



7400 Trail Blvd., Suite 200
Naples, FL 34108
PH: (239) 597-3111
www.ABBINC.com

July 28, 2022

Lee County Development Services
1500 Monroe Street
Fort Myers, FL 33902

Via: e-permitting

RE: **The Nest SWFL (formerly known as Eagle's Nest) - DCI2022-00004
Planned Development Application RPD/CPD - *Submittal 3*
(ABB PN: 20-0017)**

Dear Intake Coordinator,

This letter is in response to the County's comments dated April 5, 2022, to the Planned Development application for the above-referenced project. Responses to each comment are provided below in *bold italics*.

1. Project Narrative Updated

The Nest project has been revised from a Mixed Use Planned Development to a Residential Planned Development (RPD)/Commercial Planned Development (CPD). This is based on input from County Staff and the Applicant's goals to develop a 96 unit multiple-family residential project. The project is utilizing the majority of the property to the west and a 10,000 sq.ft. commercial development on the eastern portion of the property. Of the 15.75 acres 12 acres will be dedicated to the proposed RPD and 3.75 acres as CPD. The applicant is requesting 24 bonus density units which will be counted within the overall proposed 96 units.

The proposed development is consistent with the existing and planned commercial development along U.S. 41 and the existing multiple family to the south and high density mobile home park to the north of the project.

Phasing is no longer proposed. Development will occur based on market demands. As reflected in the project's name, there is an existing Eagle Nest on the southeastern portion of the property within a Pine Flatwoods Preserve area. The commercial area south of the internal spine road will occur when an incidental take permit from the United States Fish and Wildlife Service is obtained.

Included in this submittal are the following revised items for your review:

2. Application for RCP/ CPD
 - a. Bonus Density Fee \$2,100

3. Boundary and Legal Sketch and Descriptions
 - a. Overall site
 - b. RPD Site
 - c. CPD Site
4. Cross Access Agreement
5. MCP with FLUCCS Overlay & Species Locations
6. Indigenous Management Plan
7. Cross Sections
8. Schedule of Uses
 - a. RPD
 - b. CPD
9. Schedule of Deviations
10. Lee Plan Narrative
11. Bald Eagle Management Plan
12. Kayak Launch Exhibits
13. Stormwater Plan Narrative
14. Surface Water Quality Monitoring Program
15. Master Concept Plan
16. Listed Species Survey

Zoning Review:

1. Your application of the front page states that you are not requesting any Bonus Density Units, but on page 4 states that you are requesting 32 Bonus Density Units. Please correct the application and provide the required fee for the Bonus Density request.

Response: The application has been revised to reflect the requested bonus density of 24 units, an additional fee in the amount of \$2,100 for bonus density per LDC 2-147(A)(3) is included with this resubmittal.

2. Your Schedule of Uses for Tract "B" states "Bar or cocktail lounge consistent with Section 34-1201 of Lee County LDC". This Section of the LDC allows Sexually oriented businesses. There is a list of restriction for those types of businesses including but not limited the prohibition of the use in zoning districts that also allow residential uses. The requested zoning is a MPD which allows residential uses and cannot allow sexually oriented uses.

Response: Acknowledged. The tracts have been removed as we are no longer pursuing a rezone to an MPD. The project will now be an RPD / CPD. Please see the attached schedule of uses for each zoning district.

3. Some of the uses proposed are not in the LDC Use regulations for Planned Developments, such as "Office Space". Business Services, Group I that is in the Schedule of Uses are mostly office type businesses and should adequately cover your requested use of Office Space.

Response: Acknowledged, please see the revised schedule of uses.

4. Your TIS states 5,000 square feet of restaurant. It is understood that the Outdoor seating square footage is included in this number.

Response: Correct. The applicant is requesting a total of 5,000 square feet of restaurant space between indoor and outdoor.

5. This is not an insufficiency comment but your Schedule of Uses for Tract "B" seems very limited. Some uses such as Personal Services, Group I and Specialty Retail Group I, Rental and Leasing Group I, and Bait and Tackle Shop may also be appropriate for this site. Also, you may want to add Fences and Walls, Gates and Gate Houses, and Signs to the Schedule of Uses.

Response: Acknowledged, please see the revised schedule of uses.

Planning Review:

1. In your Lee Plan Narrative, please address development in the Coastal High Hazard Area (policy 101.1.1), as the property is located within the CHHA.7

Response: This policy requires development to be compatible with natural systems and defend against coastal flooding. The stormwater plan describes how the master drainage system will integrate into the existing natural systems. See attached Stormwater Plan narrative. In addition to the stormwater plan describes how this development will address potential flooding as follows: The property is located in the FEMA flood elevation AE10, the first finished floors will be set at a minimum of 11.0' NAVD (AE10, BFE +1). Parking will be located below the residential floors. The property is required to obtain a no rise permit through the local development order application process and compensating storage will be accommodated and the internal roads will be built at the 5-year 24 hour design event to reduce the potential for flooding. All habitable structures will be built to the current Florida Building Code to withstand flooding and wind loads.

2. The application does not correctly calculate the density for the project. The existing site contains 1.87 acres of saltwater wetlands per the formal jurisdictional wetland determination. The application indicates the presence of freshwater wetlands but after reviewing the environmental consultants material and jurisdictional determination, these are saltwater wetlands. Please revise to density calculations accordingly. Please note the overall wetland acreage is incorrect on the application as well. The application indicates 1.76 but the site contains 1.87 for wetland acreages.

Response: Density is only calculated using uplands and not pulling from any of the wetlands.

3. Please address consistency with LDC Sec.2-147 for the Bonus Density identified with the application.

Response: The bonus density has been corrected and is consistent throughout the application.

Development Services Review:

1. The boundary survey shows a 50' ingress/egress easement through the western side of the property that is not shown on the MCP. Additionally, the survey shows a portion of a drainage easement along Mullock creek over the northern property boundary that is not shown on the MCP. Please clarify.

Response: This easement is shown, but has been vacated per OR BK 03555 PG 1277

2. Please indicate on the MCP the location of the requested deviations.

Response: Please reference the MCP.

3. Please provide additional justification for deviation request #4. This should include a discussion about the road speed limit, projected traffic counts (daily as well as peak hour), additional traffic calming measures, signage, expected number of spaces etc. Staff is hesitant to support a deviation that allows a significant number of back out spaces without further protections of health, safety and welfare.

Response: The Deviation has been removed. The access to the residential tract on the western side of the property will be gated (see MCP for exact location). Beyond the gate to the west will be a private round about parking lot for the residents of The Nest and its guests. Speed limits will be posted at 25 MPH similar to county maintained for residential roads.

4. Please clarify "access control structures" in the schedule of uses. Does this include gates/gatehouses? Can the requirements of LDC 34-1748 be met with the current MCP configuration?

Response: Access control structures has been removed from the schedule of uses.

5. Future Condition: Deviation (2) - The developer must record a notice to all future property owners, in the public record, prior to issuance of a local development order allowing construction of the access to the development. The notice must detail the emergency access plan and provide information as to where a copy of this plan may be obtained from the developer or developer's successor. At the time of the initial development order the applicant must provide a Crime Prevention through Environmental Design (CPTED) report to the Lee County Sheriff's Office. A copy of this report must be submitted with the Development Order application.

Response: Acknowledged.

6. Please provide the required cross access easement for the development of the offsite access. Please note that the easement should include language that allows a secondary access point for the development. The letters of no objection received from the various emergency response agencies required a secondary access upon the development of the southern parcel.

Response: A Permanent access easement agreement has been signed and is attached.

Please contact Brian Roberts at BRoberts@leegov.com or by calling 239-533-8890 with any questions regarding the above review comments.

Legal Description Review:

1. Previous comments were not addressed:

Sec. 34-202(a). Submittal requirements for applications requiring public hearing.

Response: Please see the attached boundary survey and sketch and description exhibits for the RPD and CPD tracts.

2. Please provide a legal description and sketch in accordance with the requirements of Lee County LDC §34-202(a)(5).
 - Legal description must be a metes and bounds legal description and must include a legal sketch.

Response: Please see the attached boundary survey.

3. Please provide a boundary survey in accordance with the requirements of Lee County LDC §34-202(a)(6).
 - Legal description must be a metes and bounds legal description.
 - The survey must be tied to the state plane coordinate system for the Florida West Zone (the most current adjustment is required) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner.
 - The survey must be based upon the title certification submitted in accord with section 34-201(a)(7)
 - Portion of property described as less and except on the title certification is not excluded on the boundary survey sketch.

Response: Please see the attached boundary survey.

Please contact Hunter Searson at HSearson@leegov.com or by calling 239-533-8585 with any questions regarding the above review comments.

Environmental Review:

1. Please give a detailed analysis of Lee Plan Policy 101.1.2 and how the project is enhancing or protecting the wetlands/estuaries, mangrove stands and tidal creeks. Please note that the hearing examiner must find that the property will not adversely affect environmentally critical or sensitive areas and natural resources (section 34-145(d)(4)(a)(1)(f)).

Response: The proposed development will protect and enhance the existing jurisdictional wetlands and accommodate historic flows as depicted on the Stormwater Plan. In addition,

there are 1.87 acres of delineated wetlands on-site. These wetland JD lines have been established and agreed to by SFWMD. In addition to the wetlands that will be preserved, the project will also set aside 2.99 +/- acres of upland in proximity to the wetlands and around the pine tree that contains the partial eagle nest on the property. These development conditions will ensure protection of the environmentally critical areas within and adjacent to the subject property. On-site wetlands will be enhanced through exotic removal, monitoring, and routine maintenance. The on-site wetlands will benefit from the project.

2. Please give a detailed analysis of Lee Plan Policy 123.6. How are the eagles being protected? An ETAC meeting/ management plan has not been provided.

A bald eagle management plan has been created and is included as part of this response. In summary, the management plan involves the creation of an upland preserve surrounding the current bald eagle nest. This preserve will be enhanced through the removal of all exotic plant species and supplemental planting. Monitoring will continue through the nesting season. An incidental take permit from the USFWS will be obtained prior to construction. A landscape blind will be established along the northern boundary of the upland preserve to shield the view of development and subsequent use from the eagle's nest. See the Bald Eagle Management Plan for further information.

3. Due to the location of the project (Coastal High Hazard), please give details of how habitat is being protected/enhanced for wildlife. Please provide an analysis for Lee Plan policy 123.10.

Response: Policy 123.10 – Wood Stork – Impacts to the property as a result of development and the indigenous habitat management plan will have a positive effect on available wood stork foraging area. No impacts to wetlands are planned as part of the development which eliminates the possibility of any loss of foraging habitat. On-site wetlands will be enhanced through exotic removal, monitoring, potential supplemental plantings, and routine exotic maintenance. Currently, wetlands on-site are covered by a dense tree canopy which precludes wood storks from foraging on the property. Initial exotic removal may create gaps in the canopy which will improve the accessibility of wetland environments as well as improve the habitat as a whole.

4. In the Lee Plan analysis, the applicant states that the subject property is within the abundant Black bear distribution area. Please demonstrate how the project is being designed to preserve/enhance preservation areas to support Black Bears.

Policy 123.12 Florida Black Bear – The creation of on-site preserves establishes a large and contiguous area of protected habitat. A combination of upland and wetland preserves provides a more diverse environment by providing a larger array of potential natural food sources. A visiting black bear would have ample room to forage and would be able to traverse the property unimpeded by development. The future residents and commercial facilities will be provided information as to how to cohabitate with black bears in the event that bear are identified in the area. Adaptive management may become necessary if any black bear and human interactions. If the presence of black bears exists additional measures will be taken (bear proof trash cans, additional literature, education of the residents and commercial tenants,

etc.)

5. Please provide a detailed analysis of how wetland habitats are being protected (Lee Plan 124.1.2). Is there restoration, management plans, etc.?

Response: The existing 1.86 +/- acres of jurisdictional wetlands will be preserved in their entirety and will be maintained and enhanced in accordance with Lee County and the SFWMD requirements. An indigenous habitat management plan has been created which outlines the enhancement of both the upland and wetland preserves. A 25ft. upland buffer has been provided around the wetlands to prevent secondary impacts. Further details will be provided with a Development Order application.

6. Section 10-1 of the Land Development code defines impervious as, “those surfaces which do not absorb water, and includes all water bodies, structures, driveways, streets, sidewalks, other areas of concrete, asphalt, compacted layers of limerock or shell, and certain parking areas.” Please demonstrate how the sidewalk at the north portion of the property is meeting section 10-416(d) (11) which states that “not more than 20% of the width of the buffer can be an impervious surface.”

Response: A cross section of the shoreline along Mullock Creek depicts a 7 ft shell pathway. The shell pathway will be outside of the buffer.

7. Please provide an MCP that overlays the FLUCCS, species location (including snags), and transects. Please condense this to one map.

Response: Please see the attached MCP with FLUCCS Transects.

8. Please provide an indigenous management plan to support Lee Plan Policy 101.1.2 The indigenous management plan must depict upland and wetland indigenous preservation and upland and wetland restoration to support Lee Plan Policy 101.1.2. The indigenous management plan must include indigenous restoration plant specifications. Staff may have additional comments following the submittal of the document.

Response: An indigenous management plan has been created and is included with this response.

9. Applicant has rare and unique habitats abutting the right-of-way. A deviation has been requested from 10-415(b)(1)(4). Please give a more detailed explanation for the justification of why the deviation is necessary. Staff would like to work with the applicant to preserve those areas working with the applicant's design.

Response: See Schedule of deviations.

10. Revise MCP to depict the location for each deviation.

Response: Please see revised MCP exhibit.

11. Revise MCP to depict the 50-foot natural waterway buffer to the aquatic preserve along the west property line.

Response: Please see revised MCP exhibit.

12. Deviation #1 is requesting relief from 10-416(d)(6) that is a buffer requirement and not a setback requirement. Deviation #1 states that 25-foot setback will be provided and does not state the width of the buffer. Please revise as this request is confusing because the applicant depicts enough area to provide a 30-foot buffer with a slight adjustment to the MCP.

Response: See Schedule of Deviations.

13. The cross sections provided do not depict a berm around preserve areas. Please indicate if SFWMD is requiring a structural buffer around wetland preserves. If so, make sure the design has the structural buffer located outside of the preserve or revise indigenous preserve calculation. Revise cross section accordingly.

Response: Yes, we will be providing SFWMD berms that will be located outside of the preserve.

Please contact Camryn Siverson at CSiverson@leegov.com or by calling 239-533-8313 with any questions regarding the above review comments.

DOT Review:

1. It cannot be deemed for sufficiency since an access easement for the proposed driveway on US 41 has not been submitted.

Response: With regards to access, please see attached Permanent Access Easement Agreement.

Please contact Lili Wu at LWu@leegov.com or by calling 239-533-8585 with any questions regarding the above review comments.

Natural Resources Review:

1. Please provide an analysis of Lee Plan policies 60.4.2, 125.1.2, 125.1.3, 125.1.4, 126.1.1, and 126.1.4.

POLICY 60.4.2: The County encourages new developments to design their surface water management system to incorporate existing wetland systems.

Response: The existing wetlands are located entirely outside of the development area. Post development drainage patterns will mimic predevelopment drainage patterns as required by SFWMD. Including the wetlands in the stormwater system would create impacts to wetlands which is what the development is designed to avoid.

POLICY 125.1.2: New development and additions to existing development must not degrade surface and ground water quality. (Ord. No. 00-22, 18-28)

Response: The Stormwater Plan describes will be designed to meet all permitting criteria to avoid any surface or ground water degradation. The irrigation withdrawals will be permitted through SFWMD to ensure no adverse ground water impacts.

POLICY 125.1.3: The design, construction, and maintenance of artificial drainage systems must provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems. (Ord. No. 00-22, 18-28)

Response: The stormwater system will provide sufficient nutrient removal to meet or exceed SFWMD criteria.

POLICY 125.1.4: Developments which have the potential of lowering existing water quality below state and federal water quality standards will provide standardized appropriate monitoring data. (Ord. No. 00-22, 18-28)

Response: This development is not a high risk development that is typically associated of discharging affluent below state water quality standards.

POLICY 126.1.1: Natural water system features which are essential for retention, detention, purification, runoff, recharge, and maintenance of stream flows and groundwater levels shall be identified, protected, and managed. (Ord. No. 18-28)

Response: Please see Stormwater Plan.

POLICY 126.1.4: Development designs must provide for maintaining or improving surface water flows, groundwater levels, and lake levels at or above existing conditions. (Ord. No. 00-22, 18-28)

Response: Please see Stormwater Plan.

2. This project is within the Coastal High Hazard Area. Please provide an analysis of Lee plan policy 101.3.2.

Response: The proposed development will be located entirely within the upland areas of the subject property. The on-site wetlands will benefit from the project through preservation and enhancement.

- 2.a Please submit a bald eagle management plan consistent with LDC 14-119(c). The case cannot be found sufficient until the bald eagle management plan has been reviewed by ETAC. Please address the proposed uses within close proximity to the nest and how these will not impact the nesting pair.

Response: A bald eagle management plan has been created and will be submitted as part of the response to this comment.

3. Please provide a detail of the kayak launch demonstrating compliance with LDC 26-73. It appears the kayak launch does not meet the Chapter 26 design requirements. Is the kayak launch proposed to be accessible by the public? If so, private recreational facility may not be the appropriate use group.

Response: Kayak launch area shall comply with LDC Section 26.73 Design Standards. See CPD Schedule of Use - Recreational facilities, Commercial Group III Outdoor Facilities

4. Please expand on how the parking for the kayak launch and pavilion was determined? What is the proposed use of the pavilion?

Response: Parking for the pavilion will be provided adjacent to the launch and small commercial space. Parking for the Kayak launch is accommodated through the retail and residential parking calculations.

5. Please detail whether the shoreline along the canal will require improvements? Please revise the Water Quality Monitoring Plan to include analysis of:

- Water Temperature
- Total Kjeldahl Nitrogen (TKN)
- Total Nitrogen
- Chlorophyll A
- Nitrite
- Nitrate
- Phosphorus
- Turbidity
- Stage
- Dissolved Oxygen (DO), (mg/L)
- DO, (%)
- pH
- Salinity
- Specific Conductance
- Enterococci
- Iron

Please revise the Water Quality monitoring plan to include the following:

Three sampling events per year. With sampling occurring at the beginning of the rainy season (June), in the middle (August), and at the end of rainy season (October).

Response: Please see Surface Water Quality Monitoring Program.

6. Please include the following statement in the plan "The monitoring of the water quality at the project's outfalls will be implemented for a minimum of five (5) years from the start of

construction and can be reevaluated based on observed trends and regional concerns. After five (5) years of monitoring, the responsible entity may submit a request package to the Division of Natural resources for reevaluation of the monitoring plan to change frequency and/or parameters.

Response: Please see Surface Water Quality Monitoring Program.

7. Monitoring reports must include plots of parameters, analysis of the data with a comparison of State water quality standards, recommendations, and the results must be reported as an Electronic Data Deliverable (EDD), in a format approved by the Division of Natural Resources.

Response: Please see Surface Water Quality Monitoring Program.

8. Please revise the proposed Water Quality monitoring plan to include a sampling location at each proposed outfall.

Response: Please see Surface Water Quality Monitoring Program.

9. Please clarify whether the eastern most proposed sampling location, adjacent to 41, is an inlet or proposed emergency outfall?

Response: Please see Surface Water Quality Monitoring Program.

10. Is a dog park being proposed within the recreational use Tract? If so, what measures will be implemented to ensure pet waste does not degrade water quality?

Response: A private maintained dog park may be located within the residential tract that will be available for resident's use. Residents using the park will be required to pick up after their pets. Waste Receptacles will be provided.

If you have any questions, you may reach me by telephone or email (Emblidge@abbinc.com).

Sincerely,
AGNOLI, BARBER & BRUNDAGE, INC.

Margaret Emblidge, AICP

ME/sak
Enclosures



APPLICATION FOR PLANNED DEVELOPMENT PUBLIC HEARING UNINCORPORATED AREAS ONLY

REVISED TO RPD / CPD

Project Name: The Nest SWFL

Request: Rezone from: AG-2 To: RPD/CPD

Type: ☐ Major PD ☒ Minor PD ☐ DRI w/Rezoning ☐ PRFPD
☐ Major PD Amendment ☐ Minor PD Amendment

Bonus Density included? ☐ NO ☒ YES¹ for: 24 Bonus Units

¹ If **YES**, submit additional fee required by LDC 2-147(A)(3)

Summary of Project:

The project will be separated into a residential planned development and commercial planned development.

The RPD will consist of a 95 ft residential building with 96 multifamily living units.

The CPD will consist of a 5,000-sf restaurant and 5,000 sf commercial building.

In addition to the commercial buildings, the CPD will include a privately-owned recreational facility with pavilions, pathways and a kayak launch into Mullock Creek.

PART 1 APPLICANT/AGENT INFORMATION

A. Name of Applicant: Matthew Slaughter, Manager

Address: 181 Carica Road

City, State, Zip: Naples, FL, 34108

Phone Number: 239-877-2040

E-mail Address: mjcslaughter@gmail.com

B. Relationship of Applicant to owner (check one) and provide [Affidavit of Authorization](#) form:

☐ Applicant is the sole owner of the property. [34-201(a)(1)a.1.]

☒ Applicant has been authorized by the owner(s) to represent them for this action. [34-202(a)(3)]

☐ Application is County initiated. Attach BOCC authorization.

C. Authorized Agent: (If different than applicant) Name of the person who is to receive all County-initiated correspondence regarding this application. [34-202(a)(4)]

1. Company Name: Agnoli, Barber & Brundage, Inc.

Contact Person: Margaret Emblidge, AICP

Address: 7400 Trail Blvd, Suite 200

City, State, Zip: Naples, FL, 34108

Phone Number: 239-597-3111

Email: Emblidge@abbinc.com

2. **[Additional Agent\(s\)](#):** Provide the names of other agents that the County may contact concerning this application. [34-202(a)(4)]

LEE COUNTY COMMUNITY DEVELOPMENT
PO BOX 398 (1500 MONROE STREET), FORT MYERS, FL 33902
PHONE (239) 533-8585

PART 2 PROPERTY OWNERSHIP

A. Property owner(s): If multiple owners (corporation, partnership, trust, association), provide a list with owner interest. [34-202(a)(2)]

Name: STA FUND LLC

Address: 181 Carica Road

City, State, Zip: Naples FL 34108

Phone Number: _____ Email: _____

B. Disclosure of Interest [34-202(a)(2)]:

☒ Attach [Disclosure of Interest](#) Form.

C. Multiple parcels:

☒ Property owners list. [34-202(a)(8)]

☒ Property owners map. [34-202(a)(8)]

D. Certification of Title and Encumbrances [34-202(a)(7)]

1. Title certification document, no greater than 90 days old.

2. Date property was acquired by present owner(s): 01/31/2020

PART 3 PROPERTY INFORMATION

A. STRAP Number(s): [Attach extra sheets if additional space is needed.] [34-203(a)(5)]

17-46-25-00-01001.0040

18-46-25-00-00037.0010

18-46-25-00-00037.0030

18-46-25-00-00035.0000

B. Street Address of Property: 18200 S Tamiami Trail Fort Myers FL 33967

C. Legal Description (must submit) [34-202(a)(5)]:

☒ Legal description (metes and bounds) (8½"x11") and sealed sketch of the legal description.

OR

☐ Legal description (NO metes and bounds) if the property is located within a subdivision platted per F.S. Chapter 177, and is recorded in the Official Records of Lee County under Instruments or Plat Books. ([Click here](#) to see an example of a legal description with no metes and bounds.)

AND

Boundary Survey [34-202(a)(6)]:

☒ A Boundary survey, tied to the state plane coordinate system.

OR

☐ Not required if the property is located within a subdivision platted per F.S. Chapter 177.

D. Surrounding property owners (within 500 feet of the perimeter of the subject parcel or portion thereof that is subject of the request):

1. ☒ List of surrounding property owners. [34-202(a)(9)]

2. ☒ Map of surrounding property owners. [34-202(a)(9)]

3. ☒ One set of mailing labels. [34-202(a)(9)]

Note: When the case is found complete/ sufficient, a new list and mailing labels must be submitted.

E. Current Zoning of Property: AG-2

☐ Provide a list of all Zoning Resolutions and Zoning Approvals applicable to the subject property.

F. Use(s) of Property:

1. Current uses of property are: Cattle Grazing

2. Intended uses of property are: RPD / CPD

G. Future Land Use Classification (Lee Plan):

Urban Community	<u>15.74</u>	Acres	<u>100</u>	% of Total
		Acres		% of Total
		Acres		% of Total

H. Property Dimensions:

1. Width (average if irregular parcel):	<u>380.7</u>	Feet		
2. Depth (average if irregular parcel):	<u>2087.6</u>	Feet		
3. Total area:	<u>685,663</u>	Square feet		
4. Frontage on road or street:	<u>325</u>	Feet on	<u>U.S. 41</u>	Street
2 nd Frontage on road or street:		Feet on		Street

I. Planning Communities/Community Plan Area Requirements: If located in one of the following planning communities/community plan areas, provide a meeting summary document of the required public informational session.

- ☒ Not Applicable
- ☐ Captiva Planning Community (Captiva Island). [33-1612(a)&(b); Lee Plan Policy 13.1.7]
- ☐ North (Upper) Captiva Community Plan area. [33-1711]
- ☐ Boca Grande Planning Community. [Lee Plan Policy 22.1.5]
- ☐ Caloosahatchee Shores Community Plan area. [33-1482(a)&(b); Lee Plan Policy 21.6.3]
- ☐ Page Park Community Plan area. [33-1203(a) & (b); Lee Plan Policy 27.11.2]
- ☐ Palm Beach Boulevard Community Plan area. [Lee Plan Policy 23.5.2]
- ☐ Buckingham Planning Community. [Lee Plan Policy 17.7.2]
- ☐ Pine Island Planning Community. [33-1004(a) & (b); Lee Plan Policy 14.7.1]
- ☐ Lehigh Acres Planning Community. [33-1401(a)&(b); Lee Plan Policy 32.12.2]
- ☐ North Fort Myers Planning Community. [33-1532(a)&(b)]
- ☐ North Olga Community Plan area. [33-1663(a)&(b)]

J. Waivers from Application Submission Requirements: Attach waivers, if any, approved by the Director of Zoning. [34-201(c)]

PART 4
TYPES OF LAND AREA ON PROPERTY

A. Gross Acres (total area within described parcel)	<u>15.75</u>	Acres
1. Submerged land subject to tidal influence	<u> </u>	Acres
2. a. Preserved freshwater wetlands	<u>0.98</u>	Acres
b. Impacted wetlands	<u>0.00</u>	Acres
c. Preserved saltwater wetlands	<u>0.88</u>	Acres
d. Total wetlands (A.2.a. plus A.2.b. plus A.2.c.)	<u>1.87</u>	Acres
3. R-O-W providing access to non-residential uses	<u> </u>	Acres
4. Non-residential use areas ^{(1) (2)}	<u>3.75</u>	Acres
B. Total area not eligible as gross residential acreage (Items A.1. + A.3. + A.4.).	<u>3.75</u>	Acres
C. Gross residential acres. (A minus B) ⁽³⁾	<u>12</u>	Acres
D. Gross residential acres (by Land Use Category)		
1. a. Intensive Development – upland	<u> </u>	Acres
b. Intensive Development – preserved freshwater wetlands	<u> </u>	Acres
c. Intensive Development – impacted wetlands	<u> </u>	Acres
2. a. Central Urban – upland	<u> </u>	Acres
b. Central Urban – preserved freshwater wetlands	<u> </u>	Acres
c. Central Urban – impacted wetlands	<u> </u>	Acres
3. a. Urban Community or Suburban – upland	<u>10.24</u>	Acres
b. Urban Community or Suburban – preserved freshwater wetlands	<u>1.87</u>	Acres
c. Urban Community or Suburban – impacted wetlands	<u>0.00</u>	Acres

4.	a.	Suburban – upland	_____	Acres
	b.	Suburban – preserved freshwater wetlands	_____	Acres
	c.	Suburban – impacted wetlands	_____	Acres
5.	a.	Outlying Suburban – upland	_____	Acres
	b.	Outlying Suburban – preserved freshwater wetlands	_____	Acres
	c.	Outlying Suburban – impacted wetlands	_____	Acres
6.	a.	Sub-Outlying Suburban – upland	_____	Acres
	b.	Sub-Outlying Suburban – preserved freshwater wetlands	_____	Acres
	c.	Sub-Outlying Suburban – impacted wetlands	_____	Acres
7.	a.	Rural, Outer Island, Rural Community Preserve – upland	_____	Acres
	b.	Rural, Outer Island, Rural Community Preserve – wetlands	_____	Acres
8.	a.	Open Lands – upland	_____	Acres
	b.	Open Lands – wetlands	_____	Acres
9.	a.	Resource – upland	_____	Acres
	b.	Resource – wetlands	_____	Acres
10.	a.	Wetlands	_____	Acres
11.	a.	New Community – upland	_____	Acres
	b.	New Community – wetlands	_____	Acres
12.	a.	University Community – upland	_____	Acres
	b.	University Community – wetlands	_____	Acres
13.	a.	Coastal Rural – upland	_____	Acres
	b.	Coastal Rural – wetlands	_____	Acres

TOTAL (should equal "C" above)

12 Acres

Notes:

- (1) Lands for commercial, office, industrial uses, natural water bodies, and other non-residential uses must not be included except within the Mixed Use Overlay {see Note (2) below}.
- (2) Within the Mixed Use Overlay, lands for commercial, office, industrial uses, natural water bodies, and other non-residential uses may be included in density calculations {see Lee Plan Objective 4.3}.
- (3) Lands to be used for residential uses including land within the development proposed to be used for streets & street rights of way, utility rights-of-way, public & private parks, recreation & open space, schools, community centers, & facilities such as police, fire & emergency services, sewage & water, drainage, and existing man-made waterbodies.

PART 5

RESIDENTIAL DEVELOPMENT - PRELIMINARY DENSITY CALCULATIONS

- i. Complete only if living units are proposed in a Future Land Use Category.
- ii. If more than one classification, calculations for each classification must be submitted. Attach extra sheets as necessary.
- iii. If wetlands are located on the property, density calculations are considered preliminary pending a wetlands jurisdictional determination.

A. Future Land Use Category: Urban Community

		Lee Plan Table 1(a)		
		Max. standard density		Units
1.	Standard Units			
	a.	Total upland acres (from Part 4, D.)	12 x 6 equals	72
	b.	Total preserved freshwater wetlands acres (from Part 4, D.)	1.87 x 1/20 equals	0
	c.	Total impacted wetlands acres (from Part 4, D.)	x _____ equals	
	d.	Total Allowed Standard Units ⁽¹⁾		72
2.	Bonus Units [2-143]			
	a.	Site-built Affordable Housing		24
	b.	Transferrable Dwelling Units		0
	c.	Sub-total		24
3.	Total Permitted Units ⁽¹⁾			96

Note:

- (1) Subject to revision if wetlands jurisdictional determination indicates a different acreage of wetlands.

**PART 6
COMMERCIAL, INDUSTRIAL, MINING, ASSISTED LIVING FACILITIES, HOTELS & MOTELS
PRELIMINARY INTENSITY CALCUATIONS**

A.	Commercial	Height	Total Floor Area (Square Feet)
	1. Medical	_____	_____
	2. General Office	35	5,000
	3. Retail	_____	_____
	4. Other: <u>Restaurant</u>	35	5,000
	5. TOTAL FLOOR AREA	_____	10,000
B.	Industrial	Height	Total Floor Area (Square Feet)
	1. Under Roof	_____	_____
	2. Not Under Roof	_____	_____
	3. TOTAL FLOOR AREA	_____	_____
C.	Mining	Depth	Total Acres
	1. Area to be excavated	_____	_____
D.	Assisted Living Facilities	Height	Total Beds/Units
	1. Dependent Living Units	_____	_____
	2. Independent Living Units	_____	_____
	3. TOTAL BEDS/UNITS	_____	_____
E.	Hotels/Motels (Room Size)	Height	Total Rental Units
	1. < 425 sq. ft.	_____	_____
	2. 426-725 sq. ft.	_____	_____
	3. 725 < sq. ft.	_____	_____
	4. TOTAL UNITS	_____	_____

**PART 7
ACTION REQUESTED**

- A. Request Statement:** Provide a single narrative explaining the nature of the request and how the property qualifies for the rezoning to a planned development. This narrative should include how the proposed development complies with the Lee Plan, the Land Development Code, and the applicable findings/review criteria set forth in LDC section 34-145(d)(4). This narrative may be utilized by the Board of County Commissioners, Hearing Examiner and staff in establishing a factual basis for the granting or denial of the rezoning. **[34-373(a)(5)]**
- B. Traffic Impact Statement.** A traffic impact statement in a format and to the degree of detail required by the County and in conformance with the adopted Lee County Administrative Code. TIS is not required for an existing development. **[34-373(a)(7)]**
- C. Master Concept Plan:**
1. **Master Concept Plan, Non-PRFPD:** A graphic illustration (Master Concept Plan) of the proposed development, showing and identifying the information required by LCLDC Section 34-373(a)(6)a. Copies of the Master Concept Plan must be provided in two sizes, 24"x36" and 11"x17", and must be clearly legible and drawn at a scale sufficient to adequately show and identify the required information. In addition to the Master Concept Plan, an open space design plan delineating the indigenous preserves and/or native tree preservation areas as required by LDC Section 10-415(b) must be submitted. **[34-373(a)(6)]**
 2. **Schedule of Uses:** A schedule of uses keyed to the Master Concept Plan as well as a summary for the entire property including the information required by LCLDC Section 34-373(a)(8)]. **[34-373(a)(8)]**

3. **Schedule of Deviations and Written Justification:** A schedule of deviations and a written justification for each deviation requested as part of the Master Concept Plan accompanied by documentation including sample detail drawings illustrating how each deviation would enhance the achievement of the objectives of the planned development and will not cause a detriment to public interests. The location of each requested deviation must be located/shown on the Master Concept Plan. [34-373(a)(9)]

D. Bonus Density: [34-202(a)(11)]

- ☐ Not Applicable
☒ Bonus Density will be used. Provide the number of Bonus Density units being requested and a narrative of how the request meets the requirements of LDC Section 2-146.

**PART 8
ENVIRONMENTAL REQUIREMENTS**

- A. Topography:** Describe the range of surface elevations of the property. Attach a county topographic map (if available) or a USGS quadrangle map showing the subject property. [34-373(a)(4)b.iv.]
-
- B. Sensitive Lands:** Identify any environmentally sensitive lands, including, but not limited to, wetlands (as defined in the LEE Plan Section XII), flowways, creek beds, sand dunes, other unique land forms [see LEE Plan Policy 77.1.1 (2)] or listed species occupied habitat [see LCLDC Section 10-473(f)].
-
- C. Preservation/Conservation of Natural Features:** Describe how the lands listed in PART 6.B. above will be protected by the completed project:
-
- D. Shoreline Stabilization:** If the project is located adjacent to navigable natural waters, describe the method of shoreline stabilization, if any, being proposed:
-
- E. Soils Map:** Attach maps drawn at the same scale as the Master Concept Plan marked or overprinted to show the soils classified in accordance with the USDA/SCS System. [34-373(a)(4)b.i.]
- F. FLUCCS Map:** A Florida Land Use, Cover and Classification System (FLUCCS) map, at the same scale as the Master Concept Plan, prepared by an environmental consultant. The FLUCCS map must clearly delineate any Federal and State jurisdictional wetlands and other surface waters, including the total acreage of Federal and State wetlands. [34-373(a)(4)c.]
- G. Rare & Unique Upland Habitat Map:** Maps drawn at the same scale as the Master Concept Plan marked or overprinted to show significant areas of rare and unique upland habitat as defined in the LEE Plan Section XII. [34-373(a)(4)b.iii.]
- H. Existing and Historic Flow-Ways Map:** Map(s) drawn at the same scale as the master concept plan marked or overprinted to show existing and historic flow-ways. [34-373(a)(4)b.v.]

**PART 9
SANITARY SEWER & POTABLE WATER FACILITIES**

- A. Special Effluent:** If the discharge of any special effluent is anticipated, please specify what it is and what strategies will be used to deal with its' special characteristics:
-
- B. Private On-Site Facilities:** If a private on-site wastewater treatment and disposal facility is proposed, please provide a detailed description of the system including:
1. Method and degree of treatment:
 2. Quality of the effluent:
-

3. Expected life of the facility:

4. Who will operate and maintain the internal collection and treatment facilities:

5. Receiving bodies or other means of effluent disposal:

C. Spray Irrigation: If spray irrigation will be used, specify:

1. The location and approximate area of the spray fields:

2. Current water table conditions:

3. Proposed rate of application:

4. Back-up system capacity:

**PART 10
ADDITIONAL REQUIREMENTS**

A. Major Planned Developments:

1. **Surface Water Management Plan.** A written description of the surface water management plan as required by LCLDC Section 34-373(b)(1). **[34-373(b)(1)]**
2. **Phasing Program.** If the development is to be constructed in phases or if the Traffic Impact Statement utilized phasing, then a description of the phasing program must be submitted. **[34-373(b)(3)]**
3. **Protected Species Survey.** A protected species survey is required for large developments (as defined in LCLDC Section 10-1) as specified in LCLDC Section 10-473. **[34-373(b)(2)]**

B. Amendments to Built Planned Developments: The consent of the owners of the remainder of the original planned development is not required, but these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property. Attach proof of notice to other property. **[34-373(c)]**

C. Development of Regional Impact: Binding letter of interpretation from DCA or a complete and sufficient ADA. (See also Application for Public Hearing for DRI Form.) **[34-373(d)(9)]**

D. Private Recreational Facility Planned Developments (PRFPDs):

1. **Master Concept Plan, PRFPD.** Master Concept Plan showing and identifying information required by LDC Section 34-941(g)(1). Copies of the Master Concept Plan must be provided in two sizes, 24"x36" and 11"x17", and must be clearly legible and drawn at a scale sufficient to adequately show and identify the required information. **[34-941(g)(1)]**
2. **Conceptual Surface Water Management Plan.** A Conceptual Surface Water Management Plan must be submitted. The plan must be viable and take into consideration any natural flow way corridors, cypress heads, natural lakes, and the restoration of impacted natural flow way corridors. **[34-941(d)(3)b.i.1]**
3. **Well Drawdown Information.** If within an area identified as an anticipated drawdown area for existing or future well development, demonstration of compliance with LCLDC Section 34-941(d)(3)d.i & ii. must be provided. **[34-941(d)(3)d.]**
4. **Preliminary Indigenous Restoration Plan.** A Preliminary Indigenous Restoration Plan must be provided if on-site indigenous restoration is being used to meet the indigenous native plant community preservation requirement. **[34-941(e)(5)f.iii.]**

5. **Environmental Assessment.** An Environmental Assessment must be provided which includes, at a minimum, an analysis of the environment, historical and natural resources. **[34-941(g)(2)]**
6. **Demonstration of Compatibility.** Written statements concerning how the applicant will assure the compatibility of the proposed development with nearby land uses (by addressing such things as noise, odor, lighting and visual impacts), and the adequate provision of drainage, fire and safety, transportation, sewage disposal and solid waste disposal must be provided. **[34-941(g)(4)]**
- E. **Potable Water & Central Sewer.** Will the project be connected to potable water and central sewer as part of any development of the property?
- ☒ **YES** (Provide a letter from the appropriate Utility to which the connection(s) are proposed confirming availability of service.) **[34-202(a)(10)]**
- ☐ **NO** (Provide a narrative explaining why the connection is not planned and how the water and sewer needs of the project will be met.) **[34-202(a)(10)]**
- F. **Existing Agricultural Use:** If the property owner intends to continue an existing agricultural use on the property subsequent to the zoning approval, an Existing Agricultural Use Affidavit must be provided. Entitle as "Existing Agricultural Uses at Time of Zoning Application." **[34-202(a)(12)]**
- G. **Flood Hazard:**
- ☐ Not applicable
- ☐ The property is within an Area of Special Flood Hazard as indicated in the Flood Insurance Rate Maps (FIRM)s.
- ☐ The minimum elevation required for the first habitable floor is _____ NAVD (MSL)
- H. **Excavations/Blasting:**
- ☐ No blasting will be used in the excavation of lakes or other site elements.
- ☐ If blasting is proposed, provide Information Regarding Proposed Blasting (including soil borings, a map indicating the location of the proposed blasting, and other required information).
- I. **Hazardous Materials Emergency Plan for Port Facilities: [12-110(a)(16)]**
- ☒ Not Applicable
- ☐ Provide a Hazardous materials emergency plan.
- J. **Mobile Home Park: [34-174(h)]**
- ☒ Not Applicable
- ☐ Request includes rezoning of a Mobile Home Park. Provide facts related to the relocation of dislocated owners that meets the requirements of F.S. § 723.083 (1995).
- K. **Airport Zones & Lee County Port Authority (LCPA) Requirements:**
- ☒ Not Applicable
- ☐ Property is located within _____ Airport Noise Zone: **[34-1104]**
- ☐ Property is located within Airport Runway Protection Zone. Indicate which Zone below. **[34-1105]**
- ☐ Property is located within Airport Residential and Educational Protection Zone: **[34-1106]**
- ☐ Property is located in an Airport Obstruction Notification Zone and subject to LCPA regulations. **[34-1107]**
- ☐ A Tall Structures Permit is required. **[34-1108]**

PART 5 SUBMITTAL REQUIREMENT CHECKLIST		
<i>Clearly label your attachments as noted in bold below</i>		
Copies Required		SUBMITTAL ITEMS
3	☒	Completed application for Public Hearing [34-202(a)(1)]
1	☒	Filing Fee - [34-201(d)]
1	☐	Bonus Density Filing Fee - (if applicable) [34-202(a)(11)]
3	☒	Affidavit of Authorization (notarized) Form [34-202(a)(3)]
3	☐	Additional Agents [34-202(a)(4)]
3	☐	Multiple Owners List (if applicable) [34-202(a)(2)]
3	☒	Disclosure of Interest Form (multiple owners) [34-202(a)(2)]
3	☒	Legal description (must submit) [34-202(a)(5)]
	☐	Legal description (metes and bounds) and sealed sketch of legal description
		OR
	☐	Legal description (NO metes and bounds) if the property is located within a subdivision platted per F.S. Chapter 177, and is recorded in the Official Records of Lee County under Instruments or Plat Books. (Click here to see an example of a legal description with no metes and bounds.)
3	☒	Boundary Survey – not required if platted lot (2 originals required) [34-202(a)(6)]
3	☐	Property Owners list (if applicable) [34-202(a)(8)]
3	☐	Property Owners map (if applicable) [34-202(a)(8)]
3	☒	Confirmation of Ownership/Title Certification [34-202(a)(7)]
3	☒	STRAP Numbers (if additional sheet is required) [34-202(a)(5)]
1	☒	List of Surrounding Property Owners [34-202(a)(9)]
1	☒	Map of Surrounding Property Owners [34-202(a)(9)]
1	☒	Mailing labels [34-202(a)(9)]
3	☐	List of Zoning Resolutions and Approvals
3	☐	Summary of Public Informational Session (if applicable)
3	☐	Waivers from Application Submission Requirements (if applicable) [34-201(c)]
3	☒	Preliminary Density Calculations (if applicable)
3	☒	Request Statement [34-373(a)(5)]
3	☒	Traffic Impact Statement (TIS) (not required for existing development) [34-373(a)(7)]
3	☒	Master Concept Plan (MCP), Non-PRFPD [34-373(a)(6)]
3	☒	Schedule of Uses [34-373(a)(8)]
3	☒	Schedule of Deviations and Written Justification [34-373(a)(9)]
3	☒	Topography (if available) [34-373(a)(4)b.iv.]
3	☒	Soils Map [34-373(a)(4)b.9.]
3	☒	FLUCCS Map [34-373(a)(4)c.]
3	☐	Rare & Unique Upland Habitat Map [34-373(a)(4)b.iii.]
3	☒	Existing and Historic Flow-Ways Map [34-373(a)(4)b.v.]
3	☒	Surface Water Management Plan (if applicable) [34-373(b)(1)]
3	☒	Phasing Program (if applicable) [34-373(b)(3)]
3	☒	Protected Species Survey (if applicable) [34-373(b)(2)]
3	☐	Proof of Notice (if applicable) [34-373(c)]

3	☐	Binding Letter from DCA (if applicable) [34-373(d)(9)]
3	☒	Master Concept Plan (MCP), PRFPD (if applicable) [34-941(g)(1)]
3	☒	Conceptual Surface Water Management Plan (if applicable) [34-941(d)(3)b.i.1)]
3	☐	Well Drawdown Information (if applicable) [34-941(d)(3)d.]
3	☐	Preliminary Indigenous Restoration Plan (if applicable) [34-941(e)(5)f.iii.]
3	☒	Environmental Assessment (if applicable) [34-941(g)(2)]
3	☐	Demonstration of Compatibility (if applicable) [34-941(g)(4)]
3	☒	Potable Water & Sanitary Sewer. Letter from the appropriate utility entity indicating the utility entity or explanation of how water and sewer needs will be met if connection will not be made. [34-202(a)(10)]
3	☐	Existing Agricultural Use Affidavit (if applicable) [34-202(a)(12)]
3	☐	Information Regarding Proposed Blasting (if applicable).
3	☐	Hazardous Materials Emergency Plan (if applicable)
3	☐	Mobile Home Park Dislocated Owners Information (if applicable) [34-202(b)(4)]
3	☐	Tall Structures Permit (if applicable) [34-1108]

Exhibit A: Schedule of Uses

The Nest SWFL Residential Planned Unit Development

The 12 +/-acre RPD is consistent with the intent of Urban Community Future Land Use Category designation as defined in the Lee County Comprehensive Plan. The standard residential density of the Urban Community designation is 1 to 6 units per acre, with a maximum total density of 10 dwelling units per acre utilizing bonus densities for affordable housing. The RPD will contain up to a maximum of 96 residential dwelling units and have a density of no greater than 8.2 units per acre. This will include 71 base density units and 24 bonus density units.

1. Dwelling Units:
 - a. Multiple-family Dwelling Units
2. Accessory uses and structures
3. Administrative Offices
4. Gates and Gate Houses
5. Fences and Walls
6. Signs
4. Parks - Group 1
5. Real Estate Sales Office
6. Recreational facilities – Private on-site
7. Residential Accessory Uses
8. Signs - on site and off site

Exhibit A: Schedule of Uses

The Nest SWFL Commercial Planned Development

Regulations for development of The Nest SWFL Commercial Planned Development (CPD) shall be in accordance with the contents of this document and all applicable sections of the Lee Plan, the Land Development Code (LDC), and the Administrative Code in effect at the time of approval of the first Development Order or plat. Where the CPD ordinance does not provide development standards, then the provision of the specific sections of the LDC that are otherwise applicable shall apply.

USES:

The Nest SWFL CPD will consist of 10,000 sf of Commercial space. No building or structure, or part thereof, shall be erected, altered, or used, or land used, in whole or in part, for other than the following:

A. Principle Uses:

1. Accessory uses and structures customarily associated with the permitted principal uses and structures
2. Administrative Offices
3. Animals:
 - a. Clinic or Kennel
4. ATM (automatic teller machine)
5. Auto parts store
6. Automobile Service Station
7. Bait and Tackle shop
8. Banks and financial establishments
 - a. Group I
 - b. Group II
9. Bar or Cocktail lounge
10. Business services
 - a. Group I
11. Cleaning and Maintenance services

12. Clothing Stores, general
13. Consumption on premises of any sit-down restaurant, bar, or cocktail lounge limited to inside the establishment and outdoor patio space
14. Contractors and builders, group I
15. Convenience food and beverage store
16. Day care center, child, adult
17. Drugstore, pharmacy
18. Entrance gates and gatehouse
19. Fences, Walls
20. Gift and Souvenir shop
21. Hardware Store
22. Hobby, toy and game shops
23. Personal Services
 - a. Group I
24. Signs (including off-site signage for the Nest RPD)
25. Recreational facilities, Commercial Group III Outdoor Facilities
26. Kayak Launch and existing dock
27. Specialty Retail, Group I & II
28. Studios
29. Rental and Leasing, Group I
30. Business Services, Group I
31. Medical Office
32. Restaurants (Groups I - III)
33. Variety Store

Schedule of Deviations

Deviation #1

The applicant is seeking a deviation from Section 10-416(d)(6) of the Lee County Land Development Code requiring that the applicant must provide an 8-foot wall or wall berm combination setback 25-feet from the property line and planted with five trees and 18 shrubs per 100 linear feet or a 30-foot Type-F buffer with hedge setback 20-feet from the abutting property.

Instead, the applicant will utilize a combination of a 25 ft setback with a type "C" buffer along the edge of Mullock Creek within the PUD. Plantings will be clustered to allow view sheds for the future residents and commercial customers. Approving this deviation would allow for the natural views of the creek, use of the existing dock and proposed kayak launch. Special consideration will be taken with the development of the CPD portion in order to create compatibility with the community across the creek to the north. The specific location of the deviation will be along the entire length of the northern boundary of the PUD except where there are jurisdictional wetlands.

Deviation #2

The Nest SWFL development is seeking relief from 10-291(3) requirement that any residential development of more than five acres or any commercial or industrial development of more than 10 acres must provide, where practical, two or more means of ingress or egress for the development, to allow one entrance as depicted on the MCP.

The boundary of the subject properties is unorthodox. The site is largest to the west, bound by preserve and waterways, and gets narrower to the east at U.S. 41. The frontage along U.S. 41 is about 323 linear feet. The frontage is not wide enough to provide two or more means of ingress or egress.

The proposed access shown may have a right turn in lane from U.S. 41 going southbound and a left turn in going northbound. This is dependent on the final FDOT Access Permits.

A shared access with the properties to the south is planned for the future following the development of the vacant parcel to the south. Once this property is developed, The Nest SWFL will connect the development through this parcel and fulfill the requirements of 10-291(3).

Deviation #3

The applicant is seeking relief from section 10-415(b)(1)(4), developments greater than 5 acres in size that abut an arterial or collector road and have existing native trees within 50-feet of the right-of-way must be designed to provide a 50-foot right-of-way buffer for tree preservation.

Many of the existing native trees are in poor health and would not be appropriate to preserve. The applicant is requesting to instead utilize a 25-foot right-of-way setback with a 15-foot Type D buffer that clusters the plantings to allow for necessary view sheds for the commercial building along U.S. 41. The applicant will incorporate the existing healthy indigenous trees to the extent possible.

Deviation #4

The applicant is requesting relief from section 10-416(d) that requires a C or F type buffer between multiple family residential and commercial development. Instead, the applicant is requesting no buffer at the common property line of the project RPD and CPD. There will be a minimum separation between the residential buildings and the property line of the CPD of 500ft. providing an ample distance between the uses.

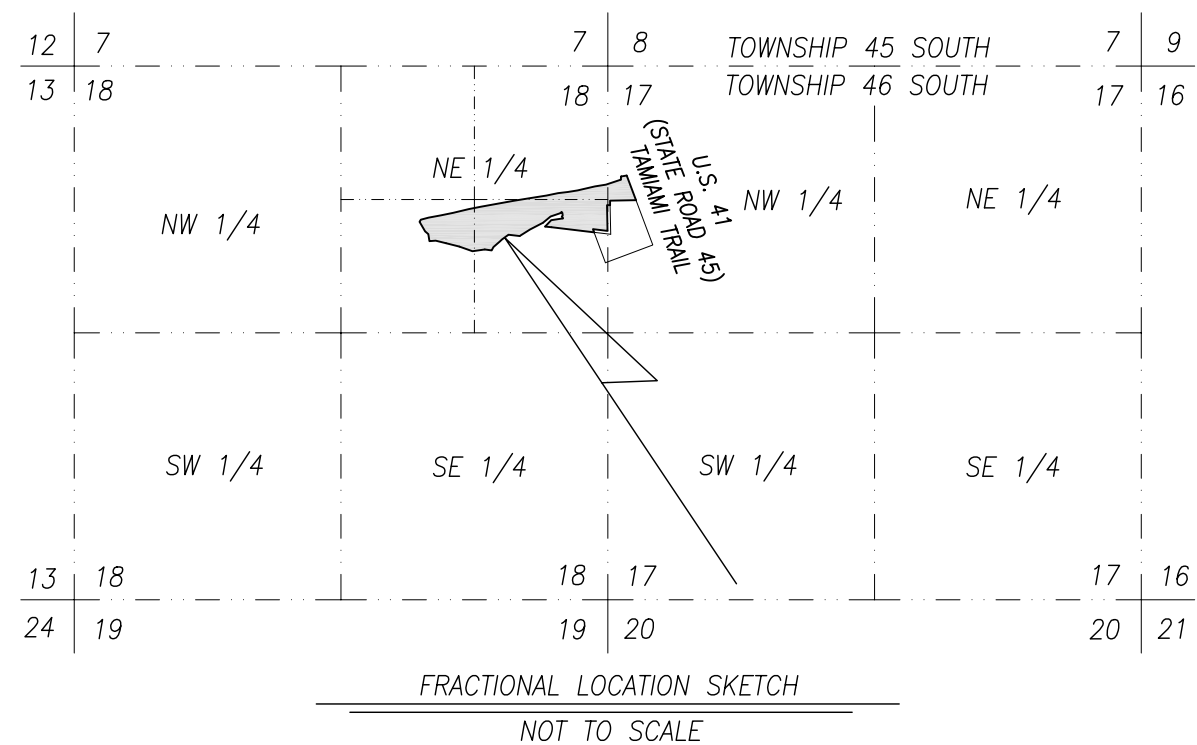
Deviation #5

The applicant is requesting relief from section 34-2194 that requires a 25ft. setback from top of bank to allow a zero ft. setback for the kayak launch and existing dock. This will be the only location accessing Mullock Creek which could otherwise have multiple single family docks.

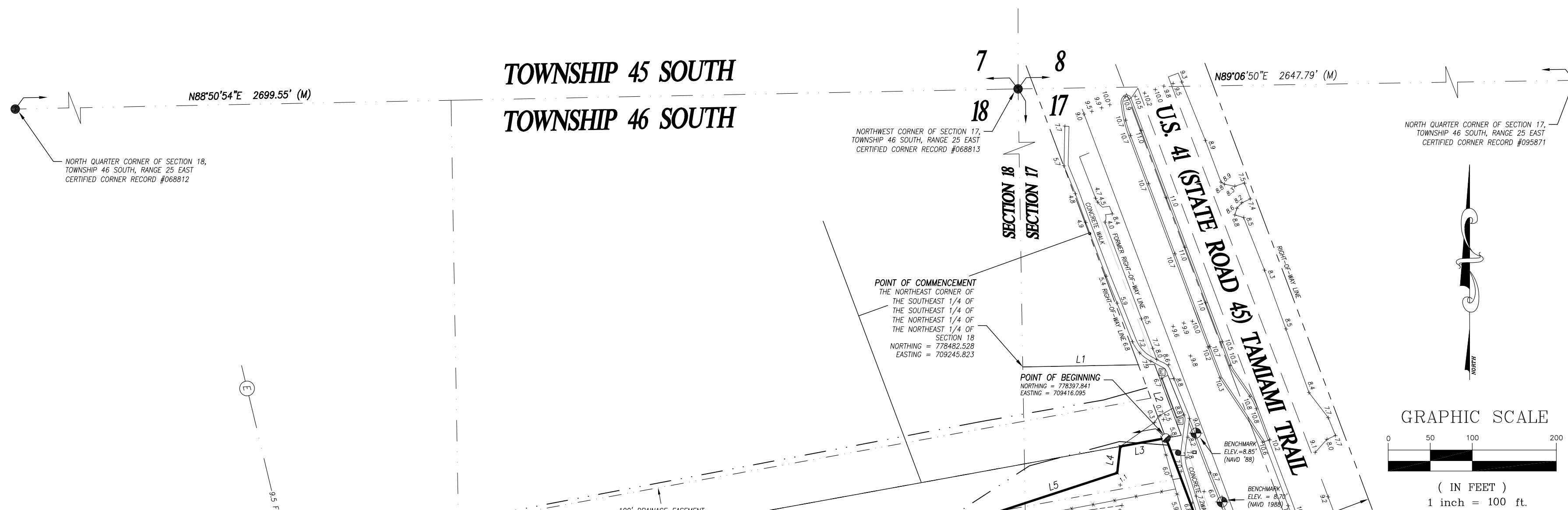
This map prepared by: CERTIFICATE OF AUTHORIZATION NO. LB 6896 NOT VALID WITHOUT THE SIGNATURE OF THE SURVEYOR AND MAPPER (UNSEAL SURVEYOR AND MAPPER)	JAMES M. CONDON, PSM Professional Surveyor & Mapper Fla. License No.6074	COMPLETED	DRAWINGS SCALE	DAGOSTINO GEOSPATIAL, INC. Professional Surveying & Mapping 10981 Bonita Road SE Bonita Springs, FL 34135 Phone: (239) 352-0805 Website: www.dagostino.com 137/46	CERTIFIED TO: STA FUND, LLC	JOB NO.: 20018
		2018, 03/10/22 11/17/2021	REVISION DATE: 03/14/2022			

LINE	BOUNDARY LINE	BEARING (M)	DISTANCE (M)
L1	S88°30'0"E	17.52	17.52
L2	N22°53'30"E	93.18	93.18
L3	S17°02'0"E	55.57	55.57
L4	N06°56'25"E	31.73	31.73
L5	N71°51'17"E	155.66	155.66
L6	S72°02'0"E	155.66	155.66
L7	N76°26'0"E	91.27	91.27
L8	N77°44'38"E	77.53	77.53
L9	N80°12'09"E	99.43	99.43
L10	S89°21'45"E	99.43	99.43
L11	N78°15'57"E	115.98	115.98
L12	N81°02'12"E	101.38	101.38
L13	N80°34'24"E	97.10	97.10
L14	N80°03'07"E	97.10	97.10
L15	N79°43'50"E	329.12	329.12
L16	N78°55'19"E	123.27	123.27
L17	N76°48'07"E	155.39	155.39
L18	N75°53'30"E	122.14	122.14
L19	N72°28'47"E	22.88	22.88
L20	N75°55'37"E	24.98	24.98
L21	N70°04'02"E	18.35	18.35
L22	N30°14'13"E	92.47	92.47
L23	N50°12'06"E	40.60	40.60
L24	S89°24'24"E	71.37	71.37
L25	S72°14'47"E	61.23	61.23
L26	N69°51'17"E	106.69	106.69
L27	N75°52'51"E	134.98	134.98
L28	N81°15'51"E	124.87	124.87
L29	S80°11'56"E	123.58	123.58
L30	S88°10'07"E	69.73	69.73
L31	N26°30'10"E	36.85	36.85
L32	S62°04'27"E	36.85	36.85
L33	S54°35'39"E	77.73	77.73
L34	N63°46'17"E	112.04	112.04
L35	S62°04'27"E	123.57	123.57
L36	S82°22'46"E	145.85	145.85
L37	S50°26'25"E	96.63	96.63
L38	S70°53'40"E	104.27	104.27
L39	S71°05'51"E	115.71	115.71
L40	N74°52'42"E	13.27	13.27
L41	N04°02'00"E	25.71	25.71
L42	N89°11'06"E	15.16	15.16
L43	N01°54'44"E	15.16	15.16
L44	N07°10'14"E	5.17	5.17
L45	N87°26'47"E	17.53	17.53
L46	S87°26'47"E	17.53	17.53
L47	N83°17'11"E	63.42	63.42

- = BENCHMARK, SET PK NAIL AND NO IDENTIFICATION
- = FOUND 5/8" REBAR - AND IDENTIFICATION
- = SET 5/8" REBAR AND CAP - "DOWN LB 6896"
- = SET 5/8" REBAR AND CAP - "LB 18772"
- = FOUND 4" x 4" CONCRETE MONUMENT WITH 1/4" REBAR
- (M) = FIELD MEASURED DATA
- (C) = CALCULATED DATA
- (P) = RECORD PLAT DATA
- O/R = ORIGINAL
- D/A = OFFICIAL RECORDS
- PG = PAGE
- = WOOD UTILITY POLE
- = CONCRETE UTILITY POLE
- = CATCH BASIN WITH GRATE INLET
- = ELECTRIC BOX OR METER
- = APPARENT EAGLES NEST LOCATION
- = TELEPHONE SERVICE
- = WATER METER
- = WATER VALVE
- = BACKFLOW PREVENTER
- = FIRE HYDRANT
- = LIGHT POLE
- = AIR RELEASE VALVE
- = SEWER VALVE
- = SANITARY SEWER CLEAN-OUT
- = SANITARY SEWER MANHOLE
- = STREET SIGN



FRACTIONAL LOCATION SKETCH
NOT TO SCALE



A TRACT OR PARCEL OF LAND LYING IN SECTION 17 AND 18, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE
NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 18, THENCE NORTH 89°56'00" EAST, A DISTANCE
137.52 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF TAMAMI TRAIL (US 41 - STATE ROAD 4S)
THENCE WEST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 93.18 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 20°34'05" EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 266.80
FEET TO THE NORTH LINE OF THOSE CERTAIN LANDS DESCRIBED IN INSTRUMENT NUMBER 201900016688
THENCE SOUTH 89°04'13" WEST, ALONG SAID SAID CURVE LINE, A DISTANCE OF 256.11 FEET; THENCE SOUTH
89°04'13" WEST, ALONG SAID SAID CURVE LINE, A DISTANCE OF 256.11 FEET; THENCE SOUTHERLY
THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 500.00 FEET,
A CENTRAL ANGLE OF 03°26'20"; THE CHORD FOR WHICH BEARS SOUTH 89°58'19" WEST, A CHORD
DISTANCE OF 256.11 FEET; THENCE WESTERLY ALONG THE WEST LINE OF THOSE CERTAIN LANDS
EAST ALONG THE WEST LINE OF THOSE CERTAIN LANDS DESCRIBED IN INSTRUMENT NUMBER
2021000136724 A DISTANCE OF 255.05 FEET; THENCE NORTH 81°17'33" WEST, A DISTANCE OF 146.36
FEET TO THE PRESERVE CONDOMINIUM RECORDED IN INSTRUMENT NUMBER 2019000033801; THENCE NORTH 81°17'33"
WEST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 487.75 FEET TO THE MEAN HIGH WATER LINE OF
MULLOCK CREEK; THENCE ALONG THE MEAN HIGH WATER LINE OF MULLOCK CREEK THE FOLLOWING 45
CURVES:

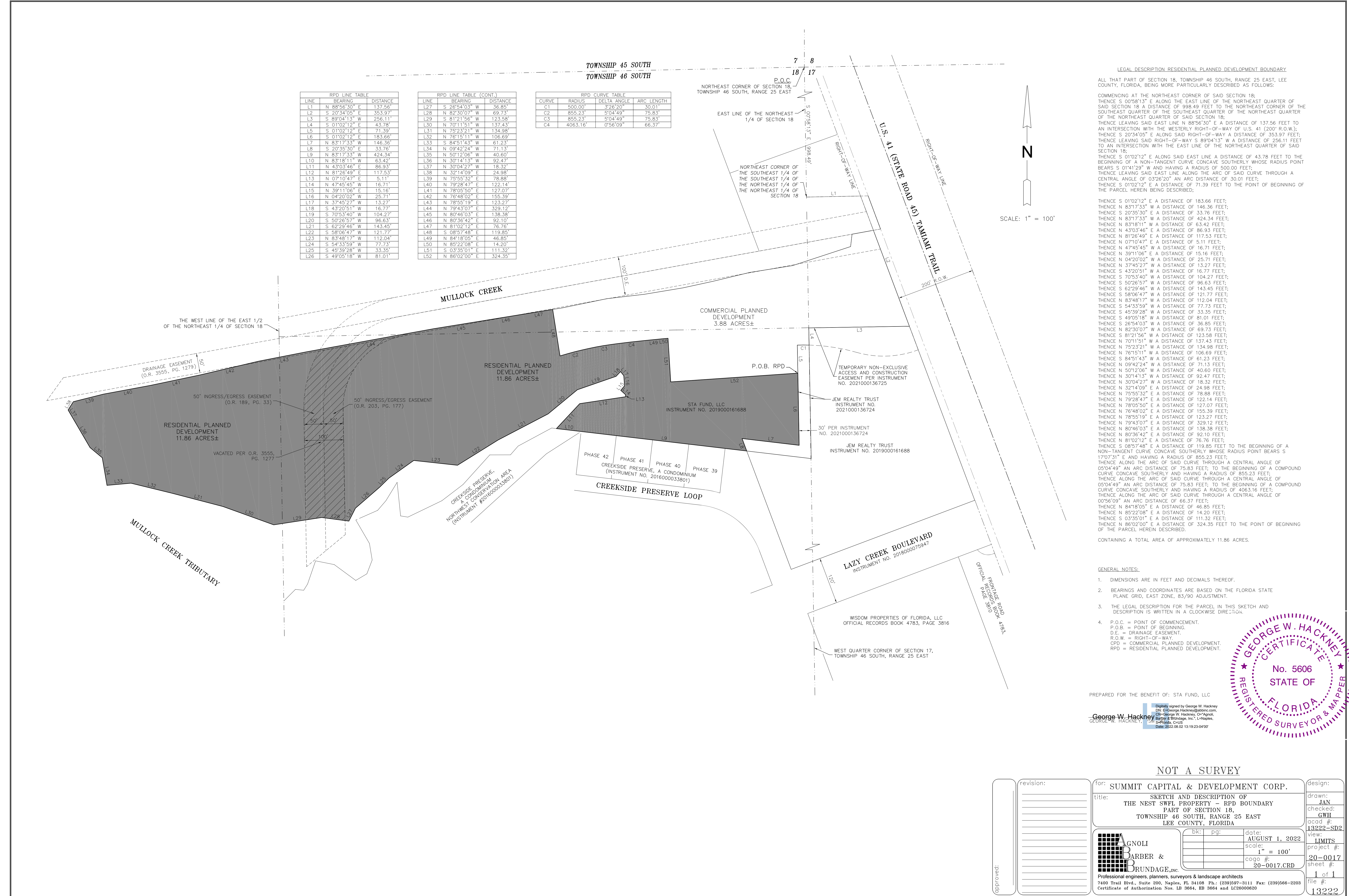
- | | | |
|-----|------------------------------|----------------------------|
| 1. | THENCE NORTH 43°03'46" EAST, | A DISTANCE OF 86.93 FEET; |
| 2. | THENCE NORTH 81°26'49" EAST, | A DISTANCE OF 117.53 FEET; |
| 3. | THENCE NORTH 07°10'47" EAST, | A DISTANCE OF 5.11 FEET; |
| 4. | THENCE NORTH 17°43'00" WEST, | A DISTANCE OF 17.71 FEET; |
| 5. | THENCE NORTH 39°11'06" EAST, | A DISTANCE OF 15.16 FEET; |
| 6. | THENCE NORTH 04°20'02" WEST, | A DISTANCE OF 25.71 FEET; |
| 7. | THENCE NORTH 17°43'00" WEST, | A DISTANCE OF 17.71 FEET; |
| 8. | THENCE SOUTH 43°03'46" WEST, | A DISTANCE OF 16.77 FEET; |
| 9. | THENCE SOUTH 70°33'40" WEST, | A DISTANCE OF 104.04 FEET; |
| 10. | THENCE NORTH 62°29'56" EAST, | A DISTANCE OF 16.63 FEET; |
| 11. | THENCE SOUTH 62°29'56" WEST, | A DISTANCE OF 14.25 FEET; |
| 12. | THENCE SOUTH 58°06'47" WEST, | A DISTANCE OF 12.71 FEET; |
| 13. | THENCE NORTH 21°11'51" WEST, | A DISTANCE OF 16.84 FEET; |
| 14. | THENCE SOUTH 54°13'59" WEST, | A DISTANCE OF 77.73 FEET; |
| 15. | THENCE SOUTH 45°38'28" WEST, | A DISTANCE OF 33.35 FEET; |
| 16. | THENCE NORTH 48°01'54" WEST, | A DISTANCE OF 16.01 FEET; |
| 17. | THENCE SOUTH 26°54'03" WEST, | A DISTANCE OF 36.85 FEET; |
| 18. | THENCE NORTH 82°30'37" WEST, | A DISTANCE OF 69.73 FEET; |
| 19. | THENCE NORTH 71°12'51" WEST, | A DISTANCE OF 17.88 FEET; |
| 20. | THENCE NORTH 70°11'51" WEST, | A DISTANCE OF 17.43 FEET; |
| 21. | THENCE NORTH 75°23'21" WEST, | A DISTANCE OF 134.98 FEET; |
| 22. | THENCE NORTH 81°26'49" WEST, | A DISTANCE OF 117.53 FEET; |
| 23. | THENCE SOUTH 84°51'43" WEST, | A DISTANCE OF 61.98 FEET; |
| 24. | THENCE NORTH 09°42'24" WEST, | A DISTANCE OF 71.13 FEET; |
| 25. | THENCE NORTH 81°26'49" WEST, | A DISTANCE OF 117.53 FEET; |
| 26. | THENCE NORTH 30°14'11" WEST, | A DISTANCE OF 92.47 FEET; |
| 27. | THENCE NORTH 30°42'47" WEST, | A DISTANCE OF 18.88 FEET; |
| 28. | THENCE NORTH 32°14'09" WEST, | A DISTANCE OF 16.80 FEET; |
| 29. | THENCE NORTH 75°53'52" EAST, | A DISTANCE OF 78.32 FEET; |
| 30. | THENCE NORTH 81°26'49" EAST, | A DISTANCE OF 122.14 FEET; |
| 31. | THENCE NORTH 78°04'20" EAST, | A DISTANCE OF 12.07 FEET; |
| 32. | THENCE NORTH 76°40'02" EAST, | A DISTANCE OF 155.39 FEET; |
| 33. | THENCE NORTH 75°53'19" EAST, | A DISTANCE OF 123.27 FEET; |
| 34. | THENCE NORTH 82°30'37" EAST, | A DISTANCE OF 69.73 FEET; |
| 35. | THENCE NORTH 80°46'03" EAST, | A DISTANCE OF 138.38 FEET; |
| 36. | THENCE NORTH 80°34'54" EAST, | A DISTANCE OF 92.10 FEET; |
| 37. | THENCE NORTH 81°01'54" EAST, | A DISTANCE OF 16.01 FEET; |
| 38. | THENCE NORTH 78°16'57" EAST, | A DISTANCE OF 115.98 FEET; |
| 39. | THENCE NORTH 81°26'49" EAST, | A DISTANCE OF 117.53 FEET; |
| 40. | THENCE NORTH 82°30'37" EAST, | A DISTANCE OF 69.73 FEET; |
| 41. | THENCE NORTH 77°44'38" EAST, | A DISTANCE OF 77.53 FEET; |
| 42. | THENCE NORTH 75°53'02" EAST, | A DISTANCE OF 78.27 FEET; |
| 43. | THENCE NORTH 80°57'30" EAST, | A DISTANCE OF 110.16 FEET; |
| 44. | THENCE NORTH 71°53'11" EAST, | A DISTANCE OF 155.66 FEET; |

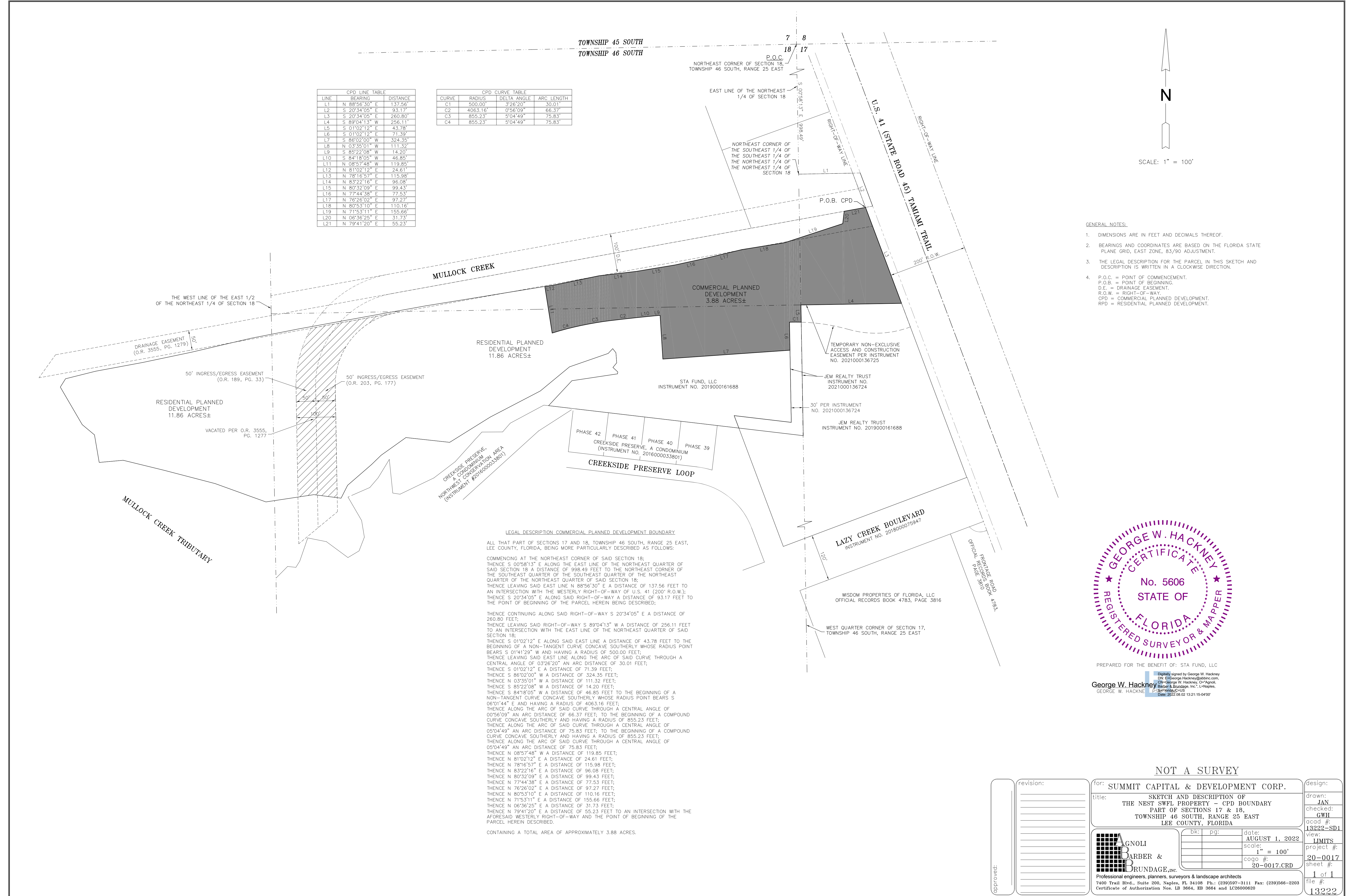
THENCE NORTH 79°41'20" EAST, A DISTANCE OF 55.23 FEET TO THE POINT OF BEGINNING
CONTAINING 685,663 SQUARE FEET OR 15.741 ACRES, MORE OR LESS.

1. BEARINGS AND COORDINATES SHOWN HEREON ARE GRID BASED UPON THE NORTH AMERICAN DATUM OF 1983, 2011 ADJUSTMENT (NAD83/NSRS 2011) FLORIDA STATE WIDE. DISTANCES SHOWN ARE GROUND DISTANCES MEASURED IN FEET.
2. NO UNDERGROUND IMPROVEMENTS OR FOUNDATIONS WERE LOCATED UNLESS OTHERWISE NOTED.
3. THIS PARCEL LIES IN FLOOD ZONES AS SHOWN; ZONES ARE BASED ON FEMA FLOOD INSURANCE RATE MAP 1207100577G, DATED DECEMBER 7, 2018, INDEX DATED DECEMBER 7, 2018. FLOOD ZONES SHOWN HEREON WERE IMPORTED FROM FEMA SHAPE FILES. ALL BASE FLOOD ELEVATION AND CROSS SECTION ELEVATION ARE BASED UPON NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988).
4. BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON THE RECORD PLAT AND LEGAL DESCRIPTION PROVIDED, NO SEARCH OF THE PUBLIC RECORD WAS PERFORMED BY THIS SURVEYOR. THERE MAY BE OTHER SETBACKS AND/OR EASEMENTS NOT KNOWN TO THIS SURVEYOR.
5. THE STREET ADDRESS IS:
TO BE DETERMINED SOUTH TAMAMI TRAIL
PORT MYERS, FLORIDA 33908
6. THE MEAN HIGH WATER (MHW) LINE DEPICTED HEREON IS BASED UPON VALUES TAKEN FROM POINT IDENTIFICATION NO. 824 LEE COUNTY, USGS QUAD WAB TESSERO, TAIL EPOCH 1983 - 2001, DATUM NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988). THE MEAN HIGH WATER ELEVATION OF 0.29 FEET NAVD 1988 WAS PROVIDED BY STEVE WELLDOS, PLUS OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION ON JANUARY 19, 2020.
7. WETLANDS OR JURISDICTIONAL WETLANDS HAVE NOT BEEN SHOWN FOR THIS SURVEY.

CURVE TABLE					
CURVE	DELTA (M)	RADIUS (M)	ARC (M)	CHORD BEARING (M)	CHORD (M)
C1	3'26"20"	500.00'	30.01'	S89°58'19"W	30.00'

CURVE	DELTA (D)	RADIUS (D)	ARC (D)	CHORD BEARING (D)	CHORD (D)
C1	3°26'20"	500.00'	30.01'	S89°58'19"W	30.00'





Prepared by:
Michael P. Lehnert, Esq.
1833 Hendry St.
Fort Myers, FL 33902-0280

PERMANENT ACCESS AND UTILITY EASEMENT AGREEMENT AND
SIGNAGE AGREEMENT

THIS PERMANENT ACCESS and UTILITY EASEMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2021, by and between **Janice Albion, as Trustee of the J.E.M. Realty Trust ("J.E.M.")**, and **STA FUND, LLC**, a Florida limited liability company, ("STA").

WITNESSETH:

WHEREAS, J.E.M. is the owner of a certain tract of property, which property consists of approximately 4.87 acres as described on the attached Exhibit "A" ("J.E.M. Property"); and

WHEREAS, STA owns adjacent parcels of real property described on the attached Exhibit "B" ("STA Property"); and

WHEREAS, the J.E.M. Property and the STA Property are contiguous to one another; and

WHEREAS, J.E.M. and STA have identified a certain portion of the J.E.M. Property consisting of approximately 0.383 acres as described on Exhibit "C" hereto (the "Easement Parcel") within which the parties have constructed a roadway to be utilized for vehicular ingress and egress to and from the J.E.M. Property and STA Property ("Roadway"); and

WHEREAS, STA desires a perpetual, non-exclusive access easement over the Easement Parcel to utilize the Roadway; and

WHEREAS, STA desires a perpetual utility easement across the Roadway to allow STA to install and maintain sewer, water, gas, telephone, cable, electric and wastewater lines, and to maintain drainage improvements necessary for the functioning of the Roadway;

WHEREAS, for the benefit of the J.E.M. Property, STA has installed a water line and sewer force main through the Roadway and through a portion of the STA Property and desires to grant J.E.M. a perpetual, non-exclusive easement to allow J.E.M. to tie into and use those utility facilities;

WHEREAS, STA has agreed to grant to J.E.M. certain signage rights on the STA Property;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the adequacy and sufficiency of said consideration having been acknowledged by each of the parties to this Agreement, the parties covenant and agree as follows:

1. Recitals. The above-referenced recitals are true and correct and are incorporated herein by this reference.

2. Grant of Access Easement.

(a) J.E.M. hereby conveys to STA and declares and establishes, for the benefit of each and every person, firm, corporation, or other legal entity hereinafter owning any part of the STA Property, and their respective tenants, employees, subtenants, agents, guests, invitees, customers, and licensees, a perpetual, non-exclusive easement, license, right and privilege, passage and use, both pedestrian and vehicular (not for parking) over and upon the Easement Parcel for the purpose of ingress and egress over and upon the Roadway. J.E.M. further reserves for itself, and to future owners of the J.E.M. Property the right to use the Roadway.

(b) STA hereby conveys to J.E.M. and declares and establishes, for the benefit of any person, firm, corporation, or other legal entity hereinafter owning any part of the J.E.M. Property, and their respective tenants, employees, subtenants, agents, guests, invitees, customers, and licensees, a perpetual, non-exclusive easement, license, right and privilege, passage and use, both pedestrian and vehicular (not for parking) for the purpose of ingress and egress over and upon that the portion of the Roadway within the STA Property.

3. Grant of Utility Easement.

(a) J.E.M. grants and conveys to STA a perpetual non-exclusive easement over the Roadway within the Easement Parcel, for the purposes of (i) constructing, maintaining, repairing and replacing utility infrastructure (including, without limitation, water, electric, sewer, drainage, gas, cable, and telephone) and (ii) maintaining, repairing, and replacing the Roadway, including its related drainage facilities. J.E.M.'s grant of an easement pursuant to the foregoing sentence also includes a temporary easement over the other parts of the J.E.M. Property necessary to allow STA the full, but reasonable, use of the foregoing easement.

(b) STA grants and conveys to J.E.M. a perpetual non-exclusive easement over the portions of the STA Property within the Roadway, for the purpose of tying into,

maintaining and repairing the utility infrastructure (including the water line and sewer force main) installed by STA pursuant to the Temporary Easement. STA's grant of an easement pursuant to the foregoing sentence also includes a temporary easement over the other parts of the STA Property necessary to allow J.E.M. the full, but reasonable, use of the foregoing easement.

4. Maintenance and Repair of Access and Utility Easement. All the easements, licenses, rights and privileges established, created, and granted hereby, shall be for the benefit of the owners, and their successors, assigns, employees, tenants, subtenants, agents, guests, invitees, customers and licensees. From the date of this Agreement until the date (the "Transition Date") a certificate of occupancy is issued for the J.E.M. Property, STA, at its sole cost and expense, shall be responsible for the maintenance and repair of the Roadway, including all utility facilities installed by STA within the Roadway pursuant to the Temporary Easement (collectively, the "Installed Facilities"). For clarity, the Installed Facilities shall not include any landscaping related to the Roadway, which landscaping shall be installed and maintained at STA's sole cost and expense. On the Transition Date, the owner of the J.E.M. Property agrees to assume a proportionate share of the expenses for maintaining, repairing, replacing, and improving the Installed Facilities, where such proportionate share is based on the ratio of the area of the J.E.M. Property relative to the area of the STA Property; provided, however, in the event STA, or its successor, pursues a land use related action with Lee County in order to increase the density available on the STA Property by more than 5 units per acre, the parties agree to adjust the proportionate allocation based upon a traffic study of only the increased traffic generated from the greater density on the STA Property. This study is to be obtained by STA, at STA's expense, from a third party consultant reasonably acceptable to J.E.M. to ensure J.E.M.'s proportionate share allocation will be equitable in the event STA is granted such increased density. At no time shall the proportionate share of the J.E.M. Property be increased as a result thereof. Within thirty (30) days of receipt of an invoice for the costs to maintain, repair, or replace the Installed Facilities, the owner of the J.E.M. Property will pay, in USD, to STA J.E.M.'s proportionate share of such costs. Past due payments will accrue interest in favor of STA at ten (10%) per annum until paid. Notwithstanding the foregoing sentence, the cost to repair any damage to the Installed Facilities necessitated by the negligence or willful misconduct of either party or any party under the control or direction of either party shall be the sole responsibility of the party causing such damage, ordinary wear and tear excepted. Under no circumstances shall access through the Roadway be blocked or impeded except for temporary blockages or impediments in connection with the foregoing reconstruction and/or repair obligations; provided, however, in the event of any reconstruction or repair of the Installed Facilities, (i) the party controlling such maintenance or repair shall provide at least ten (10) days' written notice to the other party prior to the commencement of such work, and (ii) every reasonable effort shall be made to minimize interference with ingress and egress across the Roadway. All such work, if undertaken, shall be completed in a good and workmanlike manner and free of all liens and encumbrances of any nature.

5. Replacement of Temporary Easement. This Easement supersedes and replaces, in its entirety, the Temporary Access and Utility Agreement (the "Temporary Easement") previously executed by J.E.M. in favor of STA, which was recorded as Official Records Instrument No. _____ of the Public Records of Lee County, Florida. The Temporary Easement is hereby terminated. The parties further agree that upon the recording of this Easement the conditions placed upon the parties in that the Temporary Easement are hereby satisfied, and, upon the recording of this Easement in the Public Records of Lee County, Florida, the Temporary Easement shall be deemed terminated and of no further force or effect.

6. Additional Remedy. In the event of a violation or threat thereof of any of the provisions of Section 2, 3, or 4 of this Agreement, each party agrees that such violation or threat thereof shall cause the non-defaulting party to suffer irreparable harm and such non-defaulting party may not have adequate remedies at law. As a result, in the event of a violation or threat thereof of any of the provisions of Sections 2, 3, or 4 of this Agreement, the non-defaulting party, in addition to all remedies available at law or otherwise under this Agreement, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of Sections 2, 3, or 4 of this Agreement.

7. Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting party to cure a breach of this Agreement, including without limitation, a failure by STA to properly repair, maintain or replace any of the Installed Facilities, within thirty (30) days following written notice thereof to defaulting party by the other party (unless, with respect to any such breach the nature of which cannot reasonably be cured within such thirty (30) day period, the defaulting party commences such cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion), the noticing party shall have the right to perform such obligation contained in this Agreement on behalf of such defaulting party and be reimbursed by such defaulting party upon demand for the reasonable costs thereof together with interest at the prime rate charged from time to time by Bank of America (its successors or assigns), plus two percent (2%) (not to exceed the maximum rate of interest allowed by law). Notwithstanding the foregoing, in the event of (i) an emergency, (ii) blockage or material impairment of the easement rights, and/or (iii) the unauthorized parking of vehicles on the Roadway, a party may immediately cure the same and be reimbursed by the violating party upon demand for the reasonable cost thereof together with interest at the prime rate, plus two percent (2%), as above described.

8. Indemnification. With regard to this Agreement and the use of the Installed Facilities, to the extent that any party suffers losses, damages or costs as a result of the acts or omissions of any other party, or that party's officers, agents, employees or invitees, the party causing the loss, damage or cost shall indemnify, defend and hold the innocent party and its tenants harmless from and against all such costs, damages and losses, including reasonable attorneys' fees at trial and on appeal, together with all costs associated with such litigation.

9. Signage. In the event STA constructs a monument or similar sign (the "Sign") on the STA Property with frontage on US 41, STA agrees to allow JEM to use a proportionate amount of space on the Sign, where proportionality shall be determined by the total land area of the J.E.M. Property relative to the total land area of the STA Property. J.E.M. agrees to pay its proportionate share of the costs to maintain, repair and replace the Sign. J.E.M.'s proportionate share shall be determined by the space allocated to J.E.M. (as determined by the space actually occupied by J.E.M.'s signage) relative to the total signage space available on the Sign from time to time. For clarity, J.E.M. will not be liable for any costs related to the construction of the Sign, and J.E.M. shall only be responsible for (i) a proportionate share of the costs to maintain, repair, and replace the Sign after J.E.M. installs a sign on the structure and (ii) the cost of design, creation, installation, and maintenance of J.E.M.'s signage located on the Sign.

10. Attorney's Fees. Should any proceedings under this Agreement be initiated in either litigation or arbitration, including any appellate proceedings, the prevailing party on the substantial issues in the action arising from or relating to this Agreement shall be entitled to recover reasonable attorneys' fees and all costs of any nature incurred in any way or in connection with the matter, whether incurred before litigation, during litigation, during arbitration, on appeal, or in connection with the enforcement of a judgment obtained.

Further, the parties acknowledge that the prevailing party shall also be entitled to recover reasonable attorneys' fees and costs incurred in litigating not only the entitlement to the attorneys' fees and costs, but also the attorneys' fees and costs (including expert fees incurred) establishing the reasonable amount of such attorneys' fees and costs to be awarded by a court of competent jurisdiction (more commonly referred to as "fees for fees") to enable the prevailing party to be made whole by recovery of all fees and costs incurred by the prevailing party in such litigation, arbitration or appellate proceeding.

11. Governing Law and Forum. The law of Florida shall govern the validity, interpretation, construction and performance of this Agreement, and any litigation or arbitration proceedings relating to this Agreement shall only be determined judicially or by arbitration within the jurisdiction of the State of Florida, solely and exclusively in the Twentieth Judicial Circuit Court in and for Lee County, Florida.

12. Entire Agreement. It is mutually agreed by and between the parties hereto that this instrument contains the whole agreement between them as of the date of the recording of this Agreement, and that the execution of this Agreement has not been induced by either party by any representations, promises or understandings not expressed herein, and that there are no collateral agreements, stipulations, promises or undertakings whatsoever upon the respective parties in any way effecting the subject matter of this contract which are not expressly contained in this instrument.

13. Severability. If any clause or provision of this Agreement is determined to be illegal, invalid or unenforceable under any present or future law by final judgment of a court of competent jurisdiction, the remainder of this Agreement will not be affected thereby. It is

the intention of the parties that if any such provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof, a provision that is as similar in content to such invalid provision as is possible, but which is legal, valid and enforceable.

14. Interpretation. STA and J.E.M. acknowledge and agree that the trier of fact in construing this Agreement shall not interpret this Agreement more favorable for J.E.M. or STA, notwithstanding which party may have drafted this Agreement or provision subject to such judicial interpretation.

15. Multiple Counterparts. This Agreement may be executed by all parties in multiple counterparts, each of which shall be deemed an original, but all of such counterparts taken together shall constitute one and the same Agreement.

16. Rights, Cumulative and No Waiver. No right or remedy herein conferred upon or reserved to any of the parties to this Agreement is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Agreement or now or hereafter legally existing upon the occurrence of an event of default under this Agreement. The failure of any of the parties to this Agreement to insist at any time upon the strict observance or performance of any of the provisions of this Agreement, or to exercise any right or remedy as provided in this Agreement, shall not impair any such right or remedy or be construed as a waiver or relinquishment of such right or remedy with respect to subsequent defaults. Every right and remedy given by this Agreement to the parties hereof may be exercised from time to time and as often as may be deemed expedient by those parties.

17. Covenants Not Personal. The covenants contained in this Agreement are not personal but shall be covenants running with the title to the properties described herein and shall be binding upon and inure to the benefit of the parties hereto and their assigns and their successors in interest to the properties described herein for so long as the Installed Facilities exist.

18. WAIVER OF TRIAL BY JURY. THE PARTIES TO THIS AGREEMENT HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM BASED ON THIS AGREEMENT OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY DOCUMENT OR INSTRUMENT EXECUTED IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTION OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

[Signatures Follow]

Dated this 26 day of April, 2021.

Witnesses:

Gregg S. Truxton

Print Name: GREGG S. TRUXTON

John E. Albion

Print Name: John E. Albion

STATE OF Florida

COUNTY OF Lee

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 26 day of April 2021 by Janice Albion as Trustee of the J.E.M. Realty Trust, who is personally known to me or who has produced Florida Drivers License as identification.

My Commission Expires:

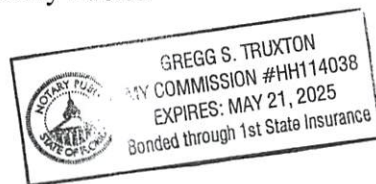
Witnesses:

J.E.M. REALTY TRUST

By: Janice Albion

As its: Trustee

Gregg S. Truxton
Notary Public



Meg C Palmer
Print Name: Meg C Palmer

Michael Lehnert
Print Name: Michael Lehnert

STATE OF FL
COUNTY OF Lee

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 23rd day of April 2021 by Matthew Slaughter as Manager of the STA Fund, LLC, a Florida limited liability company, who is personally known to me or who has produced FL ID as identification.

My Commission Expires:

STA FUND, LLC, a Florida limited liability company

By: Matthew Slaughter

As its: Manager

MATTHEW SLAUGHTER

Michael Lehnert
Notary Public

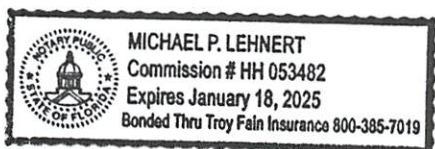


Exhibit A to Permanent Easement

JEM Property

(See Attached)

STRAP: 17-46-25-00-00002.001F Folio ID: 10553093

BBLs
SURVEYORS & MAPPERS INC.
1502-A RAILHEAD BLVD.
NAPLES, FLORIDA 34110
TELEPHONE: (239) 597-1315
FAX: (239) 597-5207

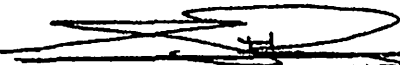
LEGAL DESCRIPTION
" PARCEL 4"

A PARCEL OF LAND LYING IN THE NORTHEAST QUARTER OF SECTION 18 AND THE WEST HALF OF SECTION 17, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID NORTHEAST QUARTER OF SECTION 18; THENCE N.88°57'23"E., A DISTANCE OF 256.20 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF TAMiami TRAIL (US 41, STATE ROAD 45)(A 200 FOOT RIGHT OF WAY); THENCE S.20°35'30"E., ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 473.67 FEET; THENCE S.69°24'30"W., A DISTANCE OF 500.00 FEET; THENCE N.20°35'29"W., A DISTANCE OF 321.76 FEET; THENCE S.83°18'10"E., A DISTANCE OF 165.16 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE N.00°57'29"W., ALONG SAID EAST LINE, A DISTANCE OF 332.70 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 4.85 ACRES MORE OR LESS.

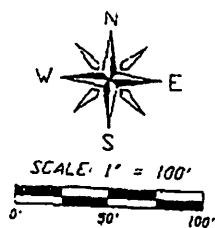
PARCEL DESCRIBED HEREON IS SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS REFER TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF TAMiami TRAIL AS BEING S.20°35'30"E.



STEPHEN E. BERRY, STATE OF FLORIDA, (P.L.S. #5296)
BBLs SURVEYORS & MAPPERS INC., (L.B. #6753)

PROOFED BY SEB (SEE ATTACHED SKETCH-PARCEL 4)

**NOTES**

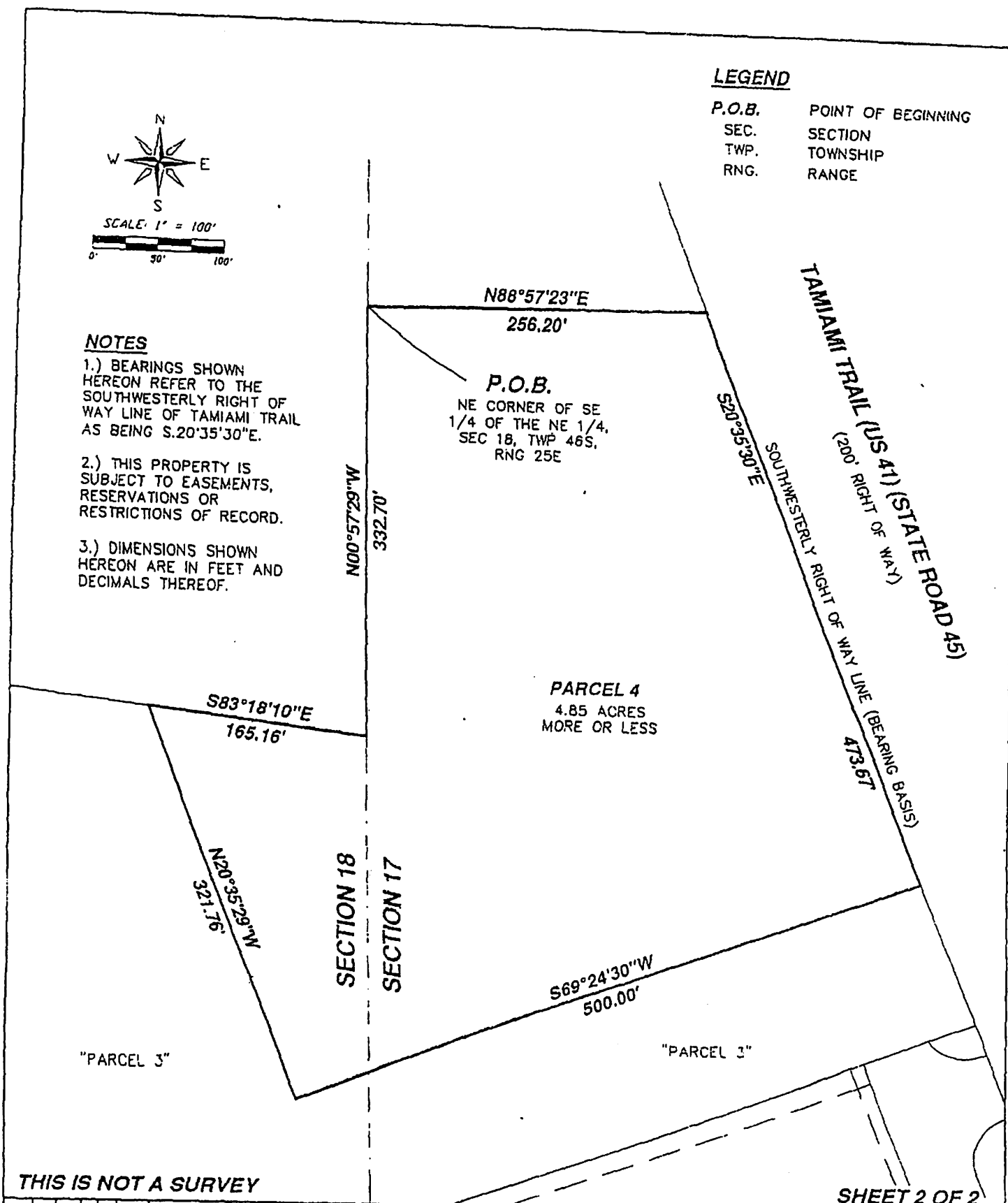
1.) BEARINGS SHOWN HEREON REFER TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF TAMiami TRAIL AS BEING S.20°35'30"E.

2.) THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

3.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

LEGEND

P.O.B. POINT OF BEGINNING
SEC. SECTION
TWP. TOWNSHIP
RNG. RANGE



DATE: 12/04/05
FILED: 12/04/05
PAGE: 1
DRAWN BY: GUD
APPROVED: SET
FILE: 04177 PARCEL 1
SCALE: 1" = 100'

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

"PARCEL 4"
A PORTION OF SECTIONS 17 & 18, TOWNSHIP 46 SOUTH,
RANGE 25 EAST, LEE COUNTY, FLORIDA

BBL'S SURVEYORS & MAPPERS INC.
1502-A RAIL HEAD BLVD.
NAPLES, FLORIDA 34110
(239)597-1315

Exhibit B to Permanent Easement*STA Property*

Strap #:

18-46-25-00-00037.0030

18-46-25-00-00037.0010

18-46-25-00-00035.0000

17-46-25-00-01001.0040

A Tract or Parcel of land lying in Sections 17 and 18 Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

That part of the South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 17; and that part of the South $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18; and that part of the North $\frac{1}{2}$ of the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18; All lying Southerly of the following described line commencing at the Northeast corner of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 18; Thence run North 88 Degrees 56' 30" East for 137.40' to the Southwesterly right of way line of Tamiami Trail (200' Wide); Thence run South 20 degrees 35' 30" East along said right of way line for 93.18' to the point of beginning of said line; thence run South 79 degrees 41' 20" West along the center line of a 100' wide canal easement as described in Official Record Book 189, Page 34, of the Public Records of Lee County, Florida, and it's extension thereof for 1537.94 to its intersection with the west line of the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of said Section 18 and the point of termination of said line.

AND

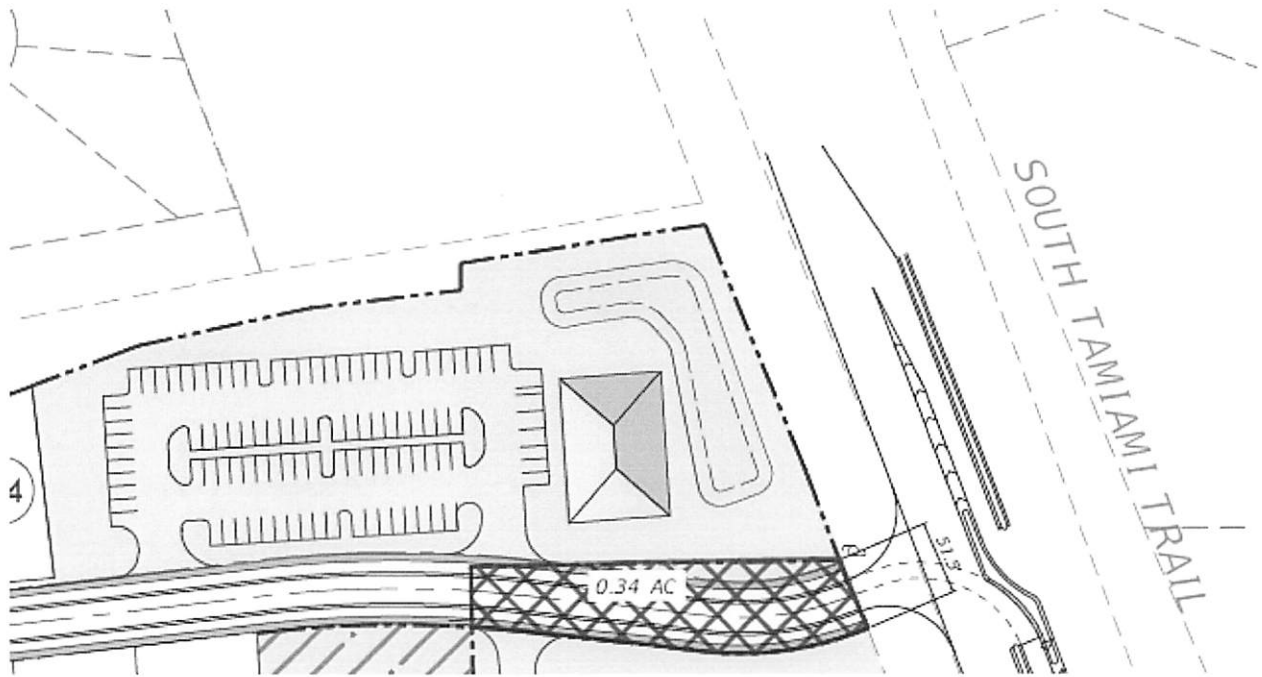
That part of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and the North $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 18, lying North of the North Branch of Mullock Creek.

AND

That part of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of said Section 18, lying Southerly of a canal (Mullock Extension) and Easterly and Northerly of Mullock Creek and the North Branch of Mullock Creek.

Exhibit C to Permanent Easement

Rough depiction immediately below with formal and final sketch and description following:



SKETCH OF DESCRIPTION OF A TRACT OR PARCEL OF LAND LYING IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA

LEGAL DESCRIPTION

A TRACT OR PARCEL OF LAND LYING IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 18; THENCE NORTH 88°56'30" EAST FOR 137.56 FEET TO THE WESTERLY RIGHT OF WAY LINE OF STATE ROAD NO. 45 / U.S. 41 / SOUTH TAMiami TRAIL (200' WIDE); THENCE SOUTH 20°34'05" EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 353.97 FEET TO THE SOUTH LINE OF THE LANDS DESCRIBED IN INSTRUMENT NUMBER 2020000029637 AND THE POINT OF BEGINNING.

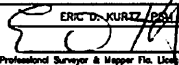
THENCE CONTINUE SOUTH 20°34'05" EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 64.12 FEET TO THE POINT OF CURVATURE OF A NON TANGENT CURVE CONCAVE TO THE NORTH; THENCE ALONG THE ARC OF SAID CURE TO THE RIGHT, HAVING A RADIUS OF 250.00 FEET; A DELTA ANGLE OF 36°28'03", A CHORD BEARING OF SOUTH 87°34'52" WEST, A CHORD DISTANCE OF 156.45 FEET, AN ARC DISTANCE OF 159.12 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST; THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 500.00 FEET; A DELTA ANGLE OF 14°07'25", A CHORD BEARING OF NORTH 81°14'49" WEST, A CHORD DISTANCE OF 122.94 FEET, AN ARC DISTANCE OF 123.25 TO THE EAST LINE OF THE LANDS DESCRIBED IN INSTRUMENT NUMBER 2020000029637 AND THE END OF SAID CURVE; THENCE NORTH 01°02'12" WEST, ALONG SAID EAST LINE, A DISTANCE OF 43.78 FEET TO THE SOUTH LINE OF THOSE LANDS DESCRIBED IN INSTRUMENT NUMBER 2020000029637; THENCE NORTH 89°04'13" EAST, ALONG SAID SOUTH LINE A DISTANCE OF 256.11 FEET TO THE POINT OF BEGINNING.

CONTAINING 16,678 SQUARE FEET OR 0.383 ACRE, MORE OR LESS.

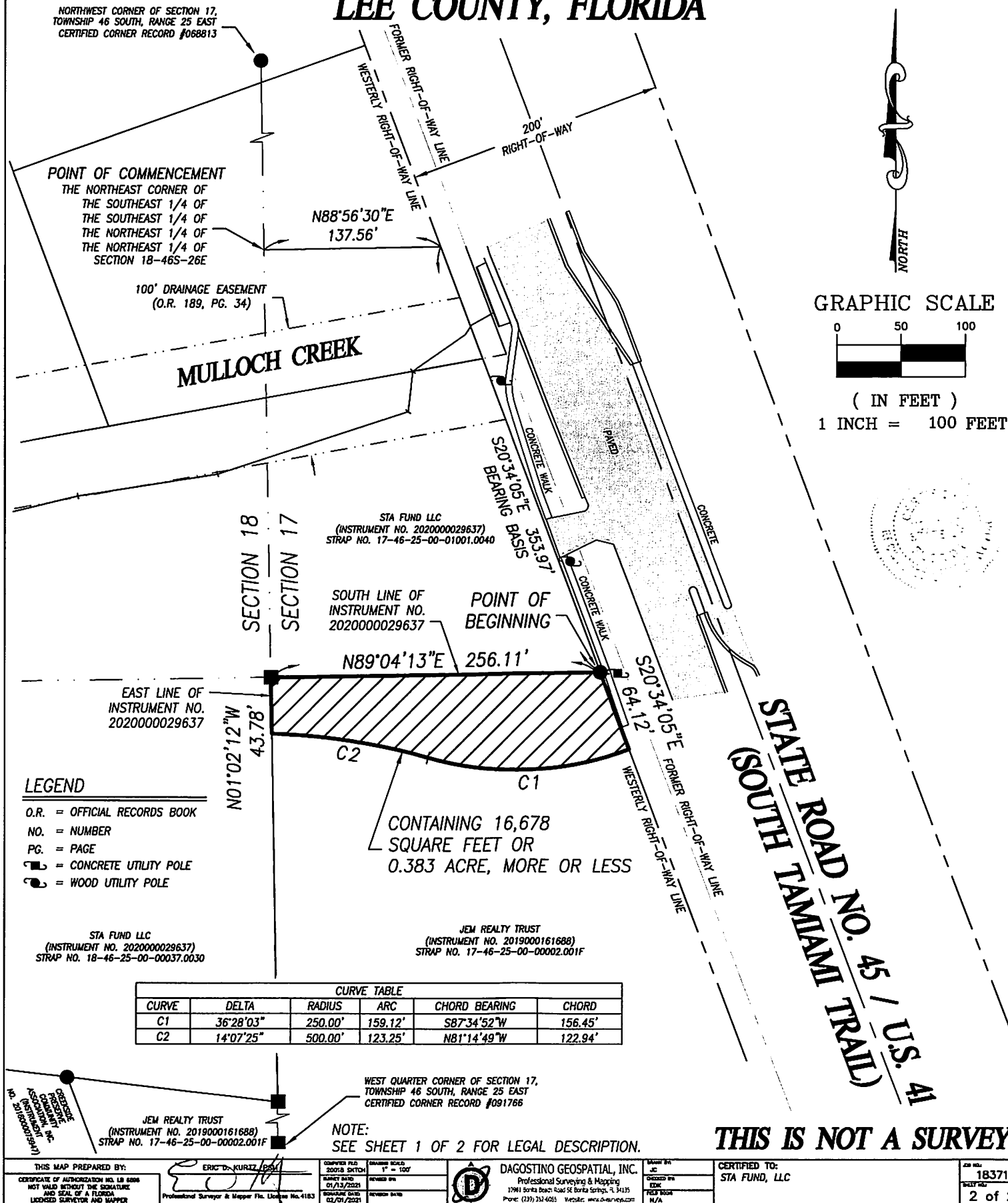
SURVEYOR'S NOTES

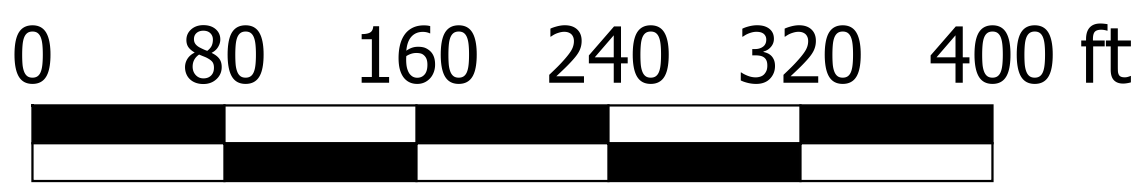
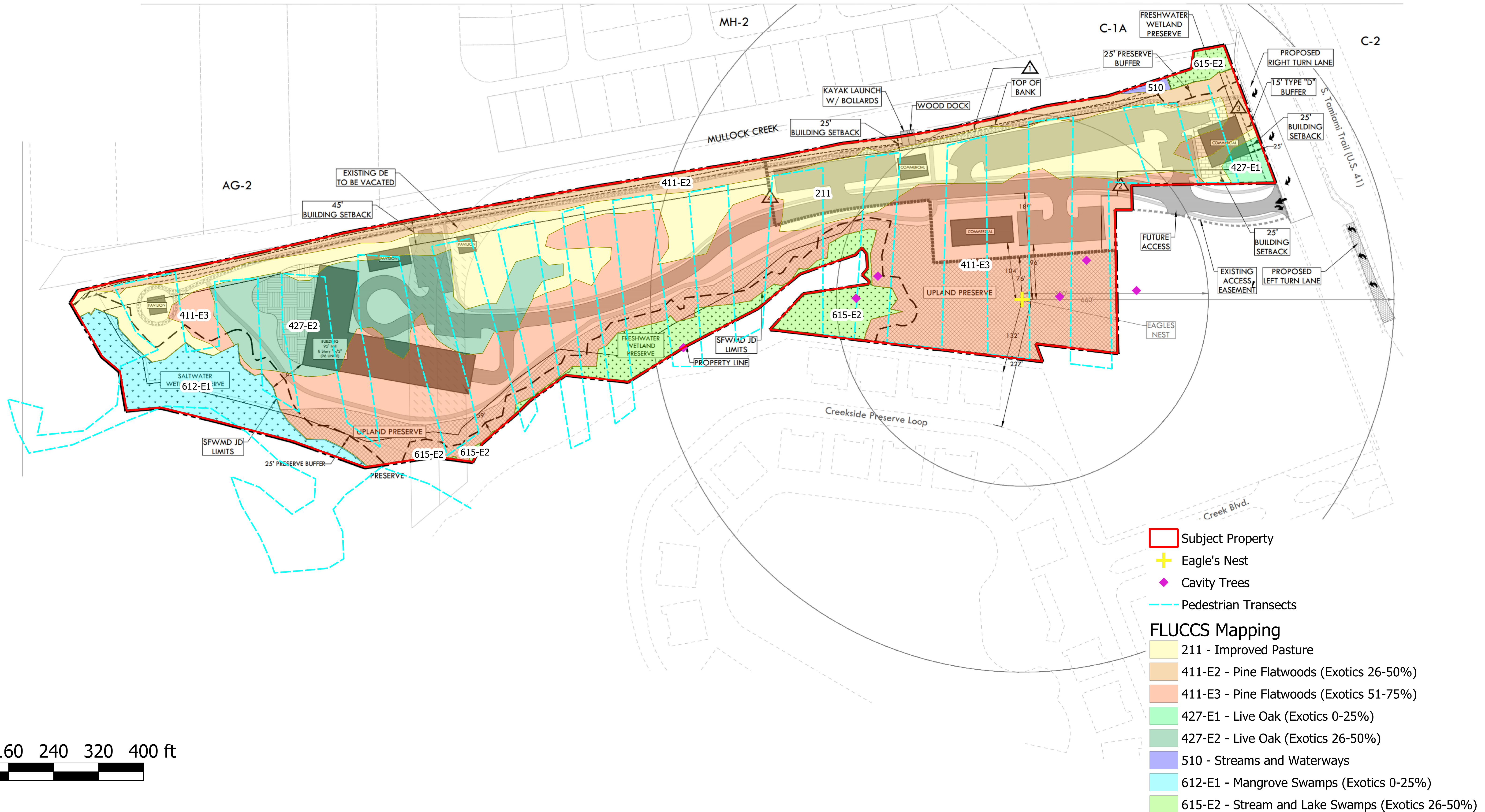
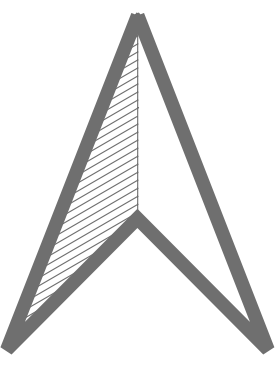
1. BEARINGS SHOWN HEREON ARE BASED UPON THE WESTERLY RIGHT OF WAY LINE OF STATE ROAD NO. 45 / U.S. 41 (SOUTH TAMiami TRAIL), HAVING A BEARING OF SOUTH 20°34'05" EAST, WHICH IS ASSUMED.
2. SEE SHEET 2 OF 2 FOR SKETCH OF DESCRIPTION.

THIS IS NOT A SURVEY

THIS MAP PREPARED BY: CERTIFICATE OF AUTHORIZATION NO. LR 6208 NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER		 ERIC D. KUNTZ, PLS Professional Surveyor & Mapper Fla. License No. 4183		COMPUTER FILE 202105 SKETCH SURVEY DATE 01/13/2021 INSTRUMENT DATE 02/07/2021	DRAWING SCALE NOT TO SCALE REVISION BY REVISION DATE	 DAGOSTINO GEOSPATIAL, INC. Professional Surveying & Mapping 15981 Bonita Beach Road SE Bonita Springs, FL 34135 Phone: (239) 351-6055 Website: www.dagostino.com	DRAWN BY JC CHECKED BY EDK FIELD NOTES N/A	CERTIFIED TO: STA FUND, LLC	JOB NO. 18371 SHEET NO. 1 of 2
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SKETCH OF DESCRIPTION OF A TRACT OR PARCEL OF LAND LYING IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA





The Nest

Indigenous Habitat Management Plan

Prepared for:



Prepared by:



Wetland Consultants LLC

239-595-1292

www.FloridaWetlandConsultants.com

July 24th, 2022

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Appendix A – Master Concept Plan

Project Description:

The 15.75-acre Subject Property is directly adjacent and west of US 41 and about one mile north of the intersection of US 41 and Sanibel Boulevard. The Subject Property is located in unincorporated Lee County in Sections 17 & 18, Township 46 South, and Range 25 East. The Subject Property is a collection of four separate parcels (STRAPs: 17-46-25-00-01001.0040, 18-46-25-00-00037.0030, 18-46-25-00-00037.0010, 18-46-25-00-00035.0000z). A location map can be seen in Figure 1.

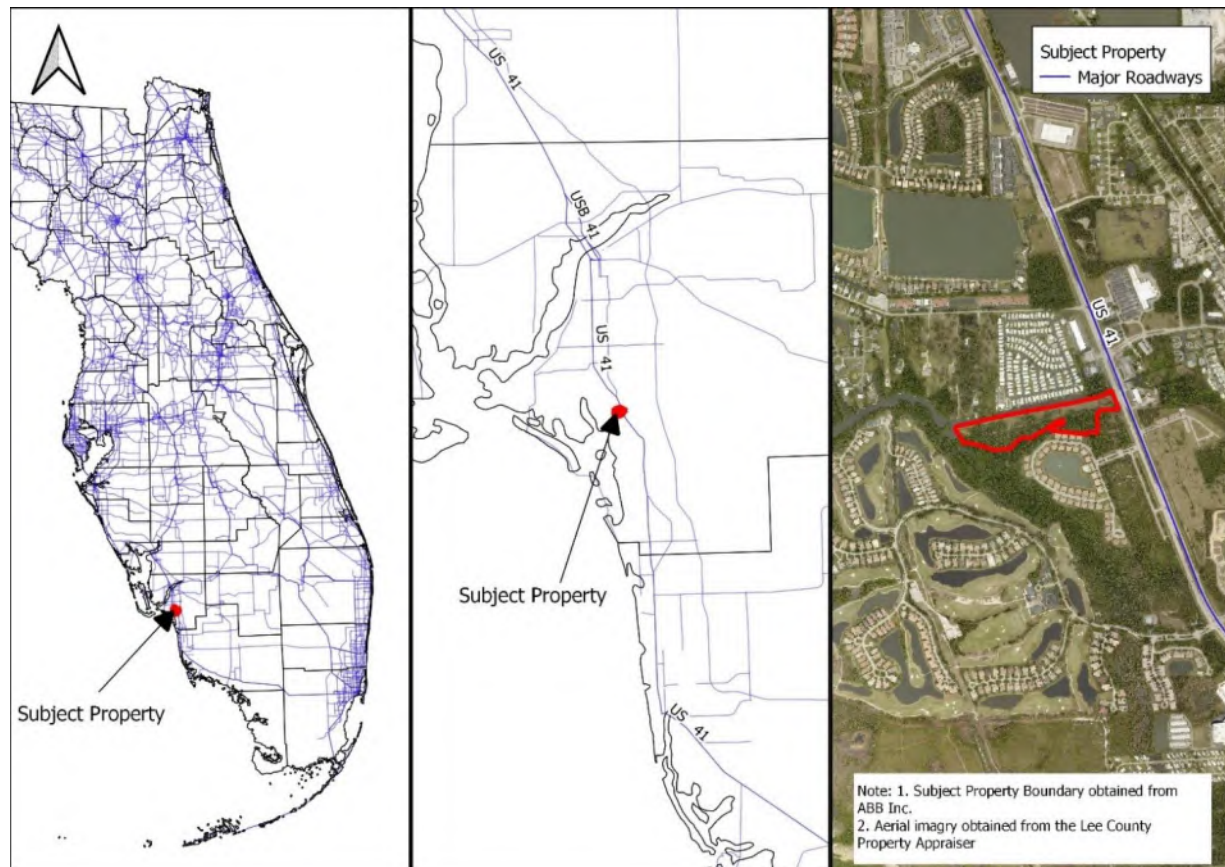


Figure 1. Location Map

The proposed project is a combination of a residential planned development in the west of the property and a commercial planned development in the east of the property. The residential planned development will share an access road with the commercial planned development. The full Master Concept Plan can be found in Appendix A. The aim of this Indigenous Habitat Management Plan is to adhere to the environmental goals of Lee County outlined in The Lee Plan. The following polices are applicable:

- Goal 101: Coastal Areas. Protect human life along with current and future development from the impacts of coastal flooding. Coastal flooding includes, but is not limited to, high tide events, storm surge, flash floods, stormwater runoff, and impacts of sea level rise.

- Objective 101.1: Coastal Area Planning. Improve the function of natural systems as a defense against coastal flooding.
 - Policy 101.1.1: Require that development within the Coastal High Hazard Area be compatible with natural systems, such as water retention and purification, wildlife habitat, primary productivity, and defense against coastal flooding.
 - Policy 101.1.2: Protect and conserve the following environmentally sensitive coastal areas: wetlands, estuaries, mangrove stands, undeveloped barrier islands, beach and dune systems, aquatic preserves, wildlife refuges, undeveloped tidal creeks and inlets, critical wildlife habitats, benthic communities, and marine grass beds.

Four preserve areas, totaling 4.85 acres, will be created to protect and preserve saltwater wetlands, freshwater wetlands, and uplands. A map of the preserve areas on an aerial with the FLUCCS map can be seen in Figure 2. Table 1 contains the acreage of FLUCCS communities on the Subject Property.

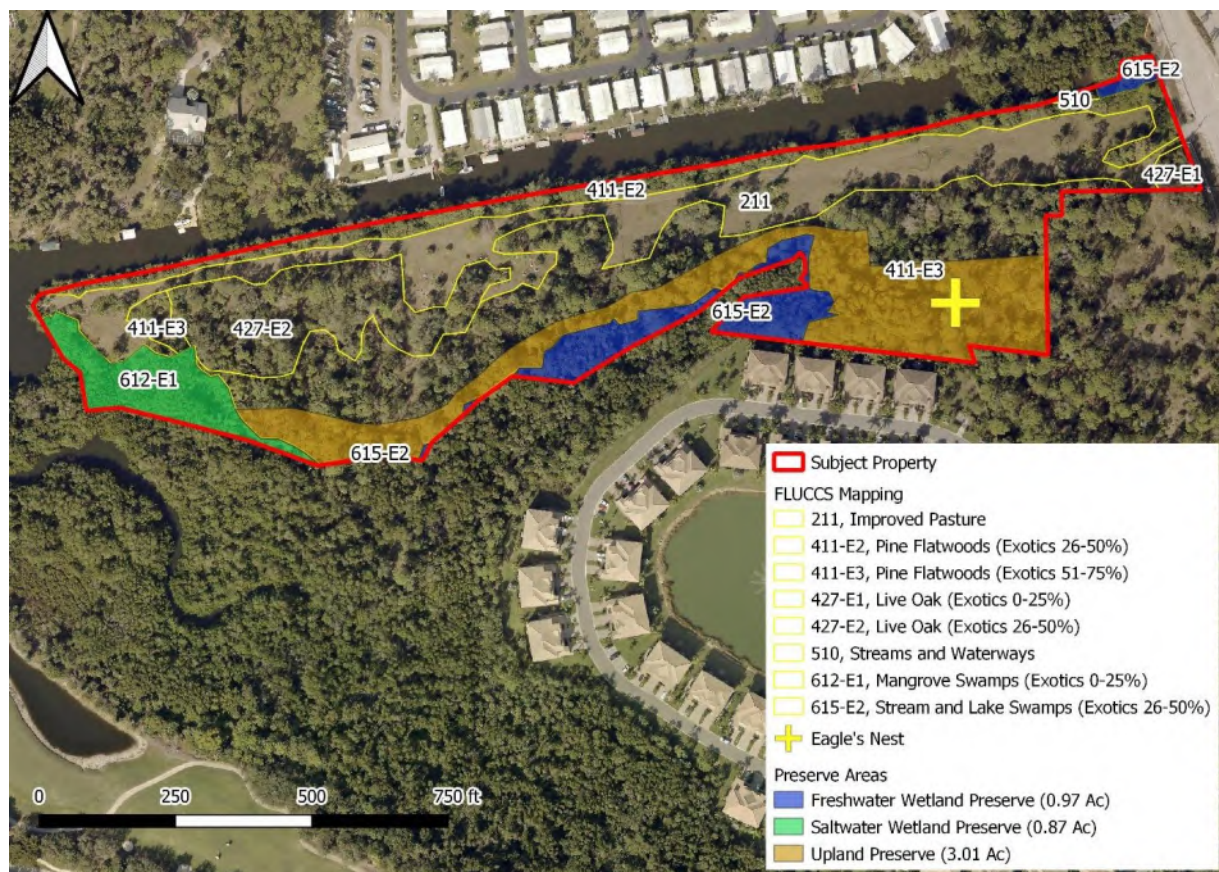


Figure 2. Preserve Areas with FLUCCS mapping.

Table 1. FLUCCS Communities by Acreage on the Subject Property		
FLUCCS Code	FLUCCS Description	Acres
211	Improved Pasture	3.65
411-E2	Pine Flatwoods (Exotics 26-50%)	1.37
411-E3	Pine Flatwoods (Exotics 51-75%)	6.91
427-E1	Live Oak (Exotics 0-25%)	0.12
427-E2	Live Oak (Exotics 26-50%)	1.80
510	Streams and Waterways	0.03
612-E1	Mangrove Swamps (Exotics 0-25%)	0.88
615-E2	Stream and Lake Swamps (Exotics 26-50%)	0.99
	Total	15.75

The majority of preserve area on the Subject Property is located between the planned development and the natural waterways along the southern border, which includes the historic Mullock Creek to the west and south. The current placement of the preserves provides a natural landscape buffer and will protect the future development from coastal flooding during extreme weather. The native preserve barrier will also shield these natural waterways and mangrove forests from runoff or disturbance from the planned development by acting as a physical barrier and nutrient uptake filter. The preserves are adjacent to submerged state lands and will create a larger contiguous preserved area when accounting for the submerged land and the neighboring preserve established by the neighborhood to the south (Creekside Preserve), as seen in Figure 3. An increase in contiguous protected habitat increases the quality of the landscape and will benefit wildlife as well as the community as a whole.

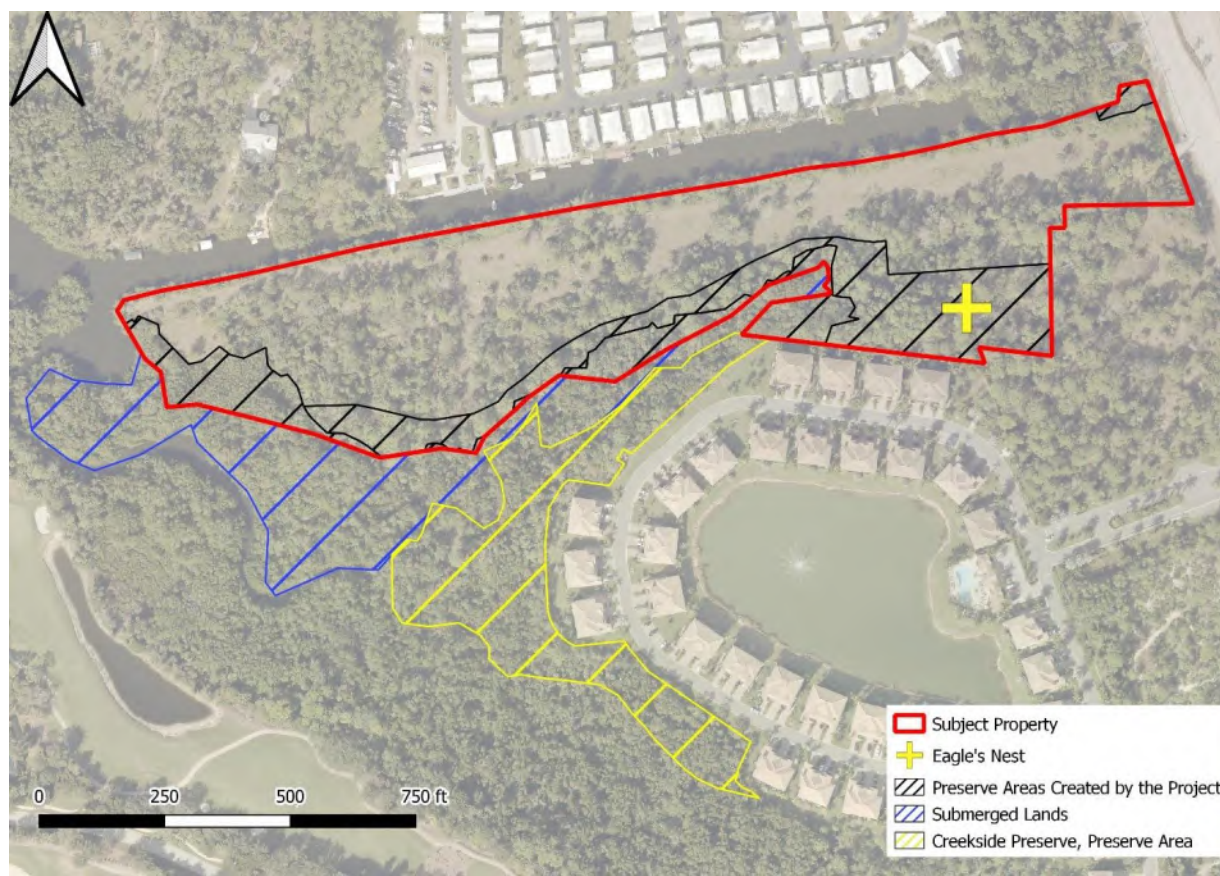


Figure 3. Contiguous Preserve Areas Surrounding the Property.

The placement of these preserves ensure that development occurs in the previously impacted areas and along the manmade drainage canal, now known as Mullock Creek.

The preserves on the Subject Property will be improved through preservation, enhancement, and some supplemental plantings. These actions meet the criteria of Lee Plan policy 101.1.1 and 101.1.2.

Existing Conditions and Enhancement of the Preserve Areas:

Four preserves will be established based on their habitat type and location. Locations, preserve numbers, and FLUCCS codes can be seen in Figure 4. Preserves 1,2, and 3 are contiguous but will be referenced as separate preserves due their different habitat types.

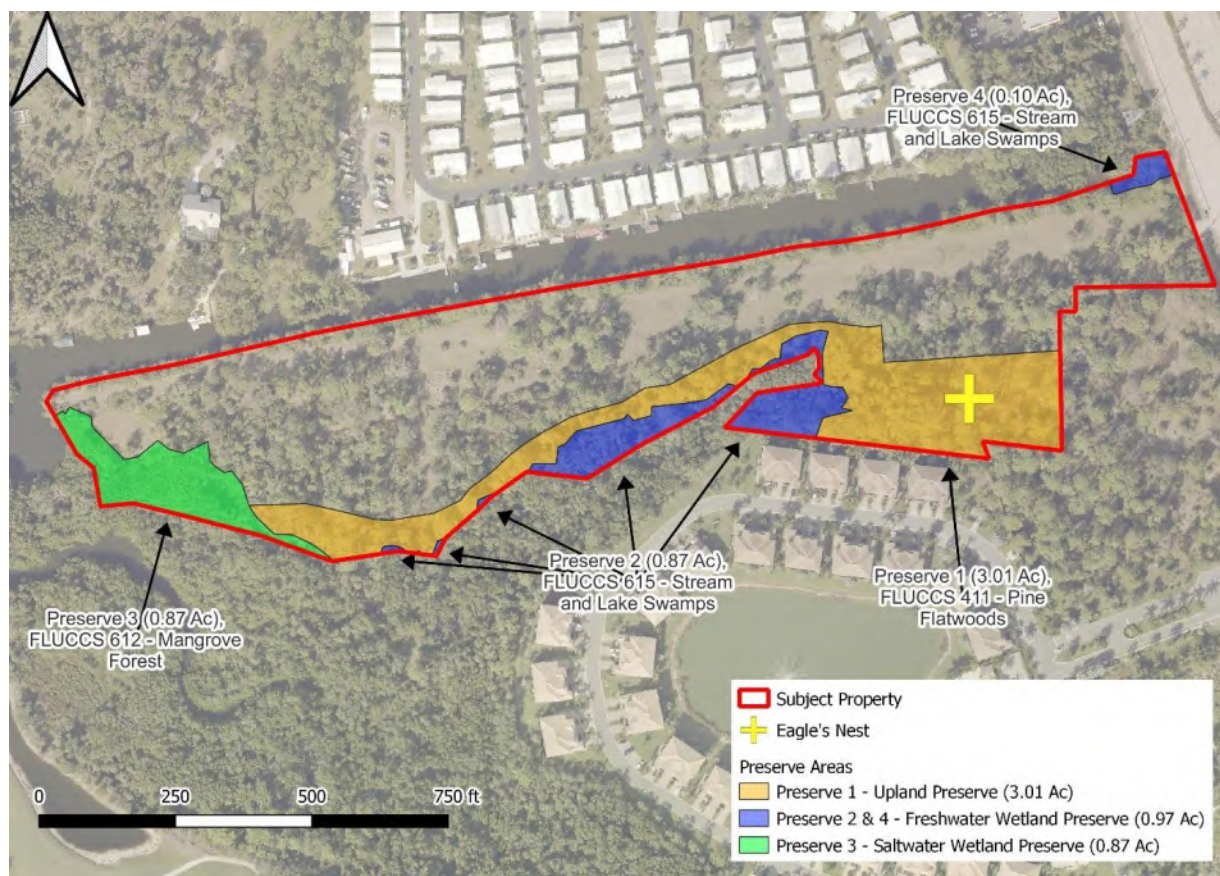


Figure 4. Preserve Map with Preserve Numbers

Preserve 1:

Preserve 1 consists entirely of a single upland community, FLUCCS Code 411 – Pine Flatwoods. This preserve nearly stretches the length of the property near the southern property boundary and provides an upland preservation buffer to the freshwater wetland preserve. This preserve contains the bald eagle's nest in the eastern portion of the preserve. It is dominated by slash pine (*Pinus elliottii*) and contains a large percentage of exotics. Present native species include saw palmetto (*Serenoa repens*), cabbage palm (*Sabal palmetto*), myrsine (*Myrsine cubana*), swamp fern (*Telmatoblechnum serrulatum*), grape vine (*Vitus rotundifolia*), and poison ivy (*Toxicodendron radicans*). The exotic species include large patches of Brazilian pepper (*Schinus terebinthifolia*), java plum (*Syzygium cumini*), Caesar weed (*Urena lobata*), earleaf acaia (*Acacia auriculiformis*), Cogan grass (*Imperata cylindrica*), Australian pine (*Casuarina equisetifolia*), and a few melaleuca (*Melaleuca quinquenervia*) which are spread throughout the community. This preserve will border the planned development.

Preserve 2:

Preserve 2 is located along the southern property boundary and consists of a freshwater wetland. The preserve is encapsulated by Preserve 1 to the north and by the Subject Property Boundary to the south, which borders submerged state lands. This community borders mangrove forest

and consists of slash pine, laurel oak (*Quercus laurifolia*), cabbage palm, and Brazilian pepper. The ground cover consists of swamp fern and giant leather fern (*Acrostichum danaeifolium*).

Preserve 3:

Preserve 3 consists entirely of mangrove forest. It will border the residential planned development with a 25' upland buffer. The canopy is dominated by all three mangrove species: red mangroves (*Rhizophora mangle*), black mangroves (*Avicennia germinans*), and white mangroves (*Laguncularia racemosa*) with some buttonwood (*Conocarpus erectus*) also present. The ground cover is mainly giant leather ferns.

Preserve 4:

Preserve 4 is located in the northeast corner of the property. This area contains a slope downwards from the improved pasture to Mullock Creek. This preserve consists of muck soil and herbaceous wetland plants and would be considered bottomland.

General Enhancement Actions:

Enhancement will occur through preservation, exotic removal, supplemental plantings, monitoring, signage, and continuous exotic maintenance.

Preserve activities will commence upon the completion of clearing for the planned developments. This will allow ease of access to preserve areas for the crew and will eliminate the need for access trails.

The following activities may occur to achieve success criteria.

Chemical Treatment:

Chemical treatments will be required to eradicate the presence of exotic vegetation. All chemical treatments will be performed by a pesticide applicator, licensed by the state of Florida through the Florida Department of Agriculture and Consumer Services (FDACS). Pesticide applicators will be required to hold certifications which allow treatment in aquatic and natural areas (Aquatic Pest Control and Natural Areas Weed Management).

A map of exotic vegetation hot spots will be provided to the licensed pesticide applicator to focus their efforts on. Crews must be overseen by the licensed pesticide applicator and all chemicals must be mixed and used in accordance with label specifications and regulatory guidelines. Treatment and kill-in-place applications will be preferred but manual removal of dead material may be necessary.

Mechanical Treatment:

Mechanical treatment may occur in areas of exotic monoculture or with 75% or greater exotic coverage. A brush-hog or similar equipment may be used to clear large areas of Brazilian pepper to aid in the enhancement of the preserve. Mechanical treatments will be accompanied by chemical treatments to ensure a lower risk of regrowth in the cleared areas.

Other means of mechanical treatment, such as chainsaws, may be used in all preserve areas to remove exotic species. The use of side-by-side ATVs or similar vehicles may be used to haul debris from the preserve areas.

Supplemental Plantings:

Supplemental plantings may be used in areas in which the removal of exotic species leaves the area looking barren or sparse. Plantings will match their respective habitats and include canopy, shrub, and ground cover plants installed at varying densities.

Monitoring:

Monitoring will occur yearly and be compiled into a report submitted to Lee County. Monitoring will continue for five years after the initial exotic removal. Monitoring will include vegetation plots which will double as photo stations. 8 monitoring plots are proposed, scattered throughout the preserve areas. Vegetation plots will be 5x5 meter plots where canopy and sub-canopy species composition and percent coverage will be recorded. Ground cover species composition and percent coverage will consist of a 1x1 meter plot in the center of the larger vegetation plot. The location of monitoring plots can be seen in Exhibit 2.

Installation of Preserve Signs:

"Nature Preserve Area" signs shall be installed along the boarder between the proposed development and the preserve as well as facing adjacent land that is not the submerged state land. The signs will state "Nature Preserve Area No Clearing or Dumping Allowed". Theses signs will be spaced a maximum of 300' apart along the preserve boundary. The signs will be a maximum of 4 feet high, with a sign surface area of 2 square feet. The location of the signs can be seen in Exhibit 2.

Preserve Specific Management:

Preserve 1:

Preserve 1 consisting of upland pine flatwoods will be enhanced through preservation, the removal of exotics, and a supplemental planting. A landscape blind, consisting of a densely canopy planning will be constructed along the northern boundary of Preserve 1, nearest the eagle's nest. This landscape blind is part of the Bald Eagle Management Plan and aims to obstruct the view of construction and future commercial use from the eagle's nest. A supplemental planting plan can be found below.

Preserve 1 Upland Planting Plan – Target 411 – Pine Flatwoods				
Stratum	Common Name	Scientific Name	Size	Spacing
Canopy	Slash Pine	<i>Pinus elliottii</i>	3 gal	20'
Shrub	Cabbage Palm	<i>Sabal palmetto</i>	3 gal	20'
	Wax Myrtle	<i>Morella cerifera</i>	1 gal	15'
Ground	Saw Palmetto	<i>Serenoa repens</i>	1 gal	10'
	Wiregrass	<i>Aristida stricta</i>	1 gal	10'
	Gallberry	<i>Ilex glabra</i>	1 gal	10'

The landscape blind will consist of canopy stratum native trees or palms planted in a dense row and will not be factored into the planting plan. The planting plan will be assessed after the initial exotic removal, and existing vegetation will be deducted from planting totals. Some areas may not require supplemental planting if the native community appears dense.

Initial exotic removal and supplemental planting will occur outside of bald eagle nesting season. Yearly monitoring will occur outside of bald eagle nesting season to avoid any disturbance to the nesting pair.

Location of the densely planted landscape blind can be seen in Figure 5.

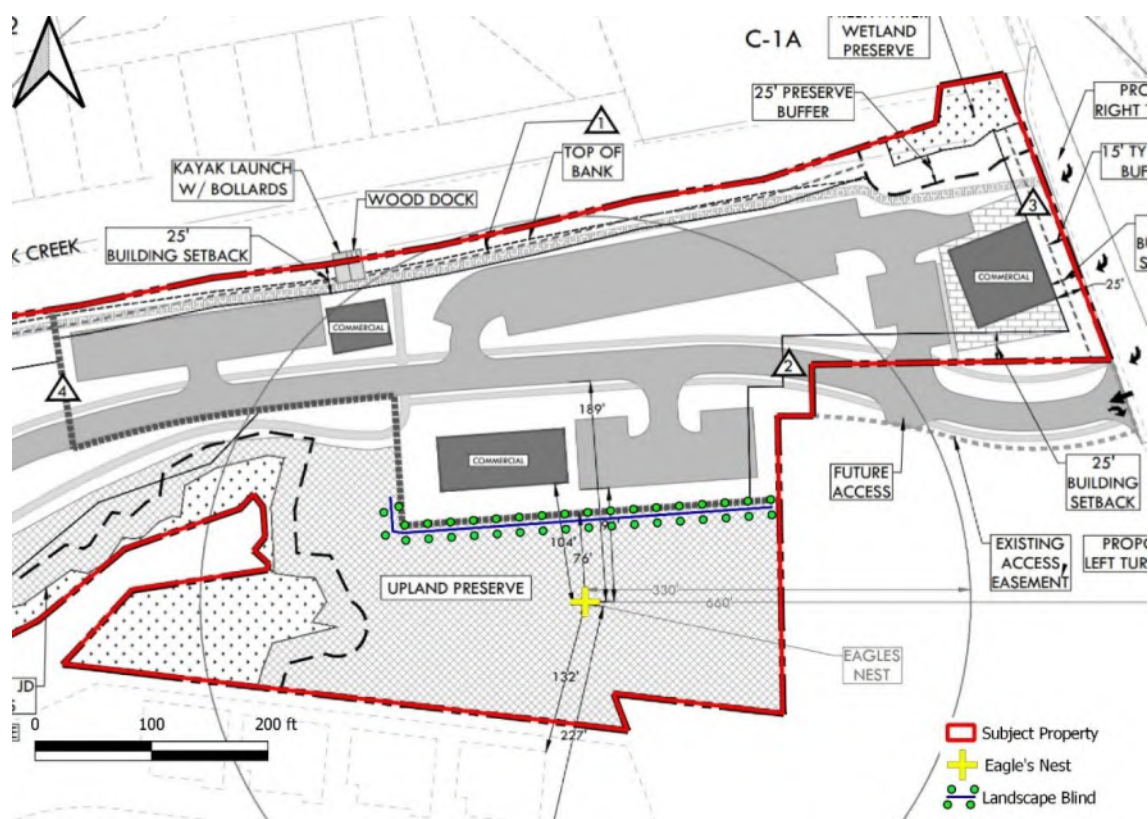


Figure 5. Location of the Landscape Blind on the Master Concept Plan

Preserve 2:

Preserve 2 consists of a forested freshwater wetland. The area is dominated by cabbage palms and live oaks. Preserve 2 will be enhanced through preservation and the removal of exotics. Preserve 2 contains a dense canopy and sparse understory. Supplemental plantings will not be necessary

Preserve 3:

Preserve 3 consists of a forested saltwater wetland. It is dominated by a mangrove canopy. This area will be enhanced through preservation and exotic removal. Exotics are sparse in the mangrove forest and enhancement will involve little impact. Removal of fringe Brazilian pepper by hand using chainsaws may be required. Cut debris will be removed from the wetland. Due to the density of mangroves currently in the preserve area, a supplemental planting will not be necessary.

Preserve 4:

Preserve 4 consists of a sloped surface to a bottomland area located adjacent to Mullock Creek. This preserve will be enhanced through preservation, exotic removal, and supplemental plantings. The sloped area will be planted with various wetland tolerant grasses at 5' on-centers while the bottom land will be allowed to revegetate naturally. The bottomland appears as though it may flood regularly. If native vegetation can not take hold, adaptive management may be used and deep-water shrubs, such as Carolina willow (*Salix caroliniana*), will be planted in the bottomland area.

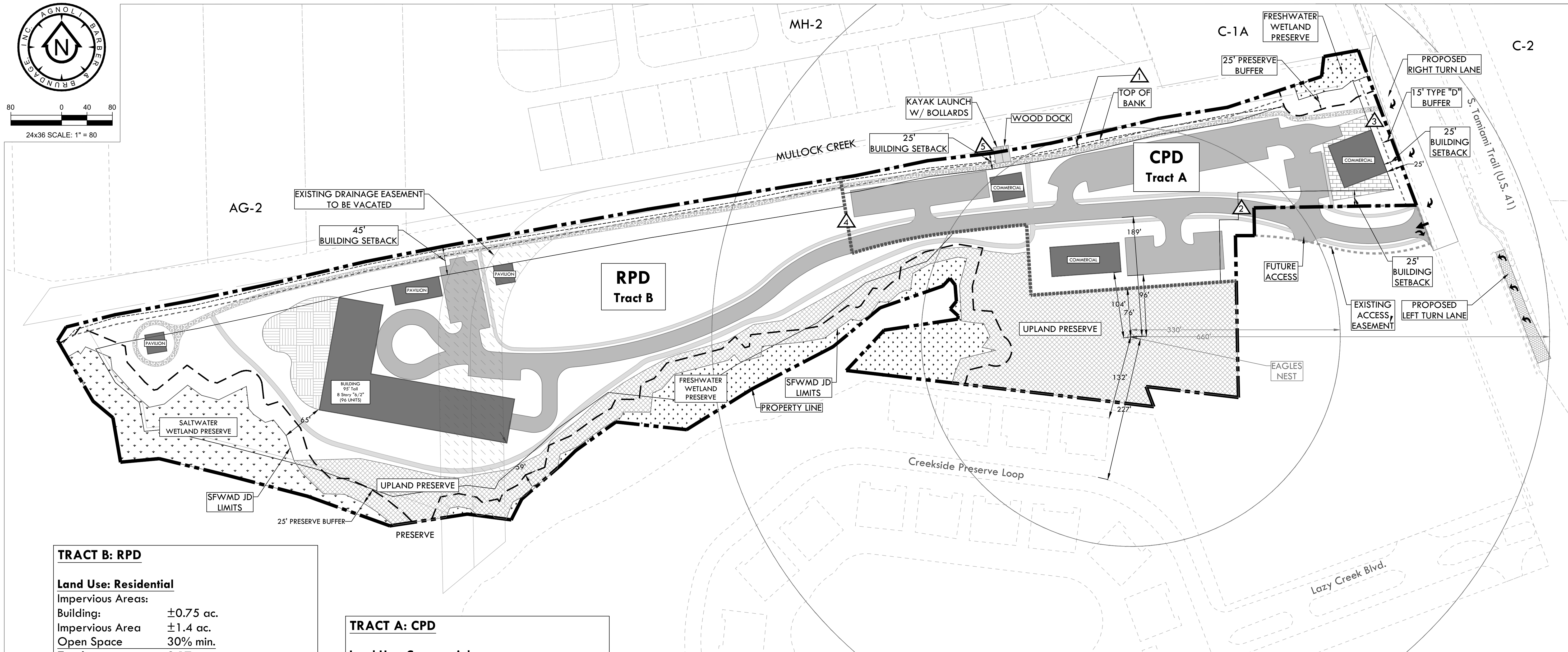
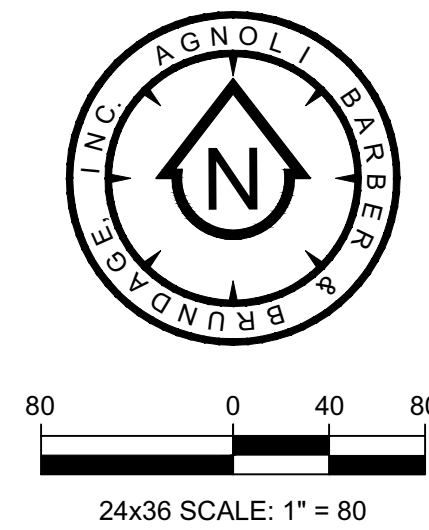
Success Criteria:

Success criteria will vary depending on the need for supplemental plantings. The general criteria are as follows:

1. Completion of initial exotic removal where the preserve area is entirely exotic free after the removal activities.
2. Exotic vegetation will constitute an average not to exceed five percent of the ground cover, shrub, or canopy stratum at the end of the fifth year of monitoring.
3. Preserves with supplemental plantings will have an 80% survival rate of installed plants at the end of the first year of monitoring following the initial planting. If 80% is not achieved the preserve will be partially replanted.

Appendix A

Master Concept Plan



TRACT B: RPD

Land Use: Residential

Impervious Areas:
Building: ±0.75 ac.
Impervious Area ±1.4 ac.
Open Space 30% min.
Total: 2.17 ac.

TOTAL RPD ACREAGE 12 ac.

Max Building Height:

95' (Primary)
25' (Accessory)

Building Setbacks:

Primary
South: 25 ft.
West: None
North: 25 ft.

Accessory

North: 10' from Top of Bank
South: 25'
East: 25'
West: 50'

Landscape Buffers:

North: 15' Type "C" (Modified per Deviation #1)
East: None* (Modified per Deviation #4)

The preserves may be used to satisfy buffer requirements.

TRACT A: CPD

Land Use: Commercial

Impervious Areas:
Building: ±0.27 ac.
Impervious Area ±1.59 ac.
Open Space 30% min.
Total: 1.86 ac.

TOTAL CPD ACREAGE 3.75 ac.

Max Building Height:

35'

Building Setbacks: | Eagle Nest Setback:

South: 25 ft. Clearing Limits: 76'
West: None Building: 104'
North: 25 ft. Parking: 96'
(modified per Deviation #5)
East: 25 ft.

Landscape Buffers:

North: 15' Type "C" (Modified per Deviation #1)
South: None*
East: 15' Type "D" (Modified per Deviation #3)
West: None (Modified per Deviation #4)

The preserves may be used to satisfy buffer requirements.

Proposed Land use

Commercial

10'000 sf.

Residential

96 Units

RPD

12ac. @ 6DU/AC
72 Standard Units
24 Affordable Units
Upland Preserve 2.99ac.
Wetland Preserve 1.76ac.

CPD

3.75ac.

TOTAL ACREAGE 15.75 ac.

Deviations Locations



Parking Calculations

Land Use	Building SF.	Required	Provided
Restaurant	4,000	50 (12.5/1,000sf.)	50
Retail	6,000	18 (1 per 350sf.)	18
Outdoor Deck	1,000	13 (12.5/1,000sf.)	13
		81	88
Multi-Family	96 Units	212 (2.2/Unit)	212
		293	300

LEGEND

- WETLAND PRESERVE AREA
- UPLAND PRESERVE
- ASPHALT
- SIDEWALKS
- BUILDING DRIVE ACCESS
- SHELL PATHWAY
- BUILDINGS
- OPEN SPACE/STORMWATER
- OUTDOOR CONSUMPTION
- ROW IMPROVEMENTS
- AMENITIES DECK
- SITE ACCESS LOCATION
- PROPERTY LINE
- BUILDING SETBACK
- LANDSCAPE BUFFER
- TOP OF BANK
- RPD/CPD LINE
- PRESERVE BUFFER/SETBACK
- ACCESS EASEMENT

AGNOLI
BARBER &
BUNDAGE, Inc.
Professional engineers, planners,
& land surveyors
Certificate of Authorization No.
LB 3664 and RP 3664
Collier County:
7400 Trail Blvd., Suite 200
Naples, FL 34108
Phone: (239) 997-1111
Fax: (239) 998-2803

SUMMIT CAPITAL &
DEVELOPMENT CORP.
PO BOX 551
NAPLES, FL 34109

THE NEST SWFL

MASTER CONCEPT PLAN

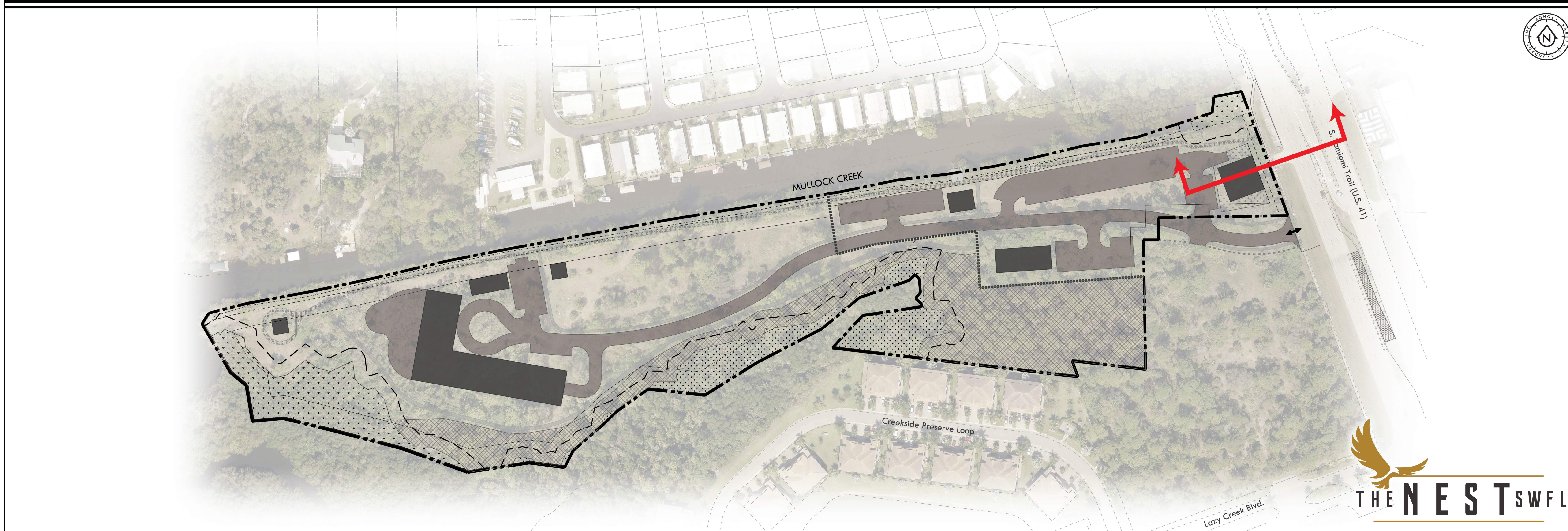
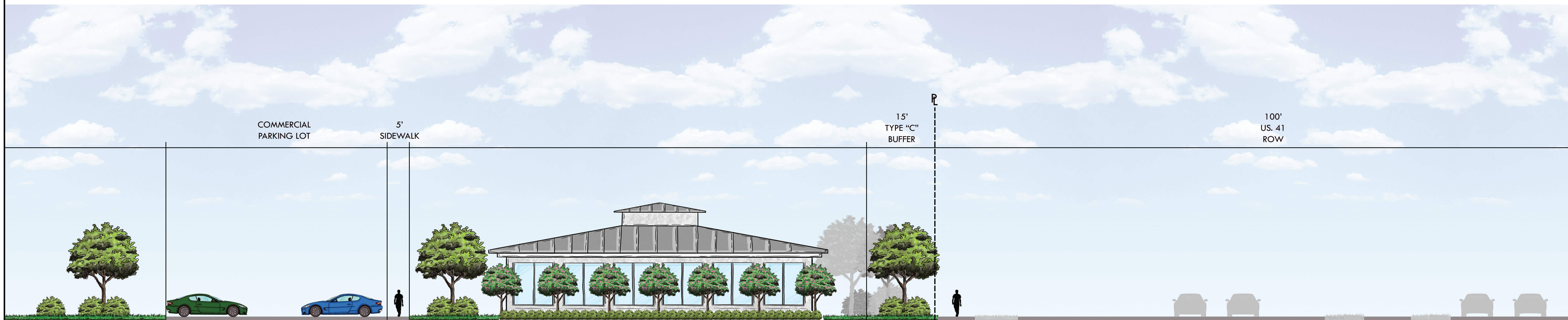
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CHECKED BY: .
REVIEWED BY: .
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DATE: JULY 2022

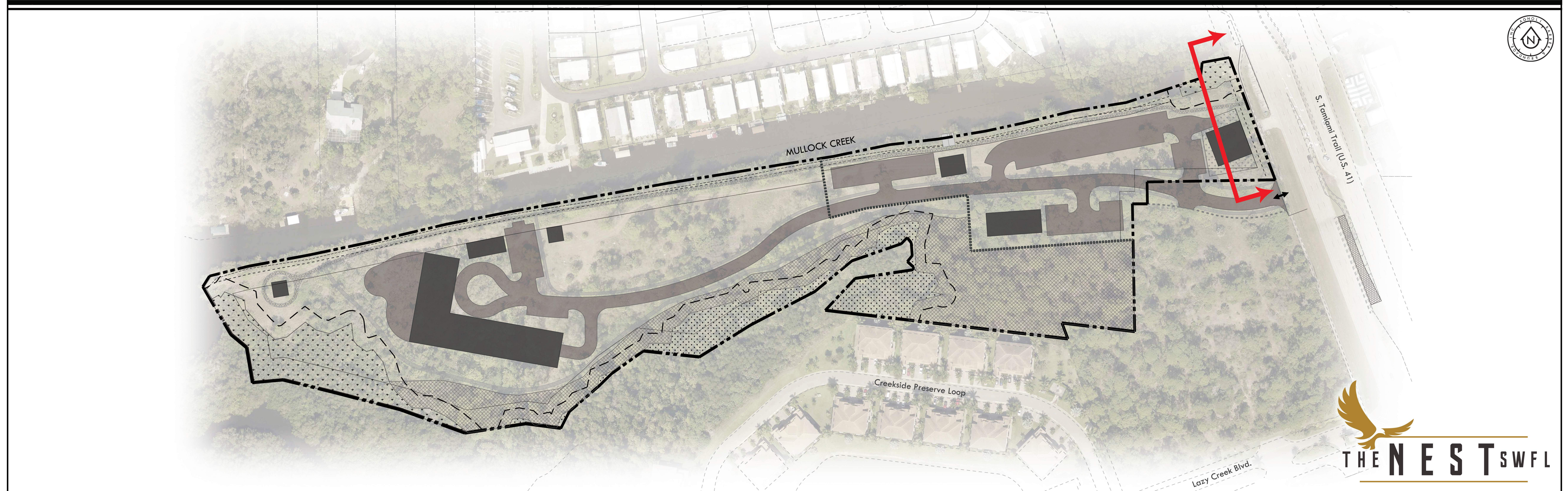
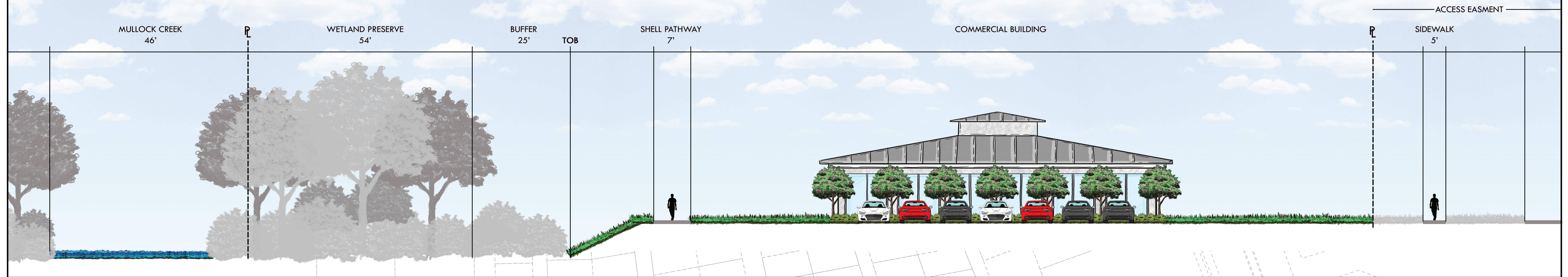
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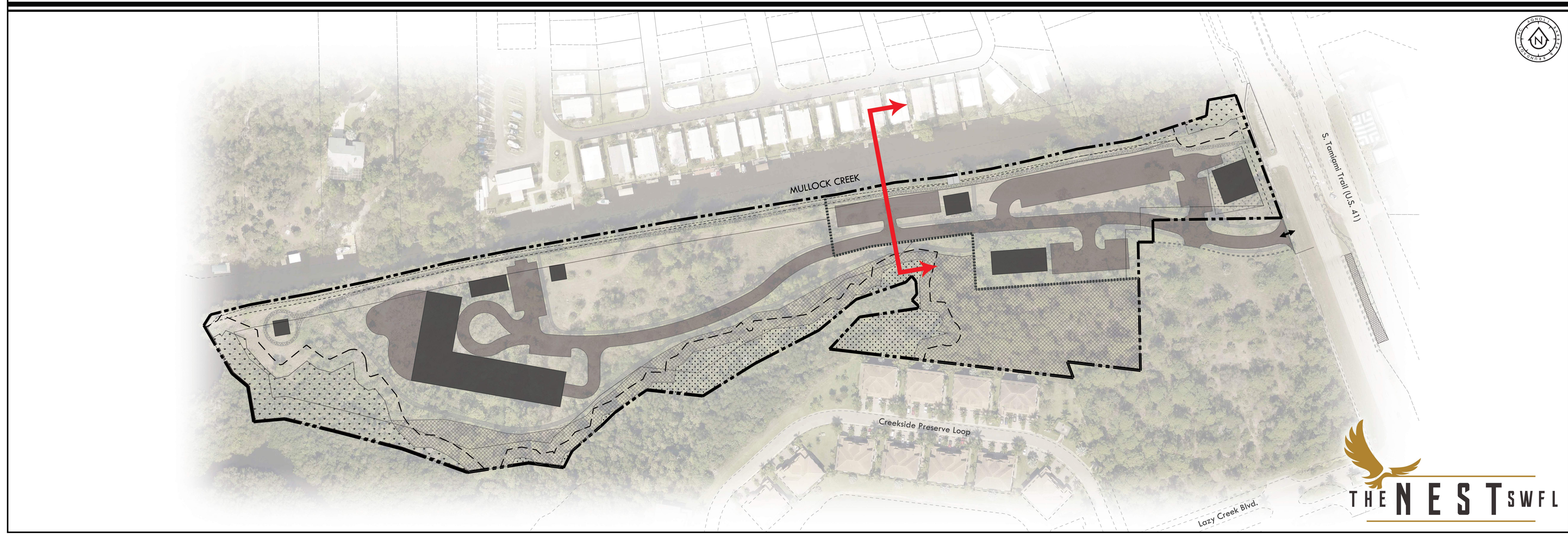
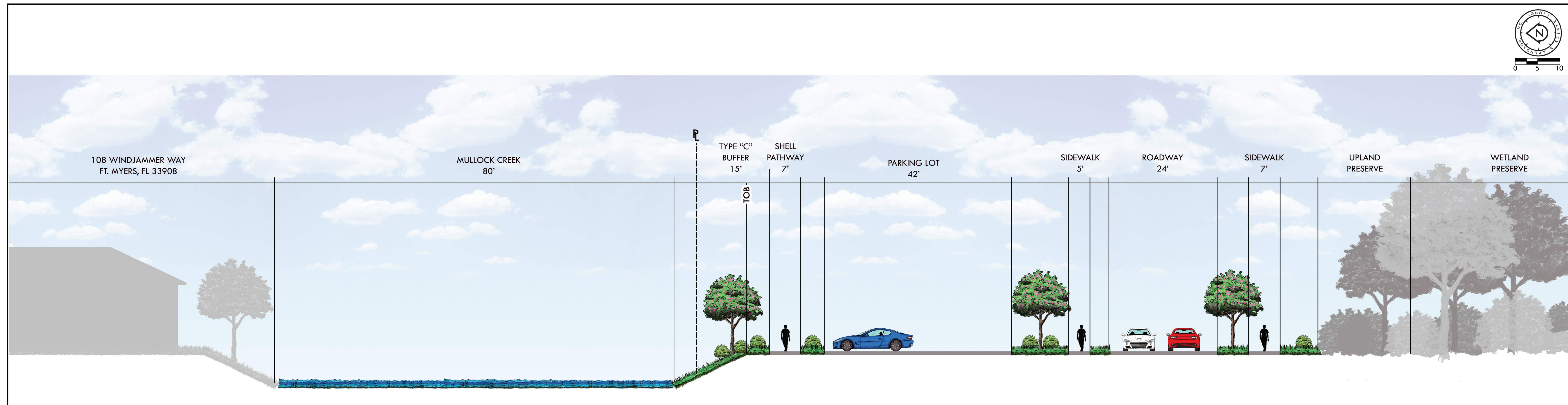
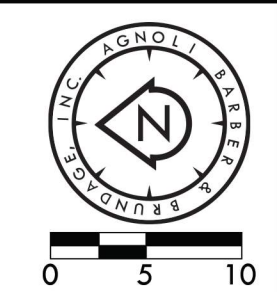
PLOT VIEW \ LAYOUT
Master Concept Plan

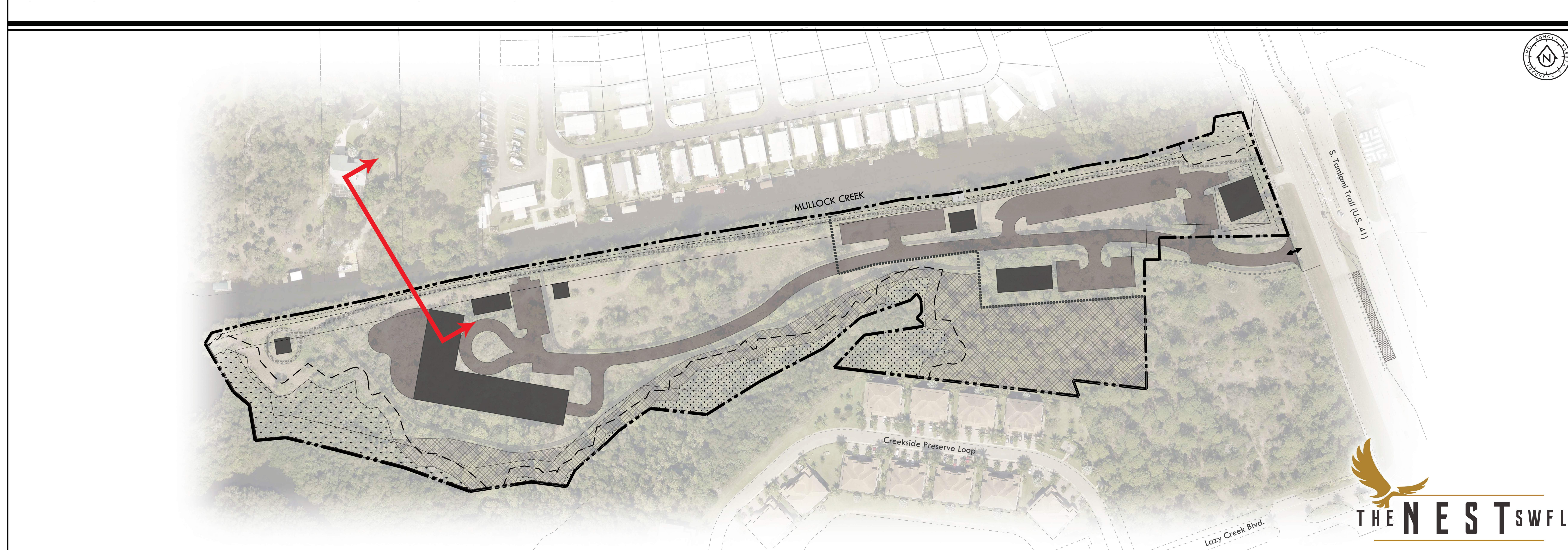
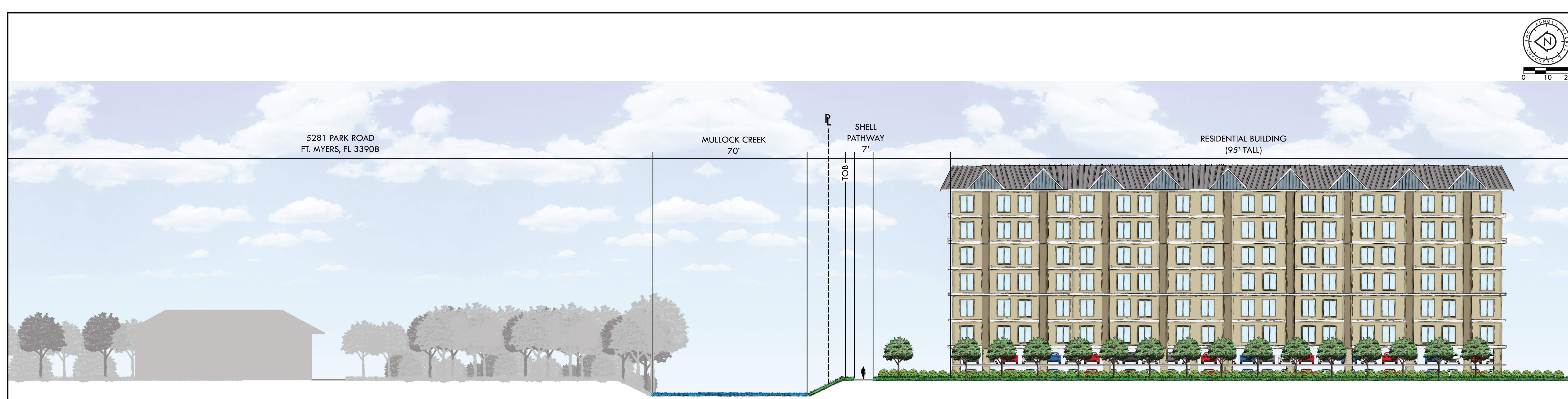
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OF 2

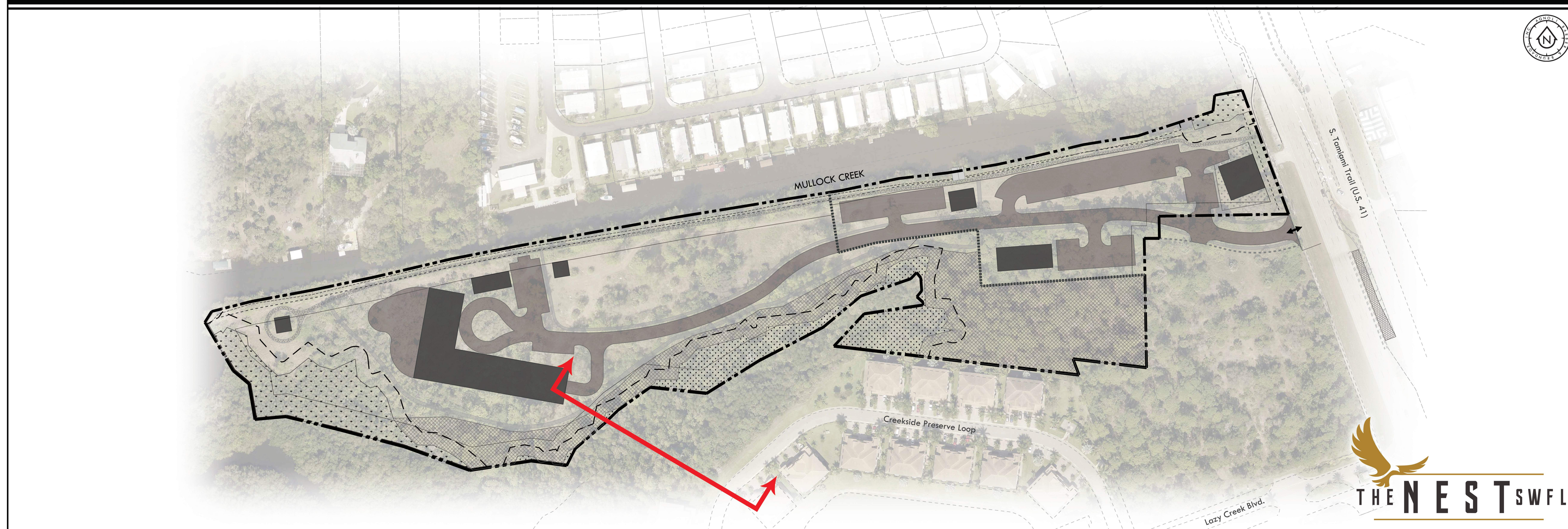
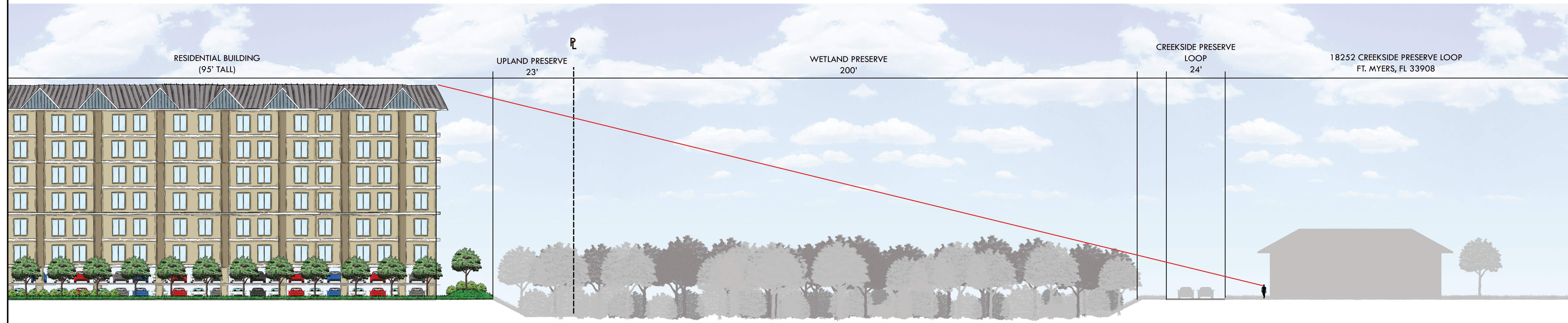
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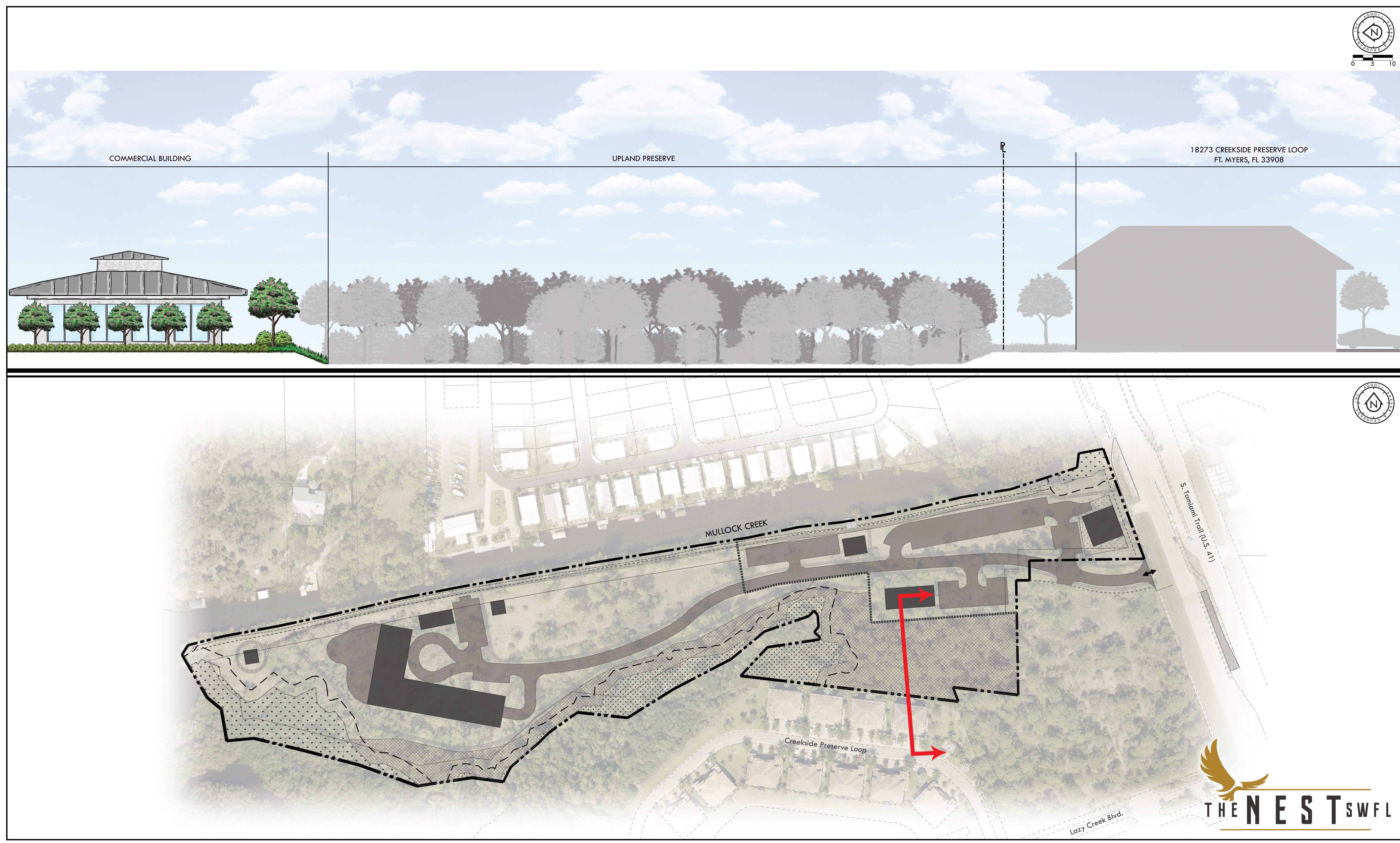














SOUTH FLORIDA WATER MANAGEMENT DISTRICT

June 30, 2021

** Delivered via email*

Matthew Slaughter *
STA Fund, LLC
181 Carica Rd
Naples, FL 34108-2616

**Subject: Eagles Nest
Petition for Formal Determination of Wetlands and Surface Waters
Permit No. 36-105405-P
Application No. 210113-5106
Lee County**

Your petition for a formal determination of wetlands and other surface waters is approved. This action is taken based on Chapter 373, Part IV of Florida Statutes (F.S.) and the rules in Chapters 62-330 and 62-340, Florida Administrative Code (F.A.C.). Please read this entire agency action thoroughly and understand its contents.

This action is subject to:

- Not receiving a filed request for a Chapter 120, F.S., administrative hearing.
- All referenced Exhibits.

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance to the "Notice of Rights", we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I hereby certify that this Formal Wetland Determination and Notice of Rights have been mailed or electronically submitted to the addressee (and the persons listed on the attached distribution list) on June 29, 2021 in accordance with Section 120.60(3), F.S. Notice was also electronically posted on this date through a link on the home page of the District's website (www.sfwmd.gov/ePermitting).

Sincerely,

A handwritten signature in blue ink that reads "Melissa M. Roberts".

Melissa M. Roberts, P.E.
Administrator, Environmental Resource Bureau

**South Florida Water Management District
Formal Wetland Determination Permit No. 36-105405-P
Date Issued: June 30, 2021**

Project Name: Eagles Nest

Petitioner: Matthew Slaughter
STA Fund, LLC
181 Carica Rd
Naples, FL 34108-2616

Application No. 210113-5106

Location: Lee County, See Exhibit 1

Acres: 16.04

Expiration Date: June 30, 2026

Type: Certified Survey

Project Summary

This application is for a formal determination of the landward extent of wetlands and other surface waters (OSW), pursuant to Rule 62-330.201, Florida Administrative Code (F.A.C.), for a 16.04 acre property known as Eagle Nest. The methodology used for the determination is consistent with Chapter 62-340, F.A.C.

Project Site Description

The 16.04 acre property is located in Sections 17 and 18, Township 46 South, Range 25 East, Lee County, Florida. More specifically, the property is located on the west side of U.S. 41 (Tamiami Trail), approximately 1.25 miles south of Alico Road in Lee County, Florida. A Location Map is attached as Exhibit 1.0. The property is surrounded by Mullock Creek to the north and west; Tamiami Trail to the east; and single family homes to the south. The property is an undeveloped parcel of land that consists of upland pasture, upland pine flatwoods, and tidal wetlands. A more detailed description of the on-site wetlands is below. An aerial photograph depicting the various habitats on the property is attached as Exhibit 2.0.

Formal Determination of Wetlands and Other Surface Waters

On January 13, 2021, the District received a request for a formal determination of the boundary of wetlands and OSW on a 16.04 acre property known as Eagle Nest. The landward extent of wetlands was established by Wetland Consultants, LLC and verified by Certified Wetland Evaluator (CWE) Matt Brosious on February 4, 2021. Wetlands, as defined by Subsection 373.019(27), F.S. and Chapter 62-340, F.A.C., were identified on the property. Wetlands on the property were delineated using the methods established in Chapter 62-340, F.A.C.; more specifically, the wetlands were delineated using the A, B, C, and D tests. Wetlands delineated on the property totaled 1.87 acres. A wetland and OSW line survey is attached as Exhibit 3.0. Wetland delineation information, including wetland data point location map, delineation data forms, and representative photographs of the wetlands and upland areas can be found in the permit file. Wetland delineation data forms were field verified by District staff on February 4, 2021.

OSW were not identified on the property; however, there are on-site wetlands directly adjacent to

Permit No: 36-105405-P, Page 2

Mullock Creek.

Wetland Description:

The wetland identified on the property totaled 1.87 acres (Exhibit No. 3.0). The wetland consisted of mangrove and mixed forested habitats. The wetland was delineated using the A, B, C, and D tests.

Based on the National Resource Conservation Service (NRCS) data, the property contains two historically mapped hydric soils. The mapped hydric soils on the property are Isles Fine Sand, Frequently Ponded (Map Unit 39) and Isles Muck, Tidal (Map unit 56). A soils map is attached as Exhibit 4.0. Soil pit data is included within the wetland delineation data forms, which were field reviewed on February 4, 2021.

Hydrologic Indicators observed during the delineation included red mangrove prop roots and black mangrove pneumatophores; water marks on various trees; and muck and mucky mineral hydric soil indicators, which are stand alone D-test indicators.

This Formal Determination of Wetlands and Other Surface Waters is the District's determination of the landward extent (boundaries) of wetlands and OSW within the property based on the documentation submitted by the Petitioner and field application of Chapter 62-340, F.A.C. This action does not authorize any construction activities or constitute conceptual approval of any anticipated projects or activities in wetlands or other surface waters. It does not in any way establish boundaries of sovereign submerged lands, high water elevations or other elevations/ boundaries.

Pursuant to Subsection 373.421 (4), F.S., the Governing Board may revoke the Formal Wetland Determination upon a finding that the Petitioner has submitted inaccurate information to the District.

The Formal Wetland Determination shall be binding for the stated duration provided physical conditions on the property do not change so as to alter the boundaries of wetlands and other surface waters during that period.

Distribution List

Nicholas Roach, Wetland Consultants LLC *

Florida Department of Environmental Protection SLERC *

Lee County Property Appraiser *

Florida Department of Environmental Protection - Environmental Administrator *

Exhibits

The following exhibits to this permit are incorporated by reference. The exhibits can be viewed by clicking on the links below or by visiting the District's ePermitting website (<http://my.sfwmd.gov/ePermitting>) and searching under this application number 210113-5106 .

[Exhibit No. 1.0 Location Map](#)

[Exhibit No. 2.0 Aerial With Vegetation](#)

[Exhibit No. 3.0 Wetland Survey](#)

[Exhibit No. 4.0 Soils Map](#)

NOTICE OF RIGHTS

As required by Chapter 120, Florida Statutes, the following provides notice of the opportunities which may be available for administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, or judicial review pursuant to Section 120.68, Florida Statutes, when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Some of the legal proceedings detailed below may not be applicable or appropriate for your situation. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Florida Statutes. Persons seeking a hearing on a District decision which affects or may affect their substantial interests shall file a petition for hearing in accordance with the filing instructions set forth herein within 21 days of receipt of written notice of the decision unless one of the following shorter time periods apply: (1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Florida Statutes; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Florida Statutes. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, posting, or publication that the District has taken or intends to take final agency action. Any person who receives written notice of a District decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

If the District takes final agency action that materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional point of entry pursuant to Rule 28-106.111, Florida Administrative Code.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Florida Statutes, shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The District may grant the request for good cause. Requests for extension of time must be filed with the District prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and whether the District and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

FILING INSTRUCTIONS

A petition for administrative hearing must be filed with the Office of the District Clerk. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at the District's headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day.

Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.
- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the District's security desk does not constitute filing. It will be necessary to request that the District's security officer contact the Office of the District Clerk. An employee of the District's Clerk's office will receive and process the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at clerk@sfwmd.gov. The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document.

INITIATION OF ADMINISTRATIVE HEARING

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Rules 28-106.201 and 28-106.301, Florida Administrative Code, initiation of an administrative hearing shall be made by written petition to the District in legible form and on 8 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other District identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner, petitioner's attorney or qualified representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the District's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the District's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the District's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the District to take with respect to the District's proposed action.

MEDIATION

The procedures for pursuing mediation are set forth in Section 120.573, Florida Statutes, and Rules 28-106.111 and 28-106.401–.405, Florida Administrative Code. The District is not proposing mediation for this agency action under Section 120.573, Florida Statutes, at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Section 120.68, Florida Statutes, and in accordance with Florida Rule of Appellate Procedure 9.110, a party who is adversely affected by final District action may seek judicial review of the District's final decision by filing a notice of appeal with the Office of the District Clerk in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the appropriate district court of appeals via the Florida Courts E-Filing Portal.

Narrative Analysis of Lee Plan

1.1.4: Urban Community

Urban Community future land use category is characterized by a mixture of commercial and residential uses and encouraged to be mixed use. As a RPD/CPD Planned Development, The Nest development satisfies this characterization. The Nest will contain a mixture of commercial, residential, and recreational uses.

1.5: Wetlands

There are wetlands located within the property boundary of The Nest development but they will not be impacted or adversely affect the ecological functions of the wetlands.

2.1: Development location

The Nest is located to the west of U.S. 41 and along Mullock Creek. This location is unique in nature due to the shape of the property, proximity to fresh and saltwater wetlands, and surrounding mix of residential and commercial uses. The layout of The Nest will maximize the developable area of the property while conserving the existing wetlands and by creating compact development consistent with the surrounding area. Furthermore, the property is also located close to services and existing public facilities.

2.2: Development timing

The Nest is a mixture of residential and commercial developments which is consistent with the surrounding developments along U.S. 41 where adequate public facilities already exist. Project will be developed upon approval.

5.1.1: Residential developments requiring rezoning.

The project will be developed as a rPD/CPD Planned Development.

5.1.2: Prohibit residential development where physical constraints exist

The Nest will be designed to meet all flood hazard and FEMA requirements. The residential density of the project will also be consistent with what is allowed within the Urban Community FLUC.

5.1.5: Protect existing and future residential areas from the encroachment of potentially destructive uses

The Nest will enhance the character and value of existing and future residential areas by preserving the natural areas and minimizing access to Mullock Creek.

Narrative Analysis of Lee Plan

5.1.7: Accessibility of community facilities in residential development

Typical accessory uses and activities will be provided for the residents in the RPD Tract. This will include but not be limited to Interconnected sidewalks, multi-use paths and outdoor pavilions throughout the development.

5.1.8: Provision of affordable housing

The RPD Tract will provide a total of 96 multi-family residential units, 24 of which will be designated for affordable housing pursuant to LDC Section 2-143.

Goal 11: Mixed Use

The Nest is a mixed use development with residential, commercial, and recreational uses. This diversified development will provide a mixture of market rate and affordable housing with pedestrian and bicycle access to the commercial and recreational uses on site. As a mixed use development, it will reduce the number of trips to and from the site for the commercial and residential tracts.

The Nest also has direct connection to U.S. 41 from the north and south. They will also be interconnected with the existing and planned developments to the south which will increase the connectivity to services without having to utilize U.S.41.

GOAL 53: POTABLE WATER INFRASTRUCTURE. Provide high-quality central potable water service throughout Lee County. Ensure that the costs of providing facilities is borne by those who benefit from them. (Ord. No. 17-19)

The Nest development will connect to the existing Lee County Utilities potable water infrastructure. The Nest shall incur any costs from the potable water services provided by Lee County Utilities.

GOAL 56: SANITARY SEWER INFRASTRUCTURE. In partnership with franchised/certificated utilities providers, provide sanitary sewer service and wastewater treatment and disposal throughout Lee County. (Ord. No. 98-09, 17-19)

Lee County Utilities shall service The Nest Development by tying into existing infrastructure for sanitary sewer service, water treatment and disposal.

GOAL 57: RESOURCE MANAGEMENT. To further the public health and protect environmental quality by using and encouraging conservation and resource management measures to reduce consumption of potable water and subsequent generation of wastewater.

The Nest development shall be designed with xeriscape in order to reduce water demands.

GOAL 59: PROTECTION OF LIFE AND PROPERTY. To reduce the hazards to life, health, and property created by flooding due to rainfall in a manner consistent with the community's criteria for the preservation of environmental values and the conservation of natural resources.

Narrative Analysis of Lee Plan

The Nest development shall be designed to meet or exceed standards set by FEMA and South Florida Water Management District (SFWMD) to reduce hazards to life, health and property created by flooding due to rainfall.

60.4.2: The County encourages new developments to design their surface water management system to incorporate existing wetland systems.

The existing wetlands are located entirely outside of the development area and will be protected and enhanced.

GOAL 63: GROUNDWATER. To protect the County's groundwater supplies from those activities having the potential for depleting or degrading those supplies.

The Eagle's development shall protect the counties ground water by installing erosion control protection such as silt fence and inlet protection during construction to prevent any erosion or sediment from entering the master stormwater management system. The stormwater management system will meet the SFWMD quality and quantity requirements and remove nutrients to pre- development conditions.

101.1.1: Development in the CHHA

This policy requires development to be compatible with natural systems and defend against coastal flooding. The stormwater plan describes how the master drainage system will integrate into the existing natural systems. See attached Stormwater Plan narrative. In addition to the stormwater plan describes how this development will address potential flooding as follows: The property is located in the FEMA flood elevation AE10, the first finished floors will be set at a minimum of 11.0' NAVD (AE10, BFE +1). Parking will be located below the residential floors. The property is required to obtain a no rise permit through the local development order application process and compensating storage will be accommodated and the internal roads will be built at the 5-year 24 hour design event to reduce the potential for flooding. All habitable structures will be built to the current Florida Building Code to withstand flooding and wind loads.

101.1.2: Protection and conservation of sensitive coastal areas, including wetlands

All wetlands on the project site will be preserved. The proposed development will protect and enhance the existing jurisdictional wetlands and accommodate historic flows as depicted on the Stormwater Plan. In addition, there are 1.76 acres of delineated wetlands on-site. These wetland JD lines have been established and agreed to by SFWMD. In addition to the wetlands that will be preserved, the project will also set aside 2.99 +/- acres of upland in proximity to the wetlands and around the pine tree that contains the partial eagle nest on the property. These development conditions will ensure protection of the environmentally critical areas within and adjacent to the subject property. On-site wetlands will be enhanced through exotic removal, monitoring, and routine maintenance. The on-site wetlands will benefit from the project.

101.3: Development in Coastal Rural Areas

The project is not seaward of the Coastal Construction Control Line.

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Narrative Analysis of Lee Plan

101.3.2: Restrict development in the Coastal High Hazard Area to uplands except as needed for the provision of public facilities. This project is within the Coastal High Hazard Area. Please provide an analysis of Lee plan policy 101.3.2.

The proposed development will be located entirely within the upland areas of the subject property. The on-site wetlands will benefit from the project through preservation and enhancement.

Goal 123: Resource Protection

All wetlands on the project site will be preserved. Stormwater retention and purification will be designed in accordance with Lee County standards.

123.6: Bald Eagle

A bald eagle management plan has been created and will be submitted as part this response. In summary, the management plan involves the creation of an upland preserve surrounding the current bald eagle nest. This preserve will be enhanced through the removal of all exotic plant species and supplemental planting. Monitoring will continue through the nesting season. An incidental take permit from the USFWS will be obtained prior to construction. A landscape blind will be established along the northern boundary of the upland preserve to shield the view of development and subsequent use from The Nest. See the Bald Eagle Management Plan for further information.

123.10: Wood Stork

Impacts to the property as a result of development and the indigenous habitat management plan will have a positive effect on available wood stork foraging area. No impacts to wetlands are planned as part of the development which eliminates the possibility of any loss of foraging habitat. On-site wetlands will be enhanced through exotic removal, monitoring, potential supplemental plantings, and routine exotic maintenance. Currently, wetlands on-site are covered by a dense tree canopy which precludes wood storks from foraging on the property. Initial exotic removal may create gaps in the canopy which will improve the accessibility of wetland environments as well as improve the habitat as a whole.

123.12: Florida Black Bear

The creation of on-site preserves establishes a large and contiguous area of protected habitat. A combination of upland and wetland preserves provides a more diverse environment by providing a larger array of potential natural food sources. A visiting black bear would have ample room to forage and would be able to traverse the property unimpeded by development. The future residents and commercial facilities will be provided information as to how to cohabitate with black bears in the event that bear are identified in the area. Adaptive management may become necessary if any black bear and human interactions. If the presence of black bears exists additional measures will be taken (bear proof trash cans, additional literature, education of the residents and commercial tenants, etc.)

Goal 124: Wetlands

All wetlands on the project site will be preserved.

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Narrative Analysis of Lee Plan

125.1.2: New development and additions to existing development must not degrade surface and ground water quality. (Ord. No. 00-22, 18-28)

The Stormwater Plan describes that development will be designed to meet all permitting criteria to avoid any surface or ground water degradation. The irrigation withdrawals will be permitted through SFWMD to ensure no adverse ground water impacts.

125.1.3: The design, construction, and maintenance of artificial drainage systems must provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems. (Ord. No. 00-22, 18-28)

The stormwater system will provide sufficient nutrient removal to meet or exceed SFWMD criteria.

125.1.4: Developments which have the potential of lowering existing water quality below state and federal water quality standards will provide standardized appropriate monitoring data. (Ord. No. 00-22, 18-28)

This development is not a high risk development that is typically associated of discharging affluent below state water quality standards.

126.1.1: Natural water system features which are essential for retention, detention, purification, runoff, recharge, and maintenance of stream flows and groundwater levels shall be identified, protected, and managed. (Ord. No. 18-28)

Please see Stormwater Plan.

126.1.4: Development designs must provide for maintaining or improving surface water flows, groundwater levels, and lake levels at or above existing conditions. (Ord. No. 00-22, 18-28)

Please see Stormwater Plan.







Stormwater Plan Narrative

Surface water management of the site will comply with all Lee County and SFWMD stormwater quality and quantity requirements. The existing property varies in elevation from elevation 2.0' NAVD to 6.0' NAVD. Generally, the site is at elevation 4.0' NAVD and has roughly one foot of change from North to South. Most of the runoff drains South into the Mullock Creek Tributary, which looking at the historical aerial matched the alignment of the original creek before the realignment and dredging to the North. The site does not have any offsite flows to accommodate, to the North Mullock Creek is a conveyance, to the East is US-41 which has a roadside swale, to the South the Creekside Preserve outfalls the Mullock Tributary south of the southern property line and to the West, the property is bound by the Mullock Tributary.

The site is a peninsula surrounded by wetlands to the South and West and Mullock Creek to the North and as such the treatment of stormwater and removal of nutrients is critical for this property. The stormwater system will generally consist of interconnected dry retention areas, these will be roughly 1' to 3' deep and will be at grade, the mean high-water line is at elevation 0.29' NAVD and the bottom of the retention areas will be no lower than elevation 1.3 NAVD'.

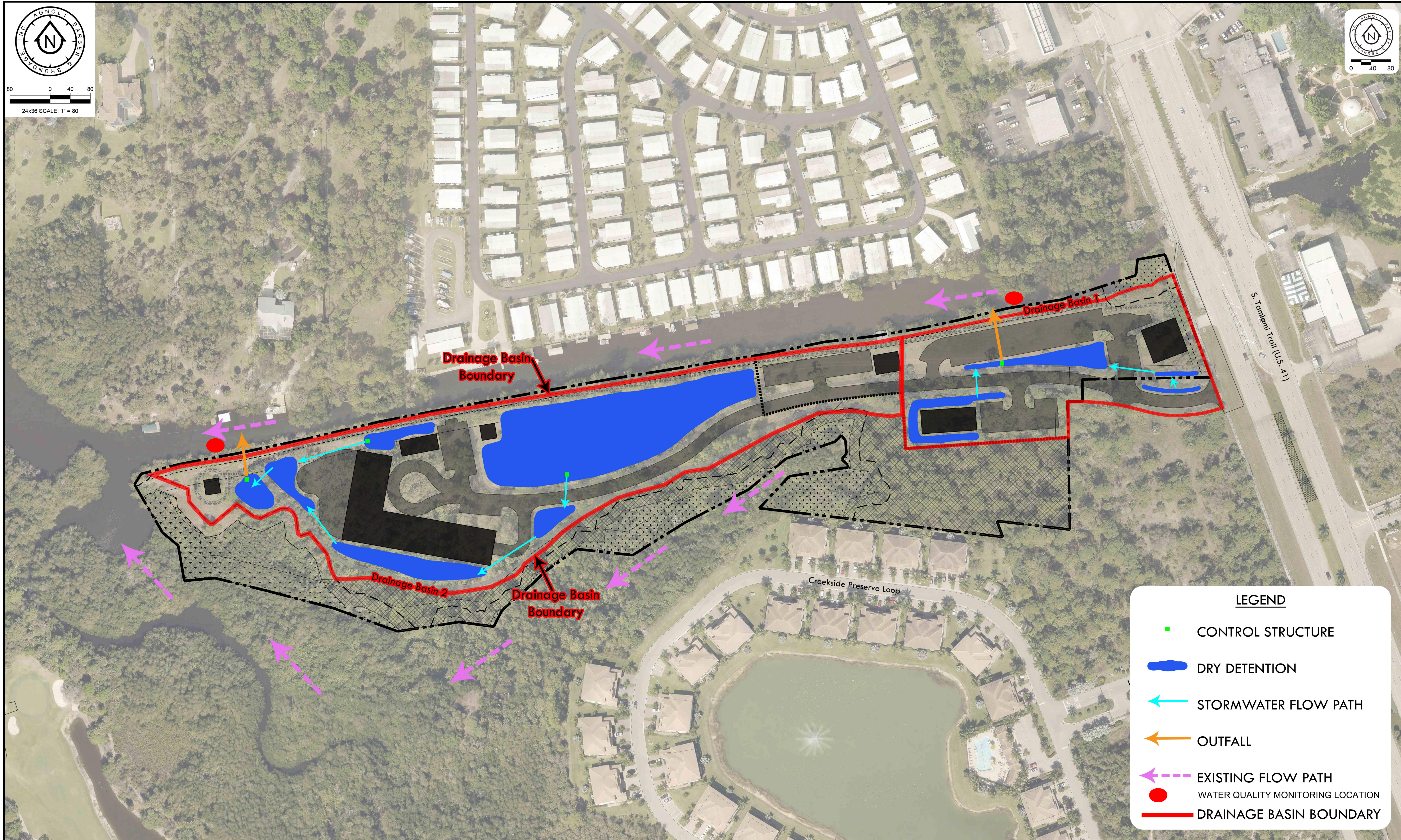
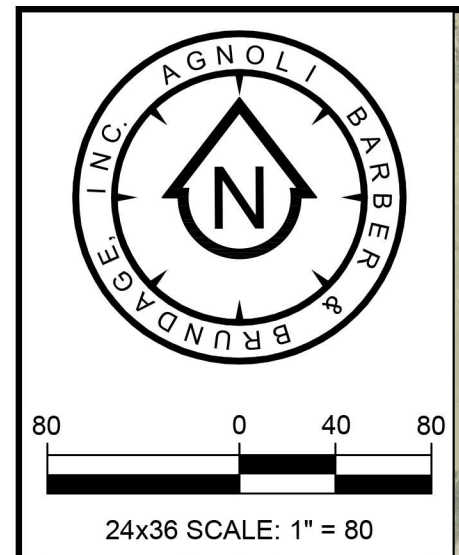
The project is a total of 15.75 acres with only a portion of that within the controlled water management system boundary. The drainage system boundary incorporates a total of 11.4 +/- acres, of which 0.38 acres is offsite in an Access Easement and Drainage Easement that covers a shared entry with the property to our south. . The drainage system will be designed, permitted, and developed in compliance with SFWMD, FDEP, and Lee County rules and regulations. The system will be divided into two separate basins that can be developed individually. The eastern system (Basin 1) will treat and attenuate the rainfall runoff from the eastern part of the commercial development and the shared entry access drive and any compensating treatment that may be required for any offsite turn lane improvements. The second system will treat and attenuate the runoff from the residential component and the western commercial component of the development. Basin 1 will discharge to Mullock Creek at the west end of the basin limits and basin 2 will discharge to Mullock Creek at the west end of the site as depicted on the Conceptual Drainage Plan. Mullock Creek is a manmade canal where it abuts our site and is a natural flowway to the west of our site. Mullock Creek at this location accepts the runoff from San Carlos Park and flows westerly to intersect with 10 Mile Canal before the combined flow goes southwest to Estero Bay.

The SFWMD ERP permit will be the legal mechanism that will ensure the proper maintenance of the water management system. Hydraulic conductivity tests will be performed on the existing site to ensure that the retention areas will percolate, and those rates will be incorporated into the stormwater model. The existing site is made up of fine sand and is the ideal location for a dry retention water management system.

There are 1.76 acres of delineated wetlands on-site. These wetland JD lines have been established and agreed to by SFWMD. In addition to the wetlands that will be preserved, the project will also set aside 2.99 +/- acres of upland in proximity to the wetlands and around the pine tree that contains the partial eagle nest on the property.. The mean high-water line was located and is at elevation 0.29' NAVD. Given that this property is abutting a tidal creek that directly outfalls into Estero Bay it is assumed that there will be very little water table fluctuation. The control elevation will match the existing high-water elevation.

From a preliminary water management standpoint, the total property is 15.75 acres, the drainage basin will be around 11.4 acres. Assuming 1" over impervious with an additional 50%, the site will require approximately 1.5 ac-ft of storage. The 11.4 ac drainage system includes 0.38 ac of offsite property covered by the Cross Access Agreement with the property owner (J. E. M. Reality Trust, INSTR #2021000136725)

The FEMA flood elevation is AE10, at BFE +1, the finished floors will be set at 11.0' NAVD. Parking will be located below the residential floors and will be around elevation 4.0' +/- depending on the peak stages of the 5 year, 24 hour design event. The property is in the Mullock Creek floodway and if analysis determines that the site is an importer, the compensating storage will be accommodated by the excavated retention areas. The roadways will all be at or above the 5-year, 24 hour peak stage elevations and building floors at BFE+1 to reduce the potential for flooding.



LEGEND

- CONTROL STRUCTURE
- DRY DETENTION
- STORMWATER FLOW PATH
- OUTFALL
- - - EXISTING FLOW PATH
- WATER QUALITY MONITORING LOCATION
- DRAINAGE BASIN BOUNDARY

Water Quality Monitoring Plan

1: Background

The Nest is located within the San Carlos Planning Community of the Lee Plan and is currently zoned as Agricultural (AG-2). It is in the process of a rezone to a 96 unit RPD combined with 10,000 SF of commercial in a CPD. The property is currently used as an agriculture pasture, and it is unimproved. The proposed drainage system will have two points of discharge to Mullock Creek.

The project is a total of 15.75 acres with only a portion of that within the controlled water management system boundary. The drainage system boundary incorporates a total of 11.4 +/- acres, of which 0.38 acres is offsite in an Access Easement and Drainage Easement that covers a shared entry with the property to our south. The drainage system will be designed, permitted, and developed in compliance with SFWMD, FDEP, and Lee County rules and regulations. The system will be divided into two separate basins that can be developed individually. The eastern system (Basin 1) will treat and attenuate the rainfall runoff from the eastern part of the commercial development and the shared entry access drive and any compensating treatment that may be required for any offsite turn lane improvements. The second system will treat and attenuate the runoff from the residential component and the western commercial component of the development. Basin 1 will discharge to Mullock Creek at the west end of the basin limits and basin 2 will discharge to Mullock Creek at the west end of the site as depicted on the Conceptual Drainage Plan. Mullock Creek is a manmade canal where it abuts our site and is a natural flow way to the west of our site. Mullock Creek at this location accepts the runoff from San Carlos Park and flows westerly to intersect with 10 Mile Canal before the combined flow goes southwest to Estero Bay.

2: Project Goals

This development will follow all of the required criteria of the SFWMD, including a pre vs post water quality analysis, a 25 year 3 day storm site storage design and also 1" over the entire site for water quality. This project will result in no water quality degradation of the contiguous Mullock Creek waterbody.

3: Implementation

Testing will be conducted three times annually (June, August, October) to test for the following parameters:

- Water Temperature
- Total Kjeldahl Nitrogen (TKN)
- Total Nitrogen
- Chlorophyll A
- Nitrite
- Nitrate
- Phosphorus
- Turbidity
- Stage
- Dissolved Oxygen (DO), (mg/L)
- DO, (%)

- pH
- Salinity
- Specific Conductance
- Enterococci
- Iron

Background sampling will occur immediately upstream of the eastern control structure discharge location to determine the existing conditions. Water quality testing for the above parameters will also be collected immediately downstream of the western control structure to determine if any of the parameters have been materially altered by the discharge from the project. If the downstream samples exceed the upstream background values two times in any one year, additional Best Management Practices (BMP's) will be incorporated to address the parameters that exceed background values. The specific BMP to be utilized will be determined by the parameter that is exceeded and the best available technology at the time. Some examples of BMP's include drop in baskets to collect sediments and/or hydrocarbons, baffle boxes to collect sediments, customized fertilizer plans to reduce nitrogen and phosphorous, and harvesting of grass clippings in the dry retention areas to collect the organic matter.

