "A" of Resolution Z-04-019 pertaining to Crane Landing RPD (aka Palermo). ADD2020-00033 is rescinded in its entirety. The Sabal Springs Residential Planned Development (Request "B" of Resolution Z-04-019) remains in full force and effect.

CONDITIONS

1. MASTER CONCEPT PLAN (MCP)/DEVELOPMENT PARAMETERS

- (a) MCP. Development must be substantially consistent with the three-page MCP entitled "Palermo (AKA Crane Landing) Master Concept Plan" last revised July 26, 2021 (Exhibit B1), except as modified by the conditions below.
- (b) LDC and Lee Plan. Development must comply with all requirements of the LDC and Lee Plan at time of local development order approval, except where deviations are approved herein. Subsequent amendments to the MCP, conditions, or deviations herein may require further development approvals.
- (c) Development Parameters. Project density is limited to a maximum of 1,229 dwelling units (single-family, two-family attached, townhomes, and multi-family) and ancillary/ accessory uses on 385.64± acres.

2. USES AND SITE DEVELOPMENT REGULATIONS

(a) Schedule of Uses

Residential R-1

Accessory Uses and Structures

Dwelling Units:

Single Family, minimum 5,200 SF

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities, Group I

Excavation Water Retention

Fences, Walls

Home Occupation

Model Home and Model Unit

Model Display Center

Parking Lot, Accessory
Real Estate Sales Office Signs
Temporary Uses, limited to construction trailers at the time of
development

Residential R-2

Accessory Uses and Structures
Dwelling Units
 Single Family, minimum 6,500 SF
 Two Family Attached
 Townhomes
 Multiple-family
Entrance Gate, Gatehouse
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention
Fences and Walls
Home Occupation
Model Home and Model Unit
Model Display Center
Parking Lot, Accessory
Real Estate Sales Office Signs
Temporary Uses, limited to construction trailers at the time of
development

Residential Amenity RA

Accessory Uses and Structures
Administrative Offices
Consumption on Premises
Club, private
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention
Fences and Walls
Food & Beverage Service, Limited
Model Display Center
Parking Lot, Accessory
Recreational Facilities, Private
Real Estate Sales Office
Signs
Temporary Uses

Wireless Communication Facility WC

Communication Facility, Wireless, requires separate approval by
Special Exception.

(b) Site Development Regulations

Land Uses	Min Lot Area (SF)	Min Lot Width (FT)	Min Lot Depth (FT)	Min Street Setback (FT)	Min Side Setback (FT) Ext/Int	Min Rear Lot Setback (FT) Prncpl/Acc	Max Building Height (FT)	Max Lot Coverage (%)
R-1 Single-Family	5,200	40	130	20	5	10/5	35	50
R-2 Single Family	6,500	50	130	20	5	10/5	35	45
Two-Family Attached	3,900	30	130	20	5/0	10/5	35	40
Townhouse	1,600	20	80	20	5/0	10/5	45	65
Multi-Family	6,500	65	100	20	15	10	45	80
Clubhouse/ Amenity Site	10,000	100	100	20	5	10	45	40

Notes:

- A minimum 20ft structure setback is required for structures abutting an indigenous preserve.
- A minimum 30ft structure setback is required for structures abutting an indigenous preserve subject to fire.
- Corner Lots, secondary frontage is treated as side yard setback

3. Agricultural Uses

The property neither hosts agricultural activity nor has an agricultural tax exemption. Agricultural use is prohibited without rezoning.

4. Natural Resources Condition

A targeted water quality monitoring plan must be provided to Lee County Division of Natural Resources prior to local development order approval. At a minimum, the Water Quality Monitoring Plan must include:

- Baseline Monitoring. A single baseline monitoring event to be completed prior to commencement of construction that includes Total Kjeldahl Nitrogen (mg/L), Chlorophyll a (mg/M3), Ammonia (mg/L), Nitrate (mg/L), and Total Phosphorus (mg/L). Field parameters of Turbidity, Water Depth (i.e., Stage), Specific Conductance, pH, and Dissolved Oxygen.
- Annual Sampling. A single annual sample for five years to be completed during the "wet" season (June through September) that includes Total Kjeldahl Nitrogen (mg/L), Chlorophyll a (mg/M3), Ammonia (mg/L), Nitrate (mg/L), and Total Phosphorus (mg/L). Field parameters of Turbidity, Water

Depth (i.e., Stage), Specific Conductance, pH, and Dissolved Oxygen will also be obtained during sampling.

- c. Reporting. Water quality monitoring data will be provided to the Division of Natural Resources annually after the first development order. Testing results shall also be reported as an Electronic Data Deliverable (EDD).
- d. Contingency Plan. A contingency plan must be included in the event of an exceedance of State Water Quality Standards or if multiple violations of Ordinance are identified.

5. Environmental Conditions:

- a. Plantings. Required buffer plantings must utilize 100 percent native vegetation.
- b. Setbacks. The MCP depicts a minimum 50-foot-wide enhanced setback in various locations around the project's periphery. These enhanced setbacks may contain existing/proposed utility/drainage easements or berms that could preclude buffer tree planting throughout the entire area.
- c. Perimeter Buffer. Multiple-family buildings, two family attached, and townhouses must be separated from the RPD boundaries by a Type B buffer (minimum 15 feet in width, five trees per 100 linear feet, double staggered hedge row). This requirement also applies to the clubhouse if it abuts the project's perimeter.
- d. Open Space. Landscape plans must demonstrate a minimum 114.6 acres of open space.

6. Model Homes and Real Estate Sales

- a. Maximum model homes/units: 18.
- b. Model homes/units or real estate sales must be identified on development order plans.
- c. Real estate sales are limited to lots/units within the RPD only.
- d. Models cannot be of the same floor plan and each must be a different design.
- e. Development order applications including a model home must include the following:

- i. Number and location of model homes proposed by the local development order application;
- ii. Cumulative number and locations of model homes permitted by prior local development order approvals;
- iii. Remaining number of model homes permitted within the RPD; and
- iv. Where the maximum number of model homes have been approved by prior local development order approvals, the number and location of previously approved model homes to be extinguished to accommodate new model homes.

7. Construction Adjacent to Sabal Springs

- a. Setback. No mulching or stockpiling of debris may be placed within 200 feet of the Sabal Springs residential development during site development.
- b. Construction Access. Consistent with DOS2005-00244, the existing roadway access adjacent to Sabal Springs may not be used as a primary construction access. Developer must construct alternative temporary construction access(es) at least 200 feet further east of the existing access. The existing roadway access may only be used on a limited basis for activities directly related to construction of residential units abutting the Sabal Springs property.
- c. Non-Emergency Access Prohibited. Consistent with DOS2005-00244, residential or construction traffic to/from Crane Landing is prohibited through Sabal Springs except during an emergency evacuation.

DEVIATIONS

- 1) Withdrawn.
- 2) Indigenous Vegetation Community. Deviation 2 seeks relief from LDC 10-415(b), which requires large development with existing indigenous vegetation communities to provide 50 percent of required open space through onsite preservation of existing vegetation communities; to allow the restoration, preservation, or creation of the "Preserve" areas shown on the MCP.

HEX NOTE: This deviation was previously approved by Resolution Z-04-019. Staff recommended approval, *subject to the following conditions:*

Prior to local development order approval, landscape plans must include the following for County Environmental Staff review and approval:

- (a) Delineation of the wetland preserves (15.72 acres and 1.66 acres) and marsh creation areas (5.2 acres and 9.51 acres) in substantial compliance with the MCP; and
 - (b) Details on marsh creation areas including plant size, species and number; and
 - (c) Native tree planting details that provide a mixture of trees ranging from a minimum three-foot to 10-foot in height based on one native three-foot tree per 100 square feet, with a proportionate ratio for larger trees, to be installed in the tree planting areas delineated around the freshwater marsh preserve; and
 - (d) Delineation of tree preservation areas in the southwest corner of the property as shown on the MCP.
- 3) Dead-end Streets. Deviation 3 seeks relief from LDC 10-296(k)(1), which requires dead-end streets to be closed at one end by a circular turnaround to allow a dead end with no turnaround.

HEX Recommendation: Approved

- 4) Lake Shoreline Configuration. Deviation 4 seeks relief from LDC 10-418(1), which requires lake shorelines to be sinuous in configuration to provide increased length and diversity of the littoral zone; to allow two (2) stormwater management ponds to be more rectangular in shape rather than sinuous.

HEX Recommendation: Approved

- 5) Issuance of Building Permit Prior to recordation of the Plat. Deviation 5 seeks relief from LDC 10-211, which allows building permits to be issued for model buildings and sales centers prior to recording of the plat, to allow building permits for any building to be issued prior to the recording of the plat, subject to evidence of unified control and that a certificate of occupancy for a building that is not a model building or sales center is not issued until the plat is recorded.

HEX Recommendation: Denial, as detailed herein

- 6) Lake Bank Slope. Deviation 6 seeks relief from LDC 10-329(d)(4), which requires lake banks to be sloped at a ratio of six horizontal feet to one vertical foot (6:1) from the top of the bank to a water depth of two feet below the dry season water table, to allow the existing lake bank sloped on Lakes B1L1, B1L2, and B1L10 and a portion of B1L3, B1L4, B1L5, B1L6, B1L8, B1L9, B3L11, B1L12 as depicted on Sheet 1 of the MCP to remain at a ratio of four horizontal feet to one vertical foot (4:1).

HEX Recommendation: Approved, *subject to* the following condition:

The existing lakes constructed as part of DOS2005-00244 and areas of existing lakes that are not modified may provide plantings calculated at one littoral plant per one linear foot of shoreline. Lakes subject to this condition are Lakes B1L1, B1L2 and B1L10 and a portion of B1L3, B1L4 as depicted on Sheet 1 of the Master Concept Plan.

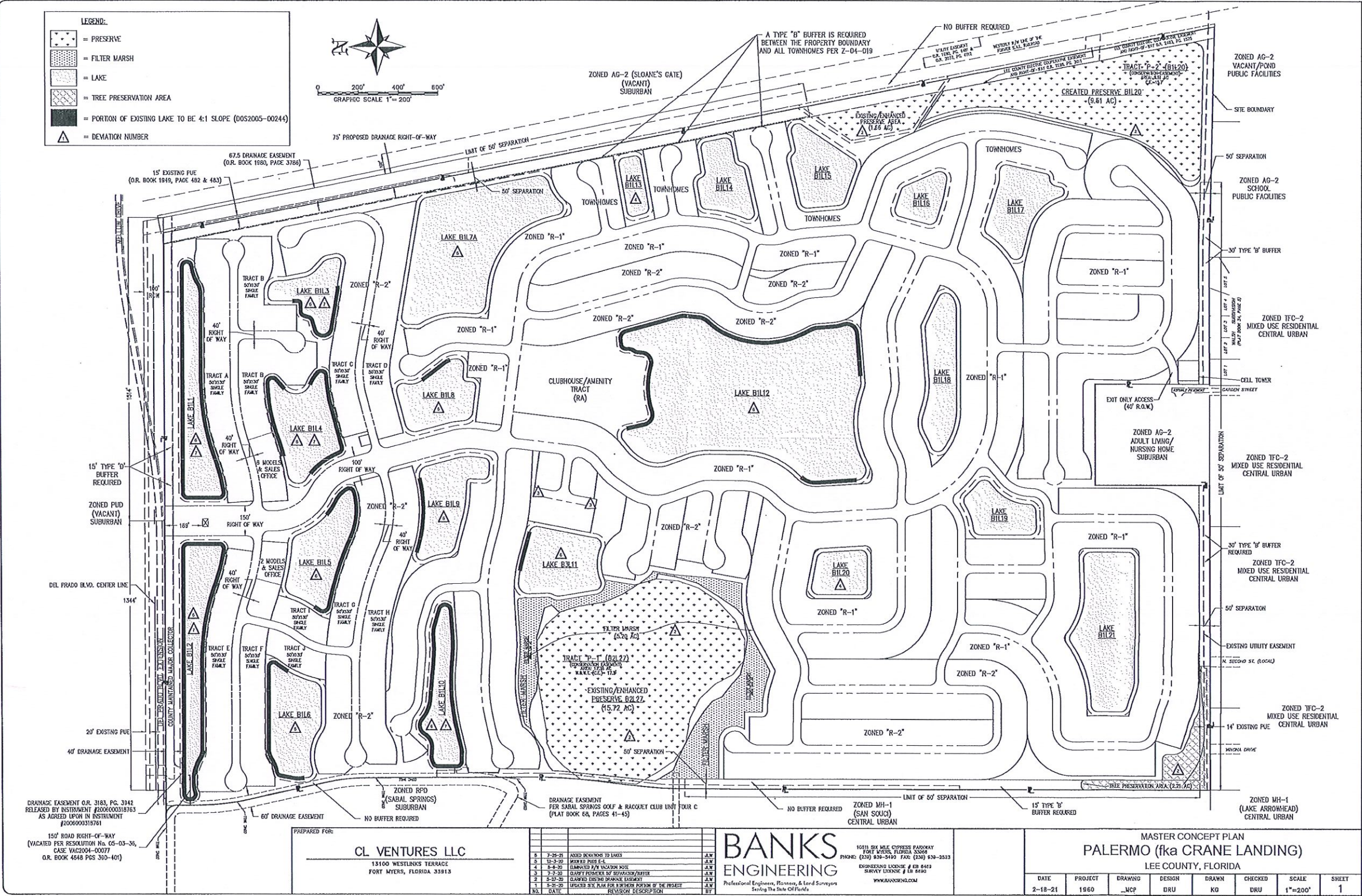
- 7) Littoral Shelf Planting. Deviation 7 seeks relief from LDC 10-418(2), which requires the planted littoral shelf to be calculated at 25% of the total linear feet of the lake at control elevation, located in a single location of the lake, and a minimum of 20 feet wide, to allow 1 littoral planting per a linear foot for Lakes B1L1, B1L2, and B1L10 and a portion of B1L3, B1L4 as depicted on Sheet 1 of the MCP.

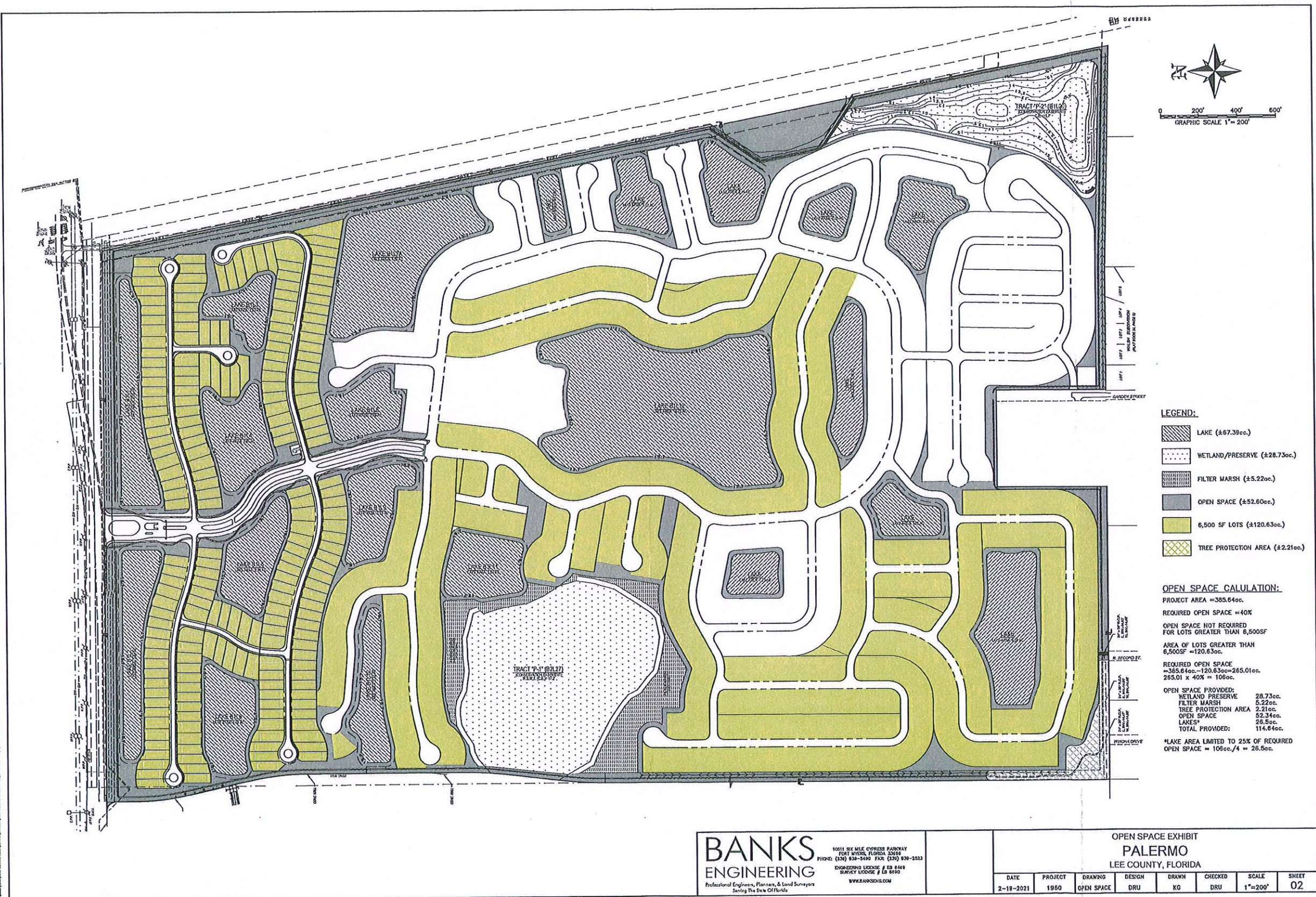
HEX Recommendation: Approved, *subject to* the following condition:

The existing lakes constructed as part of DOS2005-00244 and areas of existing lakes that are not modified may provide plantings calculated at one littoral plant per one linear foot of shoreline. Lakes subject to this condition are Lakes B1L1, B1L2 and B1L10 and a portion of B1L3, B1L4 as depicted on Sheet 1 of the Master Concept Plan.

Exhibits to Conditions:
B1 Master Concept Plan

EXHIBIT B-1





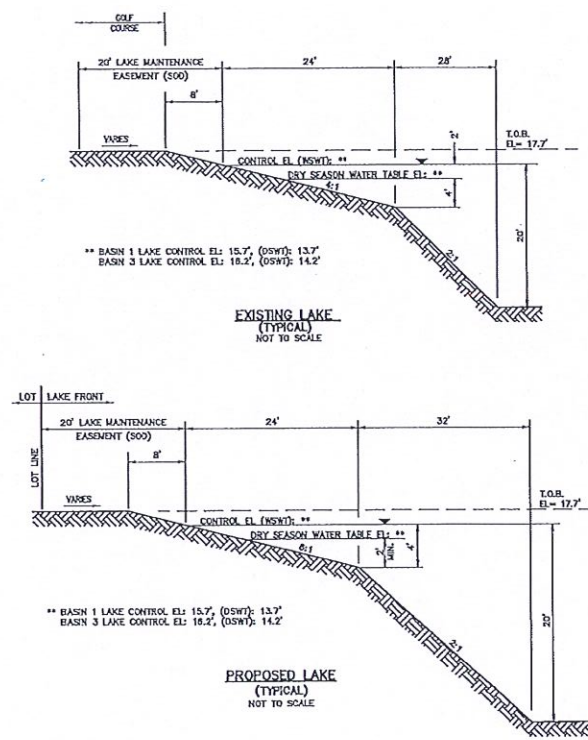
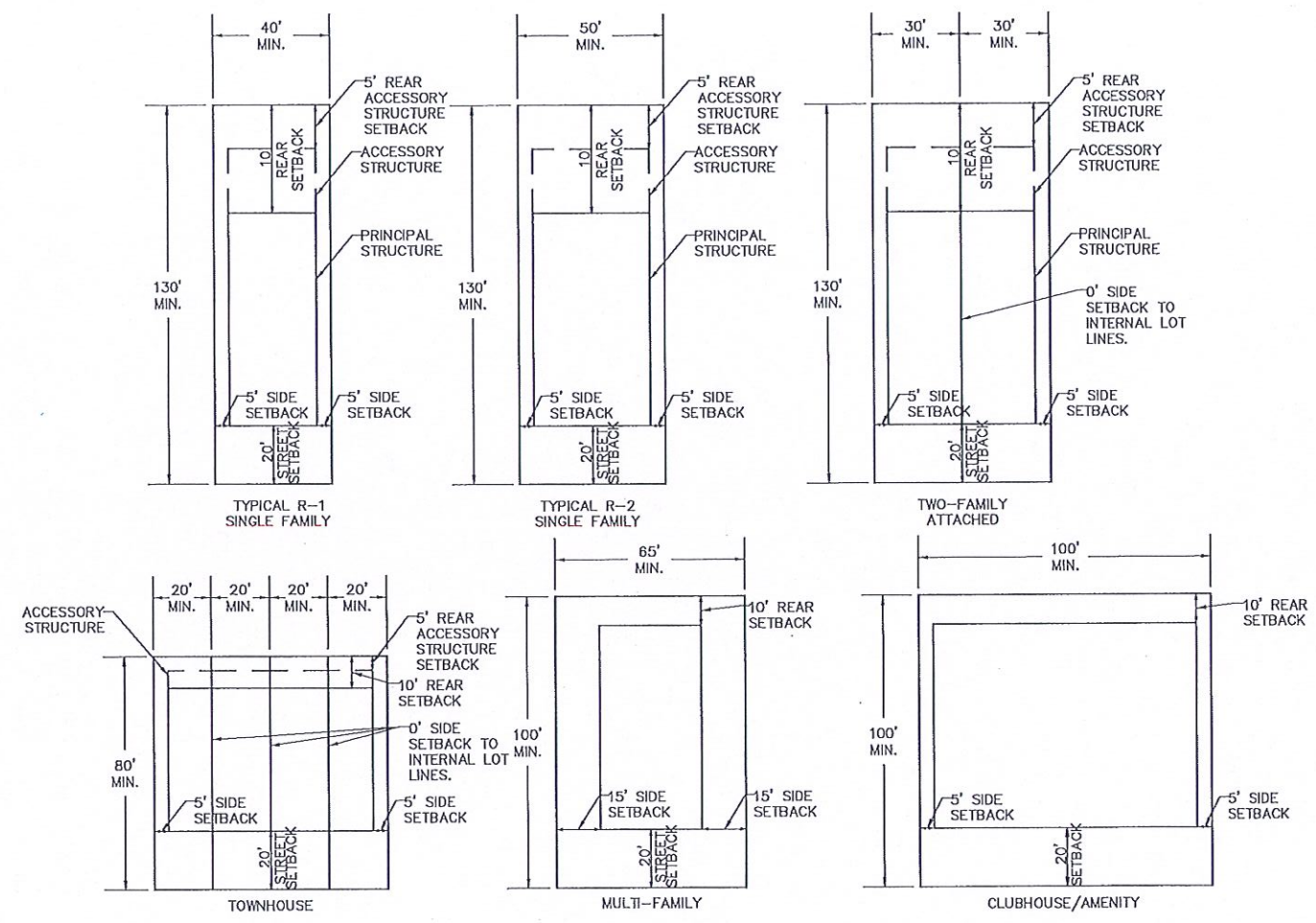
- LEGEND:**
- LAKE (±67.39ac.)
 - WETLAND/PRESERVE (±28.73ac.)
 - FILTER MARSH (±5.22ac.)
 - OPEN SPACE (±52.60ac.)
 - 6,500 SF LOTS (±120.63ac.)
 - TREE PROTECTION AREA (±2.21ac.)

OPEN SPACE CALCULATION:
 PROJECT AREA = 385.64ac.
 REQUIRED OPEN SPACE = 40%
 OPEN SPACE NOT REQUIRED FOR LOTS GREATER THAN 6,500SF
 AREA OF LOTS GREATER THAN 6,500SF = 120.63ac.
 REQUIRED OPEN SPACE = 385.64ac - 120.63ac = 265.01ac.
 265.01 x 40% = 106ac.
 OPEN SPACE PROVIDED:
 WETLAND PRESERVE 28.73ac.
 FILTER MARSH 5.22ac.
 TREE PROTECTION AREA 2.21ac.
 OPEN SPACE 52.34ac.
 LAKES* 26.5ac.
 TOTAL PROVIDED: 114.84ac.
 *LAKE AREA LIMITED TO 25% OF REQUIRED
 OPEN SPACE = 106ac./4 = 26.5ac.

BANKS ENGINEERING
 Professional Engineers, Planners, & Land Surveyors
 Serving The Sun Of Florida

10111 TEX WILE CYPRESS PARKWAY
 FORT MYERS, FLORIDA 33908
 PHONE: (239) 638-5400 FAX: (239) 638-2523
 ENGINEERING LICENSE # EB 6448
 SURVEY LICENSE # LB 6490
 WWW.BANKSENG.COM

OPEN SPACE EXHIBIT						
PALERMO						
LEE COUNTY, FLORIDA						
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE
2-19-2021	1950	OPEN SPACE	DRU	KG	DRU	1"=200'
						SHEET 02



BANKS ENGINEERING, LLC, 10511 SIX MILE CYPRESS PARKWAY, FORT MYERS, FLORIDA 33904, PHONE: (239) 835-5400, FAX: (239) 835-2523, ENGINEERING LICENSE # 139 6419, SURVEY LICENSE # 18 5010, WWW.BANKSENG.COM

PREPARED FOR:
CL VENTURES
 13100 WESTLINKS TERRACE
 FORT MYERS, FLORIDA 33913

NO.	DATE	REVISION DESCRIPTION	BY

BANKS ENGINEERING
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NOTES & TYPICAL CROSS SECTIONS PALMERO (fka CRANE LANDING) LEE COUNTY, FLORIDA							
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
2-19-21	1960	_NOTES	DRU	KG	DRU		03

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Chahram Badamtchian, Senior Planner, date stamped received October 27, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Revised Condition 4:* (2 pages – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Tina Ekblad, with Morris Depew, to Hearing Examiner, with copies to Chahram Badamtchian, Elizabeth Workman, Neale Montgomery, Esq., Ernst Barry, Stephen Leung, David Brown, Shane Johnson, Bailey Schleifer, & Ben Smith, dated Monday, November 8, 2021 9:02 AM (multiple pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for Crane Landing, DCI2021-00016, Hearing Examiner, dated November 10, 2021 (multiple pages – 8.5"x11") [color]
2. *Master Concept Plan:* Prepared by Banks Engineering, for Palermo (fka Crane Landing), dated 2-18-21 (2 pages – 11" & 14")
3. *Updated Traffic Impact Study:* Prepared for Crane Landing Rezoning, dated June 10, 2021 (multiple double-sided pages – 8.5"x11")
4. *Revised Conditions:* (multiple double-sided pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Chahram Badamtchian
2. Nicholas DeFilippo

Applicant Representatives:

1. David Brown
2. Tina Ekblad
3. Stephen Leung
4. Neale Montgomery, Esq.
5. Dave Underhill

Public Participants:

None

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.