

Summary of Hearing Examiner Recommendation

CALUSA CAY CPD

DCI2022-00017

(By Banks Engineering)

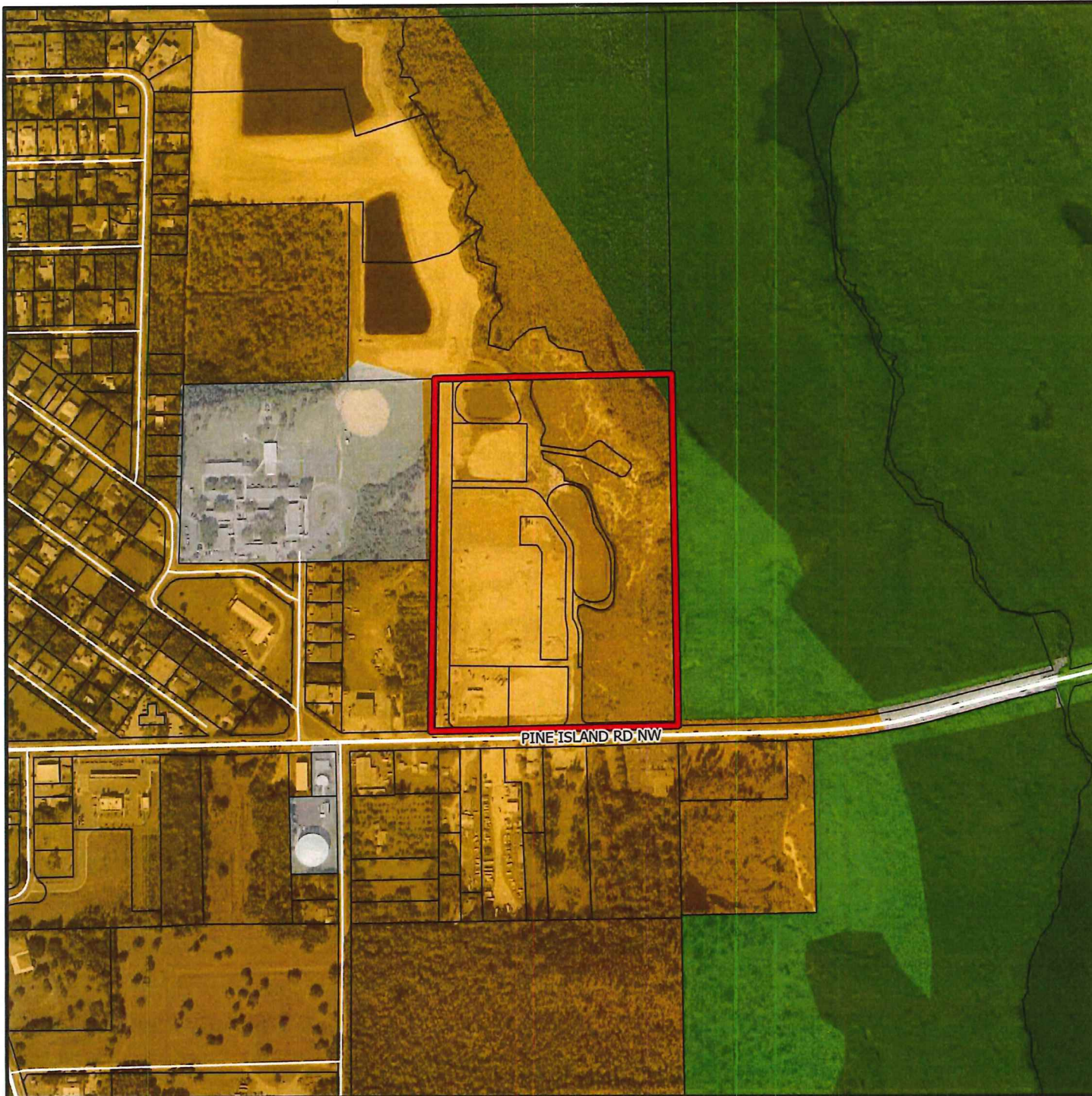
Request:

Amend an existing Commercial Planned Development (CPD) to modify the Schedule of Uses to add EMS, Fire, or Sheriff's Station and Warehouse, public and mini-warehouse; reduce the retail square footage from 96,500 square feet to 89,600 square feet; add 60,000 square feet of self-storage use; increase the height on Parcel 3 for self-storage from 35 feet to 38 feet above average grade or 45 feet above mean sea level, whichever is lower; and update the Master Concept Plan

Hearing Examiner Remarks

Applicant seeks to add a sheriff's station to the Retail Tract and self-storage to Parcel 3. Both uses serve island residents consistent with Lee Plan directives. The requested height increase remains consistent with the LDC.

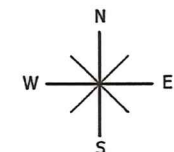
Detailed recommendation follows



DCI2022-00017

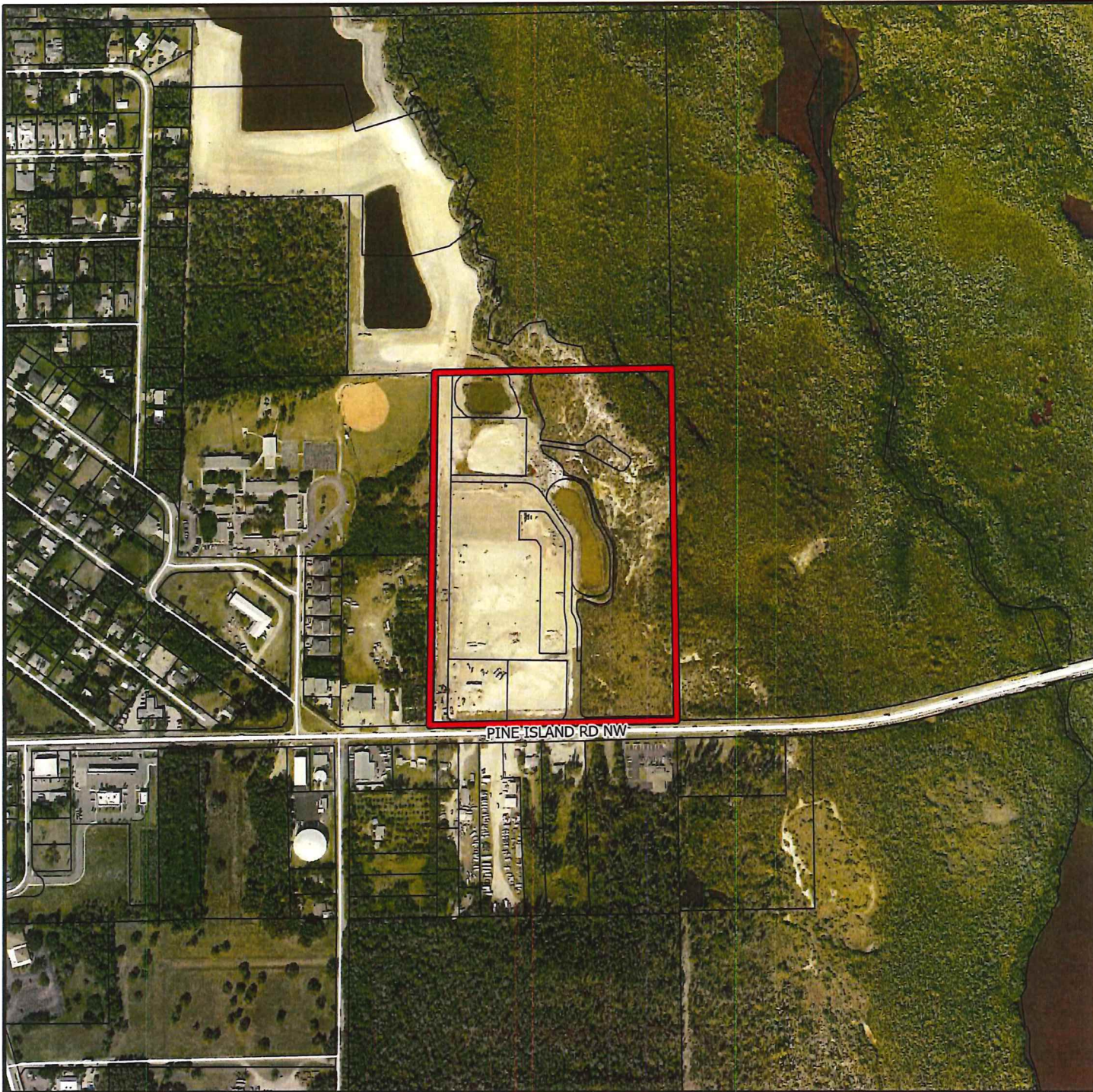
Future Land Use

-  Subject Property
-  Urban Community
-  Public Facilities
-  Conservation Lands - Upland
-  Wetlands
-  Conservation Lands - Wetland



0 500 1,000
Feet

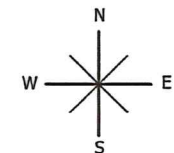




DCI2022-00017

Aerial

 Subject Property



0 500 1,000
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2022-00017

Regarding: **CALUSA CAY CPD**

Location: 5100 Pine Island Road

Pine Island Planning Community
(District 1)

Hearing Date: August 31, 2022

I. Request

Amend the Calusa Cay Commercial Planned Development (CPD) to:

- Modify the Schedule of Uses
 - Add EMS, Fire, or Sheriff's Station, limited to Sheriff's Station in the Retail Tract; and
 - Add warehouse (public and mini-warehouse) to Parcel 3;
- Reduce retail square footage from 96,500 square feet to 89,600 square feet;
- Add 60,000 square feet of self-storage use within Parcel 3;
- Increase the height on Parcel 3 for self-storage use from 35 feet to 38 feet above average grade or 45 feet above mean sea level, whichever is lower; and
- Update the Master Concept Plan.

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

II. Hearing Examiner Recommendation

Approval, subject to the conditions and deviations set forth in Exhibit B.

III. Discussion

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

¹ LDC 34-145(d)(1)(a) & (2)(a).

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.² Specifically, the Hearing Examiner must find the request is compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources, and urban services.³ The Hearing Examiner's recommendation must be based on competent and substantial evidence.⁴

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

Synopsis of Request

The request adds two uses to an approved CPD in the Pine Island Planning Community. The 26.77± acre property is located north of Pine Island Road, east of the Stringfellow Road intersection. Publix anchors the site with a liquor store under construction.

The Board first approved 96,500 square feet of commercial use for the CPD in 2013.⁵ The site plan distributed development among a retail tract and two outparcels. Subsequent amendments modified the development plan to add an outparcel and liquor store without increasing project intensity.⁶

Applicant seeks to add a sheriff's station and warehouse/mini-storage facility. The request reduces retail square footage but increases project intensity and height to accommodate the self-storage building.⁷ Proposed changes mostly affect Parcel 3 in the project's northwestern corner.



² LDC §34-145(d)(3).

³ LDC §34-145(d)(4).

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

⁵ Z-13-007.

⁶ See Z-21-015 (Staff Report Attachment H).

⁷ Request reduces retail use from 96,500 to 89,600 square feet and adds 60,000 square feet storage.

Zoning Review Criteria

Before recommending approval for rezoning to the Board, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC and other applicable County regulations, or qualifies for deviations;
- C. Is compatible with existing and planned uses in the surrounding area;
- D. Will provide access sufficient to support the proposed development intensity;
- E. The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- F. Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- G. Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.⁸

If the request involves planned development zoning, such as amending a CPD, the Hearing Examiner must also find:

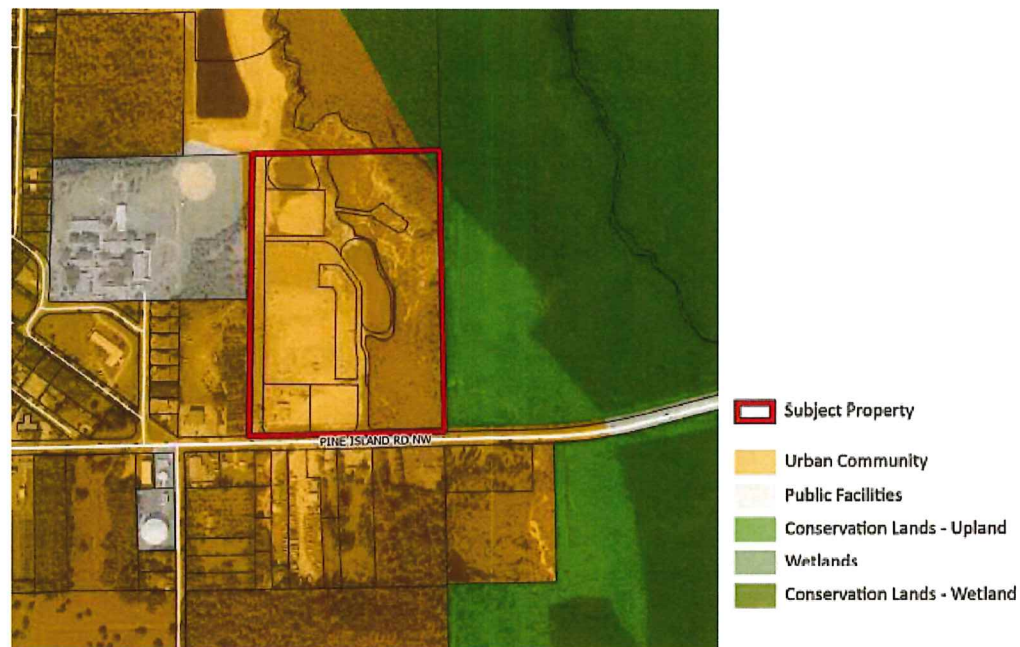
- H. The proposed use or mix of uses is appropriate at the proposed location;
- I. The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and
- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.⁹

⁸ See LDC §34-145(d)(4)(a)(1).

⁹ See LDC §34-145(d)(4)(a)(2).

Lee Plan Consistency and Compatibility

Planned developments must be consistent with the Lee Plan.¹⁰ Rezoning requests must be compatible with existing or planned uses in the surrounding area.¹¹



Lee Plan maps classify the property as Urban Community within the Pine Island Planning Community.¹² Urban Community areas have a distinctly urban character with relatively intense commercial and residential uses.¹³ The request enhances urban character by improving public safety and expanding self-storage opportunities, consistent with Urban Community directives.

The site is also located in the Pine Island Center.¹⁴ Commercial developments within the Center are encouraged to provide employment opportunities, serve residents' and visitors' daily needs, demonstrate a positive impact on island traffic patterns, and reduce the number of vehicular trips through Matlacha.¹⁵

The request to locate a Sheriff's station and self-storage facility within an established commercial plaza accomplishes each of these objectives. Placing a sheriff's station at this location protects the public health, safety, and welfare.¹⁶

¹⁰ LDC §34-411(a).

¹¹ LDC §34-145(d)(4)(a).

¹² Lee Plan Map 1; Staff Report (pg. 2, Attachment B).

¹³ Lee Plan Policy 1.1.4.

¹⁴ See Lee Plan Glossary.

¹⁵ Lee Plan Policy 24.4.1.

¹⁶ See Lee Plan Goal 24.

Locating a storage facility in the heart of the Pine Island Center enables residents to store belongings without leaving the island.¹⁷

The CPD limits height to 35 feet, which is more restrictive than the LDC allows.¹⁸ Accordingly, Applicant's requested height increase for the mini-storage building is taller than the CPD currently permits, but remains consistent with LDC standards.¹⁹ Applicant provided illustrations evidencing the mini-storage facility will complement existing development and meet Pine Island's enhanced design standards.²⁰

Urban Community lands surround the site to the north, west, and south.²¹ Conservation lands sit to the east.²² An array of residential, commercial, and institutional uses dominate the area's landscape.²³ The request is compatible with existing and planned uses in the surrounding area.²⁴

The Board previously found the CPD compatible with the surrounding area and in compliance with the Lee Plan.²⁵ The requested amendments remain consistent with these findings.

Transportation/Traffic

Planned developments must have access to roads with sufficient capacity to support proposed intensity.²⁶ Existing regulations or conditions of approval must address expected impacts on transportation facilities.²⁷

Pine Island Road is an arterial road intersecting Stringfellow Road west of the site. Prior Board approval authorized a single project access to Pine Island Road.²⁸ The single access point remains unchanged since original Board approval. Applicant provided adequate evidence to demonstrate the approved access is sufficient to support the proposed development.²⁹

¹⁷ See Lee Plan Policy 24.4.1.

¹⁸ See Z-21-015, LDC §33-1087.

¹⁹ The LDC provides the peak of roof of buildings/structures must not exceed 38 feet above average lot grade or 45 feet above mean sea level, whichever is lower. §34-1087. This is consistent with Applicant's request.

²⁰ See Applicant's Ex. 3; Staff Report (Attachment H); See *generally* LDC §33-1083.

²¹ See Staff Report (Attachment B). The exception is the school site, classified as Public Facilities. *Id.*

²² See Staff Report (pg. 2).

²³ See Staff Report (pg. 2, Attachment B).

²⁴ See LDC §34-145(d)(4)(a)(1)(c); Staff Report (pg. 2-4); Applicant's Ex. 1.

²⁵ Z-13-007; Z-21-015.

²⁶ LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

²⁷ LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

²⁸ See Z-21-015 (Staff Report Attachment H).

²⁹ LDC §34-145(d)(4)(a)(1)(d); Applicant's Ex. 2; See Staff Report (pg. 5).

Record evidence reflects the request produces less traffic than current approvals contemplate.³⁰

Site-related impacts will be evaluated during development order review.³¹

Environmental and Natural Resources

Rezoning requests cannot adversely affect environmentally critical or sensitive areas and natural resources.³²

The site is cleared. The CPD is subject to environmental conditions relating to buffer plantings and a Bald Eagle Management Plan.³³

The requested changes do not impact environmentally critical or sensitive areas.³⁴

Urban Services

Urban services are the facilities, capital improvements, and infrastructure necessary to support development.³⁵ The Lee Plan requires an evaluation of urban services during the rezoning process.³⁶

A host of urban services and infrastructure serve the property including roads, potable water, sanitary sewer, police, fire, and emergency medical services.³⁷

³⁰ See Staff Ex. 2; Staff Report (Attachment F); Applicant's Ex. 1 (slide 16); Testimony of Ted Treesh. The reduction is due to the exchange of retail square footage for mini-storage square footage. Retail uses generate much higher traffic than storage. Testimony of Ted Treesh.

³¹ Site related improvements include capital improvements and right-of-way dedications for "direct access" improvements to the project. Direct access improvements include site driveways and roads, median cuts, right-turn left-turn and deceleration/acceleration lanes, traffic control measures, and roads/intersection improvements whose primary purpose at the time of construction is to provide access to the development. See, Lee Plan Glossary and LDC §2-264; Lee Plan Objective 39.1, Policy 39.1.1. LDC §2-66 *et. seq.*

³² See LDC §34-145(d)(4)a1(e).

³³ See Conditions 9-13; Staff Report (Attachment J).

³⁴ See Applicant's Ex. A (48-Hour Memorandum with Exhibits); Staff Report (Attachment J).

³⁵ Lee Plan Glossary; Public services include; public water and sewer, paved streets/roads, public transit, parks and recreation facilities, urban levels of police, fire and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries, and community centers.

³⁶ Lee Plan Policy 2.2.1.

³⁷ See Staff Report (pg. 2); Applicant's Ex. 2.

Deviations

“Deviations” are departures from land development regulations.³⁸ The CPD has nine approved deviations.³⁹ The request seeks one new deviation. Staff supports the deviations with conditions.⁴⁰

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

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

The requested deviation seeks relief from Pine Island building size limitations.⁴¹ Commercial buildings are limited to 10,000 square feet, with the ability to deviate if design minimizes appearance of a large box structure.⁴² The proposed mini-storage building exceeds the size limitation; however, Applicant provided sufficient evidence demonstrating the design meets the CPD's existing architectural theme.⁴³

Applying LDC standards of review for deviations to the testimony and evidence in the record, leads to the conclusion that the requested deviations meet approval criteria.⁴⁴

Conditions

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to the impacts anticipated from proposed development and must be pertinent to mitigation of those impacts on public health, safety, and welfare.⁴⁵

The CPD is subject to several conditions of approval. The conditions relate to impacts anticipated from the project.⁴⁶ The Hearing Examiner recommends:

1. Revisions to conditions to improve clarity; and

³⁸ LDC §34-2.

³⁹ See Z-21-015. Deviations are enumerated 1-7, including 6(a)-(c). This results in nine total deviations, although numbered 1-7.

⁴⁰ See Staff Report (pg. 3-4, Attachment C).

⁴¹ LDC §33-1083(c).

⁴² *Id.*

⁴³ See Applicant's Ex. 3; Testimony of Stacy Hewitt.

⁴⁴ LDC §34-377(a)(4).

⁴⁵ LDC §34-932(b).

⁴⁶ LDC §34-83(b)(4)a.3.

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

Public

Applicant held an informational meeting consistent with Pine Island Planning Community requirements.⁴⁷

One member of the public spoke at hearing to express concerns primarily related to height and project intensification.⁴⁸ Applicant provided competent substantial evidence to address the concerns.⁴⁹

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation that the requested CPD amendment meets LDC approval criteria.

IV. Findings and Conclusions

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

- A. As conditioned herein, the proposed amendment to the Calusa Cay CPD:
 1. Complies with the Lee Plan. See, Lee Plan Goals 2, 4, 6, 24, Objectives 2.1, 2.2, 5.1, and Policies 1.1.4, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 6.1.4, 24.4.1; Lee Plan Maps 1A, 1B.
 2. Complies with the LDC and other County regulations. See, LDC Chapters 10, 33, and 34.
 3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.4, 2.1.1, 2.1.2, 2.2.1, 5.1.5; LDC §34-411(c), (i), and (j).
 4. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goal 77, LDC §34-411(h).
 5. Provides sufficient access to support the proposed development intensity, with expected impacts on transportation facilities addressed by existing County regulations or conditions of approval. See Lee Plan Policy 6.1.5.

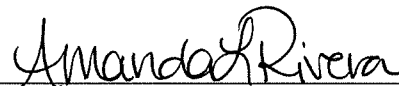
⁴⁷ See LDC §33-1003; Staff Report (pg. 6, Attachment G). The meeting was held on May 3, 2022.

⁴⁸ See Swisher Composite Ex. 1.

⁴⁹ See Staff Report (Attachment F); Applicant's Ex. 3; Testimony of Stacy Hewitt.

6. Will be served by urban services. See, Lee Plan Glossary, Maps 6, 7, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policy 2.2.1, and Standards 4.1.1 and 4.1.2; LDC §34-411(d).
- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC §34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.4, 2.1.1, and 6.1.4.
- D. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, Lee Plan Policies 5.1.5, 6.1.4; See *also*, LDC Chapters 10, 33, and 34.
- E. As conditioned herein, the deviations:
 1. Enhance the objectives of the planned development; and
 2. Promote the intent of the LDC to protect the public health, safety, and welfare. See, §34-377(b)(4).

Date of Recommendation: October 25, 2022.



Amanda L. Rivera
Deputy Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

LEGAL DESCRIPTION

DCI2022-00017 – Calusa Cay CPD - Overall

August 2022

TRACTS "A" (ROADWAY TRACT), "B-1" (COMMON AREA TRACT), "BT-1" (BUFFER TRACT), "F-1" (OUTPARCEL 1), "F-2" (OUTPARCEL 2), "F-3" (OUTPARCEL 3), "F-4" (PUBLIX TRACT), "F-5" (RETAIL TRACT), "L-1" (STORMWATER POND 1), "L-2" (STORMWATER POND 2), AND "P-1" (PRESERVE TRACT), CALUSA CAY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NUMBER 2022000058182 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

STRAP NUMBERS:

28-44-22-L2-120A0.00CE – Tract A

28-44-22-L2-120B1.00CE – Tract B-1

28-44-22-L2-12BT1.00CE – Tract BT-1

28-44-22-L2-12000.0F10 – Tract F-1

28-44-22-L2-12000.0F20 – Tract F-2

28-44-22-L2-12000.0F30 – Tract F-3

28-44-22-L2-12000.0F40 – Tract F-4

28-44-22-L2-12000.0F50 – Tract F-5

28-44-22-L2-120L1.00CE – Tract L-1

28-44-22-L2-120L2.00CE – Tract L-2

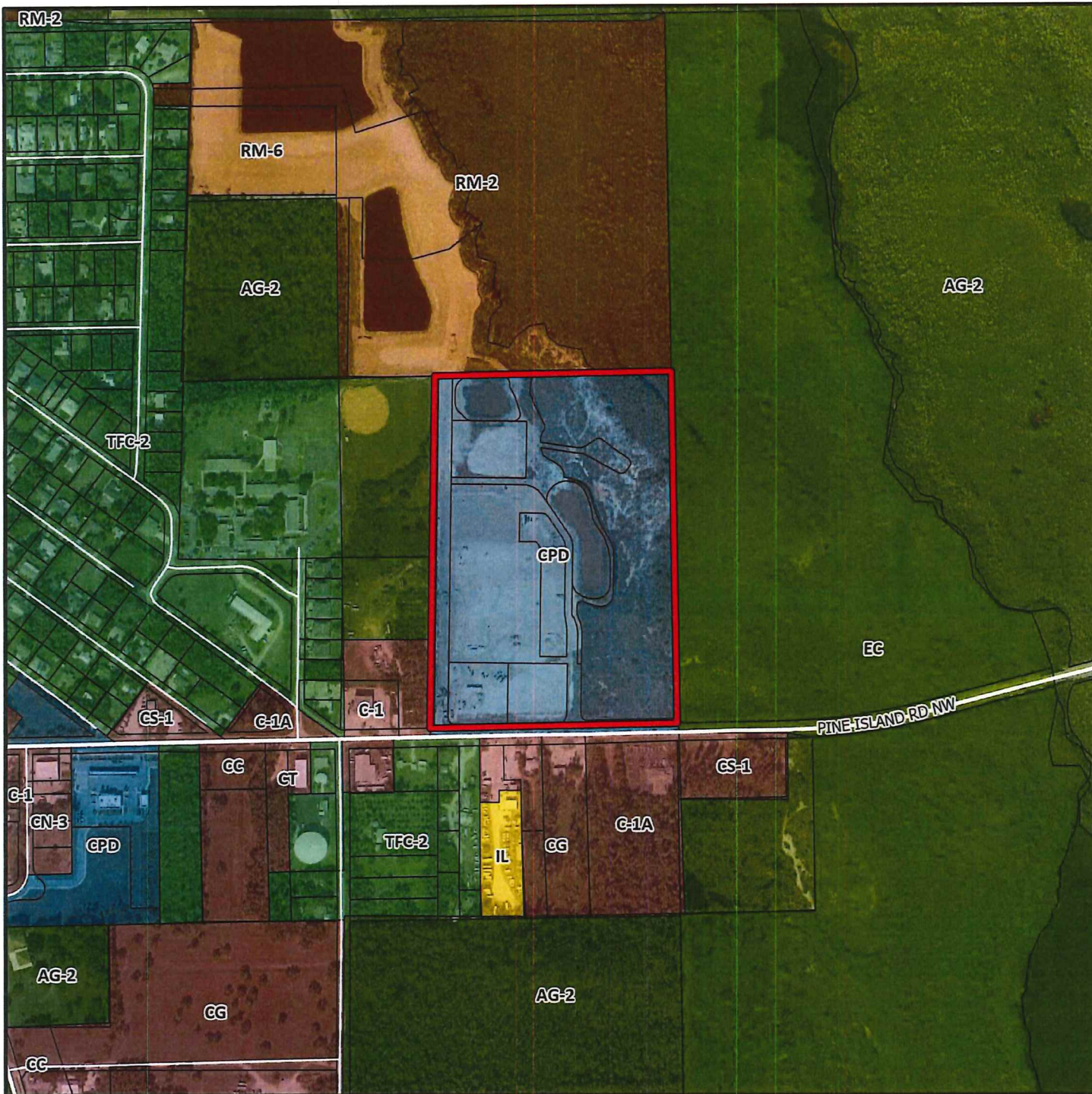
28-44-22-L2-120P1.00CE – Tract P-1

REVIEWED
DCI2022-00017
Hunter Searson, GIS
Planner
Lee County Government
8/15/2022

LEGAL DESCRIPTION

DCI2022-00017 – Revised May 2022

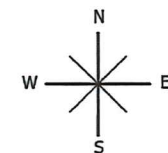
TRACT "F-3" (OUTPARCEL 3) AND TRACT "F-5" (RETAIL TRACT), CALUSA CAY,
ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NUMBER
2022000058182 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.



DCI2022-00017

Zoning

 Subject Property



0 500 1,000
Feet



Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

All references to uses are as defined or listed in the Lee County Land Development Code (LDC). This zoning action codifies and supersedes Resolution Z-13-007, ADD2020-00020, ADD2021-00051 and Z-21-015.

1. **Master Concept Plan (MCP) and Development Intensity**

- a) MCP. Development must be substantially consistent with the one-page Master Concept Plan (MCP) entitled "Calusa Cay CPD," prepared by Banks Engineering, last revision date 8/25/22 (Exhibit B2), except where modified by the conditions below.
- b) Lee Plan and LDC. Development must comply with the LDC and Lee Plan at the time of local development order approval, except where deviations are approved herein. Subsequent amendments to this zoning resolution and MCP may be subject to further development approvals.
- c) Development Parameters. The CPD is limited to a maximum floor area of 149,600 square feet, including commercial office, retail and self-storage as follows:
 - i.) The anchor grocery/retail tract buildings are limited to a maximum of 59,600 square feet;
 - ii) Outparcels 1, 2, and 3 are limited to a maximum 30,000 square feet of commercial square feet. Parcel 3 may alternatively be developed with maximum 60,000 square feet of self-storage use.

2. **Uses and Site Development Regulations**

a) Schedule of Uses

Accessory Uses and Structures
Administrative Offices
Animals: Clinic or Kennel (no outdoor runs)
ATM (automatic teller machine)
Auto Parts Store
Bait and Tackle Shop
Banks and Financial Establishments, Group I
Boats: Boat Parts Store
Business Services, Group I
Car Wash (limited to 1 for the CPD, and must be on an outparcel)
Cleaning and Maintenance Services

Clothing Stores, General
Computer and Data Processing Services
Consumption on Premises: Indoor only in conjunction with a Group III Restaurant, restricted to a 4-COP-SRX license (See Condition 17).
Outdoor consumption on premises requires a public hearing amendment to the planned development.
Contractors and Builders, Group I
Convenience Food and Beverage Store (limited to 1 for the CPD and must be on an outparcel) (See Self-Service Fuel Pumps)
Day Care Center: Child, Adult
Drive-Through Facility for any permitted use (except Group III Restaurants)
Drugstore, Pharmacy
EMS, Fire, or Sheriff's Station (limited to Sheriff's Station on Retail Tract)
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities, Group I only
Excavation: Water Retention, no blasting (does not include removal of excavated material from site)
Fences, Walls
Food and Beverage Service Food
Stores: Groups I and II
Gift and Souvenir Shop Hardware Store
Laundry and Dry Cleaning, Group I
Lawn and Garden Supply Stores (no outdoor display or storage)
Non-store Retailers, All Groups
Package Store, Limited to one within the CPD
Paint, Glass and Wallpaper (no outdoor display or storage)
Parcel and Express Services
Parking Lot: Accessory, Temporary
Personal Services, Groups I, II and III (excluding massage parlors)
Pet Services (no outdoor runs)
Pet Shop (no outdoor runs)
Post Office
Printing and Publishing
Real Estate Sales Office
Repair Shops, Groups I and II (excluding gunsmiths)
Restaurant, Fast Food (limited to the multi-occupancy plaza and 1 stand-alone fast food restaurant limited to an outparcel)
Restaurant: Groups I, II and III (Group III restaurants limited to a maximum of one on the anchor parcel and one on the outparcels, with no drive-through)
Retail and Wholesale Sales, when clearly incidental and subordinate to a principal permitted use on the same premises
Schools: Commercial
Self Service Fuel Pumps, only in conjunction with Convenience Food and Beverage Store only, 12 pumps maximum
Signs

Social Services - Groups I and II
Specialty Retail Shops, Groups I, II, III and IV (excluding ammunition, firearms, hunters equipment, tobacco stores. Groups I and II uses limited to three establishments in the anchor parcel, with a maximum of 1,500 square feet of floor area for each of the three uses)
Storage, indoor only
Studios
Temporary Uses
Used Merchandise Stores, Groups I and II (no outdoor storage/display)
Variety Store
Warehouse: Mini or Public (limited to Parcel 3)

b) Site Development Regulations:

Minimum Lot Area and Dimensions

Lot Size: 10,000 square feet Lot
Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks*

Public Street: 25 feet
Private Street 20 feet
Side: 10 feet
Rear: 15 feet
Water body 20 feet
Preserve 25 feet

Maximum Lot Coverage: 40 percent**

Building/Structure Height: 35 feet ***

Accessory use and structure setbacks must comply with LDC §34-1171 *et seq.* and LDC §34-2194.

* Setbacks for the "Retail Tract" may be reduced as shown on the Master Concept Plan. No setback is required for the Grocery building from the Retail Tract.

**Maximum Lot Coverage requirement does not apply to the Retail tract.

***Buildings/structures must also comply with building height restrictions on Pine Island per LDC §33-1087. Self-storage use on Outparcel 3 is limited to 38-feet above average grade or 45 feet above mean sea level, whichever is lower.

3. **Water and Sewer**

The property must connect to public potable water service and public sanitary sewer service. At time of local development order, Developer must demonstrate adequate water and sewer capacity for the proposed level of development. No on-site well systems or septic tanks permitted for potable water or sanitary sewer service.

4. **Accessory Uses**

Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel on which it is located.

5. **Solid Waste/Recycling**

Development order plans must include facilities consistent with LDC §10-261 and Solid Waste Ordinance 11-27 for the pick-up/disposal of solid waste and recyclables. The minimum area required and specific locations of these facilities will be reviewed at the time of local development order application.

6. **Sidewalks**

An internal sidewalk system no less than 5 feet in width must be built on at least one side of every road within the CPD. Internal sidewalks must be interconnected. When deemed appropriate, the Community Development Director may approve an alternate sidewalk system.

7. **Design Standards**

- a. Commercial buildings/structures must comply with commercial building design standards in LDC §33-1083 and Chapter 10, Article IV. The anchor parcel must include a minimum of two breezeways to break up the building's appearance. The anchor parcel must be developed as a multi-use commercial facility, such as a grocery store and other complementary commercial office and retail uses as permitted. No single-use or "big-box" retail development (more than 50,000 square feet in floor area) permitted on the anchor parcel.
- b. Commercial signage and building design must be consistent with the multi-use building design on the anchor parcel. A proposed sign plan must be submitted with development orders for vertical construction. (See Deviations 6a-c and the signage plan, Exhibit B2)
- c. Development orders for vertical construction must comply with the "Community Review" requirements (LDC §33-1003). Developer must

include architectural elevations for proposed buildings and commercial signage consistent with this resolution and the LDC.

8. **Sidewalk/Bike Path – Pine Island Road**

Developer must evaluate the feasibility of a sidewalk/bicycle path from the site to Avenue C to connect to the bicycle path on Stringfellow Road for non-vehicular traffic. Should construction of the pathway be considered feasible by the Director of Development Services, Developer must construct the pathway prior to issuance of a Certificate of Compliance for anchor parcel development. Should the improvement be deemed infeasible, a fee in lieu of pathway construction must be provided consistent with LDC §10-256.

9. **Bald Eagle Management Plan**

- a. Development order plans must illustrate compliance with the Calusa Cay CPD Bald Eagle Nest LE-081 Management Plan, revised November 2012 (Exhibit B3).
- b. Development order phasing plans must indicate turn lane construction for the easternmost access off Pine Island Road will occur outside bald eagle nesting season (May 16th-September 30th).

10. **Open Space**

The CPD must provide a minimum of 12.4 acres of open space in substantial compliance with the MCP.

11. **Preserve and Mitigation Areas**

- a. Development order plans must depict a minimum 10.55 acres of preserve and mitigation area in substantial compliance with the MCP. The preserve/mitigation area includes 2.65 acres of indigenous preserve, 5.74 acres of enhanced indigenous wetlands, and 0.08 acre shallow filter marsh.
- b. Developer must provide an indigenous management plan for the 10.55 acres of preserve and mitigation areas.

12. **Northern Buffer/Screening**

Landscape plans must illustrate mitigation plantings provided to meet the Type F buffer requirement along the north property line must be upsized to 10-foot in height tree/shrubs, 48-inch height at installation, maintained at minimum 60-inch continuous visual screen within one year after time of planting.

13. **Southern Buffer**

Landscape plans must depict the southern property line to provide buffers per the Bald Eagle Management Plan IV. General Development Guidelines B. 3. & 4. South property line buffers must be installed immediately after permitted clearing/grading construction activities and prior to October 1st of the next bald eagle nesting season.

14. **Consumption on Premises (COP)**

COP is allowed only within a Group III restaurant with a 4-COP-SRX liquor license. At least 51 percent of the restaurant's revenue must come from food sales, with no more than 49 percent of the revenue from alcoholic beverage sales.

15. **Retail/Grocery Tract**

- a. Retail Tract Parking, open space, water management, and all other required infrastructure for the Retail Tract must be provided on the Grocery Tract.
- b. The Retail Tract cannot be developed before the Grocery Tract.

16. **Signage**

- a. Monument Signs A, B, and C must be in substantial compliance with the Signage Plans (Exhibit B2).
- b. Offsite signage is limited to one 9.4 square foot tenant panel affixed to Monument Sign C to identify the proposed residential community north and adjacent to the shopping center.
- c. Signage within the Retail Tract identified on the MCP is limited to wall-mounted signs and temporary signs in accordance with the LDC.
- d. Outparcels 1 and 2 may be developed with individual ground-mounted identification signs in accordance with LDC §33-1043 for future tenants of each respective parcel. A subsequent approval is required should Future Parcels 1 and 2 propose future ground-mounted signage greater than the limitations imposed by LDC §33-1043.

17. **Package Store**

The package store cannot be located closer than 319 feet from the property line and located as depicted on the MCP.

DEVIATIONS

1. Connection Separation. Deviation (1) seeks relief from the LDC §10-285(a) requirement to provide connection separation along arterial roads a minimum distance of 660 feet, to allow connection separation distances of 0 feet (where distances of edge of pavement to edge of pavement overlap) and 87± feet along Pine Island Road for a previously approved access point and connection separation distances of 0 feet (where distances from edge of pavement to edge of pavement overlap) and 28± feet along Pine Island Road for a proposed secondary access.

HEX RECOMMENDATION: Approve, subject to the condition that the proposed project eastern driveway must be aligned with the driveway to the south of Pine Island Road per Development Order DOS2018-10050 to ensure smooth operation of turn movements at the driveway.

2. Floor Area. Deviation (2) seeks relief from the LDC §33-1083(c) requirement that new commercial buildings on Pine Island be limited to 10,000 square feet of floor area per building, to allow a 23,500-square-foot multi-use retail building and a 29,100-square-foot grocery store.

HEX RECOMMENDATION: Approve, subject to Condition 10.

3. Buffer. Deviation (3) seeks relief from the LDC §33-1082(a) requirement to provide land on Pine Island abutting state-designated aquatic preserves and associated wetlands and natural tributaries be preserved or a 50-foot-wide native vegetative buffer area to be created between the development and the water body or associated wetlands, to allow a modified buffer in accordance with Lee Plan Policy 14.1.5.

HEX RECOMMENDATION: Approve, subject to the condition that development order plans must illustrate the planting of the mitigation area consistent with the Calusa Cay CPD Lee County Wetland Enhancement and Creation Plan, dated Revised April 2020 (Exhibit B4).

4. Roadway Buffer. Deviation (4) seeks relief from the LDC §10-416(d)(3) requirement that commercial developments provide a minimum 15-foot Type "D" buffer where the project abuts a road right-of-way, to allow no roadway buffer along the property's easterly 366 feet of frontage on Pine Island Road, shown on the MCP as a preserve area and a mitigation planting area.

HEX RECOMMENDATION: Approved, subject to the condition that development order plans must depict the south property line between the preserve/mitigation area and Pine Island Road to be planted with a minimum of 10 trees and palms per 100 linear feet. Trees must be a minimum 10-foot-high slash pine (*Pinus elliottii* var. *densa*) and Green Buttonwood (*Conocarpus*

erectus) or other appropriate species such as clusters of cabbage palms (Sabal palmetto) at staggered heights having a minimum of 10-foot clear trunk when measured from final grade of Pine Island Road. These trees must be installed immediately after any permitted clearing and grading construction activities and prior to October 1st of the next bald eagle nesting season. Trees and palms planted within the mitigation area along Pine Island Road may be used to meet this requirement, so long as they meet the timing, species and size specifications.

5. Internal Circulation. Deviation (5) seeks relief from the LDC Section 10-291(2) requirement that all developments must abut and have access to a public or private street designed, and constructed or improved, to meet the standards in LDC § 10-296, to allow the proposed Retail Tract to utilize internal vehicular circulation without abutting a street.

HEX RECOMMENDATION: Approve

6. Outparcel Signage. Deviation (6a) seeks relief from LDC 30-153(3) requirement which allows 2 ground-mounted identification signs for an establishment having frontage on more than one public right of way (one primary and one 24 square-foot secondary), to allow one additional ground mounted sign on each of outparcels 1 and 2, identifying the overall development (Shoppes at Calusa Cay).

HEX RECOMMENDATION: Approve

7. Monument Sign. Deviation (6b) seeks relief from §33-1044 requirement which establishes a maximum ground-mounted identification sign area of 48 square feet, 12 feet in height and 12 feet in width for individual businesses and multiple-occupancy complexes with five or less establishments in the Pine Island Planning Community, to allow 136.14 square feet in sign area, 16 feet in height and 14 feet 8 inches in width for the project pylon ground-mounted signs identifying the overall development (Monument Signs B and C), and to allow 54.90 square feet of sign area for Monument Sign A.

HEX RECOMMENDATION: Approve

8. Off-site Sign. Deviation (6c) seeks relief from LDC §30-181(a) requirement which requires off-site directional signs for residential projects to be non-illuminated, to allow an illuminated 9.4 square-foot tenant panel affixed to Pylon Sign C.

HEX RECOMMENDATION: Approve

9. Package Store. Deviation (7) seeks relief from the LDC §34- 1263(e) requirement which requires a separation distance of 500 feet between a package store or other establishment primarily engaged in the retail sale of liquor for consumption off- site and noncommercial schools, to allow a package store to be located 319 feet from a noncommercial school.

HEX RECOMMENDATION: Approve

10. Self-Storage Building. Deviation (4) seeks relief from the LDC §33- 1083(c) requirement that new commercial buildings are limited to 10,000 square feet unless approved by variance/deviation, designed to minimize the appearance of a single large box/standard franchise design, to allow a 60,000 square foot mini-storage warehouse building on Parcel 3.

HEX RECOMMENDATION: Approve, subject to consistency with the CPD's existing architectural theme.

Exhibits to Conditions:

- B1 Master Concept Plan (dated 8/25/22)
- B2 Signage Plan
- B3 Bald Eagle Management Plan (dated November 2012)
- B4 Wetland Enhancement and Creation Plan (dated April 2020)

S:\JOBS\15XX\1565CAY-CALUSA CAY DOCUMENTS\ZONING\MASTER CONCEPT PLAN.DWG B/25/2022 12:12 PM JORGE SANCHEZ



0 150 300
GRAPHIC SCALE 1"=150'

LEGEND

- PRESERVED INDIGENOUS WETLAND (2.65 AC.)
- ENHANCED INDIGENOUS WETLAND (5.74 AC.)
- CREATED INDIGENOUS WETLAND (2.08 AC.)
- FILTER MARSH (0.08 AC.)
- TREE AND SHRUBS COUNTING AREA FOR MITIGATION PLANTINGS (7.82 AC.)
- POTENTIAL ADDITIONAL TREE AND SHRUB PLANTING AREA SEE INDIGENOUS MANAGEMENT PLAN FOR PLANTING AREA DETAIL

REQUESTED DEVIATION

CONCEPTUAL INGRESS/EGRESS LOCATION

SITE DATA

TOTAL SITE AREA: 26.77 ACRES
R.O.W. AND BUFFER TRACT: 1.98 ACRES
PROPOSED LAKE AREA: 1.34 ACRES
PRESERVE AREAS: 10.55 ACRES
COMMERCIAL FLOOR AREA: MAXIMUM 149,600 SF.¹
MAXIMUM BUILDING HEIGHT: 35 FEET²

¹ MAXIMUM 59,600 S.F. COMMERCIAL FOR GROCERY AND RETAIL TRACTS
MAXIMUM 30,000 S.F. COMMERCIAL FOR OUTPARCELS 1, 2 & 3^{*}
^{*} PARCEL 3 MAY ALTERNATIVELY BE DEVELOPED WITH MAXIMUM 60,000 S.F. SELF STORAGE

² SELF STORAGE USE ON PARCEL 3 MAXIMUM HEIGHT 38 FEET ABOVE AVERAGE GRADE OR 45 FEET ABOVE MEAN SEA LEVEL, WHICHEVER IS LOWER.

OPEN SPACE REQUIRED

26.77 ACRES X 30% = 8.03 ACRES

OPEN SPACE PROVIDED

OUTPARCELS (10%) 0.36 ACRES
SHOPPING CENTER 12.93 ACRES
TOTAL 13.29 ACRES

INDIGENOUS VEGETATION REQUIRED

8.03 ACRES X 50% = 4.02 ACRES

INDIGENOUS VEGETATION PROVIDED

SHALLOW FILTER MARSH 0.08 ACRES
ENHANCED INDIGENOUS WETLAND 5.74 ACRES
CREATED INDIGENOUS WETLAND 2.08 ACRES
PRESERVED INDIGENOUS WETLAND 2.65 ACRES
TOTAL 10.55 ACRES

NOTES:

- INGRESS AND EGRESS FOR OUTPARCELS IS DEPICTED FOR CONCEPTUAL PURPOSES ONLY. THE EXACT LOCATION OF THE OUTPARCEL ACCESS POINTS WILL BE DETERMINED IN ACCORDANCE WITH THE REQUIREMENTS OF LDC SECTION 10-285 DURING THE DEVELOPMENT ORDER PROCESS.
- INTERNAL BUFFERING WILL BE PROVIDED IN ACCORDANCE WITH THE REQUIREMENTS OF LDC SECTION 10-416 (D)3.
- NO PERIMETER BUFFERING IS PROPOSED WHERE THE PRESERVE AREA ADJUTS THE ADJACENT PROPERTIES TO THE NORTH AND EAST.
- ADDITIONAL BUFFERING FOR OUTPARCELS WILL BE PROVIDED IN ACCORDANCE WITH THE REQUIREMENTS OF LDC SECTIONS 34-1352 AND 34-1353, IF APPLICABLE.
- PARKING FOR THE OUTPARCELS WILL BE PROVIDED IN ACCORDANCE WITH THE REQUIREMENTS OF LDC SECTION 33-108X(G).
- THE PROPOSED DEVELOPMENT WILL PROVIDE THE REQUIRED FACILITIES FOR SOLID WASTE/RECYCLING STORAGE AND PICK UP IN COMPLIANCE WITH LDC SECTION 10-261.

DEED OF CONSERVATION EASEMENT (L.N. 2014000072997)

PRESERVE AREA

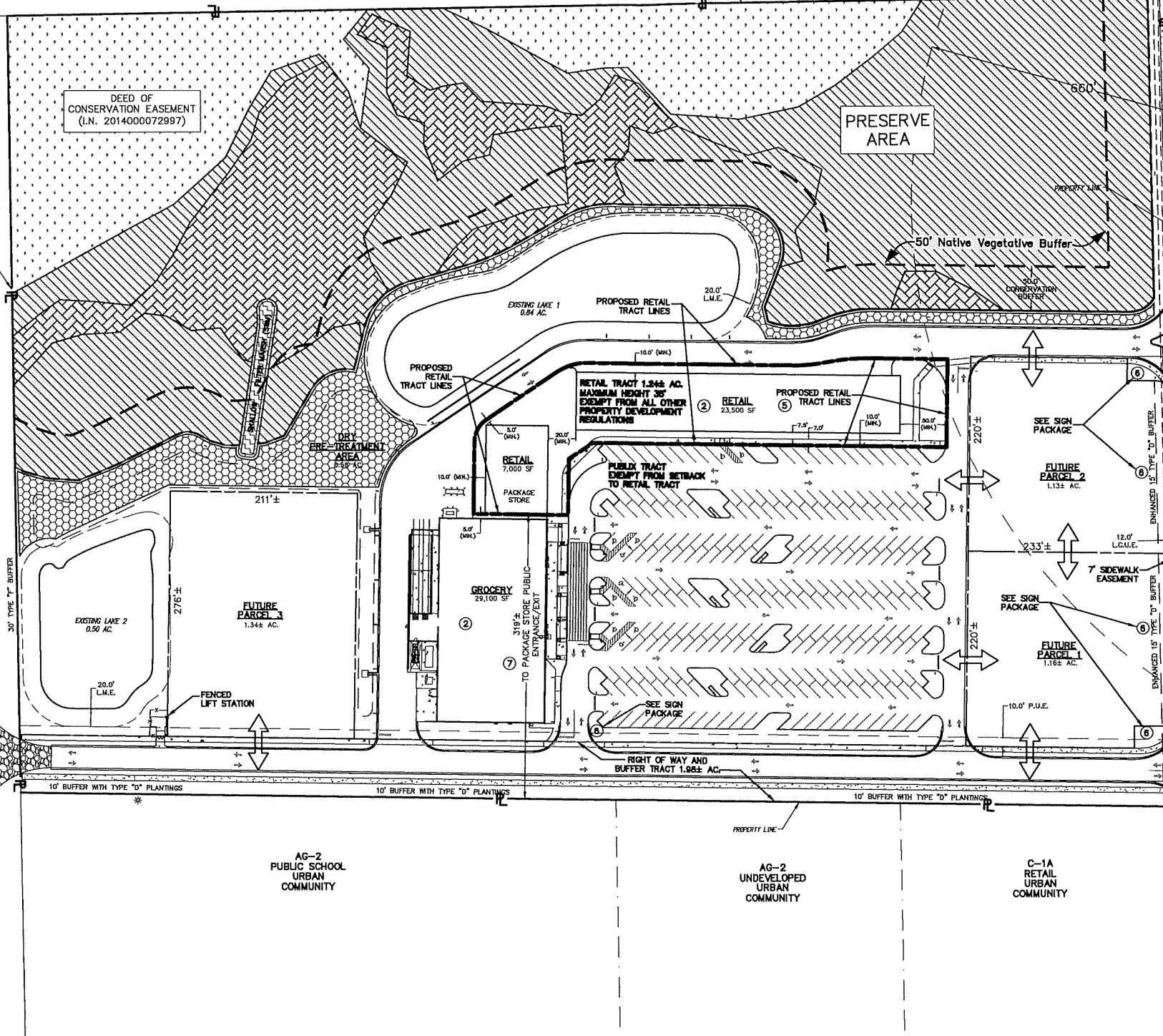


EXHIBIT B-1

PREPARED FOR:

LAKE JEFFERSON, LLC
3050 NORTH HORSESHOE DRIVE, SUITE 105
NAPLES, FL. 34104

NO.	DATE	REVISION DESCRIPTION	BY
8	8/25/2022	48-HOUR NOTICE	SEH
7	7/14/2022	POST-SUFFICIENCY SUBMITTAL SHOWING EAGLE NEST BUFFER	SEH
6	5/19/2022	DCI 2022-00017 SUFFICIENCY RESPONSE	SEH
5	3/17/2022	UPDATE SF. & PARCEL 3 HEIGHT	SEH
4	4/30/2021	REVISED PER COUNTY COMMENTS	SEH
3	4/1/2021	PACKAGE STORE SEPARATION DEVIATION	SEH
2	3/29/2021	ADD INTERNAL RETAIL TRACT LINES AND SIGN PACKAGE	SEH
1	4/17/2020	SUFFICIENCY RESPONSE	SEH

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

10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33969
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

MASTER CONCEPT PLAN
CALUSA CAY - CPD
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
4/20/2020	1585P	MCP	DBA	JLS	SEH	1"=150'	1

Publix
Pine Island, FL

Celebrating 51 Years of Quality Manufacturing and Service



- SW 7561 LEMON MERINGUE MAIN CABINET (PUBLIX CABINET LITE STUCCO & RETAINERS, T-BAR SMOOTH FINISH)
- SW 6736 JOCLAR GREEN TENANT CABINET (RETAINERS & T-BAR SMOOTH FINISH)
- SW 7757 HIGH REFLECTIVE WHITE (MIDDLE CABINET TRIM SMOOTH FINISH)
- ROOFING - SILVER PAC-CLAD
- 3M 3635-222 DAY /NIGHT BLACK PERFORATED
- WHITE ACRYLIC
- 3M 3630-5801 Publix Green
- COASTAL REEF PEARL WHITE STONE BOTTOM POLE COVER CABINET

Pylon textures and paint to match building architectural features. Manufacture new routed Shopping Center aluminum faces backed with white acrylic Day/Night 3M dual color film black. "Publix" face is pan-formed white acrylic with embossed Publix® & flat sub-copy 3M 3630-5801 Publix Green vinyl overlay. Tenant faces are flat acrylic with vinyl (TBD). Cabinet trim to be aluminum painted SW 7757 High Reflective White Smooth finish. LED's and power supplies to provide illumination.



THOMAS

SIGN & AWNING CO INC

4590 118TH Avenue North
Clearwater, Florida 33762

800-526-3325

www.thomassign.com

CLIENT

Publix 95
Design Number:
86437 Pylon Rend
Installation Address:
NEC Pine Island Rd
& Orchid Cove Road
Pine Island, FL

Project Identity Number:
86763

Sales Associate:	Project Team:
TSA	BM
Designer:	Date:
SLD	12-26-19

Project Updates:
Revise square footage to 150.0' and update notes. SLD 01-03-20
Revise height, remove stone PC & trim. 04-14-20 SLD
Revised MS A & B per client photo. 04-21-20 SLD
Add stone back in bottom cabinet. SLD 04-24-20
JES 04-22-21 Revise SQ. FT



D/F LED Illuminated Main Identity Monument C

Dotted red line calculates $\square$: Total Cabinet $9'-3" \times 14'-8" = 136.14 \square$

Scale: 1/4"=1'-0"

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Publix 95

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TSA | BM

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SLD | 12-26-19

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notes. SLD 01-03-20

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04-14-20 SLD

Revised MS A & B per client photo.

04-21-20 SLD

Add stone back to bottom cabinet.

SLD 04-24-20

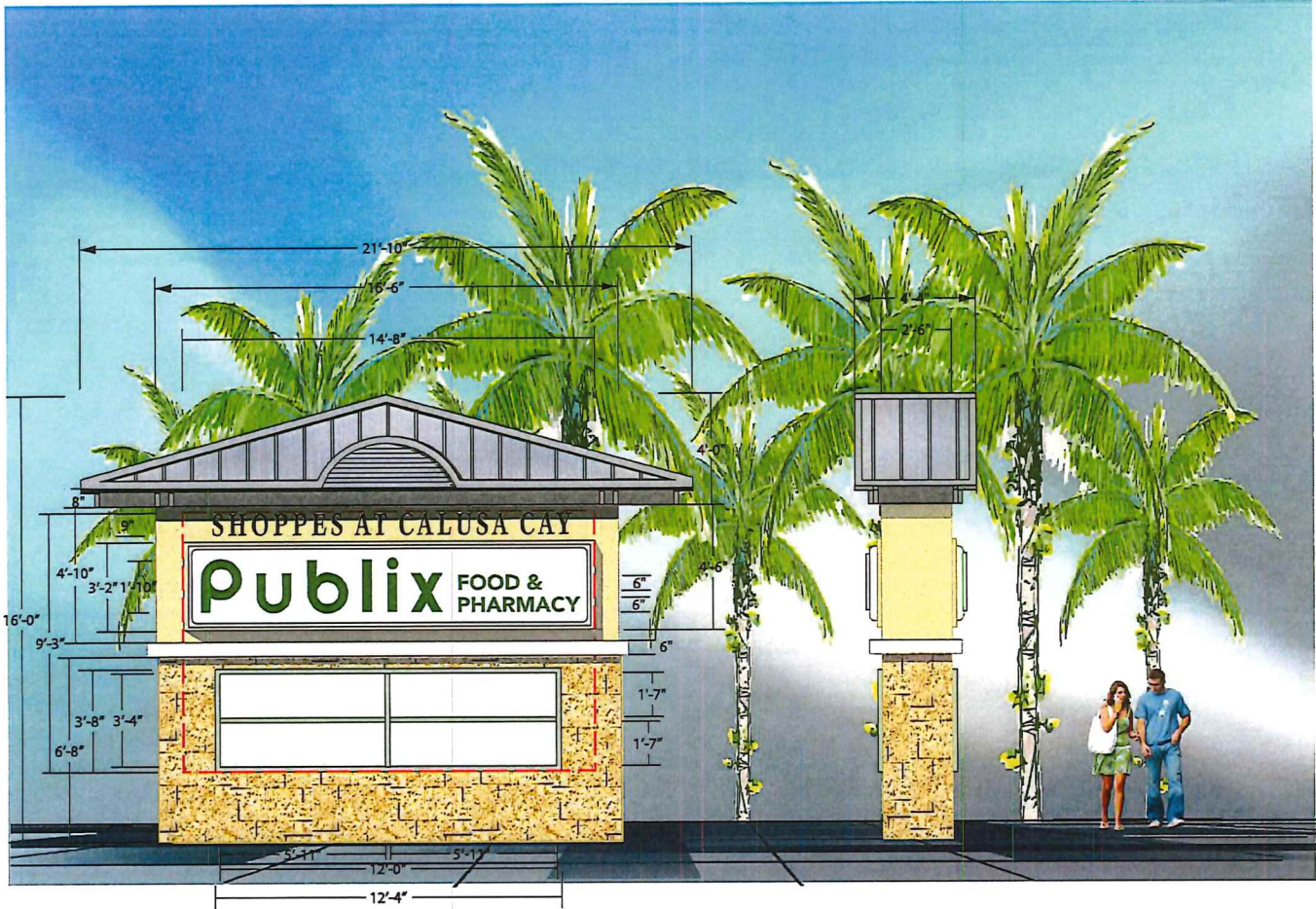
JIS 04-22-21 Revise SQ. FT



3M™ MCSTM Warranty

- SW 7561 LEMON MERINGUE MAIN CABINET (PUBLIX CABINET LITE STUCCO & RETAINERS, T-BAR SMOOTH FINISH)
- SW 6736 JOCULAR GREEN TENANT CABINET (RETAINERS & T-BAR SMOOTH FINISH)
- SW 7757 HIGH REFLECTIVE WHITE (MIDDLE CABINET TRIM SMOOTH FINISH)
- ROOFING - SILVER PAC-CLAD
- 3M 3635-222 DAY /NIGHT BLACK PERFORATED
- WHITE ACRYLIC
- 3M 3630-5801 Publix Green
- COASTAL REEF PEARL WHITE STONE BOTTOM POLE COVER CABINET

Pylon textures and paint to match building architectural features. Manufacture new routed Shopping Center aluminum faces backed with white acrylic Day/Night 3M dual color film black. "Publix" face is pan-formed white acrylic with embossed Publix® & flat sub-copy 3M 3630-5801 Publix Green vinyl overlay. Tenant faces are flat acrylic with vinyl (TBD). Cabinet trim to be aluminum painted SW 7757 High Reflective White Smooth finish. LED's and power supplies to provide illumination.



D/F LED Illuminated Main Identity Monument B

Dotted red line calculates $\square$: Total Cabinet $9'-3" \times 14'-8" = 136.14 \square$

Scale: 1/4"=1'-0"

Page Sheet

1

1 of 1

Local: 727-573-7757
Fax: 727-573-0328

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Clearwater, Florida 33762

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CLIENT

Publix 95

Design Number:
86437 MS Rend

Installation Address:
NEC Pine Island Rd
& Orchid Cove Road

Pine Island, FL

Project Identity Number:
86763

Sales Associate: | Project Team:

TSA | BM

Designer: | Date:

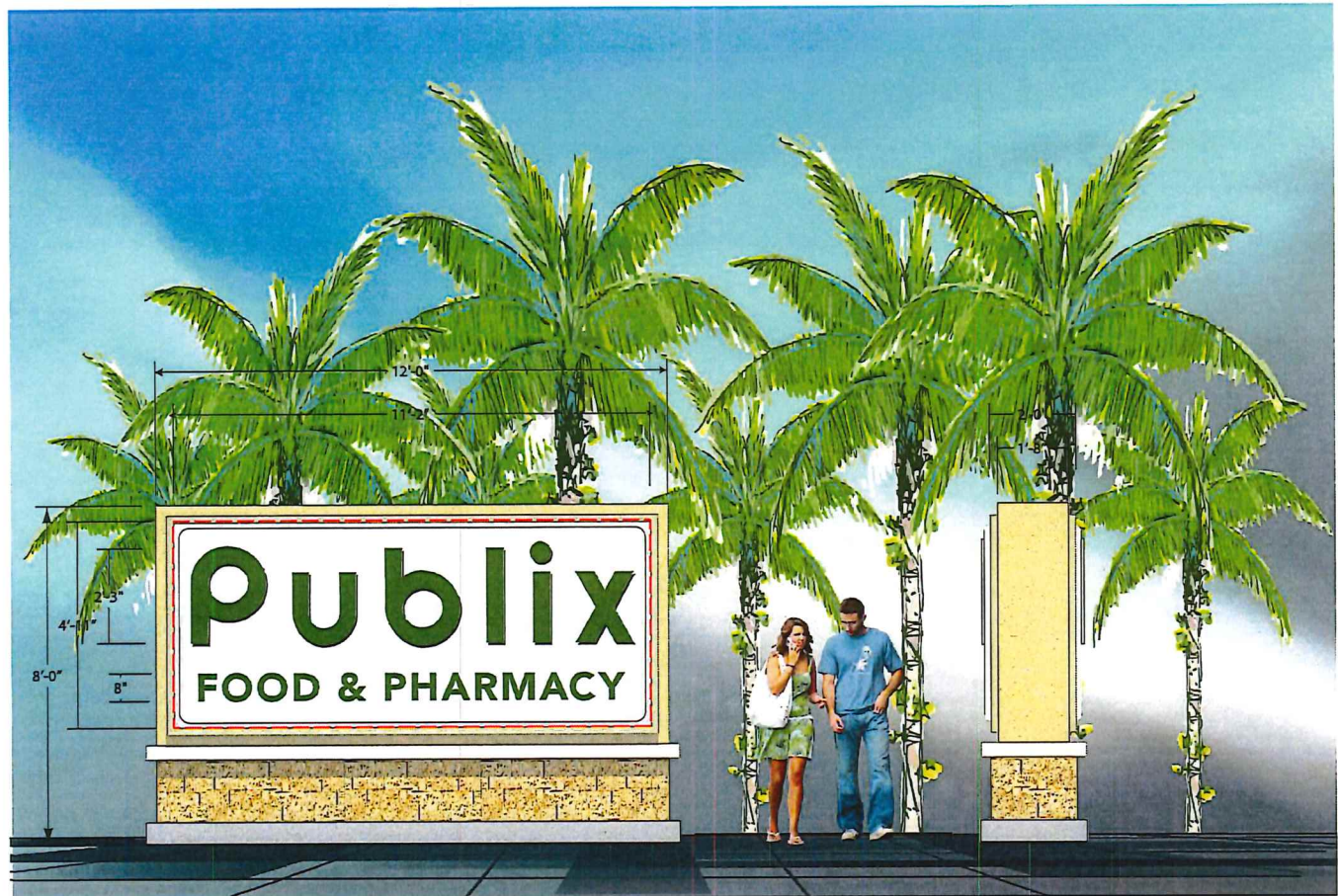
SLD | 12-26-19

Project Updates:



3M™ MCST™ Warranty

- SW 7561 LEMON MERINGUE
MAIN CABINET
(FILLER LITE STUCCO
& RETAINERS
SMOOTH FINISH)
- SW 6254 LAZY GRAY
LITE STUCCO FINISH
(POLE COVER TRIM)
- SW 7757 HIGH REFLECTIVE
WHITE
(CABINET TRIM SMOOTH FINISH)
- ROOFING - SILVER PAC-CLAD
- COASTAL REEF
PEARL WHITE STONE
- WHITE ACRYLIC
- 3M 3630-5801 Publix Green



Monument textures and paint to match building architectural features.
"Publix" face is pan-formed white acrylic with embossed Publix® & flat sub-copy
3M 3630-5801 Publix Green vinyl overlay.
Cabinet trim to be aluminum painted SW 7757 High Reflective Smooth finish.
Base to be Coastal Reef Pearl White Stone.
Aluminum trim accent on base is SW 6254 Lazy Gray stucco finish.
LED's and power supplies to provide illumination.

LED Illuminated Main Identity Monument A

Dotted red line calculates $\square$: Cabinet Face - 4'-11" x 11'-2" = 54.90' $\square$

Scale: 3/8"=1'-0"

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Clearwater, Florida 33762

800-526-3325

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CLIENT

Publix 95

Design Number:

86437 MS Rend

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NEC Pine Island Rd
& Orchid Cove Road
Pine Island, FL

Project Identity Number:

86763

Sales Associate: Project Team:

TSA

BM

Designer:

Date:

SLD

12-26-19

Project Updates: Add update to sign plan
per request. SLD 03-22-21



3M™ MCST™ Warranty

Page Sheet

1

1 of 1

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Fax: 727-573-0328

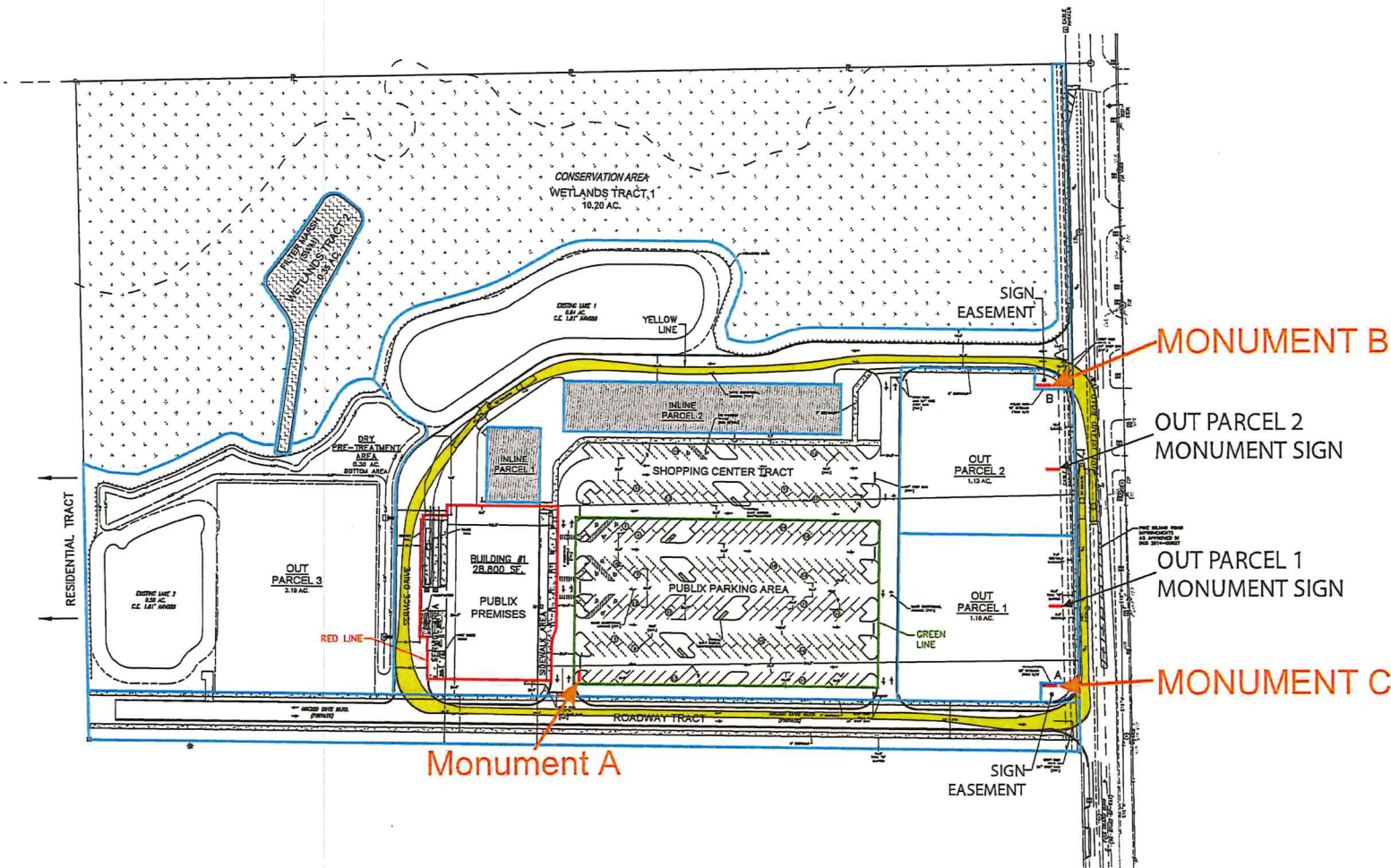


EXHIBIT B3

**CALUSA CAY CPD
BALD EAGLE NEST LE-081
MANAGEMENT PLAN**

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

RECEIVED
JAN 31 2013

COMMUNITY DEVELOPMENT

DCI 2012 00022

**September 2012
Revised October 2012
Revised November 2012**

Prepared for:

**Banks Engineering
10511 Six Mile Cypress Parkway, Suite 101
Fort Myers, FL 33966**

Prepared by:

**W. Dexter Bender & Associates, Inc.
4470 Camino Real Way, Suite 101
Fort Myers, FL 33966
(239) 334-3680**

EXHIBIT

D

I. INTRODUCTION

The Calusa Cay CPD is a 28.77± acre project located on the north side of Pine Island Road within a portion of Section 28, Township 44 South, Range 22 East, on Pine Island in Lee County, Florida (Figure 1). The Orchid Cove residential project (permitted but not yet developed) is located to the north. Mangrove wetlands are present to the east. Pine Island Road forms the south property line. Existing commercial development and Pine Island Elementary School are present to the west. The vast majority of the property is either a field that is periodically mowed or areas dominated by exotic vegetation.

A southern bald eagle (*Haliaeetus leucocephalus*) nest is present in an Australian pine (*Casuarina equisetifolia*) tree located approximately 370 feet south of the south property boundary and on the south side of Pine Island Road (Figure 2, Exhibit A). This nest is currently identified by the Florida Fish and Wildlife Conservation Commission (FWC) as Bald Eagle Nest LE-081 and was first reported during the 2009 - 2010 nesting season. The nest successfully fledged young during the 2009 - 2010, 2010 - 2011, and 2011 - 2012 nesting seasons.

Existing one story commercial structures (10 to 23 feet in height), including a Bank of America, are located between 186 to 645 feet from the nest. Parking for Bank of America is located 165 feet north of the nest and the drive through for the bank is located 180 feet northeast of the nest. Additional existing development is located to the west. These lands are zoned CS-1, CG, IL, and TFC which allows for commercial, industrial and residential uses. All of the lands in the immediate vicinity of the nest are within the Urban Community Future Land Use. Lands within 1,000 feet south of the nest are undeveloped with varying levels of exotics. Lands to the east and southeast of the nest have been purchased by Lee County through the Conservation 20/20 program.

The proposed project consists of the construction of commercial shopping center with two commercial out parcels, water management facilities, and a 10.20± acre wetland/upland preservation area. The portion of the development within 660 feet of the nest consists of portions of two out parcels, approximately six parking spaces in the main parking area, a turning lane on the north side of Pine Island Road, the eastern project access point, and 2.10 acres of the preservation area (Figure 3).

This management plan has been created to outline the project's proposed protection measures for Bald Eagle Nest LE-081. The plan will be incorporated into a FWC Eagle Permit and/or an Incidental Take Permit from the U.S. Fish and Wildlife Service (FWS) if such permits are deemed to be required.

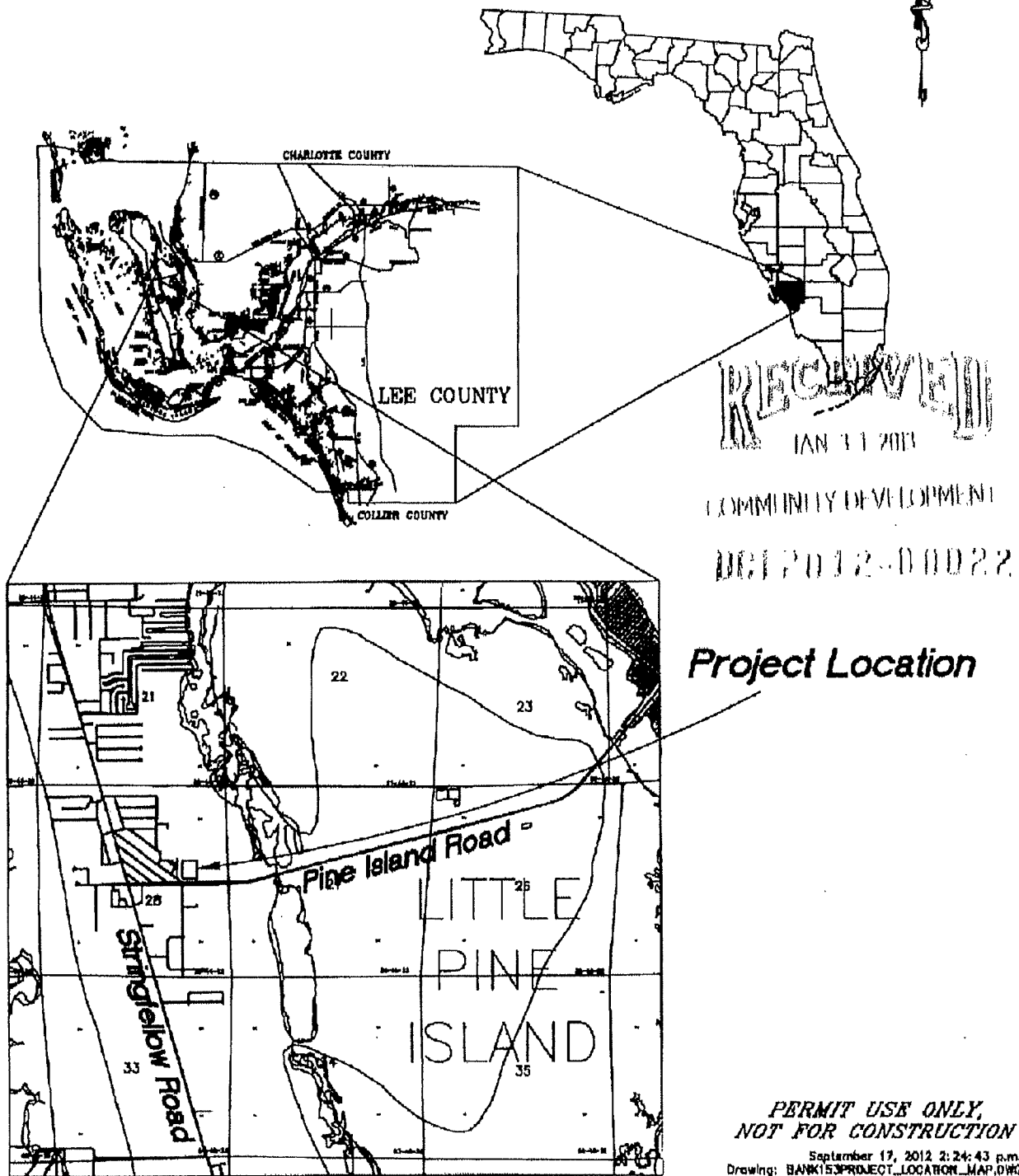
II. SITE CONDITIONS

The vast majority of this property has been significantly disturbed in the past. The western third of the property was cleared over 30 years ago and has been periodically mowed to maintain the area as an open field (Figure 4). Most of the rest of the site

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Calusa Cay CPD



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FORT MYERS 239/334-3680

Figure 1. Project Location Map



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 COMMUNITY DEVELOPMENT
 DECEMBER 22 00122

Notes:
 1. 2012 Aerial Photography
 2. Bold eagle nest location obtained from Carter Engineering, Inc.

PERMIT USE ONLY, NOT FOR CONSTRUCTION

September 17, 2013 2:25 PM
 Drawing: Bald Eagle Nest LE-001

Figure 2. Bald Eagle Nest LE-001 Vicinity Map

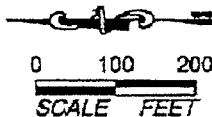
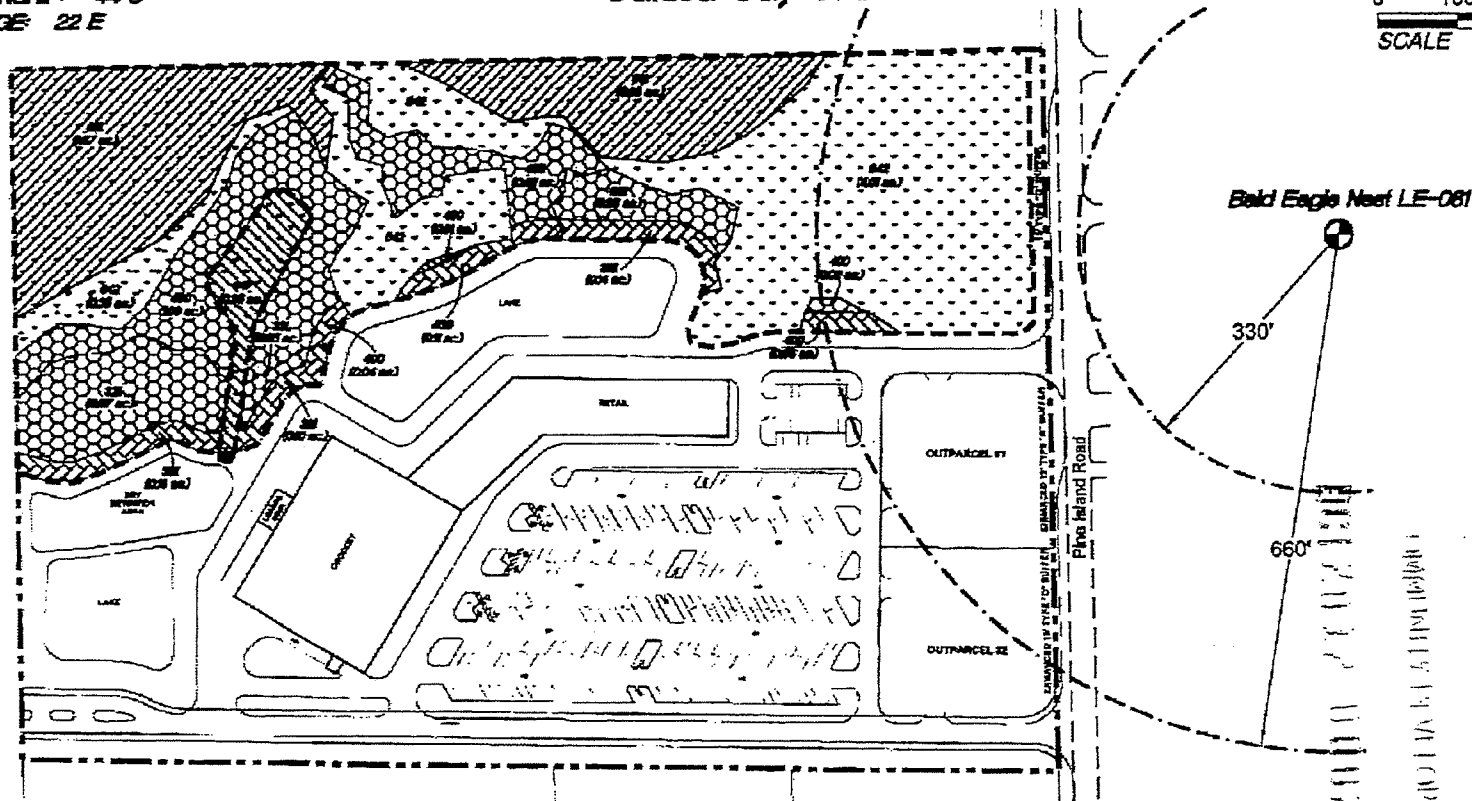
Calusa Cay CPD

W. DEXTER BENDER
 & ASSOCIATES, INC.
 ENVIRONMENTAL & MARINE CONSULTING
 FORT MYERS 889-554-5689



SECTION: 28
TOWNSHIP: 44 S
RANGE: 22 E

Calusa Cay CPD



----- Conservation Easement Boundary (10.20 ac.)

Notes:

1. Property boundary, surveyed wetland line, site plan, and bold angle nest location obtained from Banks Engineering, Inc.
2. Mapping based on aerial interpretation of 2008 aerial photography and ground truthing is shown 2008.
3. Delineation of jurisdictional wetlands field reviewed and approved by the CDE and SFWMD.
4. The 0.33 acre filter marsh is not included within the SFWMD required conservation easement area.
5. Approximately 1.73 acres of the southwest corner of the preserve will be planted with native species pursuant to Lee County requirements.

FLUCCS	Description
321	Palmetto Prairies
400	Upland Forests
612	Mangrove Swamps
642	Saltwater Marsh
647	Herbaceous Filter Marsh

	Wetland Preserve (2.65 ac.)
	Wetland Enhancement (Exotic Treatment) (4.36 ac.)
	Upland Enhancement (Exotic Treatment) (2.58 ac.)
	Herbaceous Filter Marsh (0.35 ac.)
	Buffer (0.61 ac.)

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September 17, 2012 2:29:43 p.m.
Drawing: BANK153PLAN_05_12.DWG

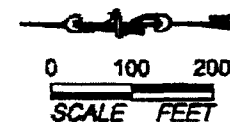
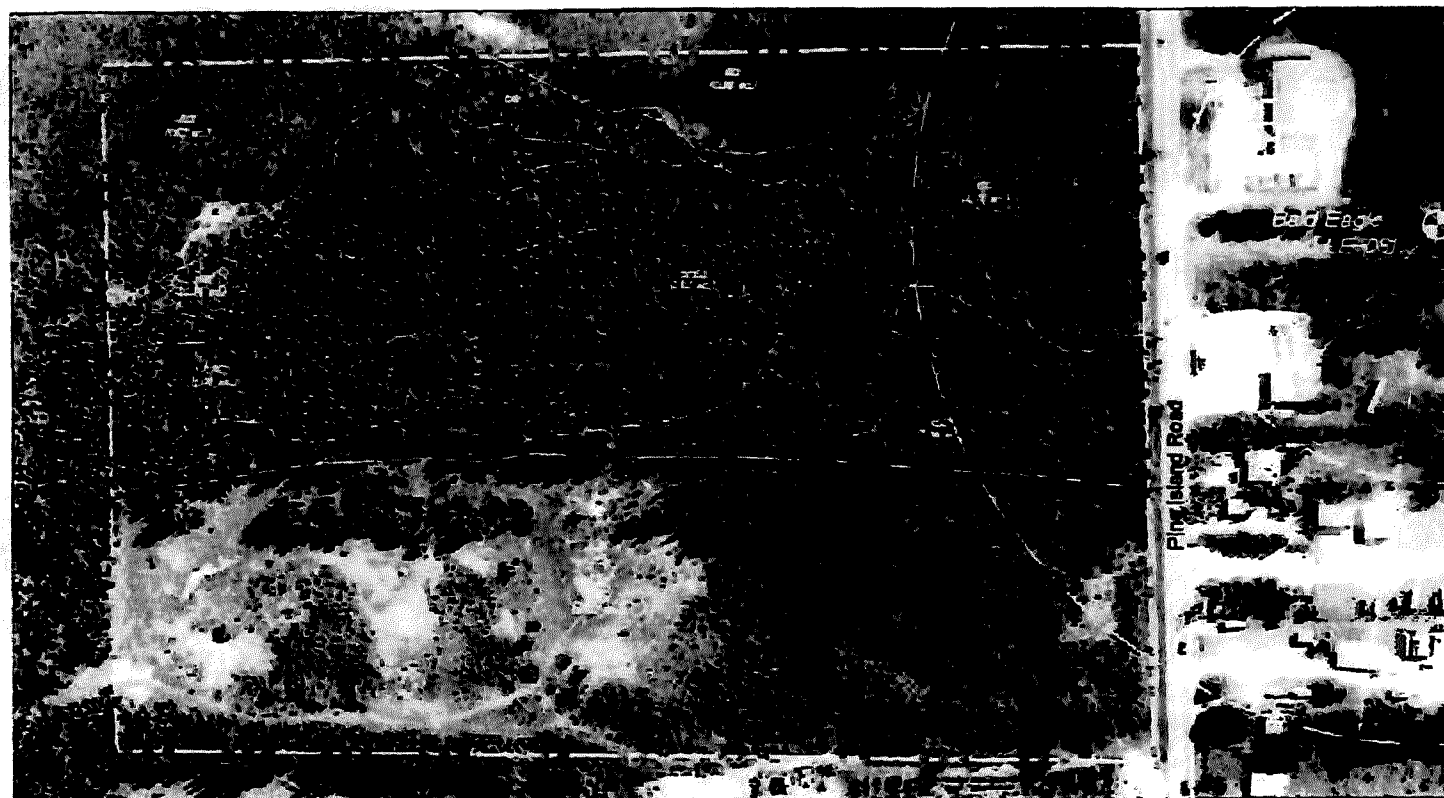
Figure 3. Site Plan

W. DEXTER BENDER
& ASSOCIATES, INC.
ENVIRONMENTAL & MARINE CONSULTING
FORT MYERS 239-334-3680



SECTION: 28
TOWNSHIP: 44 S
RANGE: 22 E

Calusa Cay CPD



Notes:

1. Property boundary, surveyed wetland line, and bold eagle nest location obtained from Banks Engineering, Inc.
2. Mapping based on photointerpretation of 2005 aerial photography and ground truthing in March 2008.
3. Delineation of jurisdictional wetlands field approved by the South Florida Water Management District on September 25, 2008.
4. 2012 aerial shown.

FLUGCS	Description
321E3	Palmetto Prairies invaded by Exotics (51-75%)
450	Mixed Exotic Upland Forest
612	Mangrove Swamps
619	Exotic Wetland Hardwoods
740	Disturbed Land

**PERMIT USE ONLY,
NOT FOR CONSTRUCTION**

September 17, 2012 2:31:28 p.m.
Drawing: BANK153PLAN_03_12.DWG

Figure 4. Vegetation Map

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FORT MYERS 239-384-3680



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COMMUNITY DEVELOPMENT

is dominated by a dense growth of Australian pine (*Casuarina* sp.), melaleuca (*Melaleuca quinquenervia*), and Brazilian pepper (*Schinus terebinthifolius*). A small area of mangrove swamp is located along the eastern property line.

III. BALD EAGLE OBSERVATIONS

No monitoring of Bald Eagle Nest LE-081 has been undertaken to document the eagle's flight path. Four monitoring events of nest occurred in October and November 2012. Of the 44 flights recorded to/from the nest 33 were to the south of the nest. Only four flights were to the northwest.

IV. GENERAL DEVELOPMENT GUIDELINES

The proposed site plan for the Calusa Cay CPD has been designed to minimize potential impacts to the bald eagles nesting in LE-081. This includes enhancing 10.2± acres of preserve via exotic treatment and supplemental plantings, buffer plantings along the southern perimeter of the two commercial outparcels, and seasonal restrictions on construction activities (Figure 3).

The protection measures outlined below have been designed utilizing the FWS's *National Bald Eagle Management Guidelines* (FWS 2007a), the FWC's *Bald Eagle Management Plan* (FWC 2008), and Section 14-111 through 14-120 of the Lee County Land Development Code. These proposed restrictions and requirements apply only to the Calusa Cay CPD project and are not binding on any other property in the vicinity of Bald Eagle Nest LE-081.

If Bald Eagle Nest LE-081 is vacated before the end of the nesting season (May 15th) or if Lee County Division of Environmental Sciences (DES) determines that Nest LE-081 has been abandoned, construction activities may commence upon confirmation of those conditions by DES. If the nest is not active by March 15th or as confirmed by DES, then the nesting season for Nest LE-081 shall be considered over and the construction restrictions shall not apply. A determination that the nest is not active shall be consistent with the *Bald Eagle Monitoring Guidelines* (FWS 2007b).

None of the Calusa Cay CPD property is within the 330 Feet Zone (property lying within 330 feet of the nest tree). Approximately 4.05 acres of the site is within the 330 - 660 Feet Zone (property lying between 330 and 660 feet of Bald Eagle Nest LE-081). The remainder of the property (22.72± acres) is more than 660 feet from the nest. Specific elements of this Bald Eagle Management Plan are provided below.

A. 330 Feet Zone Activities and Restrictions

As stated above and depicted on Figure 3 none of the property is within the 330 Feet Zone and therefore no restrictions apply.

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B. 330 - 660 Feet Zone Activities and Restrictions

The proposed uses of the property between 330 and 660 feet of the nest tree consists of portions of two commercial out parcels, one parking space in the main parking area, a turning lane on the north side of Pine Island Road, the eastern project access drive, and 2.10 acres of the preservation area (Figure 3). The restrictions described below are only applicable to the portion of the property within 660 feet of Bald Eagle Nest LE-081.

1. Major exterior construction activities, such as initial site clearing, major earth work, grading, driving of building support piles, building pad construction, building exterior framing, exterior roofing, and initial exotic species treatments shall only be conducted during the non-nesting season (i.e., May 16th - September 30th).
2. Construction traffic associated with Calusa Cay CPD shall not utilize the easterly access drive entrance during the nesting season (October 1st through May 15th).
3. The buildings within the two out parcels will be designed to have the main entrances and the majority of the parking on the north and west sides of the buildings unless a site plan or architectural constraint prevents the owner from doing so. A 15-foot wide enhanced Type D buffer will be provided along the south boundary of the commercial outparcels. The required trees, six per 100 linear feet, shall consist of species such as slash pine, longleaf pine, cabbage palm, or mahogany. Additional palm trees may be added at the owner's discretion. Hedges will be planted in double staggered rows and maintained so as to form a 36-inch tall continuous visual screen within one year of planting. This buffer will be installed prior to October 1st of the first year after exotics have been removed from the development area within 660 feet of the nest. Once the trees have become established the trees may be trimmed in accordance with good arboreal practices to allow visibility of the buildings from Pine Island Road while still providing visual screening of the parking areas north of the buildings. All such trimming shall be approved in writing in advance by DES staff.
4. In the event that the main entrance of an outparcel building is located on the south or east side of the outparcel building or the majority of the parking is located on the east side of an outparcel building, the Type D buffer described above for that outparcel will be increased to 25 feet in width. This expanded buffer will be planted with the species described in Item IV.B.3 above plus an additional five midstory trees per 100 linear feet. The midstory tree species to be used may include holly, buttonwood, geiger tree, pauotis palm, and Florida thatch palm. Trimming shall be limited to maintaining tree health and approved in advance by DES staff. In the event that Bald Eagle Nest LE-081 is deemed to be abandoned (see Item V below) these midstory trees may be trimmed to improve views from Pine Island Road or removed by the owner so long as the trees were not used to meet other Lee County tree requirements.

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DEPT. OF PLANNING & COMMUNITY DEVELOPMENT

5. The exterior construction activities listed below may occur during the nesting season provided that the activities do not disturb the nesting bald eagles as defined by the *Bald Eagle Monitoring Guidelines*. Whenever the exterior construction activities listed below occur during the nesting season, monitoring consistent with the *Bald Eagle Monitoring Guidelines* shall be required. One additional afternoon monitoring event per week will also be conducted.

- a. Parking area, turn lanes, and sidewalk paving
- b. Landscape installation and maintenance
- c. Installation of supplemental plantings within the preserve
- d. Exterior painting

DES will be notified of these proposed activities and the activities will not be initiated until written authorization has been received from DES.

6. Interior construction (i.e., electrical, drywall, carpeting, etc.) may occur at any time, including during the nesting season without implementing monitoring so long as reasonable measure to reduce noise audible outside of the building are taken (i.e., keep windows and doors closed during finishing activities). All deliveries of construction materials, construction dumpsters, and parking of vehicles will be limited to the west and north sides of the out parcel buildings. DES will be notified when interior construction activities will occur.
7. No outdoor dining (associated with a restaurant use) will be permitted in the two outparcels. In addition no exterior flashing, moving, or audible signage will be allowed. Dumpsters associated with a restaurant use will be kept closed at all times.
8. The owners of the commercial outparcels shall not be permitted to conduct any carnival or other entertainment in the parking areas or conduct any sales of merchandise outdoors (unless completely screened from view of the eagle nest by the building) without DES staff written approval if the event shall occur during the bald eagle nesting season.
9. The use of any chemicals that are known to be toxic to wildlife shall be prohibited within 660± feet of the bald eagle nest. The use of all chemical will be in accordance with labeling instructions.
10. Outdoor lighting installed within 660± feet of the bald eagle nest shall be subdued, shielded, and directed away from the nest tree.
11. After construction is completed, normal commercial activities will be allowed throughout the year.

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C. Greater Than 660 Feet Zone Activities and Restrictions

The proposed uses of the property more than 660 feet of Bald Eagle Nest LE-081 consist of the remainder of the commercial outparcels, the primary shopping center building with its associated access drives and parking, the water management system, and 8.10± acres of the preservation area. Construction activities and normal commercial activities will be allowed outside of 660± feet of the bald eagle nest throughout the year.

V. IMPLEMENTATION

The land owner/developer and the future Property Owners Association (if any) will be responsible for following this Bald Eagle Management Plan. A qualified ecologist will monitor Bald Eagle Nest LE-081 (if work as described by Item IV.B.5 above is undertaken during the nesting season) consistent with the *Bald Eagle Monitoring Guidelines* and will submit the reports to DES on a monthly basis. DES staff will review these reports and may also inspect the site to verify compliance with the conditions of this Bald Eagle Management Plan. Any violation of these conditions may result in a Stop Work Order being issued to halt all construction activity during the bald eagle nesting season, including building inspections, until the violation is resolved.

All of the management practices will remain in effect until the nest is deemed abandoned or lost by DES pursuant to Section 14-112 of the Land Development Code. The nest will be defined as abandoned if the nest is intact or partially intact but has been inactive through five or more consecutive nesting seasons. The nest will be defined as lost if the nest or nest tree is destroyed by natural causes (e.g. nest that fell apart or was blown out of a tree, or the tree itself was lost) and is not rebuilt in the same tree within three nesting seasons.

At the time of Development Order approval, the preserve area will be evaluated to determine the potential to kill one or more Australian pines in place in order to provide potential perch trees for the bald eagles.

VI. BALD EAGLE MANAGEMENT PLAN MODIFICATIONS

Any changes to this Bald Eagle Management Plan must be reviewed and approved by DES staff through the planned development administrative amendment process. Any future owners of the Calusa Cay CPD (including the commercial outparcels) that are affected by this Bald Eagle Management Plan will be provided with a copy of this plan. At the time of platting, the Bald Eagle Management Plan will be included in the property association documents.

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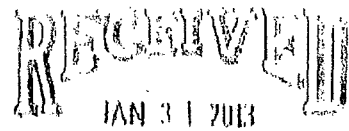
Y:\BANK-1631\Bald Eagle\Bald Eagle Management Plan Nov 2012\Doc

REFERENCES

Florida Fish and Wildlife Conservation Commission. 2008. Bald Eagle Management Plan. 60p.

U.S. Fish and Wildlife Service. 2007a. National Bald Eagle Management Guidelines. 23p.

U.S. Fish and Wildlife Service. 2007b. Bald Eagle Monitoring Guidelines. 20p.



COMMUNITY DEVELOPMENT

DE 2012-00022

EXHIBIT A
PHOTOGRAPH OF NEST LE-081

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JAN 31 2013

COMMUNITY DEVELOPMENT

DE 12032-00022



Bald Eagle Nest LE-081

ES EXHIBIT 4

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JAN 31 2013

COMMUNITY DEVELOPMENT

DEC 20 12 00022

Exhibit C

EXHIBIT B4

**CALUSA CAY CPD
LEE COUNTY WETLAND ENHANCEMENT
AND CREATION PLAN**

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

April 2020

Prepared for:

**Shagbark Properties, LLC.
5422 Bay Center Drive, Suite 120
Tampa, FL 33609**

Prepared by:

***DexBender*
4470 Camino Real Way, Suite 101
Fort Myers, FL 33966
(239) 334-3680**

I. INTRODUCTION

The 26.77± acre Calusa Cay CPD project is located within a portion of Section 28, Township 44 South, Range 22 East, on Pine Island in Lee County, Florida. This parcel is bordered to the north by a residential project, to the east by mangrove dominated wetlands, to the south by Pine Island Road, and to the west by existing development. Prior to 2016 the western portion of the Calusa Cay CPD property was a cleared field. The eastern portion of the site was uplands and wetlands dominated exotics, and a fringe of mangrove wetlands along the east property line (Figure 1).

The project development resulted in 0.77± acre of impacts to an exotic dominated wetland. In order to provide the functional wetland replacement required by SFWMD Environmental Resource Permit Number 36-07179-P, Calusa Cay CPD has purchased 1.29 credits from the Little Pine Island Mitigation Bank. The 0.77± acre of exotic dominated wetland was adjacent to the Matlacha Pass Aquatic Preserve. Lee Plan Policy 24.1.5 requires that impacts adjacent to an Aquatic Preserve be mitigated at a 1:1.5 ratio. Therefore, in order to comply with The Lee Plan, the project is required to create 1.16± acre of wetland and plant the wetland creation area and/or adjacent green infrastructure with 225 trees and 5,615 shrubs.

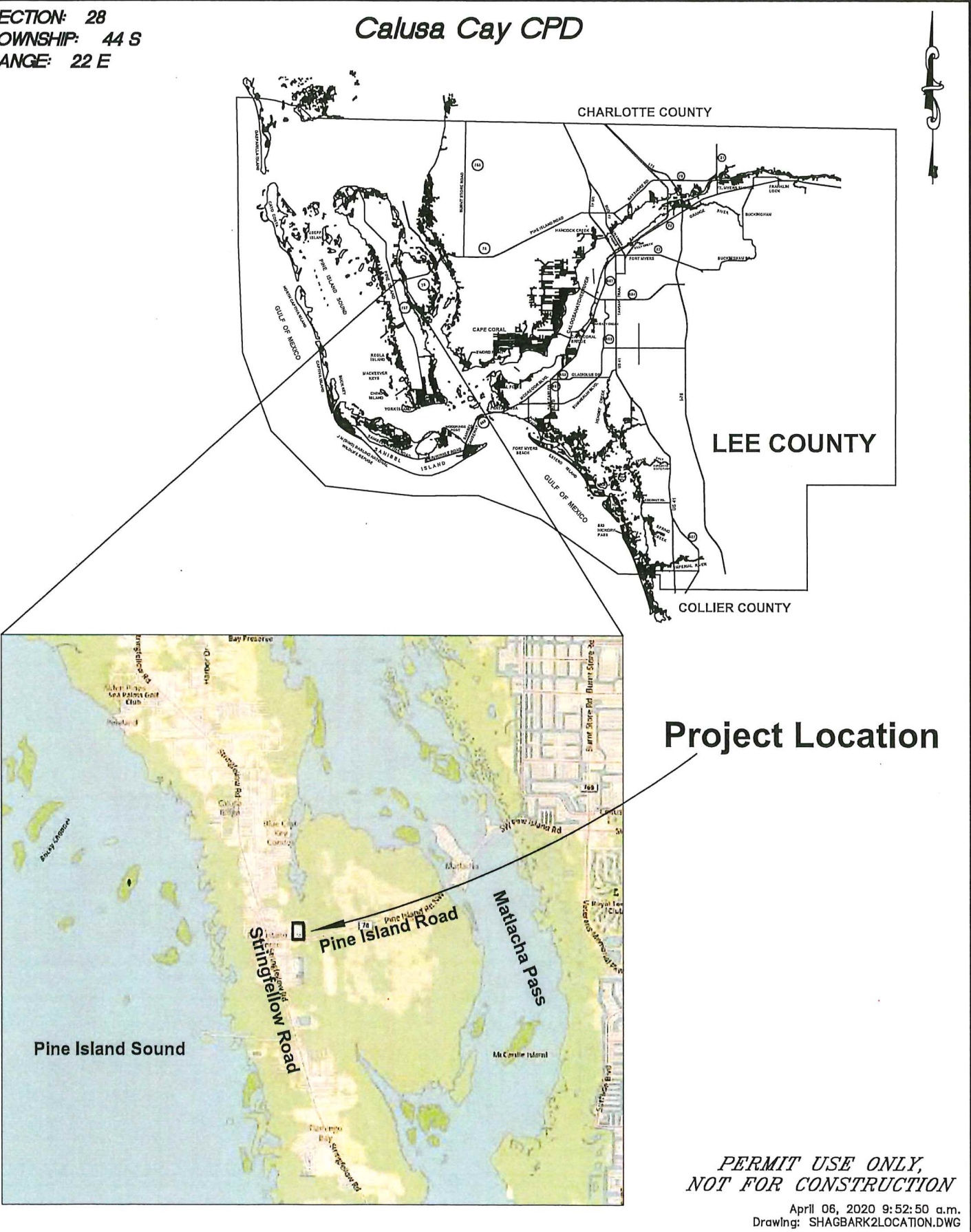
Lee County Zoning Resolution Z-13-007 contained the January 2013 Calusa Cay CPD Lee County Wetland Restoration Plan. The plan was prepared prior to the removal of the exotics from the preserve based on the best available information available at that time and specifically stated “The final species to be planted in the restoration area will be based upon site specific conditions and on plant material availability at the time of planting.”

II. Existing Conditions

The initial mechanical removal of exotics (primarily Australian pine (*Casuarina equisetifolia*) and melaleuca (*Melaleuca quinquenervia*)) occurred in April 2016. Follow up treatments of re-sprouts as well as removal of additional woody debris was conducted in January and February 2018 with regular exotic maintenance treatments occurring thereafter. Currently, the majority of the 10.55± acres outside of the filled development footprint is a good quality high salt marsh community (Figure 2). Portions of the high marsh contain significant densities of buttonwood (*Conocarpus erectus*) with lesser densities of saltbush (*Baccharis halimifolia*), black mangrove (*Avicennia germinans*), and white mangrove (*Laguncularia racemosa*). Slightly higher areas are also vegetated by white indigo berry (*Randia aculeata*), Christmasberry (*Lycium carolinaum*), and snowberry (*Chiococca alba*). The dominant ground cover are seashore paspalum (*Paspalum vaginatum*), glasswort (*Salicornia* sp.), sea-purslane (*Sesuvium portulacastrum*), leather fern (*Acrostichum* sp.), and salt grass (*Distichlis spicata*). The northern portion of the preserve also contain areas of bare ground with a high salt content layer at the surface. Based on the species that have naturally recruited into the preserve and the observation of salt deposits at the surface, the area currently has higher salinity levels than were previously anticipated.

SECTION: 28
TOWNSHIP: 44 S
RANGE: 22 E

Calusa Cay CPD



Project Location

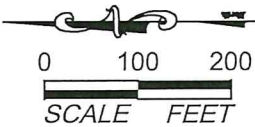
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NOT FOR CONSTRUCTION

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Drawing: SHAGBARK2LOCATION.DWG

Figure 1. Location Map

SECTION: 28
TOWNSHIP: 44 S
RANGE: 22 E

Calusa Cay CPD



Notes:
1. Property boundary and edge of development obtained from Banks Engineering, Inc.
2. Vegetation mapped on March 23, 2020 using 2019 aerial photography.

FLUCCS	Description	Acreage
320H	Hydric Shrub and Brush	0.33 ac.
525	Stormwater Management Pond	1.20 ac.
612	Mangrove Swamps	2.65 ac.
642	Saltwater Marsh	7.57 ac.
744	Fill Areas	15.02 ac.
Total		26.77 ac.

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NOT FOR CONSTRUCTION

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Figure 2. Vegetation Map

III. PROPOSED WETLAND ENHANCEMENT AND CREATION PLAN

When the January 2013 wetland restoration plan was prepared it was anticipated that the areas dominated by exotics would become fresh water (or very low salinity) transitional pine flatwoods habitat. Therefore, the tree and shrub species proposed to be planted were predominately freshwater species. The vast majority of those species would not survive if planted in the current high marsh habitat.

This report describes the proposed revised enhancement and creation plan based on site conditions present in March 2020.

Exotic Control

All exotics (as defined by the Florida Exotic Pest Plant Council's *2011 List of Invasive Plant Species*) within the $7.90\pm$ acre at grade area (including the filter marsh which has not yet been built) outside of the development footprint have been mechanically removed. The vegetative debris resulting from this activity was removed from the area. In the $2.65\pm$ acre mangrove dominated area, exotic control was accomplished by chain saw or machete.

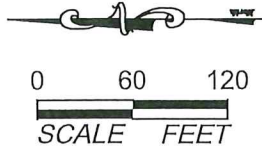
Wetland Creation

The mechanical treatment of the exotics described above has also resulted in the removal of the substantial Australian pine duff layer that existed in the non-native uplands. This has resulted in the creation of $2.08\pm$ acres of high salt marsh wetlands from previously exotic dominated upland (Figure 3). These areas have become colonized by wetland species such as buttonwood, saltbush, black mangrove, white mangrove, seashore paspalum, glasswort, sea-purslane, and salt grass.

Supplemental Plantings

The Lee Plan requires that 225 trees and 5,615 shrubs be planted within $1.16\pm$ acres of required wetland creation and/or adjacent green infrastructure. The Zoning Section of the Lee County Department of Community Development has agreed that plants that have naturally recruited into the at grade preserve (excluding the $2.65\pm$ acres of pre-existing mangrove swamp) will count towards the planting requirements. Acceptable trees include native woody vegetation in excess of six feet in height. Acceptable shrubs include native woody vegetation greater than two feet in height or two feet in spread and less than six feet in height. Given the specific habitat type, leather fern and snowberry that meet the height/spread requirement are also acceptable shrubs.

On April 1 and 2, 2020 the native trees and shrubs described above were counted within the $7.82\pm$ acres of at grade area (excluding the $0.08\pm$ acre truncated filter marsh which has not yet been built and the $2.65\pm$ acres of pre-existing mangrove swamp) outside of the development footprint. The counting area was divided into eight zones (Figure 3). A total of 162 trees and 4,225 shrubs were identified (Table 1). The percent cover of those trees and shrubs were also visually estimated by zone (Table 2). Photographs of representative portions of each counting zone is provided in Appendix A.



SECTION: 28
TOWNSHIP: 44 S
RANGE: 22 E



Overall Counting Area (7.82 ac.)



Individual Counting Area ID (typ.)(8)

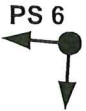


Photo Station (typ.)(8)

Area	Acreage	Trees		Shrubs	
		Count	No. per Ac.	Count	No. per Ac.
1	0.68	117	172	507	746
2	0.31	20	65	204	658
3	2.17	9	4	593	273
4	0.22	0	0	253	1150
5	1.77	3	2	608	344
6	0.19	2	11	203	1068
7	0.48	8	17	1013	2110
8	2.00	3	2	844	422
Totals	7.82	162		4225	

Trees and shrubs counted on April 1 and 2, 2020

Notes:
1. Property boundary and edge of development obtained from Banks Engineering, Inc.
2. Vegetation mapped on March 23, 2020 using 2019 aerial photography.

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Figure 3. Tree and Shrub Counting Areas Map

Calusa Cay CPD

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Table 1. Existing Tree and Shrub Counts within Eight Counting Zones

		AREAS								
TAXON	COMMON NAME	1	2	3	4	5	6	7	8	TOTAL
TREES										
<i>Bursera simaruba</i>	Gumbo limbo		1							1
<i>Coccoloba uvifera</i>	Sea-grape		5							5
<i>Conocarpus erectus</i>	Buttonwood	116	9	9		2	2	8	2	148
<i>Ficus aurea</i>	Strangler fig	1	5			1			1	8
TOTAL TREES		117	20	9	0	3	2	8	3	162
SHRUBS										
<i>Acrostichum</i> sp.	Leather fern	41	18	64		1		3	2	129
<i>Avicennia germinans</i>	Black mangrove	14		7		12		2	98	133
<i>Baccharis halimifolia</i>	Saltbush	32	102	96	11	8	10	30	18	307
<i>Bursera simaruba</i>	Gumbo limbo		2							2
<i>Chiococca alba</i>	Snowberry	2		5	42	82	37	81	22	271
<i>Coccoloba uvifera</i>	Sea-grape	1	5	2		1				9
<i>Conocarpus erectus</i>	Buttonwood	404	47	184	65	345	39	478	505	2067
<i>Ficus aurea</i>	Strangler fig	1	3	3			1			8
<i>Laguncularia racemosa</i>	White mangrove	2	5	134		49		25	115	330
<i>Lycium carolinaum</i>	Christmasberry	4	5	24	1	3				37
<i>Myrica cerifera</i>	Wax myrtle				3					3
<i>Randia aculeata</i>	White indigo berry	4	17	59	91	96	108	388	82	845
<i>Rapanea punctata</i>	Myrsine	2		15	32	10	8	6	2	75
<i>Serenoa repens</i>	Saw palmetto				8	1				9
TOTAL SHRUBS		507	204	593	253	608	203	1013	844	4225

Table 2. Estimated Percent Cover within Counting Zones

COUNTING ZONE	PERCENT COVER	
	TREE	SHRUB
1	25	50
2	15	45
3	1	15
4	0	30
5	1	10
6	1	35
7	1	65
8	1	20

Based on the existing tree and shrub counts, 63 trees and 1,390 shrubs will be planted within portions of the adjacent green infrastructure identified as Potential Additional Tree and Shrub Planting Areas on Figure 4. The potential species and minimum sizes to be installed are provided in Table 3. Buttonwood may also be installed in the at grade preserve, if needed, to attain the required planting totals. The final species to be planted in the green infrastructure will be based upon site specific conditions and on plant material availability at the time of planting. Any proposed changes will be submitted to Lee County Development Services for review and approval.

Table 3. Potential Species to be Installed Adjacent Green Infrastructure Areas

TAXON	COMMON NAME	SIZE	NUMBER
TREES			
<i>Coccoloba uvifera</i>	Sea-grape	6 Feet	TBD
<i>Conocarpus erectus</i>	Buttonwood	6 Feet	TBD
<i>Pinus elliottii</i>	Slash pine	6 Feet	TBD
<i>Quercus laurifolia</i>	Laurel oak	6 Feet	TBD
<i>Sabal palmetto</i>	Cabbage palm	6 Feet	TBD
TOTAL TREES			63
SHRUBS			
<i>Baccharis halimifolia</i>	Saltbush	3 Gallon	TBD
<i>Chrysobalanus icaco</i>	Cocoplum	3 Gallon	TBD
<i>Conocarpus erectus</i>	Buttonwood	3 Gallon	TBD
<i>Ilex glabra</i>	Gallberry	3 Gallon	TBD
<i>Myrica cerifera</i>	Wax myrtle	3 Gallon	TBD
TOTAL SHRUBS			1390

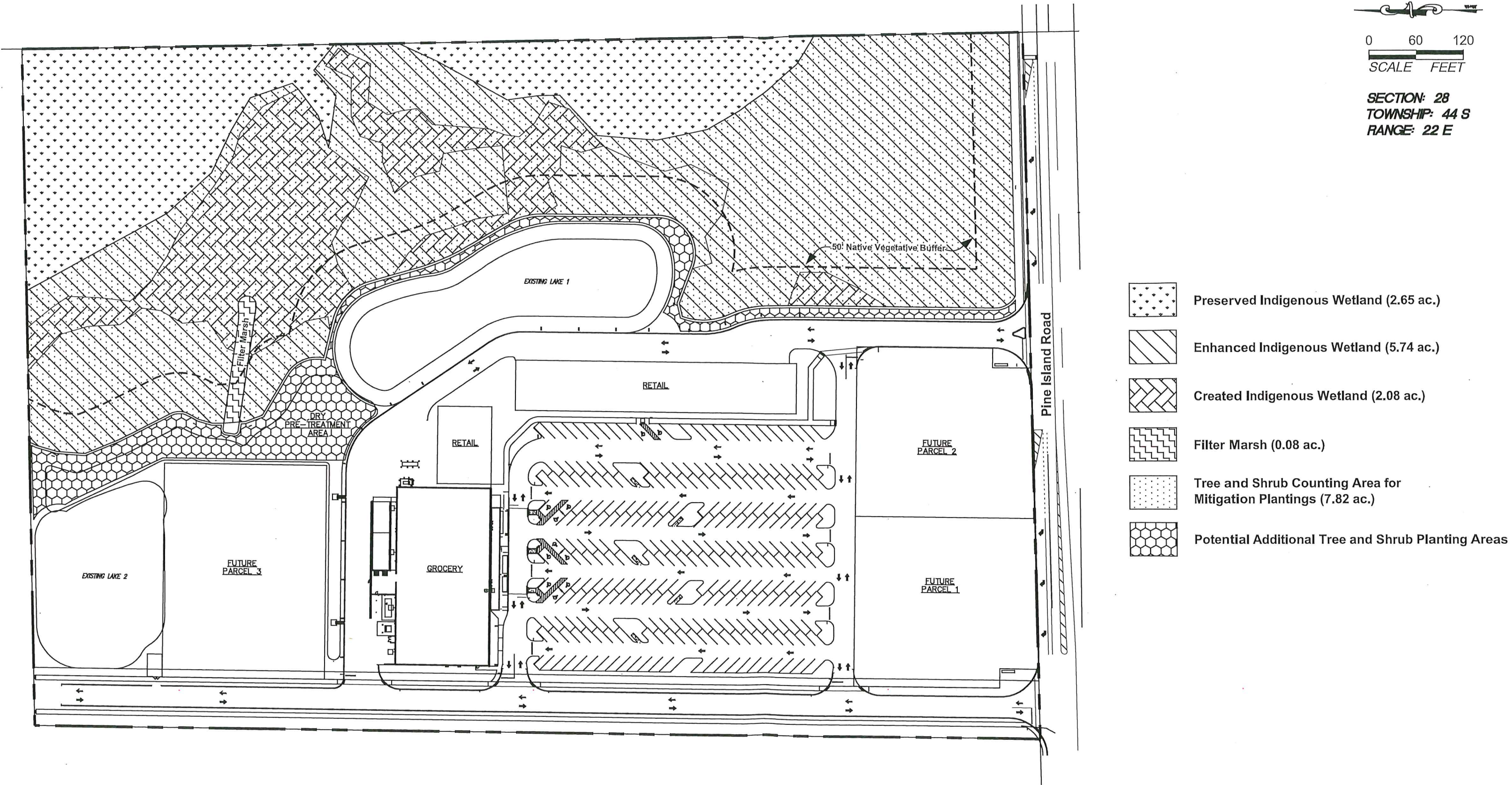
III. FILTER MARSH

The January 2013 Calusa Cay CPD Lee County Wetland Restoration Plan included a 0.35± acre filter marsh to convey treated stormwater runoff from the water management lake towards the enhanced wetlands on-site. The exotics were mechanically removed from this area as described above and the area has transitioned into a high salt marsh

vegetated by numerous native shrubs. In order to preserve as much of the created high salt marsh wetland as possible the filter marsh has been reduced in size to 0.08± acre (Figure 4). The filter marsh will be recontoured to approximately 0.5 foot below existing grade and will still allow for sheet flow of treated surface water into the wetlands to the east. The area will then be planted with four inch liner size native ground cover species (5± feet on center). The species to be installed may include leather fern, salt grass, black needle rush (*Juncus roemerianus*), and seashore paspalum. The final species to be planted in the filter marsh will be based upon site specific conditions and on plant material availability at the time of planting. Any proposed changes will be submitted to Lee County Development Services for review and approval.

IV. DRY PRE-TREATMENT AREA

A dry pre-treatment area will also be created to treat stormwater runoff from the developed portion of the site. This area will be planted with grasses such as salt grass, seashore paspalum, and sand cordgrass. Additional native tree and shrubs may be planted in and around the dry pre-treatment area.



Notes:
1. Property boundary and site plan obtained from Banks Engineering, Inc.
2. Vegetation mapped on March 23, 2020 using 2019 aerial photography.

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Drawing: SHAGBARK2PROPCON.DWG

Figure 4. Master Concept Plan with Indigenous Areas

Calusa Cay CPD

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APPENDIX A.

Photographs of Representative Portions of Each Counting Zone



Tree and Shrub Counting Area 1 – Facing East



Tree and Shrub Counting Area 2 – Facing West



Tree and Shrub Counting Area 3 – Facing South



Tree and Shrub Counting Area 4 – Facing West



Tree and Shrub Counting Area 5 – Facing South



Tree and Shrub Counting Area 6 – Facing West



Tree and Shrub Counting Area 7 – Facing West



Tree and Shrub Counting Area 8 – Facing North

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. DCD Staff Report with attachments for DCI: Prepared by Elizabeth Workman, Planner, date received August 17, 2022 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Traffic Impact Sufficiency Comment*: Email from Lili Wu, Senior Planner with Department of Community Development, to Elizabeth Workman, Planner with Department of Community Development, dated Tuesday, July 19, 2022 1:16 PM (1 pages – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice*: Email from Stacy Hewitt, with Banks Engineering, to Hearing Examiner, with copies to Elizabeth Workman, Maria Perez, Tina Boone, Erica Temerario, Lauren Schaefer, Joseph Adams, Esq., Michael Jacob, Esq., Amanda Swindle, Esq., Anthony Rodriguez, dated Monday, August 29, 2022 8:05 AM (multiple pages – 8.5"x11")
1. *PowerPoint Presentation*: Prepared for Calusa Cay CPD Amendment, DCI2022-00017, Lee County Hearing Examiner Public Hearing, August 31, 2022 (multiple pages – 8.5"x11") [color]
2. *Master Concept Plan*: Prepared by Banks Engineering, for Calusa Cay CPD, last revised 8/25/2022 (1 page – 24"x36")
3. *Supplement Exhibits*: Renderings of proposed building (2 double-sided pages – 8.5"x11") [color]

OTHER EXHIBITS

Deborah Swisher-Hicks

1. *Documents, Renderings*: (multiple pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Elizabeth Workman

Applicant Representatives:

1. Stacy Hewitt
2. Ted Treesh

Public Participants:

1. Deborah Swisher-Hicks

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

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

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

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

COPIES OF TESTIMONY AND TRANSCRIPTS

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