



January 27, 2023

Ms. Elizabeth Workman
Principal Planner
1500 Monroe Street, 2nd Floor
Fort Myers, FL 33901

**RE: SR 31 Oaks RPD
DCI2021-00051 – Resubmittal 4**

Dear Ms. Workman,

It is my pleasure to submit to you the attached revised documents related to the rezoning request for the 31 Oaks RPD. Please see the following responses to your comments received on December 21, 2022.

The following information has been provided to assist in your review of the petition:

1. Comment Letter Responses;
2. Revised Boundary Survey;
3. Revised Request Statement;
4. Revised Schedule of Uses;
5. Revised Deviation Justification Narrative;
6. Revised Master Concept Plan;
7. Revised Indigenous Preserve Management Plan;
8. Revised Proposed Conditions; and
9. Revised Floodplain Improvements Exhibit.

The following is a list of Staff's comments with the Applicant's in **bold**.

ZONING REVIEW – BETH WORKMAN

1. The Schedule of Uses includes Temporary Amenity Structures. Please advise as to what this means.

RESPONSE: Please see the revised schedule of uses. The term “Temporary Amenity Structures” was included erroneously and has been removed.

2. The Request Narrative, page 7, paragraph 4 states that 6.09 acres of rare and unique upland habitat will be retained. The Floodplain No Impact memorandum Land Summary Table on page one indicates 0.42 acres of rare and unique. Please revise documents to be consistent.

RESPONSE: The acreage referenced in the narrative is an indication of the total acreage of rare and unique uplands on the property, not the acreage retained. This section of the narrative has been revised for clarity.

3. Provide detailed information demonstrating that the proposed development within the Coastal High Hazard Area is restricted to uplands in order to demonstrate compliance with Lee Plan Policy 101.3.2.

RESPONSE: The proposed development includes 9.29 acres of wetland impacts within the CHHA. The Project Narrative has been updated to address consistency with Policy 101.3.2. Similar to other current rezoning applications within the CHHA, a condition is proposed which requires an amendment to the existing ERP. Since wetland impacts that have been approved and mitigated through the SFWMD are considered uplands for development purposes, this condition will ensure compliance with Policy 101.3.2.

4. Revise the floodplain "no impacts" improvement exhibit to depict the Coastal High Hazard Area (CHHA), the acreage of wetland impacts within CHHA, the acreage of wetland creation, and state if the wetland impacts within CHHA are to support public facilities. The current exhibit depicts the acreage of wetland and wetland creation but does not depict the CHHA.

RESPONSE: Please see the revised No Impacts Exhibit. The Project Narrative has also been revised as noted in the response to comment #3 above.

NATURAL RESOURCES REVIEW – NIC DEFILIPPO

5. It appears that the project is proposing to impact approximately 5.1 acres of wetlands in the Coastal High Hazard Area (CHHA). Please confirm the amount of wetland impacts proposed in the CHHA.

RESPONSE: Please see the response to comment #3 above.

ENVIRONMENTAL REVIEW – CAMRYN SIVERSON

6. The narrative states that heritage trees will be preserve per the public informational meeting. Please indicate within the indigenous management plan the methods and details of how the applicant plans on preserving heritage trees.

RESPONSE: Prior to the start of preserve enhancement activities, heritage trees located within the upland and wetland indigenous preservation areas will be identified with orange survey ribbon and retained in place. As requested, the Indigenous Preserve Management Plan has been updated with this language.

7. The species management plan indicated relocation of the gopher tortoises. Please indicate if onsite or offsite relocation is being proposed per Lee Plan Policy 123.8.1.

RESPONSE: On-site and off-site gopher tortoise relocation options will be coordinated with the Florida Fish and Wildlife Conservation Commission, and if relocation of the tortoises is needed, it will be conducted in accordance with the FWCC's Gopher Tortoise Permitting Guidelines.

8. The applicant has requested a deviation from LDC 10-329(d)(4). Please provide details of how the applicant will provide hardening of the shoreline.

RESPONSE: The MCP has been revised to provide additional information on shoreline hardening in the cross sections sheet 2, including reference to recommended product for turf reinforcement mat and installation. EOR to review shop drawings before construction.

9. The narrative discusses enhanced buffers along the external single-family residences per the public informational meeting that was held. Please label the width and type of buffer that is being proposed on the Master Concept Plan.

RESPONSE: Please see the revised MCP which has been updated to include the width and type of buffer adjacent to the single-family residences as well as in existing Notes 6 and 7.

Development Services - Brian Roberts

10. Proposed conditions will require the applicant to demonstrate legal access to Storage Bay Drive at time of development order and that Storage Bay Drive must be constructed and certified prior to the issuance of a certificate of completion of the any phase of construction that exceeds five acres including infrastructure development.

RESPONSE: Acknowledged. Evidence of legal access will be provided at the time of Local Development Order.

NOTE: The current plat for the property to the south dedicates all private rights-of-way to the Gordon Center Property Owners Association. An additional deviation will be required for the hammer-head turnaround that is designed where the De Moya gate was originally.

RESPONSE: Deviation #3 has been added to the Deviation Justification narrative and is labelled on the Master Concept Plan.

LEGAL REVIEW – HUNTER SEARSON

11. Sec. 34-202(a). Submittal requirements for applications requiring public hearing include a boundary survey in accordance with the requirements of Lee County LDC §34-202(a)(6). The current boundary survey includes L6 which is depicted as a call for two separate lines on the boundary survey sketch.

RESPONSE: Please see the revised Boundary Survey with the call corrected.

We appreciate Staff's time and consideration of the above information. Please contact me with any questions or concerns at (239) 319-0026 or jfrantz@rviplanning.com.

Sincerely,
RVi Planning + Landscape Architecture



Jeremy Frantz, AICP
Project Director



31 OAKS RPD

Request Statement

Revised January 2023

I. REQUEST

The Marina Del Lago RPD is currently comprised of 49.62+/- acres and allows for the development of up to 140 dwelling units pursuant to Zoning Resolution Z-06-050. The Applicant is requesting approval to amend the RPD to rezone several adjacent properties into a unified development of approximately 88.3+/- acres. This will result in an RPD amendment and rezoning of the assemblage from Agricultural (AG-2) and Residential Planned Development (RPD) to RPD to allow for the development of a residential community with private, on-site recreational amenities, wetland preserves and supportive infrastructure. It is also proposed to rename the RPD to "31 Oaks RPD." This will allow for the construction of residential uses and ancillary uses while also providing for reduced wetland impacts and improved floodplain compensation compared to previous plans/zoning approvals. The request does not require any changes to the future land use categories.

This amendment request will include a Master Concept Plan, zoning conditions, and schedule of deviations to accommodate the development of the site with single-family and two-family attached dwellings or townhomes and associated community amenities. The amendment request is for a maximum of 342 townhome units or 265 single-family and two-family attached dwelling units with a maximum building height of 35 feet and will connect to Lee County Utilities for sanitary sewer and potable water.

The current combination of AG-2 and RPD zoning will not allow residential development at intensities comparable to surrounding development and is inconsistent with the underlying Suburban Future Land Use Category (FLUC). Moreover, the need to avoid impacts to wetlands on the Property requires the combination of these properties into a unified development, which can only be achieved through rezoning to a Planned Development Zoning District. The proposed RPD amendment allows for the requisite flexibility to fully develop the Property in accordance with market demand for residential uses in the Caloosahatchee Shores Planning Community and in a coordinated manner with the surrounding community. The community will also allow for infill development in an area of the County well-served by available public infrastructure.

II. EXISTING CONDITIONS

The 31 Oaks RPD property ("Property") is comprised of 88.3 +/- acres under separate ownership and within different zoning districts and located on the east side of SR 31, approximately ¼ of a mile north of Palm Beach Blvd. in unincorporated Lee County, Florida.

The 88.3 +/- acre property is located within the Suburban and Wetlands Future Land Use categories. The subject property is partially vegetated and includes a lake in the southern portion of the property. The Property will be accessed from SR 31 to the west (a two-lane arterial road), with secondary

ingress/egress from a connection to Storage Bay Dr. and Merchandise Way (the reverse frontage road) to the south of the property which provides access to both SR 31 and SR 80.

The surrounding land use pattern generally consists of residential uses, vacant agriculturally zoned properties and commercial properties, as further described below:

Table 1: Inventory of Surrounding Lands

	FUTURE LAND USE	ZONING	EXISTING LAND USE
NORTH	Suburban	Agriculture (Ag-2); Multi-Family Residential Planned Development (RPD); Residential Single-Family (RS-1)	Vacant Properties (AG-2 and Caloosahatchee Preserve RPD); Single-Family Residential
SOUTH	Urban Community; Wetlands	Commercial Planned Development (CPD)	Race Trac gas station; future commercial development (SR 80/31 CPD)
EAST	Suburban	Residential Single-Family (RS-1)	Single-Family Residential
WEST	Wetlands; Urban Community; Suburban	Agriculture (Ag-2); Community Commercial (CC); Commercial Planned Development (CPD)	Developed and Undeveloped Agricultural Parcels; Bar/Nightclub; undeveloped commercial property

III. PROPERTY HISTORY

The northern 49.62 acres of the property is zoned Marina Del Lago RPD and allows for the development of up to 140 single-family dwelling units and boat trailer parking pursuant to Zoning Resolution Z-06-050. The central portion of the property made up of two parcels which have maintained the original AG-2 zoning.

The southern portion of the Property is also currently zoned AG-2. This portion of the property was the subject of a previously withdrawn zoning petition for multi-family development and retail commercial uses (DCI2005-00040).

IV. PUBLIC INFRASTRUCTURE

As outlined in the enclosed application, the Property is serviced by public infrastructure that can accommodate the proposed residential units. Potable water and sanitary sewer services will be provided by Lee County Utilities. A Letter of Availability of service from Lee County Utilities is attached. The Property has direct access to SR 31, a state-maintained arterial roadway under planning for future improvements/expansion to accommodate development in the immediate area. There are adequate public facilities and services in the immediate vicinity of the project to serve the proposed development in terms of schools, fire, EMS and Sheriff's protection.

V. REZONING JUSTIFICATION

The proposed amendment request allows the Property to be developed in a similar manner to the surrounding properties. The SR 31 corridor is experiencing rapid growth and development and the current combination of AG-2 and RPD zoning will not allow for the coordinated development of the Property.

The proposed amendment strikes a balance between providing for the continuation of suburban development as anticipated by the Lee Plan, while protecting against potential impacts from coastal flooding within the Coastal High Hazard Area through the enhanced stormwater management design. See the Lee Plan Compliance Narrative below for more information regarding compliance with Coastal High Hazard Area policies.

The proposed MCP provides for significant preservation of wetlands, rare and unique uplands, heritage trees, and open space while also providing for decreased intensity over previously proposed or approved development on the Property.

The community will be accessed from SR 31 as the main point of ingress/egress for future residents. The entry is intended to be gated with the internal roadway network to be privately maintained. A second gated access is proposed to Storage Bay Drive to the south. The proposed roadways will meet the design standards set forth in Chapter 10 of the LDC. Sidewalk and bikeway facilities will comply with the minimum requirements and options set forth in Chapter 10 of the LDC.

A maximum 342 townhouse dwelling units or 265 single-family and two-family attached dwelling units are proposed, which are planned around open space and preserve areas to accommodate preservation of the higher quality wetlands on the Property. All unit types are limited to a maximum height of 35 feet in order to maintain compatibility with the single-family neighborhood (Fort Myers Shores Unit 1) to the east and south.

Proposed wetland impacts are based on the best available information. It is understood that if future jurisdictional determinations identify additional wetland impacts, the resulting available density will be changed as identified in Table 1(a). The proposed density is well below the maximum achievable density. Thus, if additional wetlands are determined, the proposed density will still comply with Table 1(a). See the calculation below which demonstrates potential density in a worst-case scenario in which all wetlands are calculated at 1 dwelling unit per 20 acres.

Future Land Use	Acreage	Density	Unit Count
Suburban	65.83 AC	6 DU/AC	394.98 units
Wetlands	22.77 AC	1 DU/20 AC	1.14 units
Total			396 units

Minimum lot sizes and development standards are consistent with similar RPDs approved throughout the County.

After meeting with the surrounding community, the Applicant has committed to a minimum 6-foot-high and maximum 8-foot-high opaque fence and 10-foot-wide vegetative buffer along the northern and eastern property lines. This enhanced buffer is well in excess of the requirements of the LDC, which requires no buffer between single-family projects. This buffer condition is consistent with the previously adopted Condition 6 in Z-06-050 and will provide enhanced screening between the project and the established single-family community to the east. As outlined in the Lee Plan Consistency section of this report, the enhanced buffers also align with the Caloosahatchee Shores policy relating to enhanced landscaping in new development.

A 30-foot-wide Type F buffer is proposed between the cul-de-sac in the northern portion of the property and the adjacent neighboring residential zoned properties in accordance with the Land Development Code to obstruct light and noise impacts to the neighborhood. A 15-foot wide Type B buffer will be provided where townhomes are located adjacent to neighboring residential zoned properties in accordance with the Land Development Code. Preserved and created wetlands along the western property boundary and surrounding the main entrance will provide enhanced views from SR 31 compared to typical landscape buffers.

As proposed the residential uses will be well-screened from surrounding land uses, and the community will be complimentary to the existing neighborhood.

Open space will meet or exceed 40% of the total site area, or 35.3 acres. On-site wetland preserves will comprise the bulk of the required 17.66 acres of indigenous preserve area. The project will exceed the minimum preservation requirements through the provision of 18.38 acres of on-site wetland, upland, and indigenous creation areas, whereas the LDC requires approximately 17.66 acres of on-site preserve. Preserve setbacks will be provided in accordance with the LDC.

Development areas have been designed to minimize impacts to rare and unique uplands and wetlands. While wetland impacts are proposed, these impacts are limited to areas of lower-quality vegetation and where such impacts cannot be avoided due to the internal roadway network. As outlined in this narrative, enhanced stormwater management is provided to offset the proposed wetland impacts that fall in the Coastal High Hazard Area (CHHA).

Three deviations are requested to allow for flexibility relating to the design of the surface water management system and to allow two dead-end streets. The deviations will allow for the efficient use of space in a constrained site to address stormwater design and to protect against impacts in the CHHA as well as providing protection to the surrounding community from traffic impacts.

For these reasons, the proposed amendment is needed to address the unique site constraints of the assembled properties and to ensure compatibility with surrounding development.

VI. PROPOSED USES/DESIGN STANDARDS

The proposed Schedule of Uses allows for townhomes, single-family and two-family attached dwelling types, as well as several uses accessory to the residential development. An amenity center is also centrally located on the Property. Except where deviations are requested, the design standards will meet or exceed the requirements in the LDC and mirror those of typical RPD zoning districts throughout the County.

The project is located within the Caloosahatchee Shores Planning Community; therefore, several planning community-specific design requirements apply to this RPD.

VII. DECISION-MAKING COMPLIANCE

In accordance with LDC Section 34-145(d)(4), the data and analysis provided in the enclosed application demonstrate that the request meets or exceeds the following:

- a) **The request will meet or exceed all performance and locational standards set forth for the proposed residential planned development, except where a deviation has been approved.**

Access will be provided from SR 31, an arterial roadway, and SR 80 via Storage Bay Dr. and Merchandise Way (the reverse frontage road) located to the south of the Property. Public infrastructure and services are available to serve the proposed development. Traffic impacts of the project are discussed in the attached Traffic Impact Statement (TIS) which demonstrates all impacted roadways will function at an acceptable Level of Service. Any off-site improvements required by the project will be addressed at the time of local development order review.

The request for the development of 342 townhouse units or 265 single-family and two-family attached dwelling units is located within the Suburban FLUC and is intended for the continuation of the surrounding existing and planned development pattern. The request is consistent with the goals, objectives and policies of the Lee Plan, as outlined in this application.

Three deviations are requested and further explained in the attached Deviation Justification Narrative. The deviations are limited to that required to accommodate a site plan which maximizes the use of space available for stormwater management and the preservation of wetlands and surrounding community character.

- b) **Complies with the Lee Plan.**

The request will allow for residential development in accordance with the Suburban and Wetland FLUCs and other relevant Goals, Objectives, and Policies. Densities account for the limited wetland impact areas and comply with Table 1(a) outlining Residential Densities and Table 1(b), which accommodates 1,810 acres of residential development in the Suburban

FLUC within the Fort Myers Shores Planning Community. Additional Lee Plan consistency analysis is provided below.

c) Meets this Code and other applicable County regulations or qualifies for deviations.

The request includes proposed development standards, deviations, and conditions in compliance with the LDC and the Caloosahatchee Shores Planning Community regulations. As outlined in the Deviation Justification Narrative, requested deviations will fully meet the intent of the LDC.

d) Is compatible with existing and planned uses in the surrounding area.

The request will ensure that the property is developed with uses similar to neighboring properties. The proposed RPD includes development standards which comply with the Caloosahatchee Shores Planning Community regulations. Perimeter setbacks and buffers will be provided to the adjacent to the properties. The zoning conditions and LDC requirements have adequately addressed any potential impacts on adjacent uses.

e) Will provide access sufficient to support the proposed development intensity.

A Traffic Impact Statement (TIS) is attached which demonstrates that the proposed access is sufficient to support the proposed development activity. The request proposes two access points, one on SR 31 and the other on SR 80 via a reverse frontage road. These access points meet the requirement in LDC section 10-291 that residential development of more than five acres must provide more than one means of ingress or egress for the development.

f) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval.

The attached TIS has demonstrated that all analyzed roadways are projected to operate at acceptable Level of Service even with the worst-case-scenario of 265 single-family and two-family attached dwelling units. The TIS also demonstrates the need for northbound and southbound left turn lanes on SR 31 to accommodate the proposed development.

Sidewalk and bikeway facilities will comply with the minimum requirements and options set forth in Chapter 10 of the LDC.

The project will require development order approvals prior to site development activities. The project's impacts will be evaluated at that time in accordance with the LDC.

g) Will not adversely affect environmentally critical or sensitive areas and natural resources.

The proposal makes efficient use of this infill site intended for development per the Suburban FLUC while ensuring environmentally critical areas and natural resources are protected.

The Project site includes 22.77 acres of wetlands which are degraded due to infestation of exotic vegetation. The MCP demonstrates the preservation of 13.48 acres of wetlands and the creation of 4.48 acres of wetlands.

The Project site contains 285 heritage trees, and the project will comply with the LDC standards for preservation and/or mitigation. Prior to the start of preserve enhancement activities, heritage trees located within the upland and wetland indigenous preservation areas will be identified with orange survey ribbon and retained in place as identified in the Indigenous Preserve Management Plan.

The Project site contains 6.09 +/- acres of rare or unique upland habitat. Preserve and open space areas have been designed to retain these areas to the maximum extent possible. An Indigenous Preserve Management Plan for these areas is attached.

The attached Protected Species Survey demonstrates the existence of Gopher Tortoise on the property. A Gopher Tortoise Management Plan is attached. On-site and off-site gopher tortoise relocation options will be coordinated with the Florida Fish and Wildlife Conservation Commission, and if relocation of the tortoises is needed, it will be conducted in accordance with the FWCC's Gopher Tortoise Permitting Guidelines.

h) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

Public infrastructure and services are available to service the proposed development. This property is located within the Suburban FLUC. This area is programmed to include predominantly residential uses. As such Lee County Utilities has adequate services for the proposed residential density.

The property is served by the Ft. Myers Shores Fire District with Station #81 and Lee County EMS Medic 11 station located on Palm Beach Blvd. The Lee County Sheriff provides service in Central District - Zone 6.

The data and analysis provided in the enclosed application also demonstrates that the request meets or exceeds the following Planned Development Rezoning review criteria.

i) The proposed use or mix of uses is appropriate at the proposed location;

The Suburban FLUC allows for predominantly residential uses. This request does not include any non-residential uses. Moreover, the development of residential dwellings on the 88.3+/- acre property is appropriate for this location which provides for compatibility with neighboring single-family residential developments.

- j) **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.**

The proposed conditions identify rare and unique uplands and heritage tree preservation as well as wetland preservation and stormwater management which are sufficient and reasonably related to the impacts on the public interest.

- k) **If the application includes deviations pursuant to section 34-373(a)(9), that each requested deviation:**
- 1) Enhances the achievement of the objectives of the planned development; and**
 - 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.**

The Applicant has proposed three deviations related to site design standards for the surface water management system and to allow two dead-end streets. As described in the attached Deviations and Justification, the intent of these deviations is to allow for flexibility relating to the design of the surface water management system. The deviations will allow for the efficient use of space in a constrained site to address stormwater design and to protect against impacts in the CHHA.

VIII. LEE PLAN COMPLIANCE

The following is an analysis of the RPD's consistency with goals, objectives and policies of the Lee County Comprehensive Plan (Lee Plan).

POLICY 1.1.5: The Suburban future land use category will consist of predominantly residential areas that are either on the fringe of the Central Urban or Urban Community future land use categories or in areas where it is appropriate to protect existing or emerging residential neighborhoods. This category provides housing near the more urban areas but does not provide the full mix of land uses typical of urban areas. Industrial land uses are not permitted. This category has a standard density range from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre). The maximum total density may only be increased to eight dwelling units per acre (8 du/acre) utilizing Greater Pine Island Transfer of Development Units except in areas that specifically prohibit bonus density. Other forms of bonus densities are not allowed.

The Property is located in the Suburban FLUC, as shown in the attached Existing Future Land Use Map. This request is limited to residential dwellings at 3.87 du/acre which is below the maximum permitted density in this FLUC and provides for a range of residential dwelling types that comply with the intended uses for this category. Infrastructure and public services are available to serve the property.

POLICY 1.5.1: Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 124 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan.

The attached proposed density calculations for the 31 Oaks RPD utilize a density calculation for impacted wetlands of 1 du/20 acres. Therefore, the proposed RPD is consistent with this policy.

OBJECTIVE 2.1: DEVELOPMENT LOCATION. Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities.

The proposed amendment and rezoning will allow for a clustered and logical development pattern in an area readily serviced by public infrastructure, in direct compliance with the above policy. As outlined in detail within the application, the project represents an infill development within an urbanized area of Lee County and is surrounded by other residential and non-residential development. Development within the project is clustered primarily within existing uplands, representing a compact development footprint.

OBJECTIVE 2.2: DEVELOPMENT TIMING. Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in F.S. 163.3164(7)) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, Florida Statutes and the county's Concurrency Management Ordinance.

The Property is contiguous to developed or developing properties on three sides of the project, representing infill development of this future suburban area. The attached letter of availability demonstrates the availability of potable water and sanitary sewer services to support the proposed density. Additionally, the attached Public Infrastructure Map demonstrates the Property is in the vicinity of adequate public facilities and public investment. Therefore, the proposed amendment and rezoning fully complies with the above policy's intent to direct new growth to appropriate Future Urban Areas of the county.

POLICY 2.2.1: Rezoning and Development of Regional Impact proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare.

The road network in the region has been specifically constructed to support a mix of residential uses and commercial uses in the area. The requested density falls below the maximum density allowed by the Suburban FLUC.

Lee County utilities has both sewer and water infrastructure available to the property with capacities to serve the previously approved density and the surrounding area approved zoning. The property is near existing networks, utility services and compatible, similar land uses.

There are adequate public facilities and services in the immediate vicinity of the project to serve the proposed development in terms of schools, fire, EMS and Sheriff's protection. EMS and fire stations are within one mile of the Property.

GOAL 4

STANDARD 4.1.1 & 4.1.2: WATER & SEWER

The attached Letter of Availability from Lee County Utilities demonstrates that potable water and sanitary sewer services are available for the Property.

GOAL 5: RESIDENTIAL LAND USES. To accommodate the projected population of Lee County in the year 2045 in appropriate locations, guided by the Future Land Use Map, and in attractive and safe neighborhoods with a variety of price ranges and housing types.

POLICY 5.1.1: Residential developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as planned developments except if located within the Mixed Use Overlay.

The Application is to amend the Marina Del Lago RPD and rezone several properties to a unified Residential Planned Development in accordance with this policy.

POLICY 5.1.2: Prohibit residential development where physical constraints or hazards exist, or require the density and design to be adjusted accordingly. Such constraints or hazards include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community.

While the Property is located in the Coastal High Hazard Area, the proposed density is far below the maximum allowable density under the Suburban FLUC. The proposed amendment protects against impacts from coastal flooding by providing enhanced stormwater design and storage that offsets potential impacts. We are not proposing to exceed allowable maximum density permitted by the underlying FLUCs. Additionally, impacts to hurricane shelters will be addressed through the impact mitigation requirements in LDC Section 2-485.

POLICY 5.1.4: Prohibit residential development in all Industrial Development areas and Airport Noise Zone B as indicated on the Future Land Use Map, except for residences in the Industrial Development area for a caretaker or security guard.

The Property is not located in an Industrial Development area or in Airport Noise Zone B.

POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments.

The request is intended to allow for the development of townhomes or single-family residential dwellings on the 88.3+/- acre property. The request will ensure that the property is developed with uses similar neighboring properties, thereby protecting the character and integrity of the existing communities.

The Applicant has proposed development standards including buffers, lakes, and setbacks to adjacent development, consistent with the LDC. A 30-foot Type F buffer will visually screen the residentially zoned properties from the cul-de-sac ROW. The preservation of existing native vegetation will result in additional setbacks and visual screening to surrounding development over and above code requirements, where provided. The Applicant has limited the request to townhomes, single-family detached and two-family dwelling types to address compatibility with the abutting ¼-acre lots; whereas the Lee Plan would support higher density dwelling types.

The project will not negatively impact surrounding land uses due to the similarity of uses and density. The zoning conditions and LDC requirements have adequately addressed any potential impacts on adjacent uses.

POLICY 5.1.7: Maintain development regulations that require that community facilities (such as park, recreational, and open space areas) in residential developments are functionally related to all dwelling units and easily accessible via pedestrian and bicycle pathways. These pathways must be interconnected with adjoining developments and public pathways whenever possible. Townhouses, condominiums, apartments, and other types of multi-family residential development must have directly accessible common open space.

The proposed RPD includes open space, internal sidewalks, a community amenity center, and other recreational facilities. Sidewalks are provided in accordance with the standards in

LDC Chapter 10 and provide pedestrian and bicycle connections to SR 31. All open space and amenities will be directly accessible to all residents within the RPD.

GOAL 21: CALOOSAHATCHEE SHORES COMMUNITY PLAN. Protect the existing character, natural resources and quality of life in the Caloosahatchee Shores Community Plan area, while promoting new development, redevelopment and maintaining a more rural identity for the neighborhoods east of I-75 by establishing minimum aesthetic requirements, planning the location and intensity of future commercial and residential uses, and providing incentives for redevelopment, mixed use development and pedestrian safe environments.

POLICY 21.1.1: Maintain Land Development Code regulations that provide for enhanced landscaping, signage and architectural standards consistent with the goal of maintaining an old Florida rural identity. The preferred architectural style for all buildings in commercial developments is Florida vernacular.

The proposed RPD will comply with all planning community regulations for the Caloosahatchee Shores Planning Community. No deviations are requested from Chapter 33 of the LDC.

Per Section 10-416 of the LDC, proposed single-family development (which includes both single-family detached and two-family attached) does not require a buffer when abutting existing single-family lots. Therefore, the proposed 10-foot native buffer is an enhancement from the requirements of the LDC and is in direct compliance with the intent of Lee Plan Policy 21.1.1 to provide for enhanced landscaping and uphold the Old Florida character of the Caloosahatchee Shores community.

A 15-foot-wide Type B buffer will be provided where townhomes are located adjacent to existing single-family uses.

Preserved and created wetlands will provide enhanced views along SR 31 compared to typical landscaped buffers, meeting the intent of this policy.

POLICY 21.1.2: Any deviation from landscaping, buffering, signage or architectural requirements may not be granted unless the request meets the approval criteria for variances set forth in Chapter 34 of the Land Development Code.

No deviations are requested from the Caloosahatchee Shores Planning Community regulations for landscaping, buffering, or signage in the proposed RPD. As noted above, the project proposed enhanced buffers adjacent to existing residential to the south and east, as well as enhanced buffers along SR 31, where applicable.

POLICY 21.3.1: Maintain Land Development Code regulations that provide for greater buffering between adjacent commercial and residential uses except for in mixed use developments.

Proposed buffers within the RPD comply with the buffering requirements in the LDC. The project is adjacent to non-residential uses to the south.

OBJECTIVE 60.1: SURFACE WATER. Develop a surface water management program that is multi-objective in scope, geographically based on basin boundaries, and incorporates the requirements of applicable adopted Basin Management Action Plans.

POLICY 60.1.1: Require design of surface water management systems to protect or enhance the groundwater. (Ord. No. 07-12, 18-28)

A surface water management system is proposed which will provide water quality treatment before discharging into onsite wetlands.

POLICY 60.1.2: Incorporate, utilize, and where practicable restore natural surface water flowways and associated habitats.

The proposed RPD includes wetland preservation areas which will maintain existing flowways and associated habitats to the maximum extent practicable. The proposed RPD also incorporates wetland creation areas which will augment existing natural surface water flowways.

OBJECTIVE 60.4: INCORPORATION OF NATURAL SYSTEMS INTO THE SURFACE WATER MANAGEMENT SYSTEM. Incorporate natural systems into surface water management systems to improve water quality, air quality, water recharge/infiltration, water storage, wildlife habitat, recreational opportunities, and visual relief.

POLICY 60.4.1: Encourage new developments to design surface water management systems with Best Management Practices including, but not limited to, filtration marshes, grassed swales planted with native or Florida Friendly Landscaping vegetation, retention/detention lakes with enlarged littoral zones, preserved or restored wetlands, and meandering flow-ways.

The proposed RPD includes a surface water management plan that complies with all LDC design standards.

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

The RPD provides 13.48 acres of wetland preservation and 4.48 acres of wetland creation throughout the project. These areas are proposed to maintain connectivity with the larger wetland system on and off site.

POLICY 60.4.3: The County encourages the preservation of existing natural flow-ways and the restoration of historic natural flow-ways.

The existing wetlands are proposed to be preserved to the maximum extent possible. Wetland preservation areas will not be disconnected from the surrounding wetland system.

POLICY 61.1.1: Lee County recognizes that all fresh waters are a resource to be managed and allocated wisely, and will support allocations of the resource on the basis 1) of ensuring that sufficient water is available to maintain or restore valued natural systems, and 2) of assigning to any specified use or user the lowest quality freshwater compatible with that use, consistent with financial and technical constraints.

The Applicant will obtain an Environmental Resource Permit from the South Florida Water Management District. The master drainage system and established conservation areas proposed in this amendment request, and which will be established through the ERP and subsequent development orders, are designed in compliance with this policy.

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.

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.

Consistent with Lee Plan Policy 101.1.1 and Objective 123.3, the Project site plan, in conjunction with the activities proposed within the Indigenous Preserve and Protected Species Management Plan, was designed to be compatible with surrounding natural systems and will protect and continue to provide functions including water retention and purification, and defense against flooding through the preservation of 18.38 acres of wetlands, wetland creation areas and upland habitat on-site and through the construction of a permitted stormwater management system and will provide long-term protection of wildlife habitat. The site plan was designed to protect and maintain the function of the on-site wetland areas and adjacent upland habitat and provide a connection to proposed off-site preservation areas located to the north.

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.

As required by Lee Plan Policy 101.1.2, the site plan protects environmentally sensitive areas through the preservation and enhancement of 18.38 acres of on-site

wetlands, wetland creation areas and upland habitat. The wetland areas, in combination with adjacent upland areas, will be protected in perpetuity through a conservation easement. The Project does not contain estuaries, mangrove stands, undeveloped barrier islands, beach and dune systems, aquatic preserves, wildlife refuges, undeveloped tidal creeks and inlets, critical wildlife habitats, benthic communities, or marine grass beds.

OBJECTIVE 101.3: DEVELOPMENT IN COASTAL AREAS. Protect human life and property from natural and man-made disasters.

POLICY 101.3.2: Restrict development in the Coastal High Hazard Area to uplands except as needed for the provision of public facilities.

A portion of the project is within the Coastal High Hazard Area (CHHA). The proposed project includes development that impacts approximately 9.29 acres of wetlands within the CHHA. A previous ERP was obtained related to the Marina Del Lago RPD, which allowed for 4.58 acres of wetland impacts (Permit 36-06750-P). Staff and the applicant are in agreement with the proposed condition which requires an amendment to this ERP to reflect approval of the additional wetland impacts prior to approval of the Local Development Order. As a result, development within the 9.29 acres of wetlands is anticipated to be permitted by the State Agency (SFWMD) through the issuance of an amended ERP.

As has previously been identified by County staff, Policy 101.3.2 establishes a limitation on development in the CHHA to uplands, but does not address development in approved impacted wetlands in the CHHA (see attached memos from the Department of Community Development to the Chief Hearing Examiner in reference to DCI2021-00050 dated January 6, 2023, and DCI2021-00029 dated January 9, 2023). Instead, guidance for permitting wetland impacts in the CHHA must rely on the Wetlands policies in Goal 124. As identified below, Lee Plan Policy 124.1.2.2 states that "... Development orders and development permits authorizing development within wetlands or lands located within the Wetlands future land use category may be issued subject to a condition that construction may not commence until issuance of the required state permits." (emphasis added). Based on this Policy, County staff has previously opined that state-permitted and mitigated impacts to wetlands are treated as developable uplands for development purposes. When coupled with a condition which requires a state permit for such impacts prior to commencement of construction, and read in conjunction with Policy 124.1.2, wetland impacts that have been permitted through the SFWMD comply with the restriction of development to uplands in Policy 101.3.2.

As a result, the proposed condition that construction may not commence until issuance of the required state permits ensures that all development within the CHHA will be limited to uplands in compliance with this policy. If the CHHA wetlands impacts

are not approved, then development would be restricted to upland areas and areas where wetland impacts have been approved.

In addition to the above analysis, the development will provide compensating floodplain storage to further ensure that there are no floodplain impacts to surrounding properties due to the wetlands impacted within the CHHA. The attached Floodplain No-Impact analysis demonstrates that the development will not negatively impact surrounding properties and a condition is proposed which requires analysis demonstrating floodplain compensation is provided at the time of Local Development Order.

POLICY 101.3.4: Encourage new residential development, as required by the Land Development Code, to provide continuing information to residents concerning hurricane evacuation and shelters.

A homeowners or residents association will be established to provide continuing information concerning hurricane evacuation and shelters. Additionally, the developer will mitigate impacts to shelter space through the payment schedule outlined in Chapter 2 of the LDC.

OBJECTIVE 123.2: PLANT COMMUNITIES. Maintain and enhance the biodiversity of the natural plant communities within Lee County to create a more resilient and sustainable ecosystem.

POLICY 123.2.4: Encourage the protection of viable tracts of sensitive or high-quality natural plant communities within developments.

POLICY 123.2.6: Avoid destruction of upland vegetation communities including coastal and interior hammocks through consideration of alternative site design layouts.

POLICY 123.2.8: Promote the long-term maintenance of natural systems through such instruments as conservation easements, transfer of development rights, restrictive zoning, public acquisition, and appropriate other means.

POLICY 123.2.13: Promote optimal conditions rather than minimum conditions for the natural system as the basis for sound planning.

POLICY 123.2.15: Protect Rare and Unique upland habitats from development impacts to the maximum extent possible, through conservation and/or site design.

Lee Plan Article XIII.a. provides that:

“A development order ... will be deemed consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development ... are

compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan, and if it meets all other established regulatory requirements of the County. Where goals, objectives, or policies of particular elements conflict, those conflicts will be resolved based on an analysis of the Lee Plan as a whole.”

Internal consistency and compatibility within the Lee Plan requires the balancing of competing goals, objectives and policies. *Policy 101.3.2* (restricting development in the coastal high hazard area to uplands except as needed for the provisions of public facilities) and *Policy 123.2.15* (protecting rare and unique upland habitats from development impacts, to the maximum extent possible, through conservation and or site design) provide an example of the need to balance competing policies when both types of habitat are present. Protecting these distinctly different habitats “to the maximum extent possible” enhances the conservation of plant communities and stormwater management facilities, effectively equivalent to “the provision of public facilities.”

While it is not possible to completely avoid all impacts to these two distinct plant communities due to the constraints of the site, the Master Concept Plan creatively balances the protection of each plant community with minimal impact to each community, thus protecting both communities to the maximum extent possible.

The objective of protecting human life and property within the CHHA is achieved through site planning which reduces permissible residential densities in order to provide for enhanced flood and stormwater management and storage capacity. The maximum density capacity permissible for the site is 474 units, yet the amendment adds nearly 40 acres to the RPD while it proposes only a total of 265 single family or 342 multi-family units.

In compliance with Objective 123.3 of the Lee Plan, the protection and enhancement of the on-site preserve will maintain the function of the on-site wetland and upland preservation areas. It will also provide perpetual protection of wildlife habitat, which will be available for utilization by various common and protected wildlife species including, but not limited to, amphibians species, reptiles species, small mammal species, and avian species, including wading birds. The enhancement and long-term protection of the 18.38± acre on-site preserve area will help to maintain wildlife diversity in Lee County, in compliance with Objective 123.3 of the Lee Plan.

OBJECTIVE 123.3: WILDLIFE. Maintain and enhance the fish and wildlife diversity and distribution within Lee County for the benefit of a balanced ecological system. (Ord. No. 94-30, 18-28)

In compliance with Objective 123.3 of the Lee Plan, the protection and enhancement of the on-site preserve will maintain the function of the on-site wetland and upland preservation

areas. It will also provide perpetual protection of wildlife habitat, which will be available for utilization by various common and protected wildlife species including, but not limited to, amphibians species, reptiles species, small mammal species, and avian species, including wading birds. The enhancement and long-term protection of the 18.38± acre on-site preserve area will help to maintain wildlife diversity in Lee County, in compliance with Objective 123.3 of the Lee Plan.

OBJECTIVE 123.6: SOUTHERN BALD EAGLES. Monitor Southern bald eagle nesting activity and offer incentives to conserve buffer areas around Southern bald eagle nests.

There are no bald eagle (*Haliaeetus leucocephalus*) nests located on or within the immediate vicinity of the proposed Project.

OBJECTIVE 123.8: GOPHER TORTOISES. Restore and maintain secure, viable populations of Gopher Tortoises in Lee County.

Please see the attached Indigenous Preserve and Protected Species Management Plan that was prepared for the Project. On-site and off-site gopher tortoise relocation options will be coordinated with the Florida Fish and Wildlife Conservation Commission, and if relocation of the tortoises is needed, it will be conducted in accordance with the FWCC's Gopher Tortoise Permitting Guidelines.

OBJECTIVE 123.10: WOOD STORK. Lee County will maintain regulatory measures to protect the wood stork's feeding and roosting areas and habitat.

No wood stork (*Mycteria americana*) rookeries or roosting areas were documented on the Project site. Compensation for impacts to wood stork foraging habitat will be provided through the enhancement and preservation of on-site wetland areas, or through the purchase of credits from a wetland mitigation bank. Additionally, the enhancement and preservation of wetland areas on site and the creation of additional wetlands within the onsite preserve will provide and protect potential foraging habitat for woods storks and other wading birds. The proposed stormwater system will comply with all design requirements in the LDC, including the littoral planting requirements, which provides potential forage areas.

OBJECTIVE 123.11: FLORIDA PANTHER. Develop strategies to protect the Florida panther.

No Florida Panthers (*Puma concolor coryi*) have been documented on the Project site. In addition, the Project is located outside of the USFWS Florida Panther Focus Area.

OBJECTIVE 123.12: FLORIDA BLACK BEAR. Maintain sustainable black bear populations in suitable habitats and promote connectivity between sub-populations.

No Florida black bears (*Ursus americanus floridanus*) have been documented on the Project site.

OBJECTIVE 124.1: Protect and conserve the natural functions of wetlands and wetland systems by maintaining wetland protection regulations.

POLICY 124.1.1: Ensure that development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII, and except that owners of wetlands adjacent to Intensive Development, General Interchange, Central Urban, Urban Community, Suburban, New Community, Outlying Suburban, and Sub-Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership (see Table 1(a)).

The proposed development is limited to very low density residential uses. Density is calculated at 1 du/20 acres in all wetlands proposed to be impacted in accordance with table 1(a). Densities from preserved wetlands are transferred to developable contiguous uplands under common ownership at 1 du/6 acres, consistent with the maximum allowable density for the adjacent Suburban Future Land Use Category as identified in this policy and Table 1(a).

POLICY 124.1.2: The County's wetlands protection regulations will be consistent with the following:

2. No development in wetlands regulated by the State of Florida may be commenced without the appropriate state agency permit or authorization. Development orders and development permits authorizing development within wetlands or lands located within the Wetlands future land use category may be issued subject to a condition that construction may not commence until issuance of the required state permits.

A previous ERP was obtained which authorized 4.58 acres of wetland impacts (Permit 36-06750-P) and a condition is proposed which requires that construction may not commence until an amendment to this ERP is obtained to authorize any impacts to wetlands proposed by the MCP.

6. The density on wetlands that have been impacted, or will be impacted, in accordance with a state agency permit will be calculated at a density of one dwelling unit per 20 acres. Nonresidential uses on wetlands that have been impacted, or will be impacted, in accordance with a state agency permit must be consistent with the non-residential uses permitted in the immediately adjacent, least intense, upland future land use category.

The proposed development calculates allowable density based on 6 du/acre for uplands and preserved wetlands and, as mentioned above, a calculation of 1 du/20 acres in all wetlands proposed to be impacted in accordance with table 1(a).

POLICY 125.1.2: New development and additions to existing development must not degrade surface and ground water quality.

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.

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.

The proposed RPD will include a stormwater lake adjacent to the residential tract to address water quality. The surface water system will also be required to obtain an ERP from the South Florida Water Management District at the time of DO. The proposed amendment will not impact existing infrastructure in the area, and roadways, schools, EMS, potable water and sanitary sewer service are available to serve the property.

The Applicant will be required to amend the existing SFWMD ERP for Marina del Lago (Permit No. 36-06750-P), which includes monitoring requirements. The RPD will comply with these and any additional/revised monitoring requirements that are incorporated into the modified ERP.

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.

The development of the proposed stormwater management system will provide water quality and water quantity improvements, including the creation of 4.48 acres of created wetlands. The system will be designed so that sufficient flow of water to retain the existing hydroperiods will be maintained. Several drainage easements exist throughout the site, as noted on the MCP, and are used to convey off-site flows. These easements will remain in place and will be incorporated into the surface water management system of the RPD.

For these reasons, the Applicant respectfully requests approval of this PD amendment as proposed.

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENTTO: Donna Marie Collins
Chief Hearing ExaminerDATE: January 6, 2023FROM: Elizabeth Workman
Principal PlannerRE: **Greenwell MPD (DCI2021-00050)**

Staff and the applicant have reviewed the Hearing Examiner's Order of Continuance for the above-referenced case and provide the following testimony/evidence to supplement the record:

1. Staff Exhibit 3 - Provide correspondence from the Florida state land planning agency regarding review status of CPA2021-00015.
 - See Attachment A.
2. Revised Master Concept Plan.
 - See Attachment B - applicant's December 22, 2022 e-mail.
3. Revised buffer condition.
 - Applicant and staff have agreed on the following condition that includes minor edits:

8. *Perimeter Buffer*

An enhanced perimeter buffer must be provided abutting conservation lands and residential uses along the east and residential uses to the north and south property lines. The enhanced perimeter buffer along the north, south and east property lines must be consistent with the following:

- a. *North: 30' enhanced Type 'F' buffer within the Non-residential Development Area and 25' enhanced Type 'B' within the Residential Development Area; and*
- b. *South: 30' enhanced Type 'F' buffer within the Non-residential Development Area; and*
- c. *East: 30' enhanced Type 'F' buffer within the Non-residential Development Area.*

The enhanced perimeter buffer must include either an opaque eight-foot-in-height high wall/fence with code minimum landscape plants or 16-foot--in-height high

trees at time of planting and hedges 60 inches-in-height at time of planting and maintained at 72-inches-in-height.

- Staff suggested **NEW** wetland impact condition:

State Wetland Permits

For development that proposes impacts to wetlands, construction may not commence until issuance of required state permits. Development activity must remain in compliance with applicable state wetland permits and applicable local development permits. If impacts to wetlands are not permitted by the State or if issued state wetland permits are inconsistent with proposed impacts to wetlands depicted within local development permit approvals, Developer must amend local development permit approvals to be consistent with issued state wetland permits or applicable Lee Plan and Land Development Code regulations pertaining to development within wetlands.

4. Replacement page for Applicant's PowerPoint addressing project density.
 - See Attachment B - applicant's December 22, 2022 e-mail.
5. The Hearing Examiner requests testimony/evidence necessary on Lee Plan goals, objectives or policies allowing other land uses in wetland within the Coastal High Hazard area (Policy 101.3.2). If such provisions exist within the Lee Plan, present an analysis of the conflicting provisions in the context of the Lee Plan as a whole.

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. (Ord. No. 94-30, 18-28)

OBJECTIVE 101.3: DEVELOPMENT IN COASTAL AREAS. Protect human life and property from natural and man-made disasters. (Ord. No. 92-35, 93-25, 94-30, 00-22, 18-28)

POLICY 101.3.2: Restrict development in the Coastal High Hazard Area to uplands except as needed for the provision of public facilities. (Ord. No. 18-28)

The majority of the subject property is located within the Coastal High Hazard area (CHHA) according to the Lee Plan Map 5-A (see Attachment C). Not all of the subject property within the CHHA is considered wetlands per the South Florida Water Management District formal jurisdictional wetland determination (see Attachment D). Policy 101.3.2 restricts development in the Coastal High Hazard to uplands. The applicant is proposing development of the uplands and wetlands within the property boundaries. The development proposed in the CHHA wetland areas is anticipated to be permitted through the issuance of an Environmental Resource Permit (ERP) by the South Florida Water Management District (SFWMD).

Policy 101.3.2 does not address development approval of impacts to wetlands in the CHHA. The development in wetlands is specifically regulated by Goal 124 and subsequent objectives and policies (see Policy 1.5.1). Policy 1.5.1 provides as follows:

POLICY 1.5.1: Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. **All development in Wetlands must be consistent with Goal 124.** The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII. (emphasis added)

To ensure compliance with the Lee Plan goals, objectives, and policies, the approval of development in wetlands must be consistent with Lee Plan Policy 124.1.2 per the following:

POLICY 124.1.2: The County's wetlands protection regulations will be consistent with the following:

- 1. The County will not undertake an independent review at the development order stage of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption.*
- 2. No development in wetlands regulated by the State of Florida may be commenced without the appropriate state agency permit or authorization. **Development orders and development permits authorizing development within wetlands or lands located within the Wetlands future land use category may be issued subject to a condition that construction may not commence until issuance of the required state permits.** (emphasis added)*
- 3. Lee County will incorporate the terms and conditions of state permits into County permits and will prosecute violations of state regulations and permit conditions through its code enforcement procedures.*
- 4. Every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques. On- or off-site mitigation will only be permitted in accordance with applicable state standards.*
- 5. Mitigation banks and the issuance and use of mitigation bank credits will be permitted to the extent authorized by applicable state agencies.*
- 6. **The density on wetlands that have been impacted, or will be impacted, in accordance with a state agency permit will be calculated at a density of one dwelling unit per 20 acres. Nonresidential uses on wetlands that have been impacted, or will be impacted, in accordance with a state agency permit must be consistent with the non-residential uses***

permitted in the immediately adjacent, least intense, upland future land use category.
(Ord. No. 94-30, 00-22, 07-12, 10-20, 10-39, 18-28, 19-13, 19-26) (emphasis added)

Policy 124.1.2 was amended after the adoption of Policy 101.3.2 to clarify the uses permitted within wetlands. Specifically, the Lee Plan was amended to identify uses on property that has been, or will be, impacted through state permits. With the adoption of the 2019 amendments to the Lee Plan, the Plan clearly identifies that development orders and development permits (including approval of rezoning applications) may be approved subject to approval of State Agency permits that permit impacts to the wetlands within the project boundaries.¹ The 2019 amendments to Policy 124.1.2 apply to all wetlands within Lee County and are not restricted to wetlands outside of the CHHA. If approved by the State, the impacted wetlands are treated as uplands for development purposes. As such, the restriction of development to only uplands found under Policy 101.3.2 are met. If impacts to wetlands are not approved through the State Agency, then development may only occur on the uplands and the restrictions placed on development of wetlands under Goal 124 must be followed.

Lee Plan Policy 124.1.2, Notes 2 and 6 recognize that when the state agencies issue a permit to allow impacts to wetlands those wetland areas are treated as uplands. Mitigation is handled through the state agencies (see Policy 124.1.2, Note 5). Therefore, development may be allowed in wetland areas through a state agency permit that includes mitigation. When reviewing density, the County recognizes that the state agencies have permitted impacts to wetlands to create uplands and residential density for an impacted wetland at one unit per 20 acres.

Therefore, when considering the above, the subject property is in compliance with Policy 101.3.2 because a SFWMD jurisdictional wetland determination that indicates the location of the State of Florida wetlands has been submitted, and the state permits impacts through onsite or offsite mitigation. When wetlands are impacted, the state considers these areas developable uplands thus complying with Lee Plan Policy 101.3.2.

6. The Hearing Examiner requests testimony/evidence pertaining to Goal 124.1.1 (Policy 124.1.1) because the policy does not provide for commercial uses. Testimony/evidence must be provided on the Lee Plan goals, objectives, or policies authorizing commercial uses in wetlands. If such provisions exist within the Lee Plan, present an analysis of the conflicting provisions in the context of the Lee Plan as a whole.

POLICY 124.1.1: Ensure that development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with

¹ In 2011, the State legislature adopted changes to § 125.022, Fla. Stat., that prohibits a county from requiring "as a condition of processing or issuing a development permit or development order that an applicant obtain a permit or approval from any state or federal agency..." Consequently, Lee County cannot prohibit issuance of a local development order or development permit subject to an Applicant acquiring a State permit to impact wetlands. In accordance with the statute cited, the County may only prohibit commencement of the development or construction until issuance of State permits necessary for the development.

wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII, and except that owners of wetlands adjacent to Intensive Development, General Interchange, Central Urban, Urban Community, Suburban, New Community, Outlying Suburban, and Sub-Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership (see Table 1(a)). (Ord. No. 94-30, 00-22, 10-20, 18-06, 18-28, 19-13, 21-09)

Similar to the CHHA upland versus wetlands discussion, Lee Plan Policy 124.1.2, Note 2 relies on the state permitting agencies to allow impacts to wetlands. The County does not conduct an independent review of wetlands and must rely on the issuance of a state agency permit. Once the state permit allows impacts to wetlands, the land that was once wetlands is treated as uplands subject to the use, intensity, and density restrictions of Goal 124. Policy 124.1.2, Note 6 states that “non-residential uses on wetlands that have been **or will be impacted**, in accordance with the state agency permit must be consistent with the non-residential uses permitted in the immediately adjacent, least intense, upland future land use category”. CPA2021-00015 amended the Future Land Use Map (Map “1-A”) to re-designate approximately 265 acres of land, including the subject property, from the Rural and Wetlands Future Land Use categories to the Outlying Suburban and Wetlands Future Land Use categories. The applicant is preserving the portion of the property that is within the Wetlands Future Land Use category (see Attachment E). The jurisdictional wetland determination depicts more wetlands than what is recognized by the CPA2021-00015 map amendment. Impacts to wetlands recognized by the state are proposed to be mitigated through the issuance of a state permit. If the requisite state permit is issued, then the proposed use areas will be treated as uplands and the proposed uses must be consistent with those uses permitted in the immediately adjacent, least intense, upland future land use category.

POLICY 1.1.6: The Outlying Suburban future land use category is characterized by its peripheral location in relation to established urban areas. In general, this category is rural in nature or contains existing low-density development. Some of the requisite infrastructure needed for higher density development is planned or in place. Industrial land uses are not permitted. The standard density range is from one dwelling unit per acre (1 du/acre) to three dwelling units per acre (3 du/acre). Bonus densities are not allowed. (Ord. No. 91-19, 03-20, 03-02, 17-13)

POLICY 1.4.1: The Rural areas are to remain predominantly rural – that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. Natural resource extraction may be permitted in accordance with Policy 10.1.4. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre). (Ord. No. 97-17, 98-09, 00-22, 07-12, 10-20)

As it currently exists, the least intense of the two immediately adjacent future land use categories (FLUC) is the Rural FLUC established by Policy 1.4.1. This category may be used for low density residential uses, agricultural uses, and minimal non-residential uses that are needed to serve the rural community. Density may be transferred from the preserved wetlands to the developable contiguous uplands per Policy 124.1.1. However, if CPA2021-00015 is adopted, then the wetlands proposed to be impacted will be immediately adjacent to lands designated Outlying Suburban.

POLICY 1.1.6: The Outlying Suburban future land use category is characterized by its peripheral location in relation to established urban areas. In general, this category is rural in nature or contains existing low-density development. Some of the requisite infrastructure needed for higher density development is planned or in place. Industrial land uses are not permitted. The standard density range is from one dwelling unit per acre (1 du/acre) to three dwelling units per acre (3 du/acre). Bonus densities are not allowed. (Ord. No. 91-19, 03-20, 03-02, 17-13)

Based on the above analysis, the wetlands located within the commercial portion of the site that are proposed to be impacted and mitigated through the state permitting process are in compliance with Policy 124.1.2, Note 6. The least intense FLUM adjacent to the wetlands if the CPA is approved will be Outlying Suburban. The 400,000 square feet of non-residential uses abutting an arterial road comply with the Outlying Suburban FLUM. Density in Outlying Suburban is three units per acre and the applicant is proposing 122 dwelling units. Preserved wetland acreage is allowed to be transferred to contiguous uplands per Lee Plan Policy 124.1.1. The site has 27.27 acres of state verified wetlands and the applicant proposes to impact 16.56 acres of state wetlands. The total site area is 76.82 acres with approximately 60.56 acres of non-impacted state wetlands. Density for the 60.26 acres is three units per acre (180.78 units). The remaining 16.56 acres of impacted wetland density is calculated at one unit per 20 acres (0.82 units). The applicant could request 181 units and is requesting 122 units. Therefore, the density is in compliance and compatible.

Respectfully Submitted,
Elizabeth A. Workman
Principal Planner, Zoning Section

Attachments:

- A. CPA2021-00015 state correspondence
- B. Applicant's e-mail that includes the revised MCP
- C. Coastal High Hazard Map (Staff Powerpoint, Slide 11)
- D. SFWMD jurisdictional wetland determination
- E. CPA2021-00015 map amendment and text amendment staff report

ATTACHMENT A

Miller, Janet

From: Dunn, Brandon
Sent: Thursday, November 3, 2022 8:51 AM
To: Miller, Janet
Subject: FW: Lee County 22-07ESR Proposed

From: Plan_Review <Plan.Review@dep.state.fl.us>
Sent: Wednesday, October 26, 2022 3:30 PM
To: Dunn, Brandon <BDunn@leegov.com>; dcexternalagencycomments@deo.myflorida.com
Cc: Plan_Review <Plan.Review@dep.state.fl.us>
Subject: Lee County 22-07ESR Proposed

To: Mr. Brandon Dunn, Principal Planner

Re: Lee County 22-07ESR – Expedited State Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Please submit all future amendments by email to Plan.Review@FloridaDEP.gov. If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.



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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE "NIKKI" FRIED

November 9th, 2022

VIA US MAIL/EMAIL (bdunn@leegov.com)

Lee County
Brandon Dunn
P.O. Box 398
Fort Myers, FL 33902-0398

Re: DACS Docket # 20221013-147-Lee
Lee County
October 13th, 2022

Dear, Brandon Dunn;

The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on October 10th, 2022 and has reviewed it pursuant to the provisions of Chapter 163, Florida Statutes, to address any potential adverse impacts to important state resources or facilities related to agricultural, aquacultural, or forestry resources in Florida if the proposed amendment(s) are adopted. Based on our review of your county's submission, the Department has no comment on the proposal.

If we may be of further assistance, please do not hesitate to contact me at 850-410-2292.

Sincerely,

Thomas Poucher
Budget Director
Office of Policy and Budget

cc: Florida Department of Economic Opportunity
(SLPA #: Lee 22-07ESR)



Florida Fish and Wildlife Conservation Commission

Commissioners
Rodney Barreto
Chairman
Coral Gables

Steven Hudson
Vice Chairman
Fort Lauderdale

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Assistant Executive Director

Jessica Crawford
Chief of Staff

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800 955-8770 (V)

MyFWC.com

October 24, 2022

Brandon Dunn
Lee County Planning Section
P.O. Box 398
Fort Myers, Florida 33902-0398
bdunn@leegov.com

Re: Lee County 22-07ESR (CPA2021-00015, Greenwell SR31), Comprehensive Plan Amendment

Dear Mr. Dunn:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the above-referenced comprehensive plan amendment package and provides the following comments and recommendations for consideration in accordance with Chapter 163.3184, Florida Statutes. While there are no objections to the amendment, the following technical assistance information is provided to assist the Department of Economic Opportunity, the County, and any applicants during the amendment review and future project planning.

Project Description

Lee County transmitted a privately initiated comprehensive plan amendment for the Greenwell Property to change the Future Land Use Map (FLUM) designation from Rural to Outlying Suburban on approximately 76.82 acres. The Local Planning Agency requested Lee County staff to include 15 adjacent properties in this amendment, making the overall amendment site approximately 265.3 acres. This proposed designation change will increase the allowable density from 1 dwelling unit per acre to 3 dwelling units per acre and increase the allowable commercial intensity. The site is located on the east side of State Road 31, between North River Road and the Caloosahatchee River. Additionally, this amendment proposes to amend the Lee County Utilities Future Water Service Areas (Map 4A) to add property to the service area and amend Table 1(b) to appropriately adjust the residential acres in the Outlying Suburban future land use category and the Rural future land use category within the Northeast Lee County Planning District. The dominant land covers on the site consist of 114.3 acres of improved pasture, 82.6 acres of rural structures, 35.7 acres of mixed wetland hardwoods, 9.1 acres of mixed scrub-shrub wetland, 5.8 acres of unimproved/woodland pasture, and 4.3 acres of marshes.

Potentially Affected Resources

Passarella & Associates, Inc. provided an *Environmental Assessment* (November 2021) in support of the Greenwell Property portion of this amendment. The report indicates a wildlife survey was conducted on the Greenwell Property on November 3, 2021, focusing on listed and managed species with the potential to occur within the project area including:

- Everglade snail kite (*Rostrhamus sociabilis plumbeus*, Federally Endangered [FE]),
- Florida bonneted bat (*Eumops floridanus*, FE),
- Audubon's crested caracara (*Polyborus plancus audubonii*, Federally Threatened [FT]),
- Eastern indigo snake (*Drymarchon corais couperi*, FT),
- Wood stork (*Mycteria americana*, FT),
- American alligator (*Alligator mississippiensis*, Federally Threatened - Similarity of Appearance),

Brandon Dunn
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October 24, 2022

- Big Cypress fox squirrel (*Sciurus niger avicennia*, State Threatened [ST]),
- Gopher tortoise (*Gopherus polyphemus*, ST)
- Florida burrowing owl (*Athene cunicularia floridana*, ST),
- Florida sandhill crane (*Antigone canadensis pratensis*, ST),
- Little blue heron (*Egretta caerulea*, ST),
- Roseate spoonbill (*Platalea ajaja*, ST), and
- Florida black bear (*Ursus americanus floridanus*)

No listed species were observed on the Greenwell Property during this survey. A wildlife assessment was not provided for the adjacent properties added to this amendment by Lee County staff. FWC staff conducted a geographic information system (GIS) analysis of the overall site footprint which confirmed the information contained in the *Environmental Assessment* for the Greenwell Property and found this information to be applicable to the adjacent properties. Additionally, the GIS analysis found the overall site is also located near, within, or adjacent to:

- U.S. Fish and Wildlife Service (USFWS) Consultation Areas for the following federally listed species:
 - Florida grasshopper sparrow (*Ammodramus savannarum floridanus*, FE),
 - Red-cockaded woodpecker (*Picoides borealis*, FE), and
 - Florida scrub-jay (*Aphelocoma coerulescens*, FT)
- Potential habitat for the following federally and state-listed species:
 - Smalltooth sawfish (*Pristis pectinata*, FE),
 - West Indian manatee (*Trichechus manatus latirostris*, FT),
 - Southeastern American kestrel (*Falco sparverius paulus*, ST),
 - Tricolored heron (*Egretta tricolor*, ST), and
 - Least tern (*Sternula antillarum*, ST)
- Existing Conservation Lands:
 - Caloosahatchee Creeks Preserve
 - Columbus G. MacLeod Preserve
 - Manatee Park

Comments and Recommendations

Wildlife Surveys

To better identify potential impacts to listed species of fish and wildlife, FWC staff recommends that species-specific surveys be conducted on the properties adjacent to the Greenwell Property prior to any clearing or construction. Species-specific surveys are time sensitive and are best conducted by wildlife biologists with recent documented experience for that species. Species-specific survey protocols approved by the USFWS and the FWC are provided in the *Florida Wildlife Conservation Guide* at (<https://myfwc.com/conservation/value/fwcg/>) or in the *FWC Species Conservation Measures and Permitting Guidelines* available at (<https://myfwc.com/wildlifehabitats/wildlife/species-guidelines/>).

Southeastern American Kestrel

Suitable habitat for southeastern American kestrels may be found within the overall site. FWC staff recommends that kestrel surveys be conducted from April to August within kestrel suitable foraging habitat according to the methodology outlined in FWC's *Species Conservation Measures and Permitting Guidelines for the Southeastern American Kestrel*

Brandon Dunn
Page 3
October 24, 2022

(<https://myfwc.com/wildlifehabitats/wildlife/species-guidelines/>). Surveys from May to July are ideal to avoid confusion with the migratory subspecies of American kestrel (*Falco sparverius sparverius*). Surveys may be completed outside of the April to August survey season when necessary, with any kestrels observed assumed to be southeastern American kestrels. Surveys are valid until the beginning of the following breeding season (March). If surveys encounter active nest cavities, FWC staff recommends avoiding project activities within 150 meters (490 feet) of the nest during the breeding season (March through July) to avoid disturbance. If nesting is discovered after construction has begun, or if maintaining the recommended buffer is not possible, the applicant may contact FWC staff identified below to discuss potential permitting needs. In areas of suitable kestrel habitat, the *Guidelines* also recommend retaining snags whenever possible.

Imperiled Beach Nesting Birds

While the existing conditions onsite likely do not support least tern nesting activity, clearing associated with construction may create conditions conducive for beach-nesting bird nesting. Cleared sites such as areas that have undergone surface scraping may attract ground nesting species such as least terns or other imperiled beach-nesting birds (IBNB) during nesting season. IBNB nests have been documented on a variety of disturbed sites, including construction sites. Least terns deposit their eggs in shallow depressions or scrapes in the substrate, possibly lined with pebbles, grasses, or coquina shells. Egg-laying usually begins in late April or early May and colonies may range in size from a few breeding pairs to many hundreds. FWC staff recommends the following measures to reduce nesting potential during construction:

- Conduct construction activities outside of the breeding season (generally April through August) if feasible, or,
- If the site is cleared during the breeding season, clear the site only when ready to build, and
- Avoid leaving cleared areas with little to no activity for an extended amount of time.

If nesting is observed, FWC staff are available to discuss necessary nest buffers and potential permitting alternatives. For additional information, please refer to FWC's Breeding Bird Protocol for Florida's Seabirds and Shorebirds located at the following web address: <https://public.myfwc.com/crossdoi/shorebirds/PDF-files/BreedingBirdProtocol.pdf>.

Florida Black Bear

The FWC has received 63 reports of human-bear conflicts within a 5-mile radius of the site since 2012. Florida black bears are frequent in this area which is within the South Bear Management Unit identified in the 2019 Bear Management Plan. While black bears tend to shy away from people, they are adaptable and will take advantage of human-provided food sources. This includes sources that are currently available near this site, sources that may be available during construction, and sources available after construction including unsecured garbage, pet food, and bird seed. Once bears become accustomed to finding food around people, their natural wariness is reduced to the point that there can be an increased risk to public safety or private property.

Proactive planning may help prevent or reduce future conflicts with bears. Site designs for larger developments should locate conservation areas along the borders of developed areas, to avoid encouraging bears to forage within developed areas (<http://myfwc.com/wildlifehabitats/managed/bear/crossings/>). If a homeowners' association or community covenants are planned, by-laws that would require residents to take measures to prevent attracting bears into the neighborhood are recommended. Sample by-law language used

Brandon Dunn
Page 4
October 24, 2022

by other Florida communities is available at
(<http://myfwc.com/wildlifehabitats/managed/bear/living/community-group/bylaw/>).

During construction, construction sites should be kept clean, with refuse that might attract bears kept separate from construction debris and stored securely in bear-resistant containers or removed daily from the construction site before dark. Refuse that might attract bears includes all food and drink-related materials, as well as any items with strong scents like cleaning agents. Once the development is completed, residents should be provided with bear-resistant garbage cans as part of their regular waste service and any larger waste storage containers should also be bear-resistant. Providing residents with information on how to avoid human-bear conflicts is also recommended. This information can include:

- Options for keeping garbage secure which can include using bear-resistant garbage containers, modifying regular containers to be bear-resistant, or keeping containers secure in a garage or sturdy shed and then placing garbage on the curb the morning of pick-up rather than the night before
(<http://myfwc.com/wildlifehabitats/managed/bear/living/attractants/>);
- Removing bird and wildlife feeders, or modifying them to exclude bears
(<http://myfwc.com/wildlifehabitats/managed/bear/wildlife-feeders/>);
- Using electric fencing to secure outdoor attractants like fruiting trees/shrubs, gardens, compost, and small livestock (<https://myfwc.com/media/1886/electricfence.pdf>);
- Proper composting in bear range
(<https://myfwc.com/media/1888/howtocompostinbearcountry.pdf>);
- Keeping pets safe (<https://myfwc.com/wildlifehabitats/wildlife/bear/living/protect-pets/>); and
- Cleaning and securing barbeque grills.

Information should also include guidelines for how residents should respond to bears in the area, such as:

- What to do if they encounter a bear, whether from a distance or at close range,
- How to keep pets and livestock safe in bear range, and
- When and how to contact the FWC regarding a bear issue.

FWC staff is available to assist with residential planning to incorporate the above features. Additional information about Florida black bears can be found on FWC's website at
(<http://www.myfwc.com/wildlifehabitats/managed/bear>).

Smoke Shed

The residential development is proposed within a smoke shed (periodically smoke-filled corridor) that originates from use of prescribed fire as a management tool at Caloosahatchee Creeks Preserve and other nearby conservation lands. Prescribed fire is required to maintain many of the natural upland communities that exist on these conservation areas. Natural resource management staff and land managers on these conservation lands will continue to use prescribed burning to sustain existing communities and reduce fuel loads that may otherwise lead to catastrophic wildfires that not only affect wildlife but threaten human life and property. FWC staff recommends that the applicant include provisions in any homeowners' association or covenant documents that inform future residents that prescribed burning is an acceptable practice for natural resource management and that the area is within a smoke shed. Developers of lands within two miles of native habitat managed by fire may wish to consider Florida Forest Service recommendations at (<https://www.fdacs.gov/Forest-Wildfire/For-Communities/Firewise-USA>) to create Fire-Wise communities.

Brandon Dunn
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October 24, 2022

Federal Species

This site may also contain habitat suitable for the federally listed species identified above. FWC staff recommends coordination with USFWS South Florida Ecological Services Office (ESO) as necessary for information regarding potential impacts to these species. The USFWS South Florida ESO can be contacted at (772) 562-3909.

FWC staff appreciates the opportunity to provide input on this site. For specific technical questions regarding the content of this letter, please contact Cori Calyniuk at (850) 556-5948 or by email at Cori.Calyniuk@MyFWC.com. All other inquiries may be sent to ConservationPlanningServices@MyFWC.com.

Sincerely,



Jason Hight, Director
Office of Conservation Planning Services

jh/cc
Lee County 22-07ESR_52202_10242022

cc: Ray Eubanks, Florida Department of Economic Opportunity,
DCPexternalagencycomments@deo.myflorida.com
Shane Johnson, Passarella & Associates, Inc., shanej@passarella.net

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

October 13, 2022

The Honorable Kevin Ruane
Chairman, Lee County
Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33901-0398

Dear Chairman Ruane:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for Lee County (Amendment No. 22-07ESR) received on September 26, 2022. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the County is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the County. **If the County receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**
- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the County that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
(850) 245.7105 | www.FloridaJobs.org | [www.Twitter.com/FLDEO](https://twitter.com/FLDEO) | www.Facebook.com/FLDEO

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The Honorable Kevin Ruane, Chairman
October 13, 2022
Page 2 of 2

If you have any questions concerning this review, please contact Adrian Young, Planning Analyst, by telephone at (850) 717-8515 or by email at adrian.young@deo.myflorida.com.

Sincerely,



Scott Rogers, Regional Planning Administrator
Bureau of Community Planning and Growth

SR/ay

Enclosure(s): Procedures for Adoption

cc: David Loveland, Director, Lee County, Department of Community Development
Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS**FOR EXPEDITED STATE REVIEW**

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit electronically using the Department's electronic amendment submittal portal "**Comprehensive Plan and Amendment Upload**" (<https://floridajobs.secure.force.com/cp/>) **or** submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, in **color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

September 26, 2022

RESPONSE VIA EMAIL ONLY

Mr. Brandon Dunn
Principal Planner
Lee County Planning Section
Post Office Box 398
Fort Myers, Florida 33902-0398

Dear Mr. Dunn:

Thank you for submitting Lee County's proposed comprehensive plan amendment for our review pursuant to the Expedited State Review process. The reference number for this amendment package is **22-07ESR**.

The proposed submission package will be reviewed pursuant to Section 163.3184(3), Florida Statutes. Once the review is underway, you may be asked to provide additional supporting documentation by the review team to ensure a thorough review. You will receive the Department's Comment Letter no later than October 26, 2022.

If you have any questions please contact Cristin Beshears, Plan Processor at (850) 717-8486 or Scott Rogers, Regional Planning Administrator, who will be overseeing the review of the amendments, at (850)717-8510.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Ray Eubanks', is written over a horizontal line.

D. Ray Eubanks, Administrator
Plan Review and Processing

DRE/cb

cc: External Agencies

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
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Board of County Commissioners

Kevin Ruane
District One

September 26, 2022

Cecil L. Pendergrass
District Two

Ray Sandelli
District Three

Brian Hamman
District Four

Mike Greenwell
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing
Examiner

Ray Eubanks, Plan Processing Administrator
State Land Planning Agency
Caldwell Building
107 East Madison – MSC 160
Tallahassee, FL 32399-4120

**Re: Amendment to the Lee Plan
Transmittal Submission Package
CPA2021-00015, Greenwell SR31**

Dear Mr. Eubanks:

In accordance with the provisions of F.S. Chapter 163.3184(3) for Expedited State Review, please find attached the proposed Comprehensive Plan Amendment, known locally as CPA2021-00015 (Greenwell SR 31). The amendment is as follows:

CPA2021-00015, Greenwell SR 31:

Amend the Future Land Use Map (Map 1A) to re-designate the future land use categories of approximately 265 acres from the Rural and Wetlands to Outlying Suburban and Wetlands; amend the Lee County Utilities (LCU) Future Water Service Areas (Map 4A) to add property to the service area; and, amend Table 1(b) to accommodate the development.

The Local Planning Agency held a public meeting for the plan amendment on July 25, 2022. The Board of County Commissioners voted to transmit the amendment on September 21, 2022. The proposed amendment is not applicable to an area of critical state concern. The Board of County Commissioners stated their intent to hold an adoption hearing following the receipt of the review agencies' comments.

The name, title, address, telephone number, and email address of the person for the local government who is most familiar with the proposed amendment is as follows:

Mr. Brandon Dunn, Principal Planner
Lee County Planning Section
P.O. Box 398
Fort Myers, Florida 33902-0398
(239) 533-8585
Email: bdunn@leegov.com

By copy of this letter and its attachments, I certify that this amendment and supporting data and analysis have been sent on this date to the agencies listed below.

Sincerely,

**Lee County Department of Community Development
Planning Section**



Mikki Rozdolski,
Manager, Community Development Operations

Cc Brandon Dunn, Planner, Principal
 Case File

All documents and reports attendant to this transmittal are also being sent by copy of this cover in an electronic format to:

Comprehensive Plan Review
Department of Agriculture and Consumer Services

Morgan Runion, AICP
Department of Education

Plan Review
Department of Environmental Protection

Alissa S. Lotane
Florida Department of State

Scott Sanders
Florida Fish and Wildlife Conservation Commission

Vitor Suguri
FDOT District One

Ms. Margaret Wuerstle
Southwest Florida Regional Planning Council

Terry Manning, AICP
South Florida Water Management District

The logo for RWA Engineering, featuring the letters "RWA" in a large, bold, blue serif font, with a blue curved line underneath, and the word "ENGINEERING" in a smaller, blue, sans-serif font below the curve.

VIA EMAIL ONLY

Subject: DCI2021-00050 - Greenwell SR31 MPD
Hearing Date: November 17, 2022; Continuance Hearing Date: January 13, 2023
Applicant's Response to Order of Continuance

The applicant has reviewed the Order of Continuance dated and received on December 1, 2022. The Applicant is providing the following information and attachments in response to the items requested by the Hearing Examiner (HEX) to supplement the record as well as information in support of proposed testimony/evidence regarding matters raised during the hearing.

Response: These documents are on file with Lee County. Based on coordination with Staff, they will be providing these documents in support of Staff Exhibit 3.

Response: Please see the attached copy of the revised Master Concept Plan (Attachment A) providing for future cross-access connections to the adjacent properties to the north and south.

Response: Please see the following revision proposed to Condition #8 as presented by Staff during the hearing. The revisions are needed to address consistency with the enhanced perimeter buffers shown on the Master Concept Plan.



8. Perimeter Buffer

An enhanced perimeter buffer must be provided abutting conservation lands and residential along the east and residential to the north and south property lines. The enhanced perimeter buffer along the north, south and east property lines must be consistent with the following:

- *North: 30' enhanced Type 'F' buffer within the Non-residential Development Area and 25' enhanced Type 'B' within the Residential Development Area.*
- *South: 30' enhanced Type 'F' buffer within the Non-residential Development Area.*
- *East: 30' enhanced Type 'F' buffer within the Non-residential Development Area.*

The enhanced perimeter buffer must include either an opaque eight-foot-in-height wall/fence with code minimum landscape plants or 16-feet-in-height trees at time of planting and hedges 60 inches-in-height at time of planting and maintained at 72-inches-in-height.

4. Replacement page for Applicant's PowerPoint addressing project density.

Response: Please see the attached replacement page (Slide 7) adding reference to maximum density of 3 du/acre allowed under Outlying Suburban and reference to maximum of 122 dwelling units proposed per the rezoning request being consistent with the Outlying Suburban density maximum. The adoption hearing date was also revised to reflect the new BoCC date of February 8, 2023.

Additionally, the HEX: requested that further testimony/evidence be provided at the continuance hearing related to the following:

1. *Goal (Policy) 101.3.2 restricts development in Coastal High Hazard Areas to uplands, except where necessary to provide public facilities. Testimony/evidence necessary on Lee Plan goals, objectives or policies allowing other land uses in wetlands within the Coastal High Hazard area. If such provisions exist within the Lee Plan, present an analysis of the conflicting provisions in the context of the Lee Plan as a whole. (Lee Plan Chapter XIII.a)*
2. *Goal (Policy) 124.1.1 restricts development in wetlands to very low density residential, recreation, open space, or conservation. The policy does not provide for commercial uses. Testimony/evidence necessary on Lee Plan goals, objectives or policies authorizing commercial uses in wetlands. If such provisions exist within the Lee Plan, present an analysis of the conflicting provisions in the context of the Lee Plan as a whole. (Lee Plan Chapter XIII.a)*

The Applicant has provided the attached narrative (Attachment C) to provide additional analysis and justification supporting the consistency with the above referenced policies and ultimately helping to ensure the protection of the public's health, safety, and welfare through a well-planned, designed and constructed mixed use development.



On behalf of the Applicant, we appreciate the opportunity to further discuss the information provided with you and other staff as we head toward the continuance hearing on January 13, 2023.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kenrick S. Gallander'.

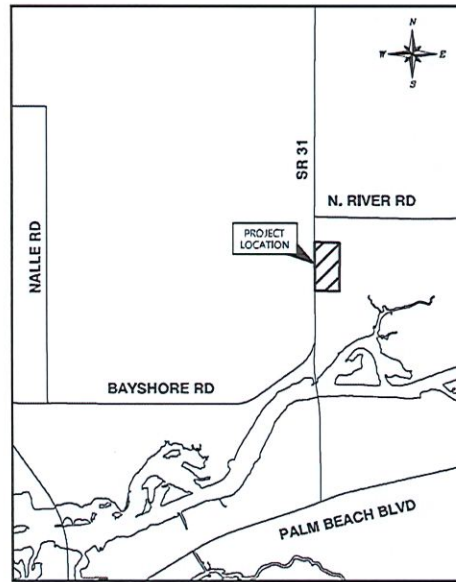
Kenrick S. Gallander, AICP

Attachments: A: Revised Master Concept Plan
B: Replacement Slide #7
C: Lee Plan Consistency: Wetlands & CHHA Narrative

cc: Brian Farrar, President, BCF Management Group, LLC
Michael R. Whitt, Esq.
Robert A. Cooper, Esq.
Anthony R. Rodriguez, AICP, CPM
Brandon Dunn, Principal Planner
Michael D. Jacob, Esq.

MASTER CONCEPT PLAN FOR GREENWELL SR 31

PART OF SECTION 18, TOWNSHIP 43, RANGE 26E,
LEE COUNTY, FLORIDA



VICINITY MAP
R.L.S.



SITE LOCATION MAP
R.L.S.

PROJECT TEAM

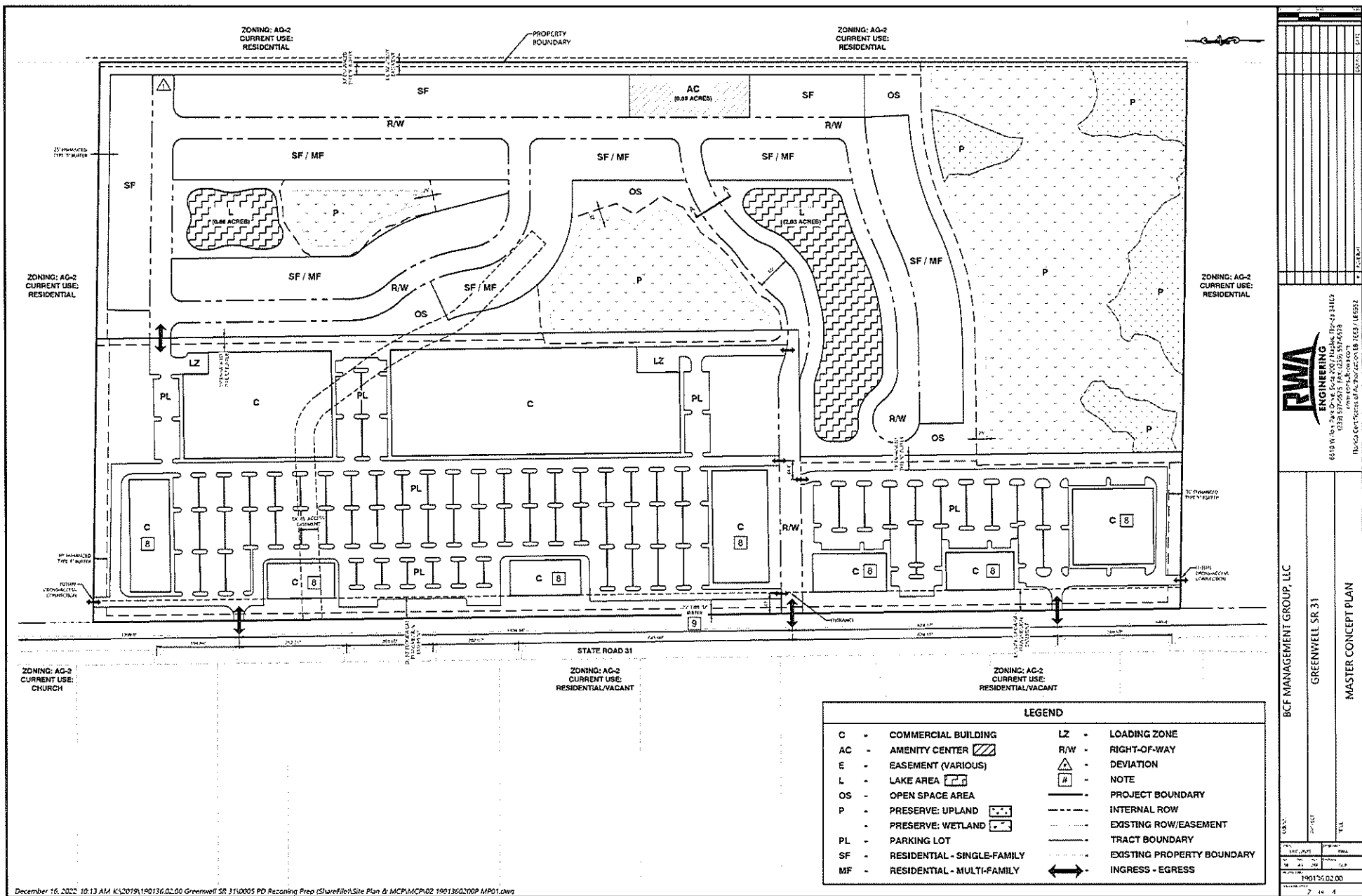


PREPARED FOR:
BCF MANAGEMENT GROUP, LLC
27171 HARBOR DRIVE
BONITA SPRINGS, FL 34135

ON BEHALF OF:
MICHAEL L. AND TRACY C. GREENWELL;
BO GREENWELL; AND GARRET GREENWELL

CONTENTS

SHEET NUMBER	SHEET DESCRIPTION
1	COVER SHEET
2	MASTER CONCEPT PLAN
3	GENERAL NOTES AND DEVIATIONS
4	TYPICAL SECTIONS
DATE	DEC., 2021
PROJECT NO.	190136.02.00
SHEET NO.	1 of 4



RWA
ENGINEERING
1000 N. W. 10th Ave., Suite 100
Fort Lauderdale, FL 33304
Phone: (954) 571-1111
Fax: (954) 571-1112
Email: info@rwa-engineering.com

BCF MANAGEMENT GROUP, LLC
GREENWELL SR 31
MASTER CONCEPT PLAN

DATE	12/16/2022	BY	MP01
TIME	10:13 AM	BY	MP01
FILE	190136.02.00	BY	MP01
PROJECT	190136.02.00	BY	MP01

GENERAL NOTES & DEVIATIONS:

- 1 THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE AND SUBJECT TO CHANGES DUE TO AGENCY REVIEW AND SITE CONDITIONS.
- 2 THE DESIGN, LOCATION, AND CONFIGURATION OF THE PROPOSED DEVELOPMENT AREA TRACTS, INTERNAL AND EXTERNAL INGRESS/EGRESS POINT LOCATIONS, DRIVES, AND LAND IMPROVEMENTS AND STRUCTURES, IF SHOWN, ARE APPROXIMATE AND SUBJECT TO ALTERATION AT TIME OF DEVELOPMENT ORDER FOR EACH TRACT. CHANGES TO THE MCP THAT ARE CONSISTENT WITH THE INTENT, CHARACTER, AND PROPERTY DEVELOPMENT REGULATIONS OF THIS RESIDENTIAL PLANNED DEVELOPMENT (RPD) CAN BE APPROVED ADMINISTRATIVELY.
- 3 TOTAL DEVELOPMENT AREA: 76.82 +/- AC
 - RESIDENTIAL DEVELOPMENT AREA: 43.6 +/- AC
 - THAT INCLUDES RESIDENTIAL TRACTS, AMENITY CENTER, RIGHT-OF-WAY, LAKES, AND PRESERVE/OPEN SPACE.
 - NON-RESIDENTIAL DEVELOPMENT AREA: 33.22 +/- AC
 - THAT INCLUDES COMMERCIAL BUILDINGS, PARKING, DRIVE AISLES, RIGHT-OF-WAY, AND OPEN SPACE.
- 4 THE FUTURE LAND USE MAP DESIGNATION: OUTLYING SUBURBAN AND WETLANDS
- 5 THE PROJECT WILL NOT BE PHASED.
- 6 UPLAND BUFFERS, WHEN APPLICABLE, SHALL BE A MINIMUM OF 15 FEET, AVERAGE 25 FEET, SURROUNDING PRESERVED WETLANDS.
- 7 PRESERVED WETLANDS WITH INSUFFICIENT SPACE TO PROVIDE UPLAND BUFFER WILL BE SEPARATED BY THE APPROPRIATE STRUCTURAL BUFFER CONSISTENT WITH SPWMD REQUIREMENTS.
- 8 LOADING ZONE MAY EITHER BE LOCATED & ACCESSED ALONG THE REAR, FRONT, OR SIDE OF THE COMMERCIAL BUILDINGS
- 9 THE BUFFER AND ASSOCIATED LANDSCAPE MATERIAL ARE ALLOWED IN ACCORDANCE WITH THE EXISTING GAS TRANSMISSION EASEMENT. A HOLD HARMLESS AGREEMENT WILL BE PROVIDED TO ENSURE THE BUFFER AND LANDSCAPE MATERIAL WILL BE PROVIDED IF IMPACTED DUE TO MANAGEMENT OR MAINTENANCE OF THE GAS LINE WITHIN THE EASEMENT AREA.

⚠ DEAD END STREET DEVIATION

OPEN SPACE:**REQUIRED:**

- TOTAL SITE AREA: 76.82 AC
- TOTAL REQUIRED OPEN SPACE FOR RESIDENTIAL USE AREA: 40% OF 43.60 AC = 17.44 AC
- TOTAL REQUIRED OPEN SPACE FOR NON-RESIDENTIAL/COMMERCIAL USE AREA: 30% OF 33.22 AC = 9.97 AC
- TOTAL OPEN SPACE REQUIRED: 27.41 AC

PROVIDED:

- TOTAL OPEN SPACE PROVIDED: 32.30 AC
- PROVIDED OPEN SPACE DETAILS:

OPEN SPACE USE	ACRES
LAKE AREA	0.57 AC
PRESERVE AREA	13.98 AC
BUFFERS, YARDS, AND ALL OTHER AREAS	17.65 AC

PRESERVE:**REQUIRED:**

50% OF THE OPEN SPACE REQUIRED (27.41 AC) = 13.71 AC

PROVIDED:**INDIGENOUS NATIVE VEGETATION:**

- PRESERVED AND ENHANCED: 10.10± AC
 - o WETLANDS: 7.44± AC
 - o UPLANDS: 2.66± AC
- RESTORED: 3.50± AC
 - o WETLANDS: 3.27± AC
 - o UPLANDS: 0.23± AC

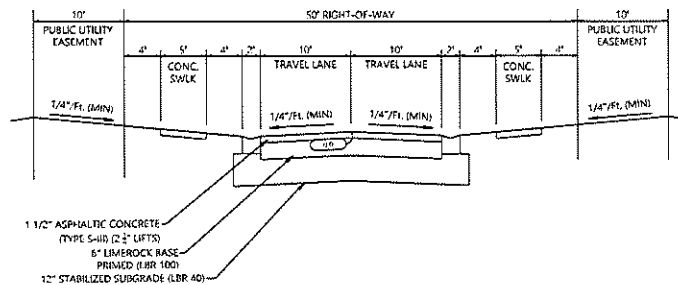
OTHER SURFACE WATERS:

- PRESERVED AND ENHANCED: 0.38 ± AC

TOTAL: 13.98± AC

SITE SUMMARY:

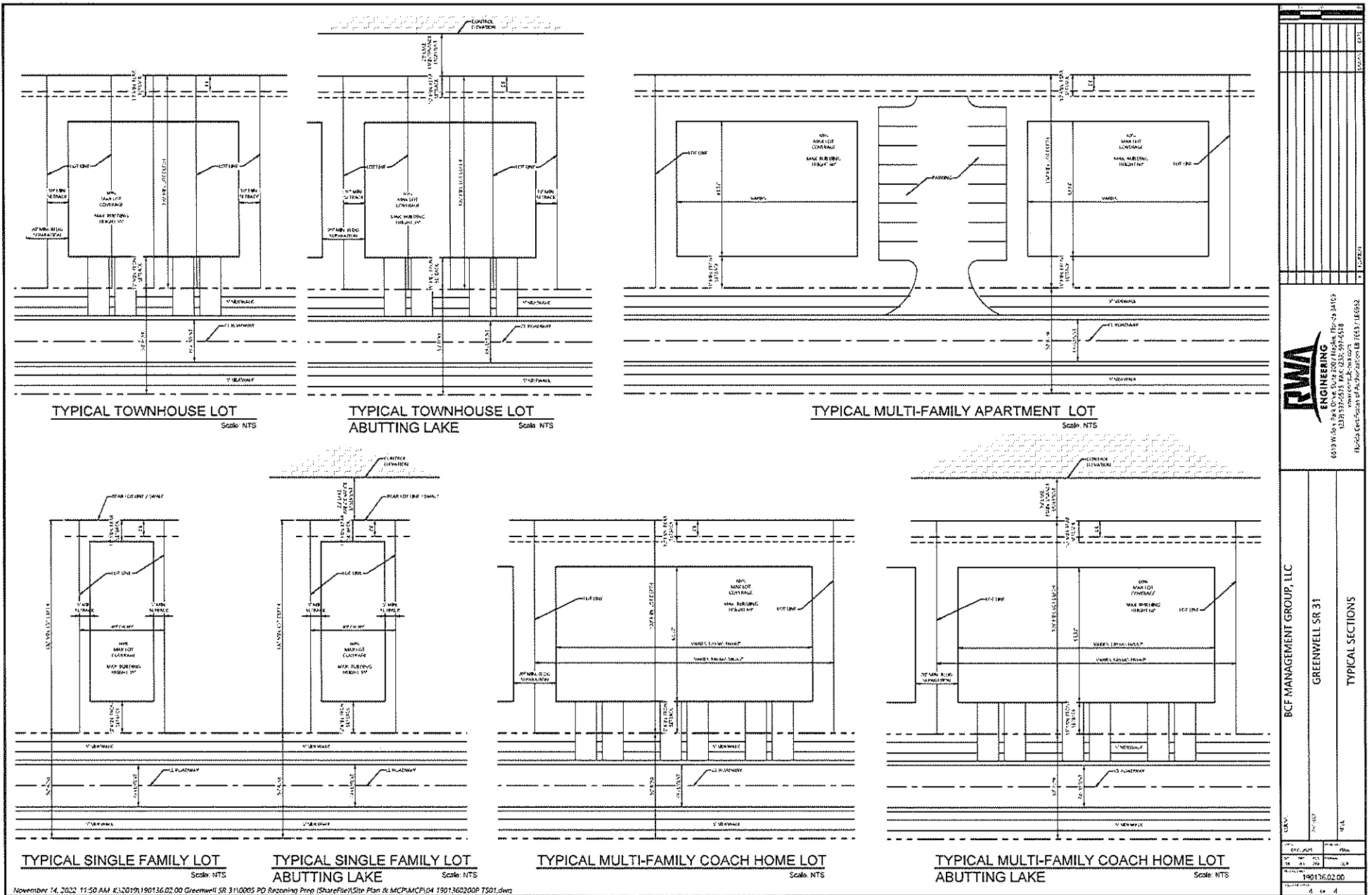
LAND USE	ACREAGE	PERCENT	DWELLING UNITS	NON-RESIDENTIAL AREA (SQUARE FEET)
RESIDENTIAL (TRACT AREA ONLY) (SEE NOTE #3)	± 12.42	16.2	122	N/A
NON-RESIDENTIAL (SEE NOTE #3)	± 30.08	39.2	N/A	N/A
COMMERCIAL BLDG	± 9.18	12.0	N/A	400,000
PARKING LOT / DRIVE	± 13.91	18.1	N/A	N/A
AMENITY CENTER	± 0.65	0.8	N/A	N/A
RIGHT-OF-WAY	± 6.34	8.3	N/A	N/A
LAKE AREA	± 2.69	3.5	N/A	N/A
PRESERVE AREA	± 13.98	18.2	N/A	N/A
UPLAND	± 2.89	3.8	N/A	N/A
WETLAND	± 10.71	13.9	N/A	N/A
OTHER SURFACE WATERS	± 0.38	0.5	N/A	N/A
ALL OTHER OPEN SPACE AREAS	± 17.65	23.0	N/A	N/A
TOTAL	± 76.82	100%	MAX: 122	MAX: 400,000



TYPICAL SECTION
50' RIGHT-OF-WAY

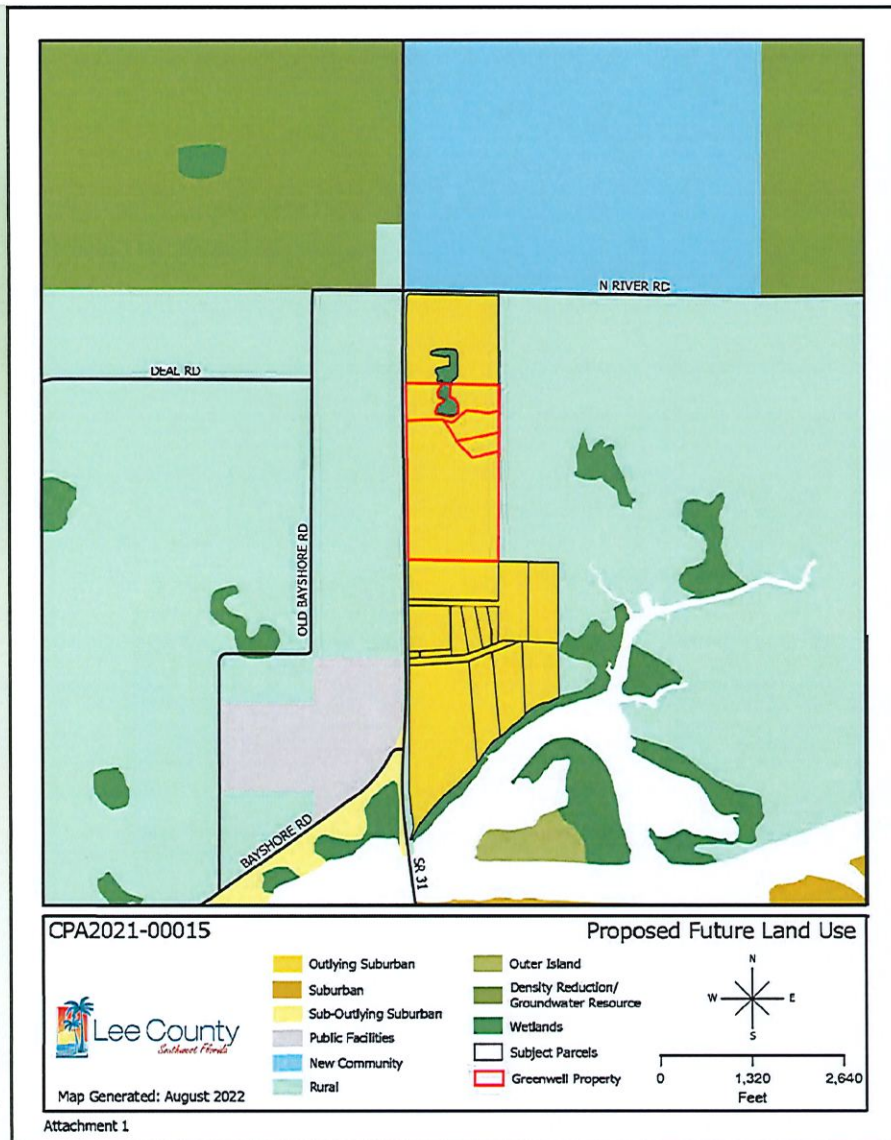
Scale: NTS

BCF MANAGEMENT GROUP, LLC		GREENWELL SR 31	
GENERAL NOTES AND DEVIATIONS			
DATE	BY	DATE	BY
190136.02.00		190136.02.00	



Comprehensive Plan Map Amendment

- RURAL to OUTLYING SUBURBAN
 - Up to 125 du/acre
 - Transmitted to State – September 26, 2022
 - BoCC Adoption Hearing Scheduled – Feb. 8, 2023





ATTACHMENT C

GREENWELL SR31**Mixed Use Planned Development (MPD)****A Major Planned Development****Lee Plan Consistency: Wetlands & Coastal High Hazard Area (CHHA)**

The HEX requested that further testimony/evidence be provided at the continuance hearing related to the following matters:

1. *Goal (Policy) 101.3.2 restricts development in Coastal High Hazard Areas to uplands, except where necessary to provide public facilities. Testimony/evidence necessary on Lee Plan goals, objectives or policies allowing other land uses in wetlands within the Coastal High Hazard area. If such provisions exist within the Lee Plan, present an analysis of the conflicting provisions in the context of the Lee Plan as a whole. (Lee Plan Chapter XIII.a)*
2. *Goal (Policy) 124.1.1 restricts development in wetlands to very low density residential, recreation, open space, or conservation. The policy does not provide for commercial uses. Testimony/evidence necessary on Lee Plan goals, objectives or policies authorizing commercial uses in wetlands. If such provisions exist within the Lee Plan, present an analysis of the conflicting provisions in the context of the Lee Plan as a whole. (Lee Plan Chapter XIII.a)*

Lee Plan Goal 124 provides overarching language to ensure adequate maintenance and enforcement for any development in wetlands that is cost-effective, complements federal and state permitting processes, and protects the fragile ecological characteristics of wetland systems. The majority of the site (63.3%) contains lands impacted by either development or highly degraded habitat including residential, commercial, improved pasture, row crops, Brazilian pepper, ditch, and other disturbed lands that are not intended to remain. The Greenwell SR 31 project utilizes a cluster development pattern to reduce impacts to high quality wetlands. Moreover, no development will occur until the Environmental Resource Permit (ERP) has been issued by the state or SFWMD. The development, as it moves through the permitting process, will be reviewed by the South Florida Water Management District and as a result will be consistent with overall Goal 124 and Policies 124.1.1 and 124.1.2.

Specific to consistency with Policy 124.1.1, the HEX indicated in the Order of Continuance that *“Goal (Policy) 124.1.1 restricts [emphasis added] development in wetlands to very low density residential, recreation, open space, or conservation.”* And states that, *“The policy does not provide for commercial uses.”* Lee Plan Policy 124.1.1, as written, states,



“Ensure that development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII, and except that owners of wetlands adjacent to Intensive Development, General Interchange, Central Urban, Urban Community, Suburban, New Community, Outlying Suburban, and Sub-Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership (see Table 1(a)). (Ord. No. 94-30, 00-22, 10-20, 18-06, 18-28, 19-13, 21-09)”

It is the Applicant’s opinion that the intent of Policy 124.1.1 is to specifically address **residential uses** and the associated density limitations to achieve Goal 124. Furthermore, Policy 124.1.1 describes application of an incentive to preserve wetlands by allowing for transfer of **residential density** to the “contiguous uplands” when these uplands are within Intensive Development, General Interchange, Central Urban, Urban Community, Suburban, New Community, Outlying Suburban, and Sub-Outlying Suburban areas. Reference to commercial/non-residential uses is silent under Policy 124.1.1 as density allocation is not applicable to commercial uses.

Unlike Policy 124.1.1, Policy 124.1.2 does provide guidance/direction with regards to non-residential uses (commercial uses). Policy 124.1.2 - Subsection #6, states,

*“The density on wetlands that have been impacted, or will be impacted, in accordance with a state agency permit will be calculated at a density of one dwelling unit per 20 acres. **Non-residential uses on wetlands that have been impacted, or will be impacted, in accordance with a state agency permit must be consistent with the non-residential uses permitted in the immediately adjacent, least intense, upland future land use category.**”*

The above language confirms that non-residential uses, such as commercial uses, can impact wetlands as **allowed under the state permitting process**. Given that residential and commercial uses can impact wetlands; that mitigation is permitted under “applicable state standards;” and that the project will undergo the ERP process, the proposed residential and commercial uses should be deemed allowed and consistent with Policy 124.1.1 and 124.1.2.

The ERP process or “state agency permit” as referenced in Policies 124.1.1 and 124.1.2, allows impacts to wetlands and the creation of “uplands” through the use of fill. Lee Plan Policy 101.3.2 does *“Restrict development in the Coastal High Hazard Area **to uplands** except as needed for the provision of public facilities.”* However, this policy does not distinguish between existing or naturally occurring uplands versus created uplands.

The Applicant is of the opinion that Policy 101.3.2 should not be read in isolation but instead should be analyzed within the context of broader wetland policies that are intended to inform and guide our



interpretation of said policy. The Applicant also believes the intent of Policy 101.3.2 is not to limit all development to “existing uplands.” Policy 101.3.2 was established because of Florida Statute 163.3178(2)(f), which required local governments to amend their comprehensive plans to address future impacts from coastal flooding and sea level rise. To address these concerns, the statute references the need for local governments to:

- 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts*
- 2. Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.*
- 3. Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.*
- 4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44C.F.R. part 60.*
- 5. Require that any construction activities seaward of the coastal construction control lines established pursuant to s. 161.053 be consistent with chapter 161.*
- 6. Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.*

The above statements do not prohibit wetland impacts within the CHHA nor mandate that development or redevelopment only occur within existing uplands. The statute does speak to opportunities for local government to allow for development or redevelopment that utilizes “principals, strategies, and engineering solutions,” “best practices,” and “site development techniques” in order to meet the goal of addressing future impacts from coastal flooding and sea level rise.

Understanding the impetus behind Policy 101.2.3 (i.e. FS 163.3178(2)(f)), it is reasonable to conclude that the intent of the policy is not to restrict development to existing uplands and public facilities, but also enable the opportunity to utilize best practices (e.g. engineering techniques/solutions for stormwater management systems, site design/development techniques (clustered development), stringent flood construction requirements, and state approved mitigated wetlands (created uplands) to develop or redevelop within the CHHA.



Furthermore, Policies 124.1.1. and 124.1.2 enable proposed land uses to impact wetlands through state agency permitting and the use of mitigation, maintenance and management systems, and implementing plans. The state-issued ERP allows the creation of uplands and establishes appropriate mitigation of wetland impacts.

Based upon the interpretation above, the Applicant suggests a condition of approval that would require the following: Prior to issuance of a local development order, an approved ERP must be issued, floodplain compensation measures based upon preserved wetlands and other onsite compensatory flood storage systems, and loss of life and property mitigation measures as detailed in the attached July 6, 2022, Trescott Planning Solutions, LLC Coastal High Hazard Area (CHHA) and Hurricane Preparedness/Mitigation Analysis to ensure the protection of the public's health, safety and welfare.

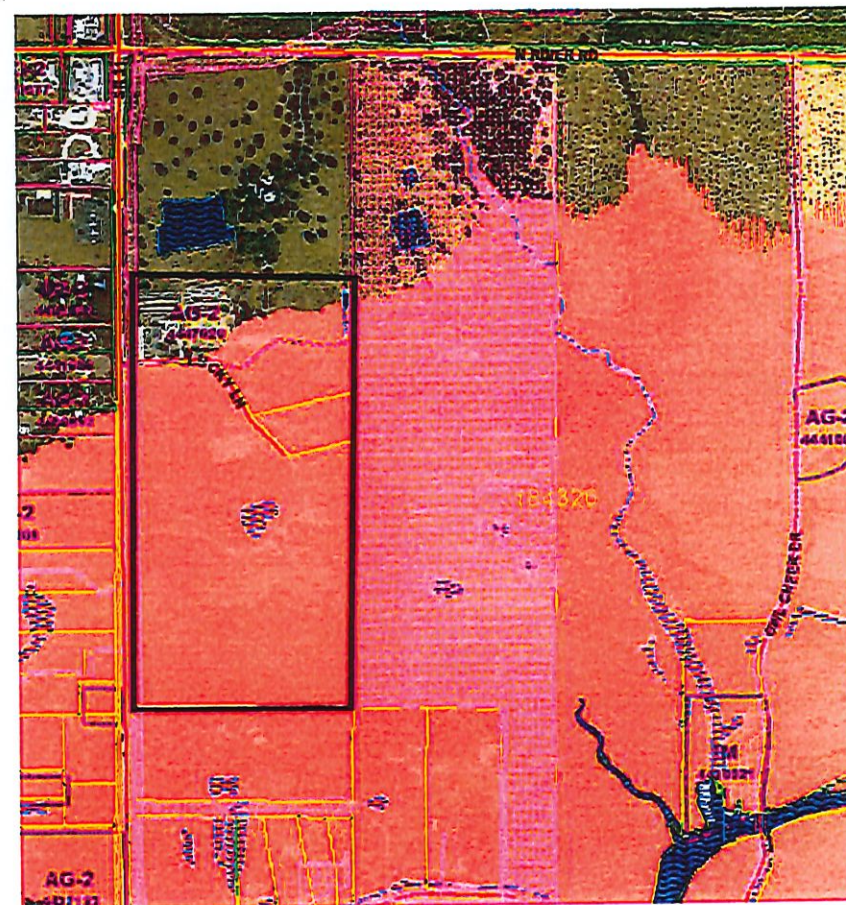
This condition would ensure compliance with F.S. 163.3178(2)(f) and reinforce consistency with Goal 101, Objective 101.3, and Policies 101.1.1, 101.1.4, 101.3.2, 101.3.4, and 101.3.5 of the Lee Plan.

ATTACHMENT C

Environmentally Sensitive Areas

Coastal High Hazard Area (CHHA)

- 66.5 acres of the 76.82 acres are within the CHHA
- Lee Plan Objective 101.1 encourages improved function of natural systems as a defense against coastal flooding
- Lee Plan Policy 101.1.1 requires development in CHHA be compatible with natural systems
 - ✓ Applicant is providing 32.30 acres of open space, 0.67 acres of lakes, 13.98 acres of conservation area that includes wetlands, uplands and other surface waters.
 - ✓ Homes will be built at a minimum one foot above base flood elevation.
 - ✓ All construction will comply with Florida Building Code.
- ❖ Lee Plan Policy 101.3.2 restricts development in CHHA to uplands except as needed for the provisions of public facilities.
 - Uses within the 16.56 acres of CHHA do not meet the definition of public facilities.
 - Staff has recommended conditions to ensure mitigation for impacts is provided at time of development order to be consistent with the Lee Plan.



ATTACHMENT D

**South Florida Water Management District
Formal Wetland Determination Permit No. 36-106593-P
Date Issued: August 8, 2022**

Project Name: Greenwell Property (FWD)

Petitioner: Mike Greenwell
18500 State Road 31
Alva, FL 33920

Application No. 220207-33115

Location: Lee County, See Exhibit 1

Acres: 76.82

Expiration Date: August 8, 2027

Type: Certified Survey
Approximate Delineation, GPS

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 76.82 acre property known as Greenwell Property. The methodology used for the determination is consistent with Rule 62-340 F.A.C.

Project Site Description

The 76.82 acre property is located in Section 18, Township 43 South, Range 26 East, Lee County, Florida. More specifically, the property is located on the east side of SR 31, between Rodeo Drive and Noah River Road (SR 781) in North Fort Myers. A Location Map is attached as Exhibit No. 1.0.

The existing land uses on the property include pastureland for cattle grazing and undeveloped forested uplands and wetlands. An aerial photograph depicting the inspection boundary is attached as Exhibit No. 2.0.

Formal Determination of Wetlands and Other Surface Waters

On February 7, 2022, the District received a request for a formal determination of the boundary of wetlands and OSW on a 76.82 acre property known as Greenwell Property. The landward extent of wetlands was established by Passarella & Associates, Inc. and verified by Certified Wetland Evaluator (CWE) Emma Berger of the South Florida Water Management District on April 12 and April 14, 2022. Wetlands and other surface waters (OSW), as defined by Subsection 373.019(27) F.S. and Rule 62-340 F.A.C., were identified on the property. Wetlands and OSW on the property were delineated using the methods established in Rule 62-340 F.A.C.; more specifically, the wetlands were delineated using the Wetlands Definition, and the A, B and D tests. Wetland delineation information, including wetland data point location map, wetland data forms, and representative photographs of the wetlands and upland areas can be found in the permit file.

Wetlands delineated on the property totaled 27.27 acres and OSW totaled 0.70 acres. The wetland and OSW line survey are attached as Exhibit Nos. 3.0 and 3.1. The wetland boundaries on-site were surveyed, while the OSW on-site were field verified using an approximate formal determination, via GPS coordinates. The OSW delineation meets the range of variability criteria for approximate delineations, outlined in Section 7.2.2(e)2(a) of the Applicants Handbook, Vol.

Please refer to Exhibit No 3.1 for the certified survey and approximate delineation points.

Wetland Description

The wetlands identified on the property totaled 27.27 acres (Exhibit Nos. 3.0 and 3.1). Wetland habitats on the property generally consist of hydric oak hammock, hydric cabbage palm, wetland hardwood forest, and hydric pasture, with varying degrees of exotic vegetation. Upland habitats adjacent to the wetlands generally included live oak, hardwood conifer mixed, and improved pasture. The wetlands were delineated using the Wetland Definition, A, B, and D tests.

OSW Description

Other surface waters identified and delineated on the property totaled 0.70 acres. OSW generally consisted of shallow ponds.

Based on the National Resource Conservation Service (NRCS) data, the property contains five (5) historically mapped soils. The mapped soils on the property included Oldsmar sand (Map Unit 33), Immokalee sand-Urban land complex (Map Unit 36), Copeland fine sandy loam, frequently ponded (Map Unit 45), Boca fine sand-Urban land complex (Map Unit 102), and Oldsmar sand-Urban land (Map Unit 125). A soils map is attached as Exhibit No. 4.0.

Soil pit data is included within the wetland delineation data forms, which were field verified on April 12 and April 14, 2022. Hydric soil indicators included A7 (5 cm Mucky Mineral), A8 (Muck Presence), S6 (Stripped Matrix), S7 (Dark Surface), S9 (Thin Dark Surface), and Loamy Gleyed Matrix (F2) within the wetland area. Hydrologic Indicators observed at or near the data point locations included hydric soil indicators A7, A8, S7, and S9 beginning at the soil surface (Hydrologic Data), algal matting on ground surface, and water marks on vegetation and fence posts.

This Formal Determination of Wetlands and Other Surface Waters is the District's determination of the landward extent (boundaries) of wetlands and other surface waters 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

Bridgette Theriault, Passarella & Associates, Inc *

Brian Farrar, BCF Management Group, 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 220207-33115 .

[Exhibit No. 1.0 Location Map](#)

[Exhibit No. 2.0 Aerial](#)

[Exhibit No. 3.0 Aerial with Wetlands and OSW](#)

[Exhibit No. 3.1 Certified Survey](#)

[Exhibit No. 4.0 Soil 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.



Exhibit No: 1

Exhibit Created On:
2022-07-28

LEE COUNTY, FL

REGULATION DIVISION

Project Name: Greenwell Property (FWD)



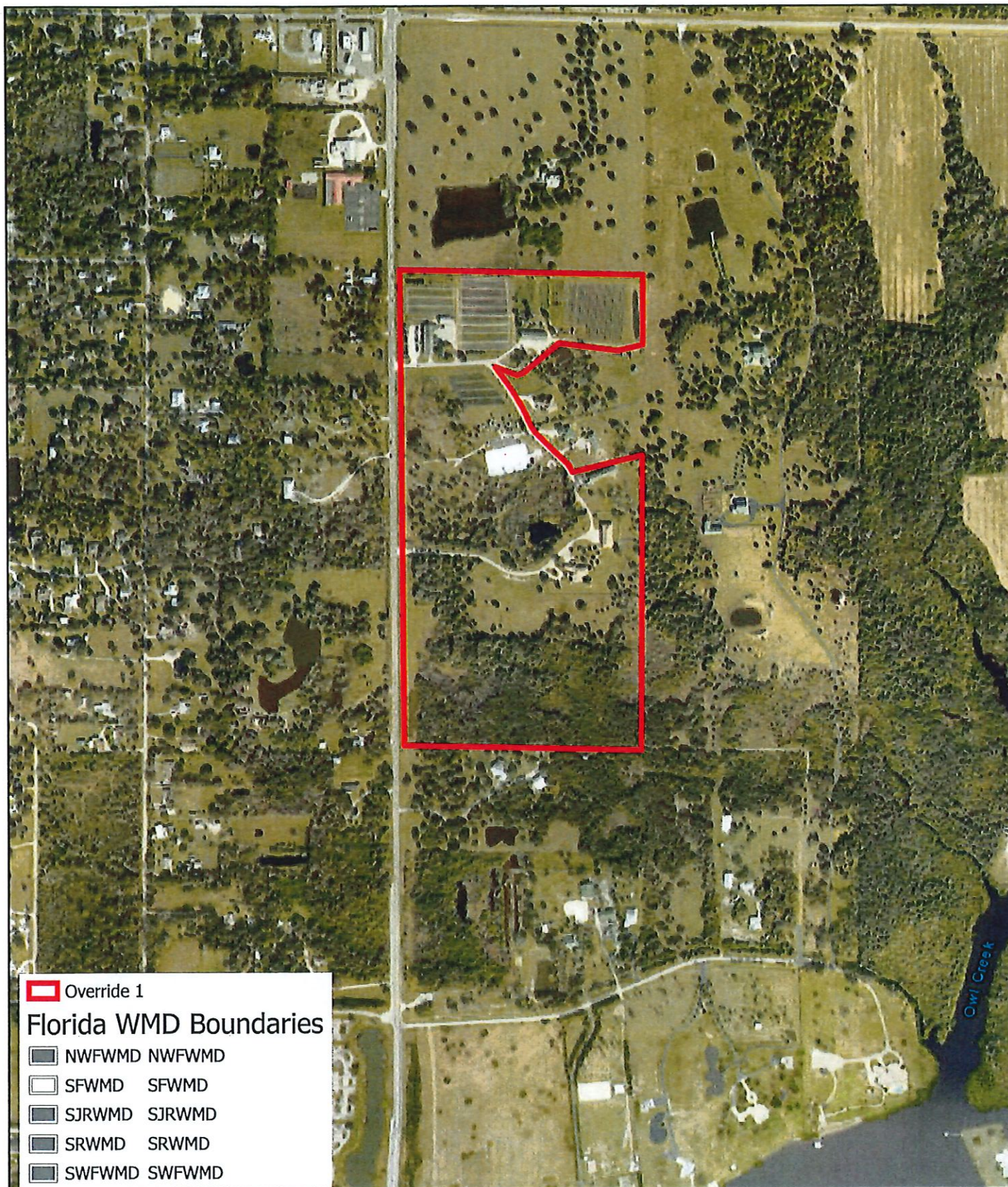
Application

Permit No: 36-106593-P

Application Number: 220207-33115

0 0.35 0.7
Miles

South Florida Water Management District

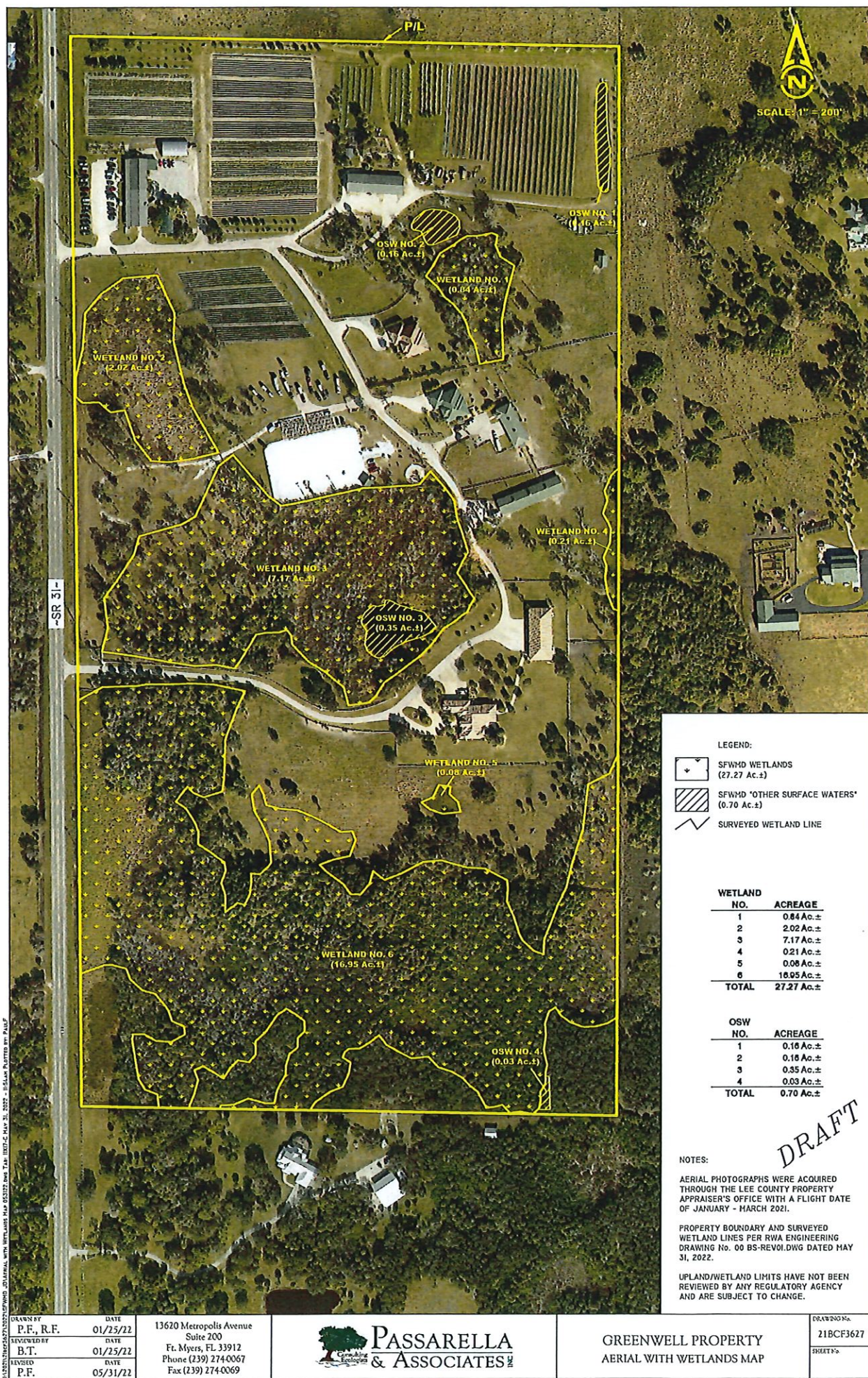


South Florida Water Management District
3301 Gun Club Road, West Palm Beach, Florida 33406
888-886-8800; www.sfwmd.gov



Map Produced on Date: 7/26/2022

SFWMD



J:\2021\20210527\20210527\FWMD\01Aerial With Wetlands Map 053122.dwg Tab: 0001-2 Map 31, 2022 - 11:54AM PLOTTED BY: PAUL

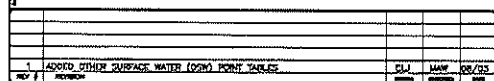
DRAWN BY: P.F., R.F.
DATE: 01/25/22
REVIEWED BY: B.T.
DATE: 01/25/22
REVISED BY: P.F.
DATE: 05/31/22

13620 Metropolis Avenue
Suite 200
Ft. Myers, FL 33912
Phone (239) 274-0067
Fax (239) 274-0069



GREENWELL PROPERTY
AERIAL WITH WETLANDS MAP

DRAWING No. 21BCF3627
SHEET No. 1



	NAME	DATE
FIELD:	CL	8/17/72
DRAWN:	CLJ	8/23/72
CHECKED:	MMH	8/23/72



12600 University Drive, Suite 175
Fort Myers, Florida 33907
Phone: (239) 587-0375
Fax: (239) 587-0576
LD No.: 0952

DATE	9/25/21
NAME	1"=120'
SCALE	1"=120'
DATE	9/25/21
NAME	1"=120'
SCALE	1"=120'

CLIENT:	BCF MANAGEMENT GROUP, LLC
TYPE:	SPECIFIC PURPOSE SURVEY

PROJECT:			GREENWELL SR31		
18672 FL-31, ALVA, FL 33920					
OWNER/NOTICEE FS 280 FS 78	PROJECT NO. 1005118.02.00	SHEET NUMBER 1 of 3	PAGE NO. 00 (S-national)		

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	33.19'	212.50'	142°34' (D) 142°29' (W)	53°28'19" (D) 53°29'48" (W)	83.05'
C2	33.13'	212.50'	8°58' (D) 8°58'51" (D)	82°50'14" (D) 82°51'47" (W)	33.10'
C3	224.19'	917.50'	1°30'33" (D) 1°30'34" (W)	82°22'00" (D) 82°23'48" (W)	223.60'
C4	10.80'	917.50'	3°10' (D) 3°10'20" (D)	82°37'37" (D) 82°39'43" (W)	10.80'
C5	112.20'	87704.98'	7°00'37"	82°53'28" (W)	112.20'

ASSIMILATION & LENDING			
AC	ACCESS DISBURSEMENT	A	= TELE/POSTAL AVAIL
AD	AD AND LENDING	1	=
CD	DEBOND BONDING	2	= MOOD UTILITY POLE
ED	DEBOND BONDING	3	= CRY TIME
GW	DEBOND UTILITY DISBURSEMENT	4	= DEBONDING AVAILABLE
LD	DEBOND UTILITY DISBURSEMENT	5	= DEBONDING ELEMENT
MD	DEBOND UTILITY DISBURSEMENT	6	= COMMUNICATIONS SERVICE POSITION
PD	DEBOND UTILITY DISBURSEMENT	7	=
TD	DEBOND UTILITY DISBURSEMENT	8	=
TCM	DEBOND UTILITY DISBURSEMENT	9	=
CD	DEBOND UTILITY DISBURSEMENT	10	=
PD	DEBOND UTILITY DISBURSEMENT	11	=
PD	DEBOND UTILITY DISBURSEMENT	12	=
PD	DEBOND UTILITY DISBURSEMENT	13	=
PD	DEBOND UTILITY DISBURSEMENT	14	=
PD	DEBOND UTILITY DISBURSEMENT	15	=
PD	DEBOND UTILITY DISBURSEMENT	16	=
PD	DEBOND UTILITY DISBURSEMENT	17	=
PD	DEBOND UTILITY DISBURSEMENT	18	=
PD	DEBOND UTILITY DISBURSEMENT	19	=
PD	DEBOND UTILITY DISBURSEMENT	20	=
PD	DEBOND UTILITY DISBURSEMENT	21	=
PD	DEBOND UTILITY DISBURSEMENT	22	=
PD	DEBOND UTILITY DISBURSEMENT	23	=
PD	DEBOND UTILITY DISBURSEMENT	24	=
PD	DEBOND UTILITY DISBURSEMENT	25	=
PD	DEBOND UTILITY DISBURSEMENT	26	=
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PD	DEBOND UTILITY DISBURSEMENT	57	=
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PD	DEBOND UTILITY DISBURSEMENT	89	=
PD	DEBOND UTILITY DISBURSEMENT	90	=
PD	DEBOND UTILITY DISBURSEMENT	91	=
PD	DEBOND UTILITY DISBURSEMENT	92	=
PD	DEBOND UTILITY DISBURSEMENT	93	=
PD			

1. THIS PLAT OF SURVEY WAS PREPARED AS A BOUNDARY AND TOPOGRAPHIC SURVEY.
2. DATE OF LAST FIELDWORK: MAY 17, 2022.
3. BEARINGS ARE BASED ON THE STATE PLANE COORDINATE SYSTEM, FLORIDA, HORIZON, NORTH AMERICAN DATUM OF 1983 (NAD83, 2011 ADJUSTMENT). THE TRUE EAST LINE OF WAY 1000' (SECTION 21), AS SHOWN IN INSTRUMENT NUMBER 2022-00000267, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEARS N002°01'31"W.
4. THIS SURVEY DOES NOT MAKE ANY REPRESENTATION AS TO THE ZONING REGULATIONS AND/OR DEVELOPMENT RESTRICTIONS ON THE SUBJECT PARCEL.
5. DIMENSIONS AND ELEVATIONS ARE IN FEET AND DECIMAL FEET. THEREFORE, UNLESS OTHERWISE NOTED, ALL DISTANCES, BEARINGS AND DISTANCES ARE IDENTICAL WITH PLAT OR RECORD VARIATIONS.
6. ELEVATIONS SHOWN HEREON ARE IN FEET AND ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD83).
7. NO ENVIRONMENTAL ASSESSMENT OR AUDIT WAS PERFORMED ON THE SUBJECT PARCEL BY THIS SURVEYOR.
8. THIS SURVEY DOES NOT DETERMINE PROPERTY OWNERSHIP OR PROPERTY RIGHTS.
9. THIS SURVEY REPRESENTS THE BOUNDARY AND THE LOCATED IMPROVEMENTS OR FEATURES, IF ANY, IN ACCORDANCE WITH AND IN RELATION TO THE LEGAL DESCRIPTION SET FORTH IN THE DEED OF THE SUBJECT PARCEL.
10. SURVEYED PARCEL CONTAINS 3,548,451.44 SQUARE FEET OR 78.82 ACRES, MORE OR LESS.
11. PARCEL INFORMATION SHOWN HEREON WERE TAKEN FROM 2021 LEE COUNTY GEOGRAPHIC INFORMATION SYSTEM, AS DOWNLOADED ON THE DATE OF SURVEY.
12. THIS SURVEY IS FOR THE EXCLUSIVE USE OF THE PARTY(IES) IT WAS CONDUCTED FOR. IT IS NOT TO BE REPRODUCED, COPIED, REPRODUCED, OR TRANSMITTED IN ANY MANNER OR FOR ANY PURPOSES WITHOUT THE WRITTEN CONSENT OF THE SURVEYOR. ANY ADDITIONS OR DELETIONS TO THIS SURVEY AND/OR ITS ACCOMPANYING SURVEYOR'S REPORT OF OTHER THAN THAT THE SIGNED PARTY IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE SIGNED PARTY.
13. THE OWNERSHIP OF PERCHES IS UNKNOWN, UNLESS OTHERWISE NOTED.
14. ONLY THOSE SURVEYED AND ACTUAL IMPROVEMENTS, AS DEFINED HEREON, HAVE BEEN FIELD LOCATED. SUBSEQUENT AND ACTUAL IMPROVEMENTS, IF ANY, HAVE NOT BEEN LOCATED. BUILDING FOOTPRINTS BENEATH THE SURFACE, NOT FIELD LOCATED, ARE NOT SHOWN.
15. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT FOR THE SUBJECT PROPERTY.
16. THE LEGAL DESCRIPTION USED TO PERFORM THIS SURVEY WAS PROVIDED BY OTHERS, UNLESS OTHERWISE NOTED.
17. UNLESS SPECIFICALLY NOTED OTHERWISE, ALL DIMENSIONS, AS SHOWN HEREON, ARE BASED ON THE STATE PLANE COORDINATE SYSTEM OF LEE COUNTY, FLORIDA.

(AS TAKEN FROM OPINION OF TITLE DATED MARCH 1978, 2ND AT 10:00 A.M.)

A TRACT OR PARCEL OF LAND LYING IN SECTION 18, TOWNSHIP 43 SOUTH, RANGE 28 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH-WEST CORNER OF SAID SECTION 18, SAID CORNER LYING ON THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 31, (100 FEET WIDE); THENCE RUN S.88°42'25"E, FOR 100 FEET TO THE EASTERLY RIGHT-OF-WAY OF SAID STATE ROAD 31 (RANGE OF BEARINGS); THENCE RUN N.00°23'31"W, ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 1381.01 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

THENCE N.00°23'31"W, FOR 2,450.00 FEET TO A POINT OF CURVATURE;

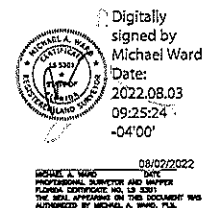
THENCE MONITORIY 112.20 FEET ALONG THE ARC OF A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 67,804.00 FEET THROUGH A CENTRAL ANGLE OF 00°00'37" AND BEING SUSTAINED BY A CHORD WHICH BEARS N.00°31'31"W FOR 112.20 FEET;

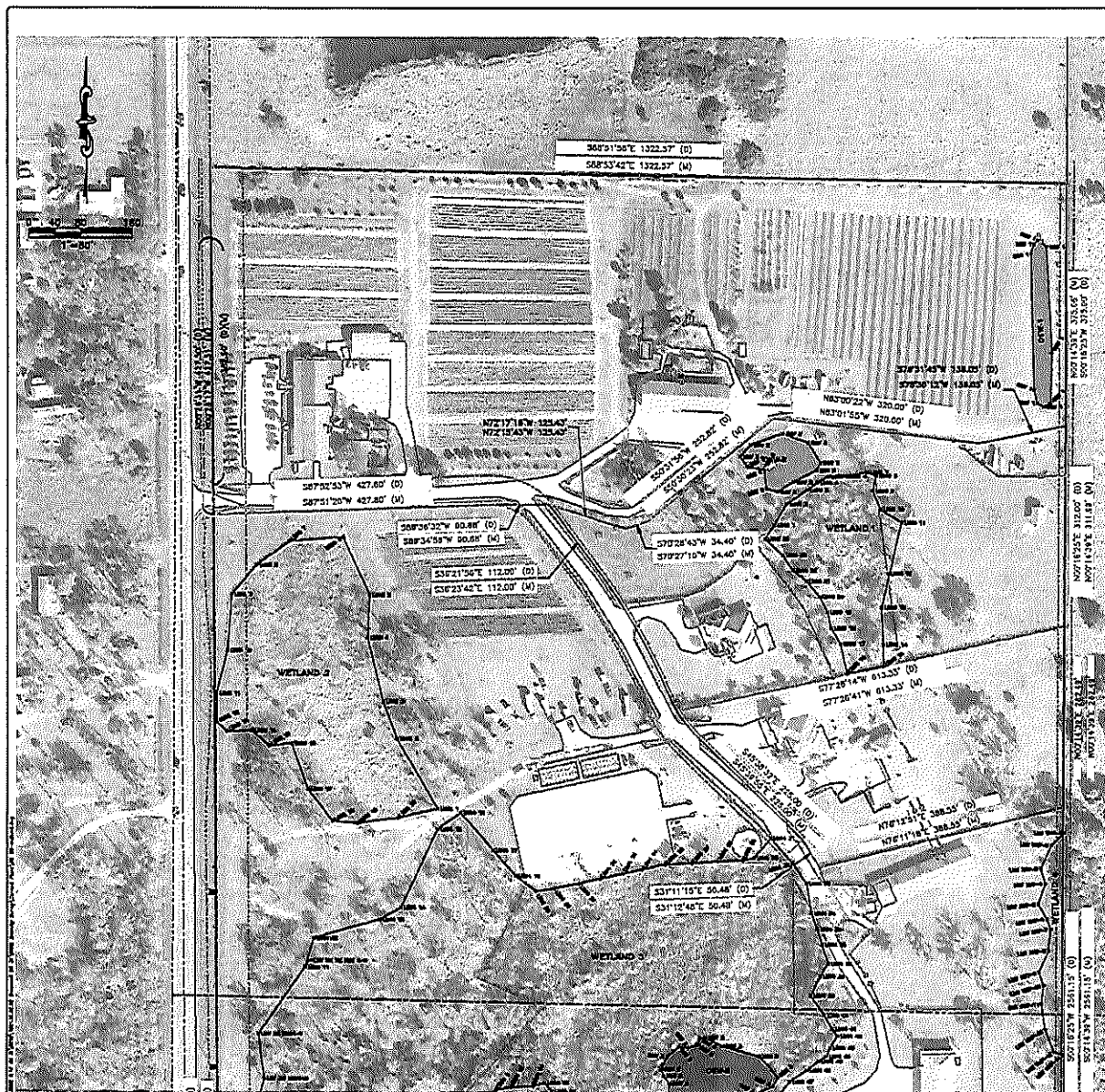
THENCE S.08°13'10"E, FOR 1,322.57 FEET;

THENCE S.01°18'23"W, FOR 2,561.13 FEET;

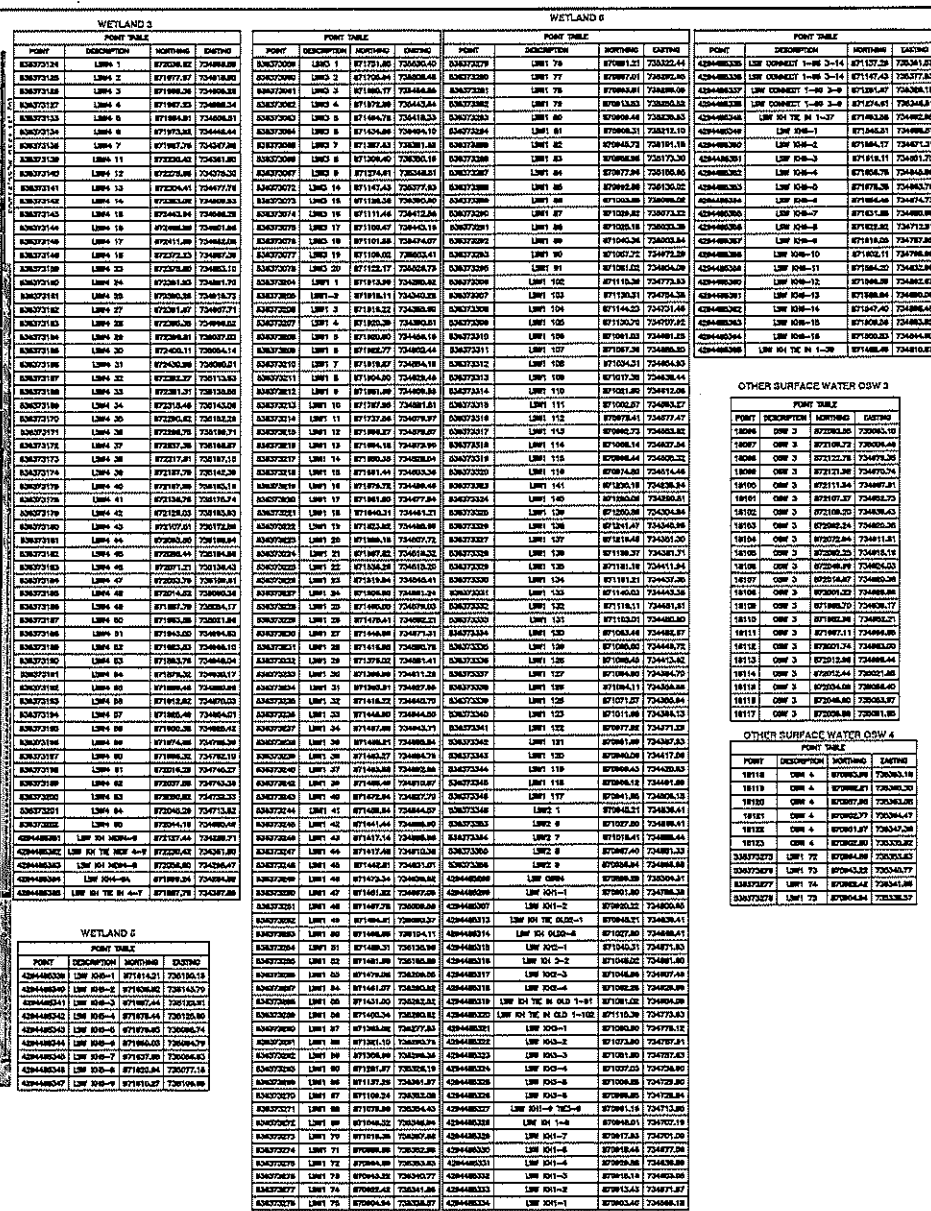
THENCE N.48°53'02"W, FOR 1,296.40 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT.

CONTAINING 3,346.431 SQUARE FEET OR 76.82 ACRES, MORE OR LESS.

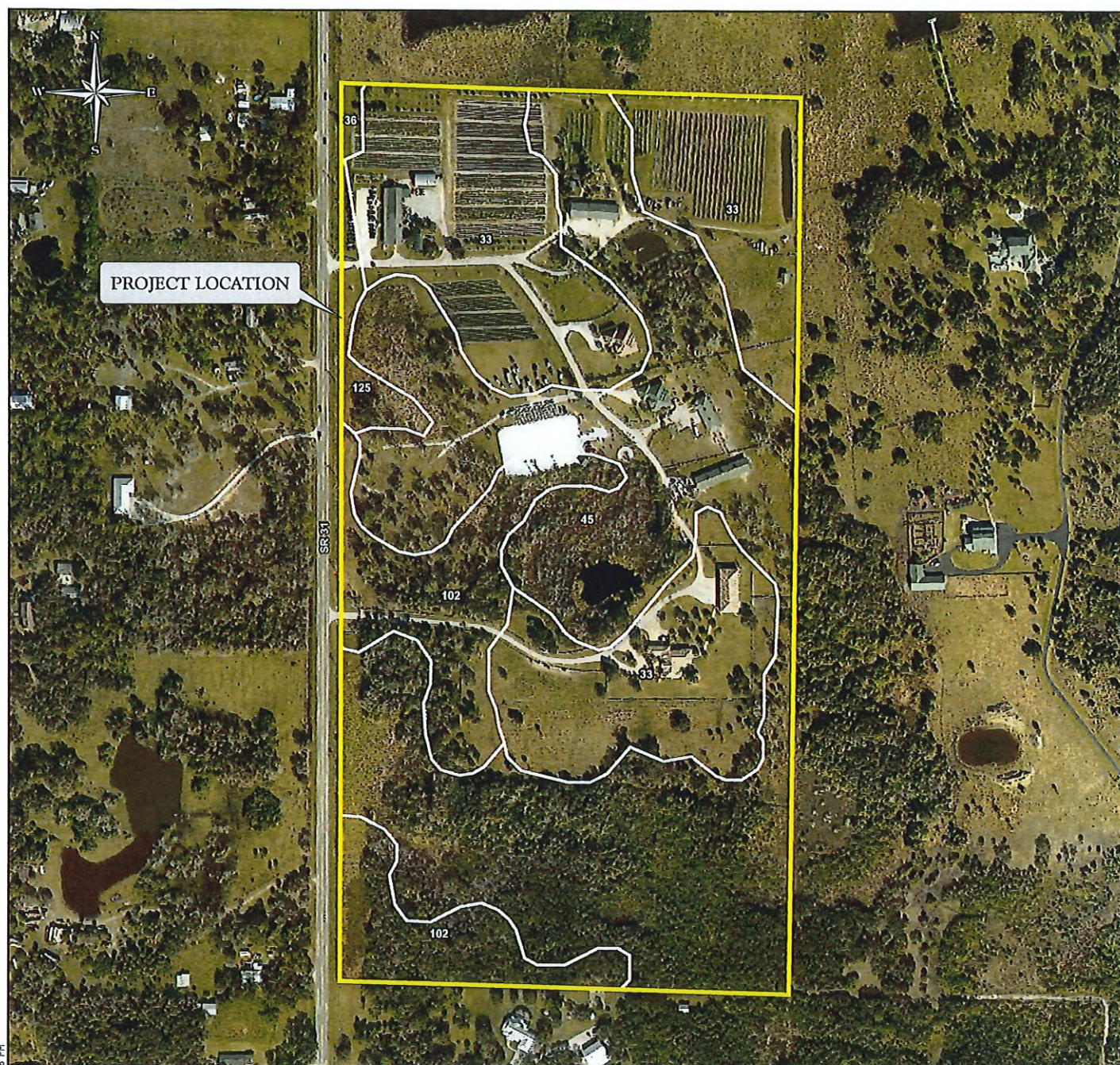
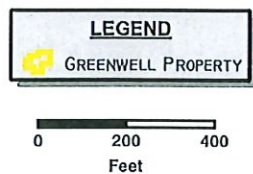




WETLAND 1				
POINT TABLE				
POINT	SECTION	NORTHING	EASTING	
63073029	W19 12	872643.37	730260.01	
63073030	W19 13	872643.37	730260.79	
63073031	W19 14	872643.37	730261.54	
63073032	W19 15	872643.37	730262.29	
63073033	W19 16	872643.37	730263.04	
63073034	W19 17	872643.37	730263.79	
63073035	W19 18	872643.37	730264.54	
63073036	W19 18	872643.37	730265.29	
63073037	W19 20	872643.37	730266.04	
63073038	W19 21	872643.37	730266.79	
63073039	W19 22	872643.37	730267.54	
63073040	W19 23	872643.37	730268.29	
63073041	W19 24	872643.37	730269.04	
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63073233	W19 24	872643.37	730413.04	



PROJECT: GREENWELL SR31			
18672 FL-31, ALVA, FL 33920			
OTHER REFERENCES FS DBS PG 29	PROJECT FILE 180138.02.00	FILE NUMBER 3 of 3	FILE HOLD 00 ES-wetlands



Soil Unit	Description
33	Oldsmar sand, 0 to 2 percent slopes
36	Immokalee sand-Urban land complex, 0 to 2 percent slopes
45	Copeland fine sandy loam, frequently ponded, 0 to 1 percent slopes
102	Boca fine sand-Urban land complex, 0 to 2 percent slopes
125	Oldsmar sand-Urban land, 0 to 2 percent slopes

NOTES:

SOILS MAPPING WAS ACQUIRED FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE WEBSITE APRIL 2021.

AERIAL PHOTOGRAPHS WERE ACQUIRED THROUGH THE LEE COUNTY PROPERTY APPRAISER'S OFFICE WITH A FLIGHT DATE OF JANUARY - MARCH 2021.

FIGURE 4. SOILS MAP
GREENWELL PROPERTY

DRAWN BY	DATE
R.F.	11/8/21
REVIEWED BY	DATE
S.J.	11/8/21
REVISED	DATE



STAFF REPORT FOR CPA2021-00015: Greenwell SR31 Map & Text Amendment



Privately Initiated Map Amendment

Recommendation

Transmit

Applicant

BCF Management Group, LLC

Representative

Brian F. Farrar

BCF Management Group, LLC

Property Size

76.82 acres

Community Plan Areas

Northeast Lee County

North Olga

Commissioner District

District 5

Hearing Dates

LPA: 7/25/2022

BoCC #1: 9/21/2022

BoCC #2: 12/7/2022

Attachment(s):

1: Proposed Amendments

REQUEST

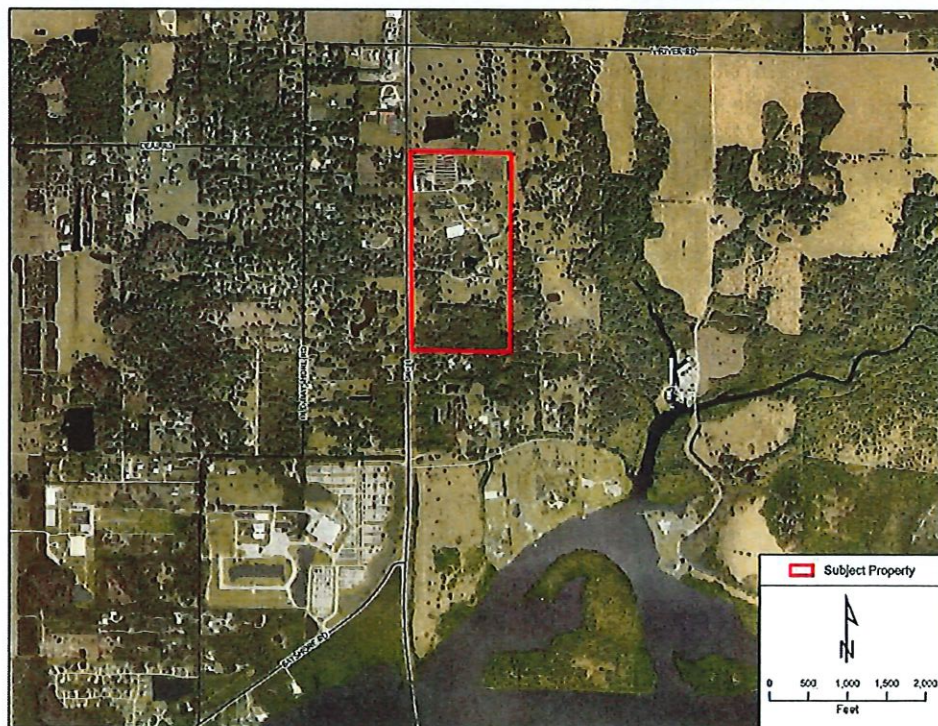
Amend the Future Land Use Map (Map 1A) to re-designate the future land use categories of approximately 265.33 acres from the Rural and Wetlands to Outlying Suburban and Wetlands; amend the Lee County Utilities (LCU) Future Water Service Areas (Map 4A) to add property to the service area; and, amend Table 1(b) to accommodate future development.

SUMMARY

The amendment to the Future Land Use Map will change the allowable density and uses of the subject property from 1 dwelling unit an acre with types of commercial uses limited by Policy 6.1.2 to allow up to 3 dwelling units an acre without the commercial limitations set forth in Policy 6.1.2. This change corresponds with the proposed amendment to the Year 2045 Allocations (Table 1(b)). The amendment to the LCU Future Water Service Areas map, adding the subject property to the LCU water service area, allows for future connection to LCU's potable water. These proposed amendments will accommodate the development of up to 400,000 square feet of commercial uses and a maximum of 125 dwelling units on the subject property.

PROJECT LOCATION

The property is located on the east side of SR 31, north of the Caloosahatchee River, and approximately 0.25 miles south of North River Road as shown below.



RECOMMENDATION: *Adopt* the amendments to the Lee Plan as transmitted and as provided in Attachment 1.

PART 1 STAFF DISCUSSION AND ANALYSIS

CONCURRENT APPLICATION REVIEW

The applicant has filed a companion rezoning application (DCI2021-00050) that is being reviewed concurrently with this plan amendment application. The applicant is seeking to rezone the subject property from AG-2 to a Mixed Use Planned Development (MPD) to allow up to 400,000 square feet of commercial and a maximum of 125 dwelling units.

Florida Statutes Chapter 163.3184(12) provides that "At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this subsection." This requires Lee County provide concurrent review of the rezoning request.

Even with the recommended transmittal of the proposed amendments, the applicant must demonstrate consistency with the Lee Plan, including the proposed amendments, in order for the companion rezoning to receive a favorable recommendation.

SUBJECT PROPERTY

The subject property contains 76.82+/- acres and includes four separate parcels. The property is currently in the Rural and Wetlands future land use categories and is zoned AG-2. One of the parcels of the subject property currently contains Produce 31 and Cracker Shack Café that are part of an agri-tourism business. In addition to the agri-tourism uses, the other three parcels contain single family homes and agricultural uses.

SURROUNDING PROPERTIES

The parcel located to the north of the subject property, at the southeast quadrant of the intersection of SR 31 and North River Road, contains a single family home. This property is in the Rural and Wetlands future land use categories and is zoned Agricultural (AG-2). Policy 6.1.2 provides that this parcel may develop Community Commercial¹ uses if approved as part of a planned development. Further north, on the north side of North River Road is the Babcock mixed use community. Within the Lee County portion of Babcock is 4,157.2 acres approved for 1,630 residential dwelling units and 1,170,000 square feet of non-residential uses.

South of the subject property, on the east side of SR31, are existing single family residential uses on lots ranging in size from approximately 1.4 acres to 45 acres. These properties are in the Rural future land use category and are zoned AG-2.

East of the subject property is an existing single family residential use, on a 128 acre parcel. This property is in the Rural and Wetlands future land use categories and is zoned AG-2. Further east is the proposed Owl Creek residential subdivision and Owl Creek Boat Works, an industrial zoned marina.

¹ Community Commercial - Commercial development that provides for the sale of retail goods such as clothing, variety items, appliances, and furniture as well as goods that may be found in a neighborhood commercial development and has a gross floor area range of 100,000 to 400,000 square feet. (Lee Plan Glossary)

West of the subject property, on the west side of SR31, are existing single family residential uses on lots ranging in size from approximately 1 to 10 acres. These properties are in the Rural future land use category and are zoned AG-2.

The subject property as well as properties described above that are on the east side of SR 31 are within the North Olga Community Plan area. Properties described above on the west side of SR 31 are within the Bayshore Community Plan area.

LEE PLAN ANALYSIS

Current and Proposed Future Land Use Category

The subject property is currently designated as Rural and Wetlands on the Future Land Use Map, which are described by Policy 1.4.1 (Rural) and Policy 1.5.1 (Wetland) of the Lee Plan.

Policy 1.4.1 states that the Rural future land use category are areas that “are to remain predominantly rural – that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community...These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre).”

Policy 1.5.1 provides that “permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 124. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII.” Policy 124.1.2 generally allows for uses that are permitted on adjacent uplands, if permits to impact the wetlands are obtained from the appropriate state agency or Water Management District.

The proposed amendment is to re-designate the subject property from Rural and Wetlands future land use categories to the Outlying Suburban and Wetlands future land use category. The proposed request will not re-designate any areas currently within the Wetlands future land use category.

Lee Plan **Policy 1.1.6** provides that the “Outlying Suburban future land use category is characterized by its peripheral location in relation to established urban areas. In general, this category is rural in nature or contains existing low-density development. Some of the requisite infrastructure needed for higher density development is planned or in place. Industrial land uses are not permitted. The standard density range is from one dwelling unit per acre (1 du/acre) to three dwelling units per acre (3 du/acre). Bonus densities are not allowed.”

One of the main differences between the Rural and Outlying Suburban future land use categories is (1) the maximum density that is allowed – 1 dwelling unit an acre in the Rural future land use category and 3 dwelling units an acre in the Outlying Suburban future land use category. Another difference between the two categories is the treatment of non-residential uses. In the Rural future land use category non-residential uses are limited to those that are needed to serve the rural community and does not specifically mention industrial uses. In addition, the Rural future land use category is considered to be a Future Non-Urban Area, which limits commercial uses to 30,000 square feet or less based on Policy 6.1.2. In the Outlying Suburban future land use category commercial uses intended to serve residents outside of the rural community are allowed and Policy 6.1.2 would not apply as the Outlying Suburban future land

use category is a Future Suburban Area. However, industrial uses are specifically prohibited based on Policy 1.1.6.

Community Plan Areas

The subject property is within the Northeast Lee County and North Olga Community Plan Areas as shown on Map 2-A of the Lee Plan. The Northeast Lee County Community Plan area is described in Lee Plan Goal 27 and the North Olga Community Plan area is described in Lee Plan Goal 29.

Goal 27: Northeast Lee County Community Plan, is to “Maintain, enhance, and support the heritage and rural character, natural resources, and agricultural lands. Alva and North Olga will work cooperatively toward this goal through the objectives and policies that follow, and through their individual community plans.”

Goal 29: North Olga Community Plan, is to “Promote and support the unique rural character, heritage, economy, quality of life, and natural resources in the North Olga Community Plan area.”

The North Olga Community Plan area is contained wholly within the Northeast Lee County Community Plan area, which also contains the Alva Community Plan area. Both the Northeast Lee County and North Olga Community Plans (Goal 27 and Goal 29, respectively) generally discuss protecting existing community character through preservation of open spaces, clustering developments, landscape and architectural standards, protection of environmentally sensitive lands, and continuation of commercial agricultural uses.²

Both Community Plan area Goals, specifically in Policy 27.1.3 and Policy 29.1.2, also address the need to identify opportunities for a rural mixed use area. Policy 27.1.3, for Northeast Lee County, provides that the area for “rural mixed uses” should be connected to and compatible with adjacent areas. Policy 29.1.2, for North Olga, provides that Lee County along with service providers and land owners will “examine the need for a rural mixed use village center that provides for public meeting space, institutional uses, recreational opportunities, and local goods and services.”

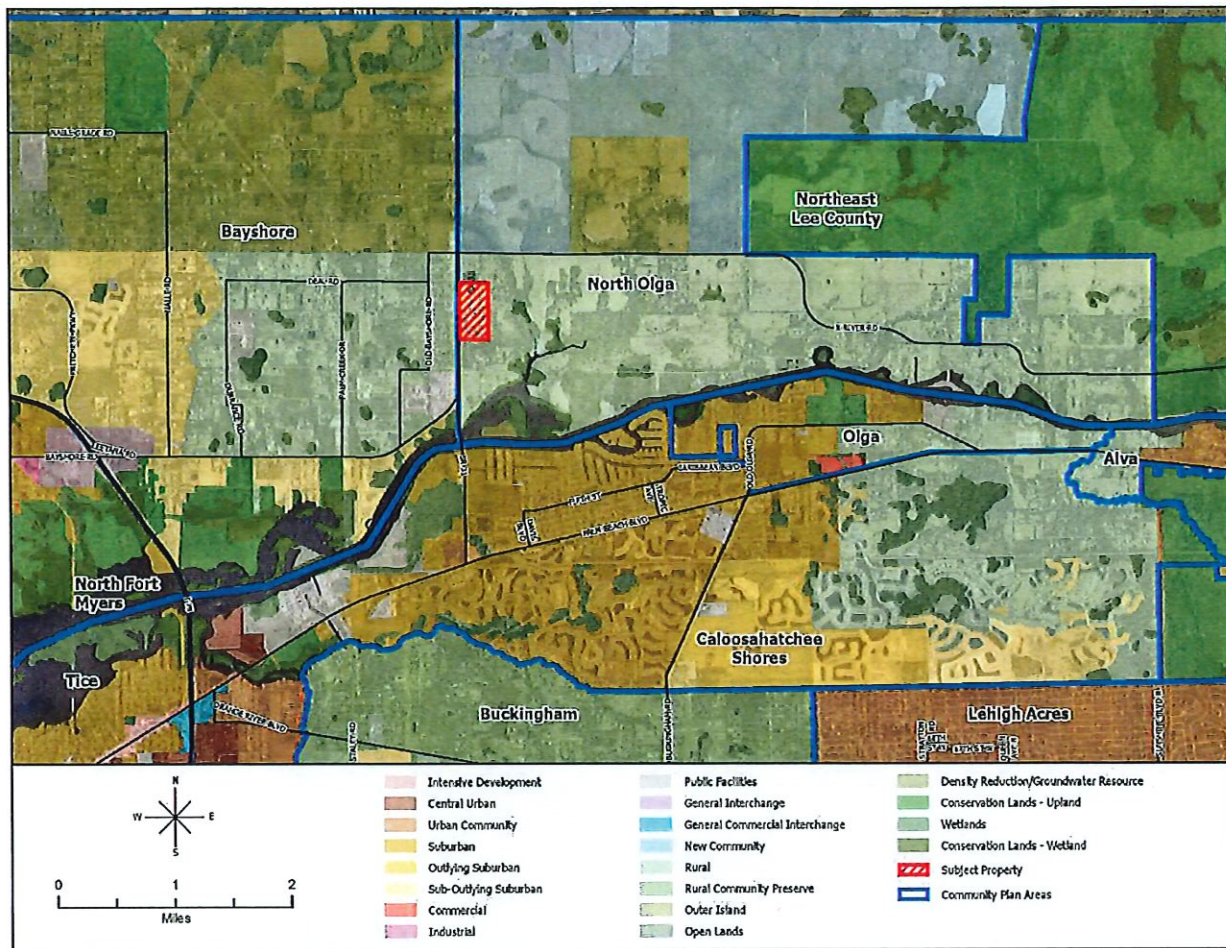
Based on the existing Lee Plan designations, there are limited opportunities for commercial or a mixture of uses within the North Olga Community Plan area. Future land use categories within the North Olga Community Plan area are Rural, New Community, Density Reduction/Groundwater Resource (DR/GR), and Wetlands. Opportunities to create a mixed use area are limited in the Rural, DR/GR and Wetlands future land use categories due to allowable uses and densities/intensities.

There are also policies in the Northeast Lee County, North Olga, and Alva Community Plan areas that seek to preserve the rural character and scenic qualities of North River Road, protect its continued use in a manner that supports local commercial agriculture businesses and their continued viability, and allows for multiple types of users, including, automobile, pedestrians, bicyclist, and equestrians³. These policies make it more difficult to allow the development of a mixed use community as desired, along North River Road.

² See Objectives 27.1, 29.1, and 29.3; and, Policies 27.1.1, 27.1.2, 27.1.4, 27.1.5, 27.1.6, 29.1.1, 29.1.3, and 29.3.3.

³ See Objective 29.4; and Policies 24.4.1, 27.4.4, 28.4.4, 29.4.2, and 29.4.3.

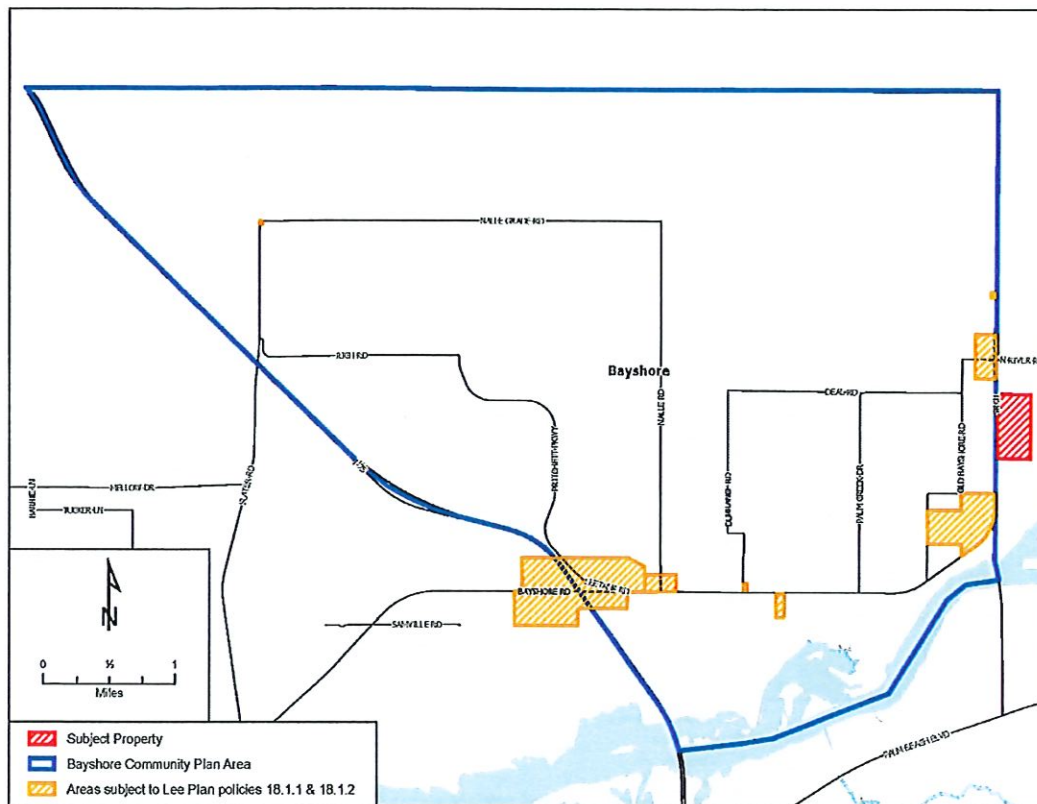
Existing Future Land Use Designations



There are opportunities for commercial uses within the New Community future land use category as part of Babcock. Additional opportunities for commercial uses are provided by Policy 6.1.2 of the Lee Plan, which allows for Neighborhood Commercial within $\frac{1}{4}$ mile of State Route 31 within the North Olga Community Plan area between the Caloosahatchee River and North River Road with the potential for Community Commercial for property at the intersection of North River Road and State Route 31. The opportunities for commercial uses within North Olga are concentrated along State Route 31.

Likewise, in the Bayshore Community Plan area, immediately to the east of the subject property, there are limited opportunities for commercial uses. Future land use categories within the Bayshore Community Plan area include the Rural, Open Lands, DR/GR, Wetlands, Sub-Outlying Suburban, and General Interchange. The Bayshore Community Plan area also limits opportunities for retail commercial to specific properties regardless of future land use category designation through Policies 18.1.1 and 18.1.2, which provide specific properties and intersections where retail commercial uses are allowed, further limiting possible locations for retail commercial uses.

As shown below potential retail commercial properties within the Bayshore Community Plan area are located mainly along State Route 31 and Bayshore Road (State Route 78).



Areas consistent with Policies 18.1.1 and 18.2.1 for retail commercial uses in Bayshore, including the General Interchange in the North Fort Myers Community Plan area.

As discussed above there are limited opportunities to create a mixed use village within the North Olga Community Plan area as provided in Policy 29.1.2. Amending the Future Land Use Map to include a future land use category that allows for up to three units an acre as well as increased commercial intensities in order to facilitate a development with a mixture of uses is consistent with **Policy 29.1.2** and **Policy 27.1.3**. The higher density allowed in the Outlying Suburban future land use category (relative to the Rural future land use category) will also allow for a wider mix of unit types and lot sizes than is currently available within the North Olga Community Plan area, consistent with **Policy 29.2.1**.

Consistent with **Policies 17.3.2, 17.3.3, 17.3.4, and 27.1.8**, the applicant conducted a public information meeting within the North Olga Community Plan area on March 2, 2022; and within the Alva Community Plan area on March 1, 2022. The attendees asked about improvements to the transportation network, types and pricing of housing that would be built, height of buildings, and if there were any plans for additional development east of this property.

Growth Management

The proposed amendment would support development with an increased intensity and density from one dwelling unit an acre to three dwelling units an acre in a centralized location between two Community Plan areas that largely consist of low density future land use categories, with limited opportunities for commercial development. The subject property is located in an area where infrastructure and services are available (see discussion below in Service Availability), and with anticipated improvements to State Road 31. Re-designating the future land use category of the subject property from Rural to Outlying Suburban is consistent with **Goal 2**, which is to “To provide for an economically feasible plan which coordinates the location and timing of new development with the provision of infrastructure by government agencies, private utilities, and other sources.”

The Lee Plan provides that areas in the Rural future land use category “are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas”, while Policy 1.1.6 provides that the Outlying Suburban future land use category is “characterized by its peripheral location in relation to established urban areas. In general, this category is rural in nature or contains existing low-density development. Some of the requisite infrastructure needed for higher density development is planned or in place.”

Coastal High Hazard Area

A large portion of the subject property is within the Coastal High Hazard Area. The proposed Outlying Suburban future land use designation of the property will allow an increase of density within the Coastal High Hazard Area, which requires consideration of Policy 101.1.4 of the Conservation and Coastal Management Element.

POLICY 101.1.4: Require that comprehensive plan amendments which increase density within the Coastal High Hazard Area or on islands meet one of the following criteria in accordance with § 163.3178(8), Fla. Stat.:

1. Will not result in an out of County hurricane evacuation time that exceeds 16 hours for a Category 5 storm event (Level E storm surge threat); or
2. Will maintain a 12 hour evacuation time to shelter for a Category 5 storm event (Level E storm surge threat) and ensure shelter space is available to accommodate the additional population; or
3. Will provide appropriate mitigation as determined by Lee County Department of Public Safety, to satisfy both criteria above, which may include the payment of money or construction of hurricane shelters and transportation facilities.

As part of the concurrent rezoning application, the applicant has provided an analysis addressing the Coastal High Hazard Area and hurricane preparedness and mitigation for the subject property. Consistent with **Policy 101.1.4**, the concurrent rezoning will be conditioned to provide appropriate mitigation for the densities and intensities proposed as part of the concurrent rezoning.

LCU Future Water Service Area – Map 4-A Amendment

The resulting gross density of the subject property, if the proposed Lee Plan amendments and concurrent rezoning is approved, will be a maximum of 3 dwelling units an acre, which exceeds the 2.5 dwelling units an acre that requires connection to public potable water system or sanitary sewer system.⁴ LCU has water

⁴ Lee Plan Standards 4.1.1 and 4.1.2.

mains in close proximity to the subject property and the applicant is requesting to add the property to the Lee County Future Water Service Area, Map 4-A. LCU has capacity to serve the proposed project. The applicant has also stated intent to connect to the Florida Governmental Utilities Authority (FGUA) sanitary sewer system. FGUA has provided verification that their system has capacity to serve the proposed development.

Amending the Lee Plan to allow for connection to LCU's potable water is consistent with **Policy 126.1.4** of the Lee Plan, which requires development designs must maintain groundwater levels at or above existing levels. Connecting to the LCU's potable water system, will reduce stress on the shallow aquifer and help to maintain or improve groundwater levels near the subject property.

Table 1(b)

The request to amend Table 1(b) is consistent with Lee Plan Goal 5 which is to provide sufficient land in appropriate locations on the Future Land Use Map to accommodate the 2045 projected population of Lee County. To maintain the 2045 Lee County adopted population accommodations, Table 1(b) is being amended to increase the residential acres in the Outlying Suburban future land use category and to decrease the residential acres in the Rural future land use category within the Northeast Lee County Planning District (Planning District #1). In order to make the population balance countywide, additional changes to Table 1(b) are also proposed, as shown in Attachment 1.

Transportation:

Access to the property is from State Route 31 which is a paved, state-maintained, arterial roadway. Lee Plan amendments require information both a short range (5 years) and long range (20+ years) level of service (LOS) analysis. Based on the information provided in the application materials:

Short Range Analysis: SR 31 from SR 80 to SR 78 is projected to operate at LOS "C" without the project and LOS "F" with the project in Year 2026.

Long Range Analysis: SR 31 from SR 78 to North River Rd, SR 80, east of SR 31 are projected to operate at LOS "F" with and without the project.

Transportation concurrency is not required per Florida Statutes Section 163.3180.

Service Availability

Consistent with Objective 2.2, there are adequate potable water, sanitary sewers, solid waste, police, fire/EMS, and schools services and facilities to accommodate the proposed amendment.

Mass Transit: The subject property is not within one-quarter mile of a fixed-route corridor, the closest bus stop is not within one-quarter mile of a bus stop, and the 2016 TDP does not identify the need for enhanced or additional transit services in the area.

Utilities: The subject property has access to water and sewer services. The proposed amendments will add the subject property to Lee Plan Map 4-A: Future Water Service Areas. Potable water is available from the North Lee County Water Treatment Plant. Wastewater service will be provided by FGUA and FGUA has capacity to serve the proposed development.

Solid Waste: The subject property has access to solid waste services. Solid waste collection services will be provided by Lee County using the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill.

Fire: The Bayshore Fire Protection and Rescue Service District indicated they are capable of providing fire protection.

EMS: The subject property has access to EMS services. In a letter dated November 7, 2021, Lee County Emergency Medical Services indicates they will be able to serve the property from Medic 11 located 3.6 miles south of the property, and a second EMS facility located 4 miles from the property.

Police: The Lee County Sheriff will provide law enforcement services primarily from the North District office in North Fort Myers. The Sheriff indicated in a letter dated November 12, 2021 that the development of the subject property will not affect the ability of the Lee County Sheriff's Office to provide core services at this time.

Schools: There is adequate school seat capacity to serve the subject property and the project's generation of middle and high school students. Capacity is an issue within the Concurrency Service Area (CSA) at the elementary school, however, capacity is available in the adjacent CSA.

CONCLUSIONS

The proposed amendments to the Lee Plan are consistent with the Lee Plan as discussed in the report and summarized below.

- Amending the Future Land Use Map to include a future land use category that allows for up to three units an acre as well as increased commercial intensities in order to facilitate a development with a mixture of uses is consistent with **Policy 29.1.2** and **Policy 27.1.3**.
- There are limited opportunities for commercial or a mixture of uses within the North Olga Community Plan area and the neighboring Bayshore Community Plan area.
- The applicant held separate public information meetings within the North Olga and Alva Community Plan areas as required by **Objective 17.3**.
- Lee County Utilities has capacity to serve the proposed project. Amending the Lee Plan to allow for connection to LCU's potable water is consistent with **Policy 126.1.4** of the Lee Plan.
- Infrastructure and services are available to the subject property, including anticipated improvements to State Road 31. Re-designating the future land use category of the subject property from Rural to Outlying Suburban is consistent with **Goal 2**.

For the reasons discussed in this staff report, Staff recommends that the Board of County Commissioners **transmit** the proposed amendments.

PART 2
LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: July 25, 2022

A. LOCAL PLANNING AGENCY REVIEW

Applicant provided a presentation addressing the requested amendments, subject property, impact analysis, consistency with the Lee Plan, and concurrent rezoning.

Members of the LPA asked about neighborhood meetings, anticipated widening of SR 31, and availability of public water and sewer facilities. Staff and the applicant addressed the questions by the LPA.

Following this, staff made a presentation addressing the requested amendments, location of the property, and consistency with the Lee Plan.

Members of the LPA had questions about: potential development intensity and density increases, and the review process this amendment would go through with the State Reviewing Agencies.

There was public comment from two residents concerning the proposed amendment at the LPA Hearing. One of the speakers supported the proposed amendments in order to provide commercial uses and services within Northeast Lee County. The other speaker did not support the proposed amendment and expressed concern with flood zones, construction and timing of SR 31, residential density and commercial intensity.

Following public comments, the LPA discussed the merits of the proposed amendments, which included the potential density and intensity, the unknowns around timing and alignment of SR 31, consistency with the Lee Plan, and creating a doughnut hole of Outlying Suburban surrounded by lands within the Rural future land use category.

B. LOCAL PLANNING AGENCY RECOMMENDATION

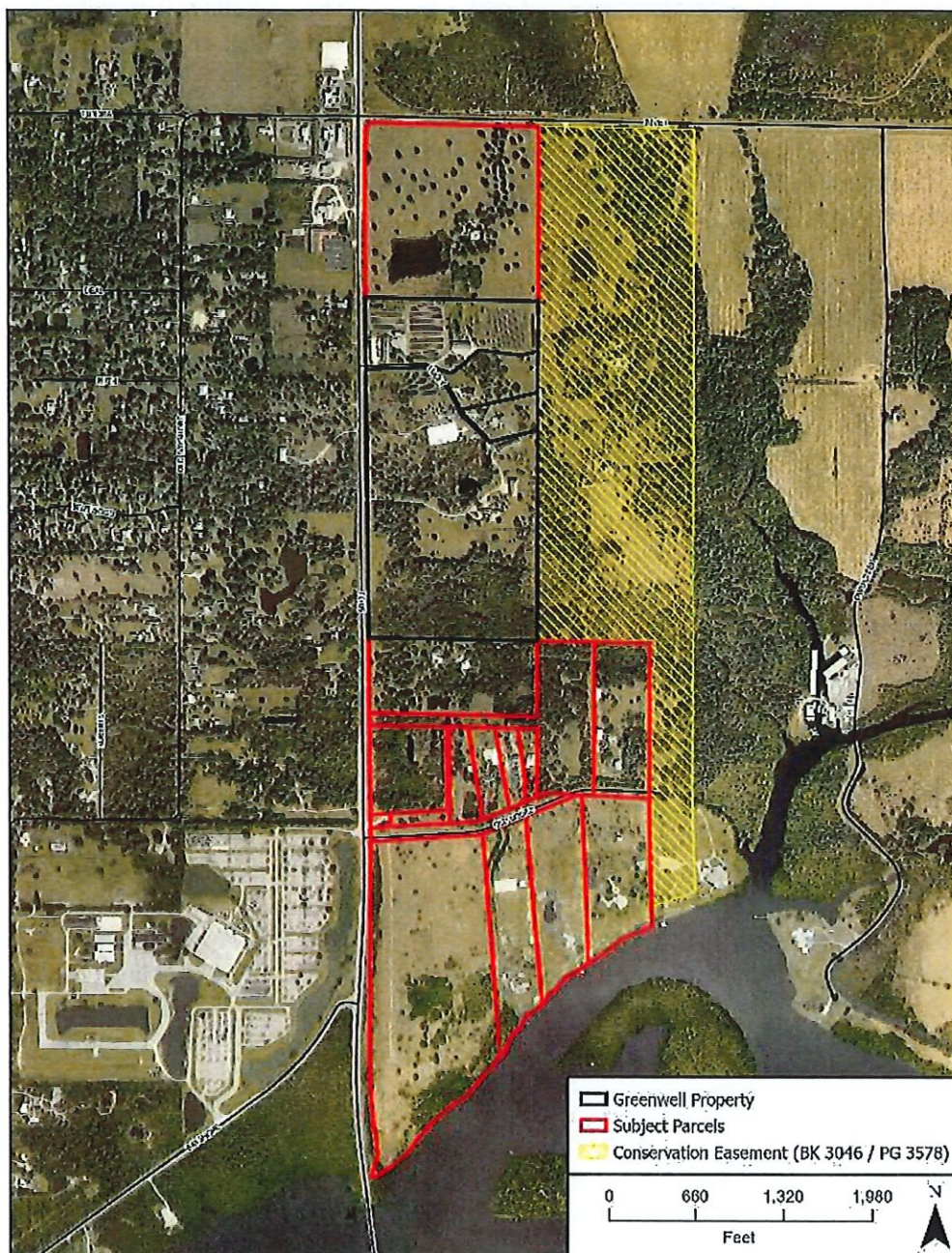
A motion was made to recommend that the Board of County Commissioners transmit CPA2021-00015. The motion passed 3 to 2.

RAYMOND BLACKSMITH	<u>AYE</u>
DUSTIN GARDNER	<u>AYE</u>
JAMES M. INK	<u>ABSENT</u>
ALICIA OLIVO	<u>AYE</u>
DON SCHROTENBOER	<u>ABSENT</u>
STAN STOUDER	<u>NAY</u>
HENRY ZUBA	<u>NAY</u>

C. STAFF RESPONSE TO LPA DISCUSSION

During the LPA discussion there was concern that the proposed amendment would create a doughnut-hole of Outlying Suburban surrounded by properties in the Rural future land use category.

Subsequent to the LPA hearing staff analyzed impacts to the transportation network and utilities infrastructure of adding an additional 15 properties, located on the east side of SR 31 between North River Road and the Caloosahatchee River, to the proposed amendments.



The 15 properties ("Subject Parcels") comprise approximately 180 acres designated as Rural (168.71 acres) and Wetlands (11.39 acres) on the Future Land Use Map. When added to the Greenwell

Property, the total area is 265.33 acres with 251.65 acres designated as Rural and 13.68 acres designated as Wetlands.

The property to the east of these additional properties is encumbered with a conservation easement and provides a rational deliniation and transition between the future Outlying Suburban and Rural future land use categories. The location of this transition also recognises and is consistent with the policies in the Northeast Lee County, North Olga, and Alva Community Plan areas that seek to preserve the rural character and scenic qualities of North River Road and allow for multiple types of users, including, commercial agriculture, automobile, pedestrians, bicyclist, and equestrians.

Development Scenarios

Although within the Rural future land use category, where commercial development is limited to Minor Commercial⁵ development, the Subject Parcels are allowed Neighborhood Commercial⁶ per Policy 6.1.2 which, in part, states:

POLICY 6.1.2: Commercial development in non-urban future land use categories is limited to Minor Commercial except that:

- Neighborhood Commercial uses serving the Lee County Civic Center are permitted within one quarter mile of SR31 between North River Road and the Caloosahatchee River in the North Olga Community Planning Area...”

Due to the exception identified in Policy 6.1.2 and a typical commercial intensity of 10,000 square feet per upland acre, under the Rural future land use designation the worst-case development scenarios on the 168.71 acres of uplands are 1,687,100 square feet of commercial OR 169 dwelling units. If the 168.71 acres of uplands were redesignated from Rural to the Outlying Suburban future land use category on the Future Land Use Map, the worst-case development scenarios become 1,687,100 square feet of commercial OR 506 dwelling units. The maximum increase in development potential on the Subject Parcels would be 337 dwelling units; there is no change to the amount of commercial square footage that could be permitted.

Utilities

Using the worst-case development scenario assumptions from above, the additional 337 residential units equate to just under 85,000 GPD (126,500 GPD total). The allowable total commercial (1.6871 million square feet) doesn't change and equates to just over 168,000 GPD assuming 10 gallons per 100 square feet. Even in the worst-case development scenario of 506 dwelling units, less flow would be produced than from the maximum amount of commercial allowed today without changing the land use.

⁵ MINOR – Commercial development that provides for the sale of convenience goods and services and contains less than 30,000 square feet of gross floor area. (Lee Plan Glossary)

⁶ NEIGHBORHOOD – Commercial development that provides for the sale of convenience goods and personal services, such as food, drug, sundries, and hardware items and has a gross floor area range of 30,000 to 100,000 square feet.

Transportation

Based on the same assumptions, an analysis of impacts to the transportation network found that under the existing worst-case development scenario the total new trips in PM peak hour would be 3,040 trips. Under the proposed worst-case development scenario, the total new trips would be 3,071 trips. Changing the future land use category of Subject Parcels upland areas from Rural to Outlying Suburban results in an increase of 31 trips in PM peak hour condition. The analysis concludes that the impacts on the surrounding roadway system is negligible based on the trip generation comparison between the existing land use and the proposed land use category.

D. STAFF RECOMMENDATION

Based on the analysis of the utilities and transportation network as well as existing Land Development Code provisions to address the character and aesthetics⁷ of the resulting potential development, staff recommends the Subject Parcels be included in the proposed amendments. Including the Subject Parcels in the amendment will address the concerns raised by the LPA, create a more cohesive land use pattern along SR 31, and will facilitate development with a mixture of uses where appropriate infrastructure and services exist and are available consistent with **Goal 2 and Policies 27.1.3, and 29.1.2.**

Staff recommends that the BoCC *transmit the amendment as provided in Attachment 1*⁸ for both the Greenwell Property and Subject Parcels to:

- Amend the Future Land Use Map designation of 265.33 acres from Rural and Wetlands to Outlying Suburban and Wetlands;
- Amend Map 4-A to add 265.33 acres to the Lee County Utilities Future Water Service Areas; and
- Amend Table 1(b) to increase the residential acres in the Outlying Suburban future land use category and to decrease the residential acres in the Rural future land use category within the Northeast Lee County Planning District (Planning District #1).

⁷ LDC Sections 33-1667 through 33-1677 address parking, architectural style, tree preservation, and signage within the North Olga Community Plan area.

⁸ Attachment 1 identifies the staff recommended amendments following the LPA discussion; Attachment 2 identifies the original applicant request.

PART 3
BOARD OF COUNTY COMMISSIONERS
TRANSMITTAL HEARING

DATE OF PUBLIC HEARING: September 21, 2022

A. BOARD REVIEW:

Staff provided a brief presentation for the proposed amendment which included an overview of the proposed amendment as requested by the applicant and recommended by staff, Lee Plan consistency, and LPA comments and recommendation. Following staff's presentation, the applicant's consultants provided a brief overview of the request and stated agreement with the staff recommendation.

One member of the public addressed the Board of County Commissioners concerning the proposed amendment. The member of the public expressed concerns with flood zones and additional lands added to the staff recommendation based on the LPA hearing.

B. BOARD ACTION:

A motion was made to transmit CPA2021-00005 as recommended by staff and the LPA. The motion passed 4 to 0.

VOTE:

MIKE GREENWELL	ABSTAIN
BRIAN HAMMAN	AYE
CECIL L. PENDERGRASS	AYE
KEVIN RUANE	AYE
RAY SANDELLI	AYE

PART 4
STATE REVIEWING AGENCIES'
OBJECTIONS, RECOMMENDATIONS, AND COMMENTS

Comments from the State Reviewing Agencies were due to Lee County by October 26, 2022.

A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

Lee County received responses from the following review agencies addressing the transmitted amendment:

- Florida Department of Economic Opportunity
- Florida Department of Environmental Protection
- Florida Fish and Wildlife Conservation Commission (FWC)
- Florida Department of Agriculture and Consumer Services

There were no objections concerning the proposed amendments.

Florida Fish and Wildlife Conservation Commission staff recommended "that species-specific surveys be conducted on the properties adjacent to the Greenwell Property prior or any clearing or construction." Lee County staff appreciates the recommendation and notes that species-specific surveys are required by the Land Development Code as part of a rezoning application which would be required prior to any development that may be allowed by the proposed change to the Future Land Use Map.

B. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners **adopt** the amendments to the Lee Plan as transmitted and as provided in Attachment 1.

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Donna Marie Collins
Chief Hearing Examiner

DATE: January 9, 2023

FROM: Elizabeth Workman
Principal Planner

RE: 48-hour Letter
3640 SW PINE ISLAND ROAD CPD (DCI2021-00029)

Staff has prepared this 48-hour letter to supplement its analysis relative to compliance with Lee Plan policies regarding development within wetlands and the Coastal High Hazard, as defined in the Lee Plan. Staff recommends an additional condition of approval for the above-referenced case based on the following analysis.

The subject property is located in the Coastal High Hazard Area per the Lee Plan Map 5-A. Policy 101.3.2 restricts development in the Coastal High Hazard Area to uplands except as needed for the provision of public facilities.¹ The applicant is proposing to expand the development beyond the previously approved development footprint, which was approved prior to Lee Plan Policy 101.3.2 codification. The area to the south of the existing building will be used for open storage, parking, and detention to support the new use. The applicant will be impacting wetlands to construct the expansion. Staff requested a formal jurisdictional wetland determination or Environmental Resource Permit during sufficiency review but has not received either document. The Protected Species survey indicates wetland soils within the south portion of the property.

Policy 101.3.2 does not address development approval of impacts to wetlands in the CHHA. The development in wetlands is specifically regulated by Goal 124 and subsequent objectives and policies (see Policy 1.5.1). Policy 1.5.1 provides as follows:

¹ Public facilities are defined in the Lee Plan as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks, and recreational facilities. Community Planning Act, Florida Statutes s. 163.3164 (39). Cf. 42 USC Ch. 68 §5122(10): "Public facility" means the following facilities owned by a State or local government: (A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility. (B) Any non-Federal-aid street, road, or highway. (C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes. (D) Any park.

POLICY 1.5.1: Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. **All development in Wetlands must be consistent with Goal 124.** The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII.

To ensure compliance with the Lee Plan goals, objectives, and policies, the approval of development in wetlands must be consistent with Lee Plan Policy 124.1.2 per the following:

POLICY 124.1.2: The County's wetlands protection regulations will be consistent with the following:

- 1. The County will not undertake an independent review at the development order stage of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption.*
- 2. No development in wetlands regulated by the State of Florida may be commenced without the appropriate state agency permit or authorization. **Development orders and development permits authorizing development within wetlands or lands located within the Wetlands future land use category may be issued subject to a condition that construction may not commence until issuance of the required state permits.** (emphasis added)*
- 3. Lee County will incorporate the terms and conditions of state permits into County permits and will prosecute violations of state regulations and permit conditions through its code enforcement procedures.*
- 4. Every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques. On- or off-site mitigation will only be permitted in accordance with applicable state standards.*
- 5. Mitigation banks and the issuance and use of mitigation bank credits will be permitted to the extent authorized by applicable state agencies.*
- 6. **The density on wetlands that have been impacted, or will be impacted, in accordance with a state agency permit will be calculated at a density***

of one dwelling unit per 20 acres. Nonresidential uses on wetlands that have been impacted, or will be impacted, in accordance with a state agency permit must be consistent with the non-residential uses permitted in the immediately adjacent, least intense, upland future land use category. (Ord. No. 94-30, 00-22, 07-12, 10-20, 10-39, 18-28, 19-13, 19-26) (emphasis added)

Policy 124.1.2 was amended after the adoption of Policy 101.3.2 to clarify the uses permitted within wetlands. Specifically, the Lee Plan was amended to identify uses on property that has been, or will be, impacted through state permits. With the adoption of the 2019 amendments to the Lee Plan, the Plan clearly identifies that development orders and development permits (including approval of rezoning applications) may be approved subject to approval of State Agency permits that permit impacts to the wetlands within the project boundaries.² The 2019 amendments to Policy 124.1.2 apply to all wetlands within Lee County and are not restricted to wetlands outside of the CHHA. If approved by the State, the impacted wetlands are treated as uplands for development purposes. As such, the restriction of development to only uplands found under Policy 101.3.2 are met subject to issuance of a state permit authorizing such impacts. If impacts to wetlands are not approved through the State Agency, then development may only occur on the uplands and the restrictions placed on development of wetlands under Goal 124 must be followed.

Lee Plan Policy 124.1.2, Notes 2 and 6 recognize that when the state agencies issue a permit to allow impacts to wetlands those wetland areas are treated as uplands. Mitigation is handled through the state agencies (see Policy 124.1.2, Note 5). Therefore, development may be allowed in wetland areas through a state agency permit that includes mitigation. When reviewing density, the County recognizes that the state agencies have permitted impacts to wetlands to create uplands and residential density for an impacted wetland at one unit per 20 acres.

Therefore, when considering the above, the subject property will be in compliance with Policy 101.3.2, subject to the issuance of a state permit. When wetlands are impacted, the state considers these areas developable uplands thus complying with Lee Plan Policy 101.3.2. Staff recommends the following condition to ensure consistency with Lee Plan Policy 124.1.2:

² In 2011, the State legislature adopted changes to § 125.022, Fla. Stat., prohibiting a county from requiring "as a condition of processing or issuing a development permit or development order that an applicant obtain a permit or approval from any state or federal agency..." Consequently, Lee County cannot prohibit issuance of a local development order or development permit subject to an Applicant acquiring a State permit to impact wetlands. In accordance with the statute cited, the County may only prohibit commencement of the development or construction until issuance of State permits necessary for the development.

State Wetland Permits

For development that proposes impacts to wetlands, construction may not commence until issuance of required state permits. Development activity must remain in compliance with applicable state wetland permits and applicable local development permits. If impacts to wetlands are not permitted by the State or if issued state wetland permits are inconsistent with proposed impacts to wetlands depicted within local development permit approvals, Developer must amend local development permit approvals to be consistent with issued state wetland permits or applicable Lee Plan and Land Development Code regulations pertaining to development within wetlands.

Based on the above analysis, wetlands located on the site that are proposed to be impacted and mitigated through the state permitting process are in compliance with Policy 124.1.2, Note 6. The least intense FLUM adjacent to the wetlands is Commercial Future Land Use Category per CPA2021-00010. Therefore, the proposed commercial uses are consistent once the state permits the project.

Respectfully Submitted,
Elizabeth A. Workman
Principal Planner, Zoning Section



31 OAKS RPD

Proposed Conditions

1. Permitted Dwelling Types

- a. The RPD allows a maximum of 265 single-family or two-family dwelling units or a maximum of 342 townhome dwelling units or any combination of single-family and multi-family units provided that in no case shall the maximum total daily trip generation exceed 248 two-way PM peak hour trips based on the use codes in the ITE Manual on trip generation rates in effect at the time of application for development order approval.

2. State Wetland Permits

- a. For development that proposes impacts to wetlands, construction may not commence until issuance of required state permits.

3. Environmental

- a. Open Space. Development order plans must depict a minimum of 35.3 acres of open space. This total must include 17.66 acres of indigenous open space.
- b. Wetlands. Development order plans must reflect preservation of 13.48 acres of indigenous wetlands.
- c. Conservation Easements (Upland Areas). Developer must submit copies of proposed conservation easements over upland indigenous preservation areas depicted on the Master Concept Plan with the first local development order application. The conservation easements must be dedicated to Lee County and recorded prior to issuance of the Certificate of Compliance for the infrastructure.
- d. Conservation Easements (Wetland Areas). Developer must submit copies of proposed conservation easements over wetland indigenous preservation areas depicted on the Master Concept Plan with the first development order application. The conservation easements must be dedicated to the South Florida Water Management District, grant third party enforcement rights to Lee County and be recorded prior to issuance of the Certificate of Compliance for the infrastructure.
- e. Gopher Tortoises Management Plan.
 - i. Preservation within indigenous preservation areas, and
 - ii. Relocation from development areas consistent with Florida Fish and Wildlife Conservation Commission (FWC) gopher tortoise permitting guidelines. Developer must submit copies of the FWC permit authorizing relocation with the Vegetation Removal Permit application.

4. Floodplain Storage Requirements:

At first Development Order provide:

a. Pre-Development Drainage Analysis that includes:

- i. Drainage Map for all contributory areas and must include offsite inflow areas,
- ii. Flow-paths,
- iii. Existing Structures,
- iv. ICPR Modeling of 5yr-24hr, 10yr-24hr, 25yr-3day, 100yr-3day storm events, and
- v. Pre-development stormwater conditions.

b. Post Development Drainage Plan:

- i. Drainage Map for all contributory areas with proposed upland improvements, wetland and upland creation areas, proposed grading elevations and construction details of all structures and pipes,
- ii. Structures, weirs, pipes and swales to maintain a viable hydroperiod in the conservation area,
- iii. ICPR Modeling of 5yr-24hr, 10yr-24hr, 25yr-3day, 100yr-3day storm events, and
- iv. Post-development stormwater conditions.

c. Profiles and Sections Plan:

- i. Provide Sections and Profiles sufficient to demonstrate compliance with elevations and areas of the post development modeling.

d. Stormwater Report:

- i. A stormwater report must demonstrate compliance with Policy 101.3.2 pre-development wetland storage capacity being met through retained storage capacity and through existing wetlands, flood-prone uplands, created uplands and wetlands preservation.
- ii. The development shall provide SFWMD required water quantity in the lake system and not in the conservation easement areas;and

- iii. Proposed engineering systems must ensure the retention of a hydroperiod in the conservation easement suitable to provide stormwater needs of the plant community.



31 Oaks RPD

Schedule of Deviations & Justification Narrative

Deviation #1: A deviation from LDC section 10-329(d)(1)a.3, which requires water retention or detention excavations to be a minimum of 50 feet from any private property line under separate ownership, to allow a minimum of 25 feet from private property lines.

JUSTIFICATION: The Applicant is requesting approval of this deviation in order to provide flexibility in site design for stormwater management within the RPD.

The proposed stormwater lake is adjacent to private properties along Davis Blvd, Fourth St., and West Rd. Along these property boundaries, a project wall and buffer are proposed.

Approval of this deviation will not negatively impact the public health, safety, or welfare as a project wall will be located between the lake and adjoining property lines.

Deviation #2: A deviation from LDC Section 10-329(d)(4), which requires lake banks to be sloped at a 6:1 ratio from the top of bank to a water depth of two feet below the dry season water table; to allow for a minimum ratio of 4:1 slope.

JUSTIFICATION: The Applicant is requesting approval of this deviation in order to maximize stormwater management lake area on the property. The subject property is constrained by on-site wetlands and impacts to Coastal High Hazard Area wetlands require compensating stormwater retention in addition to the typical stormwater management requirements. The site plan is also constrained by the existing lake on the southern portion of the property and this deviation provides the space to grade the area between the anticipated finished floor elevations and the control elevation/location of the existing lake

As a result, the 4:1 lake bank slope is necessary to accommodate the appropriate lake depth and minimum lake width specified in the LDC within the spatial constraints of the subject property. The proposed 4:1 lake bank slope will allow the project to provide for stormwater management lakes on the property in the most efficient manner possible.

A 4:1 lake bank slope has been proven to function as intended by the LDC through appropriate construction standards and lake maintenance measures. As shown on the enclosed cross section, turf reinforcement mats and enhanced herbaceous plantings are proposed to mitigate lake bank erosion in accordance with the slope protection measures set forth in LDC Section 10-329(d)(4). This design standard has been successfully implemented throughout Lee County and is accepted by the South Florida Water Management District. Therefore, the requested deviations will not negatively impact public health, safety, or welfare, and will uphold the intent of the LDC.

Deviation #3: A deviation from LDC section 10-296 (k), which requires dead-end streets to be designed as culs-de-sac, to allow a dead-end street in two locations as demonstrated on the Master Concept Plan.

JUSTIFICATION: The Applicant is requesting a hammerhead turnaround in the northeast and southeast corners of the development. These dead ends will be a maximum of 93 feet in the north area of the project and 120 feet in the south and will provide access to three lots at each hammerhead location. This limited use of the hammerhead turnaround design eliminates any potential impacts of providing a hammerhead design within the development. Additionally, National Fire Protection standards do not require a turnaround for roads that are less than 150 feet.

This deviation will allow for flexibility in site design of a property which is constrained by on-site wetlands and impacts to Coastal High Hazard Area wetlands require compensating stormwater retention in addition to the typical stormwater management requirements. The use of a dead-end street also supports the relocation of a previously proposed access on DeMoya Drive which neighbors expressed concern over at the required neighborhood information meeting.

Approval of this deviation will not negatively impact the public health, safety, or welfare as the dead-end streets are limited to less than 150 feet, serves limited residents, and will not be open to the public.



31 OAKS RPD

Schedule of Uses & Site Development Regulations

1. SCHEDULE OF USES:

Maximum of 265 single-family or two-family dwelling units or a maximum of 342 townhome dwelling units or any combination of single-family and multi-family units provided that in no case shall the maximum total daily trip generation exceed 248 two-way PM peak hour trips based on the use codes in the ITE Manual on trip generation rates in effect at the time of application for development order approval.

Residential Tract

Accessory uses, buildings and structures

Administrative offices

Clubs:

Private

Dwelling units:

Single-Family

Two-family attached

Townhouse

Entrance Gates and Gatehouses

Essential Services

Essential Services Facilities – Group I Only

Excavation:

Water Retention

Excess Spoil Removal

Fences, Walls

Models:

Display Center/Sales Center

Model Home

Model Unit

Parking Lot, Accessory

Real Estate Sales Office

Recreation Facilities

Personal

Private – On-Site

Residential Accessory Uses

Signs in conformance with LDC Chapter 30

Temporary Uses

Including Temporary Sales Office, Temporary Construction Office, Temporary Construction-Related Storage

2. SITE DEVELOPMENT REGULATIONS:

Development of the zoning district will comply with the following Property Development Regulations:

	Single Family Detached	Two-Family Attached	Townhouse	Recreation/ Clubhouse
Minimum Lot Size	4,000 sq ft	3,000 sq ft	1,800 sq ft	N/A
Minimum Lot Width	40 feet	30 feet	18 feet	N/A
Minimum Lot Depth	100 feet	100 feet	100 ft	N/A
Maximum Lot Coverage	60 percent	65 percent	65 percent	50 percent
Maximum Building Height	35 feet	35 feet	35 feet	35 feet
Minimum Building Separation	10 feet	10 feet	15 feet	10 feet
Setbacks				
Street (public roads)	25 feet	25 feet	20 feet	N/A
Street (interior private roads)	20 feet / 10 feet ¹	20 feet / 10 feet ¹	20 feet / 10 feet ¹	20 feet
Side	5 feet	5 feet / 0 feet ²	5 feet / 0 feet ²	10 feet
Rear (Principal)	10 feet	10 feet	5 feet	10 feet
Rear (Accessory)	5 feet / 0 feet ³	5 feet / 0 feet ³	5 feet / 0 feet ³	5 feet
Perimeter	15 feet ⁴	15 feet ⁴	15 feet ⁴	15 feet
Waterbody	20 feet	20 feet	20 feet	20 feet
Preserve ⁴	20 feet ⁵	20 feet ⁵	20 feet ⁵	20 feet ⁴

Notes:

- 1) 20 feet for front loaded garages, 10 feet for side loaded garages and secondary street setbacks on corner lots.
- 2) No side setback is required from common lot line for two-family attached or townhouse.
- 3) 5 feet (0 feet where lot abuts lake maintenance easement).
- 4) 15 feet or 1/2 building height (whichever is greater).
- 5) 30 feet for indigenous plant communities subject to fire.

31 OAKS
LEE COUNTY INDIGENOUS PRESERVE RESTORATION AND
MANAGEMENT PLAN

Revised January 2023

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1.0 INTRODUCTION

The following outlines the Lee County Indigenous Preserve Management and Restoration Plan for 31 Oaks (Project) located in Section 30; Township 43 South; Range 26 East; Lee County.

The Project is bordered to the north by undeveloped, forested lands and single-family residential development; to the east by single-family residential development; to the south by cleared land and a gas station; and to the west by State Road 31.

The proposed Lee County indigenous preserve will contain the following elements:

- Preservation, enhancement, and restoration of 13.48± acres of indigenous and non-indigenous wetlands,
- Preservation, and enhancement of 0.42± acre of indigenous uplands; and
- Creation of 4.48± acres of indigenous wetland areas.

The indigenous preserve area will be protected in perpetuity via a conservation easement granted to Lee County.

2.0 INDIGENOUS VEGETATION PRESERVE

The Lee County Indigenous Preserve totals 18.38± acres and is comprised of 13.48± acres of wetlands and 4.90± acres of uplands. The location of the indigenous preserve is depicted in Appendix A.

The following are the existing indigenous on-site wetland and upland habitats proposed as indigenous vegetation preserve.

2.1 Indigenous Wetlands

Cabbage Palm, Hydric (25-49% Exotics) (FLUCFCS Code 4281 E2)

The canopy of this wetland habitat consists primarily of cabbage palm (*Sabal palmetto*) with few scattered laurel oak (*Quercus laurifolia*). The sub-canopy includes primarily cabbage palm with scattered myrsine (*Myrsine cubana*), Brazilian pepper (*Schinus terebinthifolia*), and wild coffee (*Psychotria nervosa*). The ground cover includes scattered swamp fern (*Telmatoblechnum serrulatum*), herb-of-grace (*Bacopa monnieri*), frogfruit (*Phylla nodiflora*), and giant leather fern (*Acrostichum danaeifolium*).

Cabbage Palm, Hydric (50-75% Exotics) (FLUCFCS Code 4281 E3)

The vegetative composition of this disturbed wetland habitat is similar to that of FLUCFCS Code 4281 E2; however, there is more Brazilian pepper and melaleuca (*Melaleuca quinquenervia*) in the canopy and sub-canopy strata.

Mixed Wetland Hardwoods, Disturbed (25-49% Exotics) (FLUCFCS Code 6179 E2)

The canopy of this wetland habitat includes laurel oak and cabbage palm with few scattered live oak (*Quercus virginiana*), melaleuca, and bishopwood (*Bischofia javanica*). The sub-canopy consists of scattered laurel oak, cabbage palm, bishopwood, and Brazilian pepper. The ground cover consists of swamp fern, muscadine grapevine (*Vitis rotundifolia*), giant leather fern, and American evergreen (*Syngonium podophyllum*).

Mixed Wetland Hardwoods, Disturbed (50-75% Exotics) (FLUCFCS Code 6179 E3)

The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6179 E2; however, there is additional Brazilian pepper and melaleuca in the sub-canopy stratum.

Willow, Disturbed (50-75% Exotics) (FLUCFCS Code 6189 E3)

The canopy of this wetland habitat includes Carolina willow (*Salix caroliniana*), Brazilian pepper, and few cabbage palm. The sub-canopy includes Brazilian pepper and Carolina willow. The ground cover is primarily open with scattered swamp fern, fireflag (*Thalia geniculata*), and giant leather fern.

Freshwater Marsh, Disturbed (0-24% Exotics) (FLUCFCS Code 6419 E1)

The canopy of this wetland habitat is open. The sub-canopy includes scattered Brazilian pepper and Peruvian primrose willow (*Ludwigia peruviana*). The ground cover includes string-lily (*Crinum americanum*), swamp fern, and pickerelweed (*Pontederia cordata*).

Freshwater Marsh, Disturbed (25-49% Exotics) (FLUCFCS Code 6419 E2)

The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6419 E1; however, there is additional Brazilian pepper in the sub-canopy stratum.

Freshwater Marsh, Disturbed (50-75% Exotics) (FLUCFCS Code 6419 E3)

The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6189 E2; however, there is additional Brazilian pepper in the sub-canopy stratum.

2.2 Indigenous Uplands

Live Oak, Disturbed (25-49% Exotics) (FLUCFCS Code 4279 E2)

The canopy of this upland habitat consists of live oak. The sub-canopy includes scattered live oak, myrsine, gallberry (*Ilex glabra*), winged sumac (*Rhus copallinum*), Brazilian pepper, wild coffee, and coastal plain staggerbush (*Lyonia fruticosa*). The ground cover includes saw palmetto (*Serenoa repens*), muscadine grapevine, and shiny blueberry (*Vaccinium myrsinites*).

Hardwood/Conifer Mixed, Disturbed (50-75% Exotics) (FLUCFCS Code 4349 E3)

The canopy of this upland habitat includes live oak, slash pine (*Pinus elliottii*), laurel oak, and melaleuca. The sub-canopy includes Brazilian pepper, live oak, laurel oak, myrsine, wax myrtle, gallberry, winged sumac, wild coffee, and coastal plain staggerbush. The ground cover includes scattered saw palmetto, muscadine grapevine, and shiny blueberry.

3.0 EXISTING NON-INDIGENOUS VEGETATION PRESERVE

The non-indigenous upland and wetland are predominantly comprised of improved and unimproved pastures, mixed exotics, residential areas, melaleuca, Brazilian pepper, hardwood/conifer mixed, willow, and palmetto prairie habitat types that contain greater than 75 percent exotic vegetation. Listed below are the FLUCFCS descriptions of the non-indigenous areas on the Project site.

3.1 Non-Indigenous Wetland Habitats

Melaleuca, Hydric (FLUCFCS Code 4241)

This disturbed wetland habitat consists primarily of melaleuca in the canopy and sub-canopy. The ground cover is open.

Mixed Wetland Hardwoods, Disturbed (76-100% Exotics) (FLUCFCS Code 6179 E4)

The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6179 E3; however, there is additional melaleuca in the canopy and sub-canopy strata.

Willow, Disturbed (76-100% Exotics) (FLUCFCS Code 6189 E4)

The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6189 E3; however, there is additional Brazilian pepper in the canopy and sub-canopy strata.

Exotics Wetland Hardwoods (FLUCFCS Code 619)

The canopy of this wetland habitat is open. The sub-canopy includes Brazilian pepper, bishopwood, Java plum, Peruvian primrose willow, and scattered cabbage palm.

Cypress, Disturbed (76-100% Exotics) (FLUCFCS Code 6219 E4)

The canopy of this wetland habitat includes primarily bald cypress (*Taxodium distichum*) with scattered red maple (*Acer rubrum*), cabbage palm, and laurel oak. The sub-canopy includes bald cypress, Brazilian pepper, cabbage palm, red maple, and myrsine. The ground cover includes scattered swamp fern, herb-of-grace, creeping primrose willow (*Ludwigia repens*), and string-lily.

Freshwater Marsh, Disturbed (76-100% Exotics) (FLUCFCS Code 6419 E4)

The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6189 E3; however, there is additional Brazilian pepper in the sub-canopy stratum.

3.2 Non-Indigenous Upland Habitats

Residential, Low Density (FLUCFCS Code 110)

This land use type consists of residential properties and dirt roadways. The canopy contains live oak and the sub-canopy is open. The ground cover is dominated by St. Augustine grass (*Stenotaphrum secundatum*).

Improved Pasture (FLUCFCS Code 211)

This land use type consists of agricultural fields used for cattle grazing. The canopy is primarily open with widely scattered live oak and slash pine. The sub-canopy is primarily open with few scattered cabbage palm and Brazilian pepper. The ground cover includes bahiagrass (*Paspalum notatum*), spermacoce (*Spermacoce verticillata*), and dog fennel (*Eupatorium capillifolium*).

Unimproved Pasture (FLUCFCS Code 212)

The canopy is open and the sub-canopy includes widely scattered Brazilian pepper and few cabbage palm. The ground cover is primarily Guinea grass (*Urochloa maxima*), air potato (*Dioscorea bulbifera*), dog fennel, and St. Augustine grass.

Palmetto Prairies, Disturbed (76-100% Exotics) (FLUCFCS Code 3219 E4)

The canopy of this upland community is open. The sub-canopy is primarily open with scattered coastal plain staggerbush, gallberry, wax myrtle (*Morella cerifera*), melaleuca, myrsine, and tarflower (*Bejaria racemosa*). The ground cover is predominantly saw palmetto, with scattered sand blackberry (*Rubus cuneifolius*) and muscadine grapevine.

Brazilian Pepper (FLUCFCS Code 422)

This disturbed upland habitat consists primarily of Brazilian pepper in the canopy and sub-canopy. The ground cover is characteristically sparse.

Melaleuca, Hydric (FLUCFCS Code 4241)

This disturbed wetland habitat consists primarily of melaleuca in the canopy and sub-canopy. The ground cover is open.

Live Oak, Disturbed (76-100% Exotics) (FLUCFCS Code 4279 E4)

The vegetative composition of this upland habitat is similar to that of FLUCFCS Code 4279 E2; however, there is significantly more melaleuca in the canopy and sub-canopy strata.

Hardwood/Conifer Mixed, Disturbed (76-100% Exotics) (FLUCFCS Code 4349 E4)

The vegetative composition of this upland habitat is similar to that of FLUCFCS Code 4349 E3; however, there is additional Brazilian pepper, Java plum (*Syzygium cumini*), and melaleuca in the canopy and sub-canopy strata.

Mixed Hardwoods, Disturbed (76-100% Exotics) (FLUCFCS Code 4389 E4)

The canopy of this upland habitat includes a mixture of scattered live oak, laurel oak, Indian laurel fig (*Ficus microcarpa*), cabbage palm, and slash pine. The sub-canopy includes Brazilian pepper, live oak, laurel oak, cabbage palm, myrsine, and wild coffee. The ground cover includes American evergreen and swamp fern.

Exotic Hardwoods (FLUCFCS Code 439)

The canopy of this upland habitat includes scattered Brazilian pepper, Java plum, and common bamboo (*Bambusa vulgaris*). The sub-canopy contains Brazilian pepper. The ground cover contains scattered air potato and American evergreen.

Spoil Areas (FLUCFCS Code 743)

This land use type consists of a berm comprised of spoil material, including rock and concrete. The canopy of this land use type is open, and the sub-canopy consists of Brazilian pepper and cabbage palm. The ground cover primarily includes Burma reed (*Neyraudia reynaudiana*).

4.0 METHODS TO REMOVE AND CONTROL EXOTIC AND NUISANCE PLANTS

Exotic and nuisance vegetation within the 18.38± acres of indigenous preserve will be conducted by hand methods. Hand treatment will be either by the felling of exotic trees, hand-removal and herbicide treatment of the tree stumps, or by hand-pulling and removal. The treatment of exotic and nuisance vegetation will include one or more of the following methods: (1) cut exotics within 12 inches of ground elevation, hand-remove cut vegetation, and treat the remaining stump with approved herbicide; (2) foliar application of approved herbicide or hand-pulling of exotic seedlings; and (3) foliar application of approved herbicide to nuisance grasses.

The indigenous preserve will be maintained free of invasive exotics listed in Table 1 in perpetuity.

Table 1. Prohibited Invasive Exotics

Common Name	Scientific Name
Air potato	<i>Dioscorea bulbifera</i>
Australian pines	<i>Casuarina</i> spp.
Bishopwood	<i>Bischofia javanica</i>
Brazilian pepper	<i>Schinus terebinthifolia</i>
Carrotwood	<i>Cupaniopsis anacardioides</i>
Chinese tallow tree	<i>Sapium sebiferum</i>
Downy rose-myrtle	<i>Rhodomyrtus tomentosa</i>
Earleaf acacia	<i>Acacia auriculiformis</i>
Indian laurel fig	<i>Ficus microcarpa</i>
Japanese climbing fern	<i>Lygodium japonicum</i>
Java plum	<i>Syzygium cumini</i>
Melaleuca	<i>Melaleuca quinquenervia</i>
Murray red gum	<i>Eucalyptus camaldulensis</i>
Old World climbing fern	<i>Lygodium microphyllum</i>
Portia tree	<i>Thespesia populnea</i>
Rose apple	<i>Syzygium jambos</i>
Rosewood	<i>Dalbergia sissoo</i>
Tropical soda apple	<i>Solanum viarum</i>
Wedelia	<i>Wedelia trilobata</i>

Table 1. (Continued)

Common Name	Scientific Name
Weeping fig	<i>Ficus benjamina</i>
Woman's tongue	<i>Albizia lebbbeck</i>

4.1 Method and Frequency of Pruning and Trimming

Exotic removal within the existing indigenous habitats is scheduled to begin concurrently with the start of construction activities. After completing the initial exotic removal, semi-annual inspections of the preserves will occur for the first two years. During these inspections, the conservation areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate treatment with an appropriate herbicide. Any additional potential problems will also be noted, and corrective actions will be taken. Once exotic/nuisance species levels have been reduced to acceptable limits, inspections of the conservation areas will be conducted a minimum of once every two years.

Exotic maintenance will be hand-removal only. Maintenance will be conducted in perpetuity to ensure that the conservation areas are free of exotic vegetation, including the prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

Heritage trees located within the upland and wetland indigenous preservation areas will be retained. Prior to the initiation of exotic removal activities, heritage trees within the upland and wetland indigenous preservation areas will be identified and flagged with orange survey ribbon.

4.2 Debris Removal

Exotic vegetative debris that is cut will be removed from the indigenous preserve areas. Exotic debris may be stacked in the adjacent development area and burned. No stacking of exotic debris will occur within the preserves. The preserve areas will be inspected annually for trash/garbage. Any trash/garbage located within the preserve areas will be removed and disposed of by hand.

5.0 WETLAND CREATION

Approximately 4.48± acres of wetlands will be created from existing upland habitat on-site. Wetland creation activities will include hand removal/treatment of existing exotic vegetation, regrading to match adjacent wetland elevation, and replanting of wetland vegetation in accordance with Table 2 below, and ongoing maintenance and management. Prior to planting, an as-built survey will be conducted to ensure correct elevation has been achieved. The target habitat types for these are forested wetland areas with a mixture of pine, laurel oaks and other hardwood species, consistent with the existing wetland habitat types on-site. Wetland creation areas are depicted on Appendix A and on the MCP.

6.0 SUPPLEMENTAL PLANTING

Supplemental planting will occur within portions of the Lee County Indigenous Preserve where exotic vegetation currently exceeds 50 percent coverage in wetland creation areas. Trees and shrubs must be a minimum three-gallon and one-gallon size containers, respectively, and no single species may comprise more than 25 percent of the vegetation planted. The supplemental plantings will consist of tree, shrub, and ground cover species in accordance with Tables 2 and 3.

Table 2. Supplemental Wetland Plantings

Common Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Density (On Center)
Tree Plantings				
Laurel oak	<i>Quercus laurifolia</i>	5 ft.	3 gal.	15 ft.
Dahoon holly	<i>Ilex cassine</i>	5 ft.	3 gal.	15 ft.
Red maple	<i>Acer rubrum</i>	5 ft.	3 gal.	15 ft.
Swamp bay	<i>Persea palustris</i>	5 ft.	3 gal.	15 ft.
Pop ash	<i>Fraxinus caroliniana</i>	5 ft.	3 gal.	15 ft.
Pond apple	<i>Annona glabra</i>	5 ft.	3 gal.	15 ft.
Bald cypress	<i>Taxodium distichum</i>	5 ft.	3 gal.	15 ft.
Swamp dogwood	<i>Cornus foemina</i>	5 ft.	3 gal.	15 ft.
American elm	<i>Ulmus americana</i>	5 ft.	3 gal.	15 ft.
Shrubs				
Buttonbush	<i>Cephalanthus occidentalis</i>	3 ft.	1 gal.	10 ft.
Cocoplum	<i>Chrysobalanus icaco</i>	3 ft.	1 gal.	10 ft.
Myrsine	<i>Myrsine cubana</i>	3 ft.	1 gal.	10 ft.
Wax myrtle	<i>Morella cerifera</i>	3 ft.	1 gal.	10 ft.
Walter's viburnum	<i>Viburnum obovatum</i>	3 ft.	1 gal.	10 ft.
Ground Cover				
Little blue maidencane	<i>Amphicarpum muhlenbergianum</i>	12 in.	2 in.	3 ft.
Gulfdune paspalum	<i>Paspalum monostachyum</i>	12 in.	2 in.	3 ft.
Cordgrass	<i>Spartina bakeri</i>	12 in.	2 in.	3 ft.
Muhlygrass	<i>Muhlenbergia capillaris</i>	12 in.	2 in.	3 ft.
Arrowhead	<i>Sagittaria lancifolia</i>	12 in.	2 in.	3 ft.
Golden canna	<i>Canna flaccida</i>	12 in.	2 in.	3 ft.
Maidencane	<i>Panicum hemitomon</i>	12 in.	2 in.	3 ft.
Pickernelweed	<i>Pontederia cordata</i>	12 in.	2 in.	3 ft.
Sawgrass	<i>Cladium jamaicense</i>	12 in.	2 in.	3 ft.
Soft-stem bulrush	<i>Scirpus validus</i>	12 in.	2 in.	3 ft.
Spikerush	<i>Eleocharis interstincta</i>	12 in.	2 in.	3 ft.

Table 3. Supplemental Upland Plantings

Common Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Density (On Center)
Trees				
Slash pine	<i>Pinus elliottii</i>	5 ft.	3 gal.	15 ft.
Cabbage palm	<i>Sabal palmetto</i>	5 ft.	3 gal.	15 ft.
Live oak	<i>Quercus virginiana</i>	5 ft.	3 gal.	15 ft.
Laurel oak	<i>Quercus laurifolia</i>	5 ft.	3 gal.	15 ft.
Shrubs				
Wax myrtle	<i>Morella cerifera</i>	3 ft.	1 gal.	10 ft.
Myrsine	<i>Rapanea punctata</i>	3 ft.	1 gal.	10 ft.
Cocoplum	<i>Chrysobalanus icaco</i>	3 ft.	1 gal.	10 ft.
Saw palmetto	<i>Serenoa repens</i>	3 ft.	1 gal.	10 ft.
Gallberry	<i>Ilex glabra</i>	3 ft.	1 gal.	10 ft.
Ground Cover				
Gulfdune paspalum	<i>Paspalum monostachyum</i>	12 in.	2 in.	3 ft.
Little blue maidencane	<i>Amphicarpum muhlenbergianum</i>	12 in.	2 in.	3 ft.
Wiregrass	<i>Aristida stricta</i>	12 in.	2 in.	3 ft.
Gulf muhly	<i>Muhlenbergia capillaris</i>	12 in.	2 in.	5 ft.
Sand cordgrass	<i>Spartina bakeri</i>	12 in.	2 in.	5 ft.
Fakahatchee grass	<i>Tripsacum dactyloides</i>	12 in.	2 in.	5 ft.
Saw palmetto	<i>Serenoa repens</i>	12 in.	1 gal.	5 ft.
Lopsided Indian grass	<i>Sorghastrum secundum</i>	12 in.	2 in.	5 ft.
Florida coontie	<i>Zamia integrifolia</i>	12 in.	2 in.	5 ft.

Supplemental plantings will consist of tree, shrub, and ground cover species. Tree and shrub plantings will consist of a minimum of four (per stratum) of the species listed in Tables 2 and 3 and ground cover plantings will consist of a minimum of four of the species listed in Table 2 and 3. The species selected for planting will depend on market availability at the time the plantings are to occur. Additional tree and ground cover species may be included in the planting table with approval from Lee County DCD staff.

All preserve enhancement, restoration, and creation activities will be completed in a single phase upon commencement of construction activities. The wetland and upland planting activities are anticipated to occur during the wet season (i.e., June through October). If plantings cannot be installed within this timeframe, irrigation will be utilized until the onset of the wet season (i.e., June) or until the vegetation has successfully established. Irrigation will be utilized on a temporary, as-needed basis, and will not be a required long-term activity.

7.0 MAINTENANCE

After completing the initial exotic removal, semi-annual inspections of the conservation areas will occur for the first two years. During these inspections, the conservation areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate treatment with an appropriate herbicide. Any additional potential problems will also be noted, and corrective actions will be taken. Once exotic/nuisance species levels have been reduced to acceptable limits, inspections of the conservation areas will be conducted annually. After the initial exotic removal, all subsequent exotic maintenance will be hand-removal only. Maintenance will be conducted in perpetuity to ensure that the conservation areas are free of exotic vegetation, including the prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

8.0 MONITORING REPORTS

Monitoring will be conducted annually for the conservation areas. Annual reports documenting the achievement of the enhancement, restoration, and creation activities will be submitted to Lee County's DCD. Annual monitoring reports will be provided for five years after the Certificate of Compliance has been issued by the DCD. The monitoring reports will include documented exotic and nuisance species, mortality of vegetation, estimated causes of mortality, growth of the vegetation, hydrologic conditions of the wetland preserve areas including monitoring well hydrographs, wildlife observed, photographs, and factors that demonstrate the functional health of the conservation areas. A brief description of the anticipated maintenance work to be conducted over the next year will also be included. In addition, monitoring reports will provide recommendations and/or corrective measures to address deficiencies observed, including impacts to wetland hydrology. Periodic inspections will be conducted by DCD staff to ensure the accuracy of the monitoring reports.

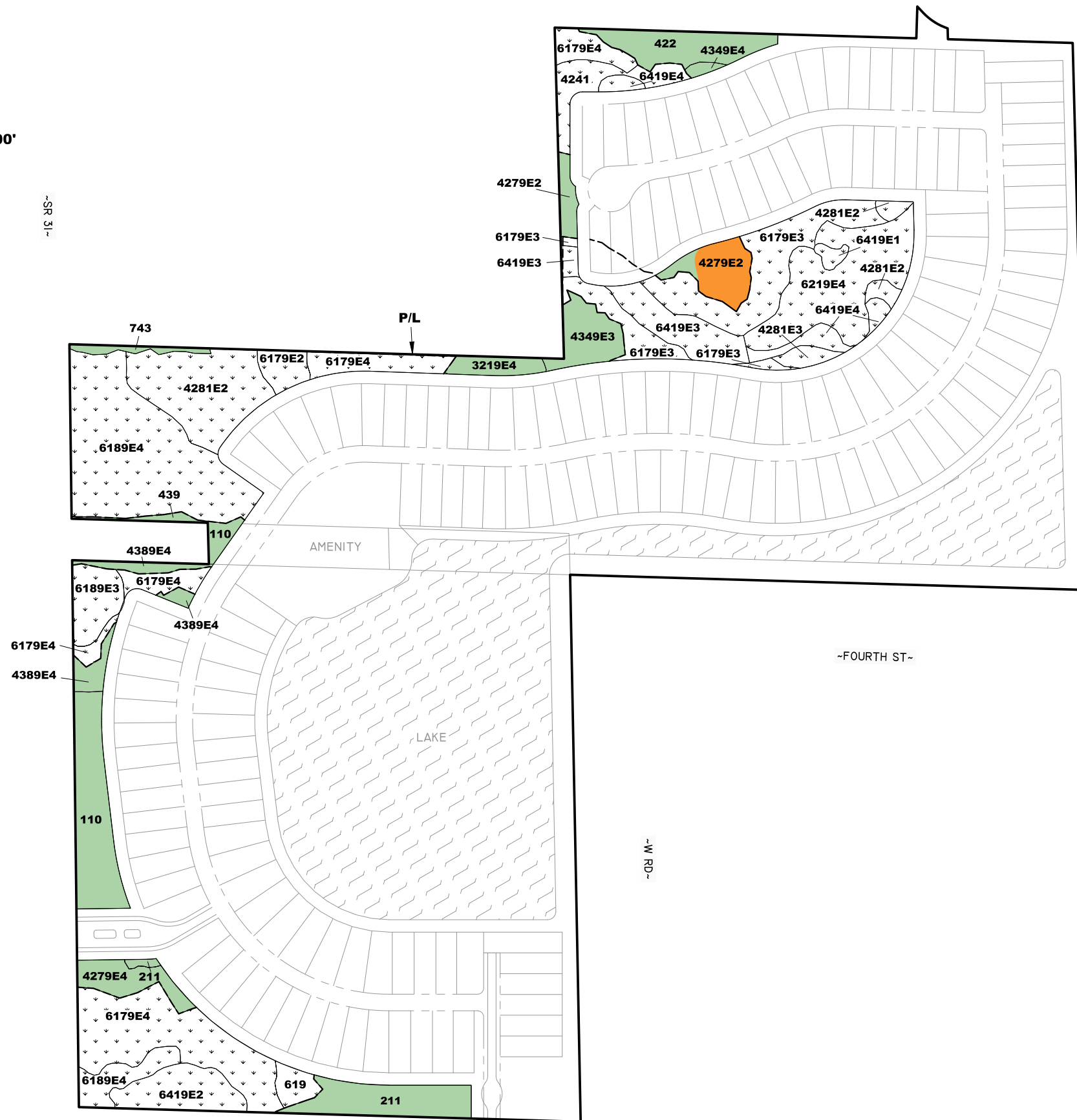
APPENDIX A

INDIGENOUS PRESERVE PLAN



SCALE: 1" = 300'

~SR 31~



LEGEND:

- WETLAND INDIGENOUS PRESERVE
- WETLAND CREATION
- UPLAND INDIGENOUS PRESERVE
- SURVEYED WETLAND LINE

FLUCFCS CODES	DESCRIPTIONS
110	RESIDENTIAL, LOW DENSITY
211	IMPROVED PASTURE
3219 E4	PALMETTO PRAIRIES, DISTURBED (76-100% EXOTICS)
422	BRAZILIAN PEPPER
4241	MELALEUCA, HYDRIC
4279 E2	LIVE OAK, DISTURBED (25-49% EXOTICS)
4279 E4	LIVE OAK, DISTURBED (76-100% EXOTICS)
4281 E2	CABBAGE PALM, HYDRIC (25-49% EXOTICS)
4281 E3	CABBAGE PALM, HYDRIC (50-75% EXOTICS)
4349 E3	HARDWOOD/CONIFER MIXED, DISTURBED (50-75% EXOTICS)
4349 E4	HARDWOOD/CONIFER MIXED, DISTURBED (76-100% EXOTICS)
4389 E4	HARDWOOD/CONIFER MIXED, DISTURBED (76-100% EXOTICS)
439	EXOTIC HARDWOODS
6179 E2	MIXED WETLAND HARDWOODS, DISTURBED (25-49% EXOTICS)
6179 E3	MIXED WETLAND HARDWOODS, DISTURBED (50-75% EXOTICS)
6179 E4	MIXED WETLAND HARDWOODS, DISTURBED (76-100% EXOTICS)
6189 E3	WILLOW, DISTURBED (50-75% EXOTICS)
6189 E4	WILLOW, DISTURBED (76-100% EXOTICS)
619	EXOTIC WETLAND HARDWOODS
6219 E4	CYPRESS, DISTURBED (76-100% EXOTICS)
6419 E1	FRESHWATER MARSH, DISTURBED (0-24% EXOTICS)
6419 E2	FRESHWATER MARSH, DISTURBED (25-49% EXOTICS)
6419 E3	FRESHWATER MARSH, DISTURBED (50-75% EXOTICS)
6419 E4	FRESHWATER MARSH, DISTURBED (76-100% EXOTICS)
743	SPOIL AREAS

NOTES:

PROPERTY BOUNDARY AND SITE PLAN PER J.R. EVANS, INC. DRAWING No. 00935-00 31 OAKS MCP-D.DWG DATED NOVEMBER 2, 2022.

SURVEYED WETLAND LINES PER RHODES & RHODES, INC. DRAWING No. 2021-541-WETLAND LINES.DWG DATED NOVEMBER 3, 2021.

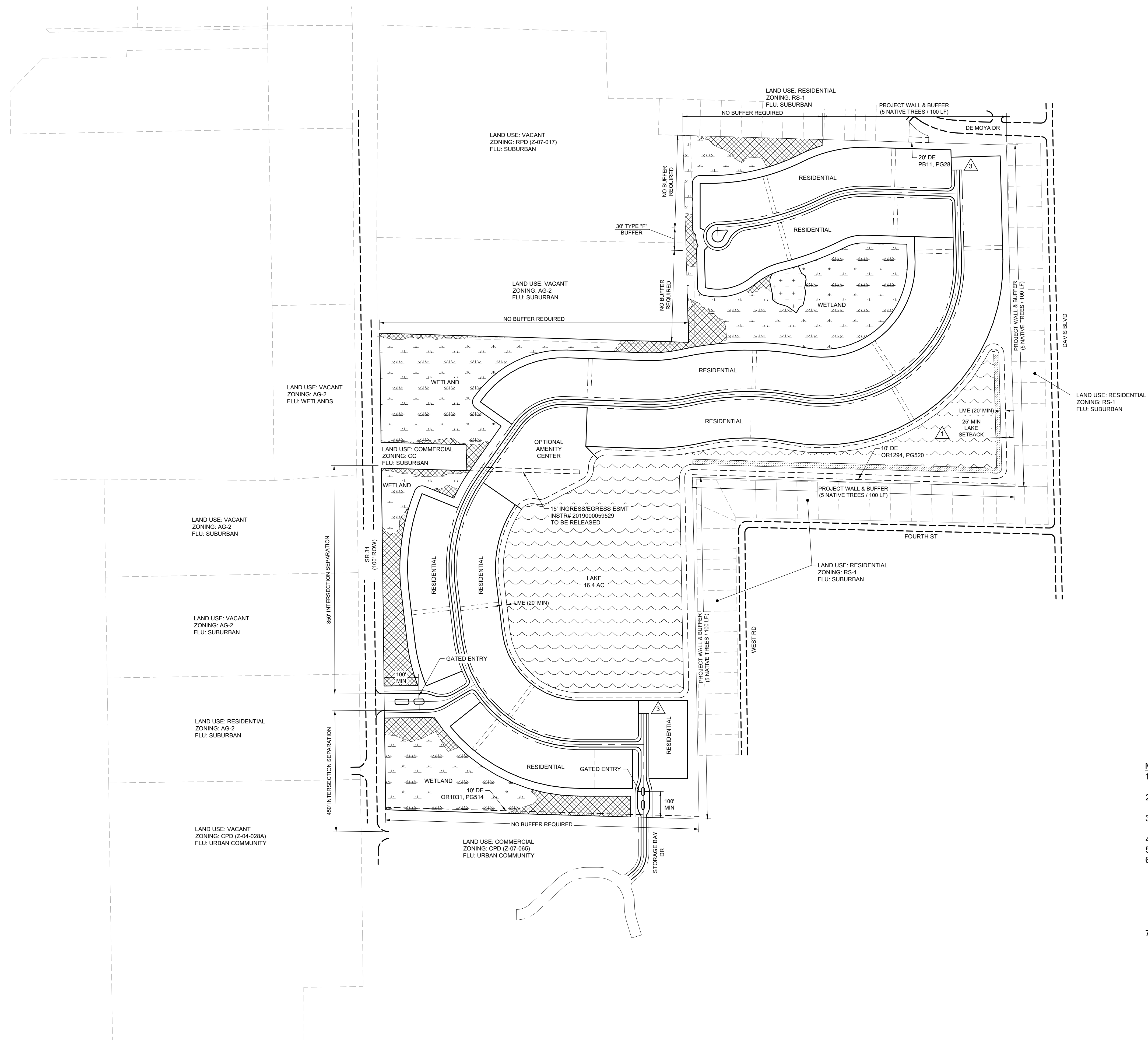
FLUCFCS LINES ESTIMATED FROM 1"=200' AERIAL PHOTOGRAPHS AND LOCATIONS APPROXIMATED.

FLUCFCS PER FLORIDA LAND USE, COVER AND FORMS CLASSIFICATION SYSTEM (FLUCFCS) (FDOT 1999).

UPLAND/WETLAND LIMITS HAVE NOT BEEN REVIEWED BY ANY REGULATORY AGENCY AND ARE SUBJECT TO CHANGE.

J:\2021\21NCC3643\2021\LEE Co ZONING RESPONSES\APPENDIX A INDIGENOUS PRESERVE PLAN 111522.DWG TAB: 17X11-C Nov 15, 2022 - 3:42PM PLOTTED BY: JORDANAL

REVISIONS	DATE	DRAWN BY	DATE	13620 Metropolis Avenue Suite 200 Ft. Myers, FL 33912 Phone (239) 274-0067 Fax (239) 274-0069		31 OAKS INDIGENOUS PRESERVE PLAN	DRAWING No.
Revised upland indigenous	6/03/22	H.H./T.S.	2/25/22				21NCC3643
Revised plan	11/09/22	B.B.	2/25/22				SHEET No.
Revised plan	11/15/22	B.B.	2/25/22				APPENDIX A

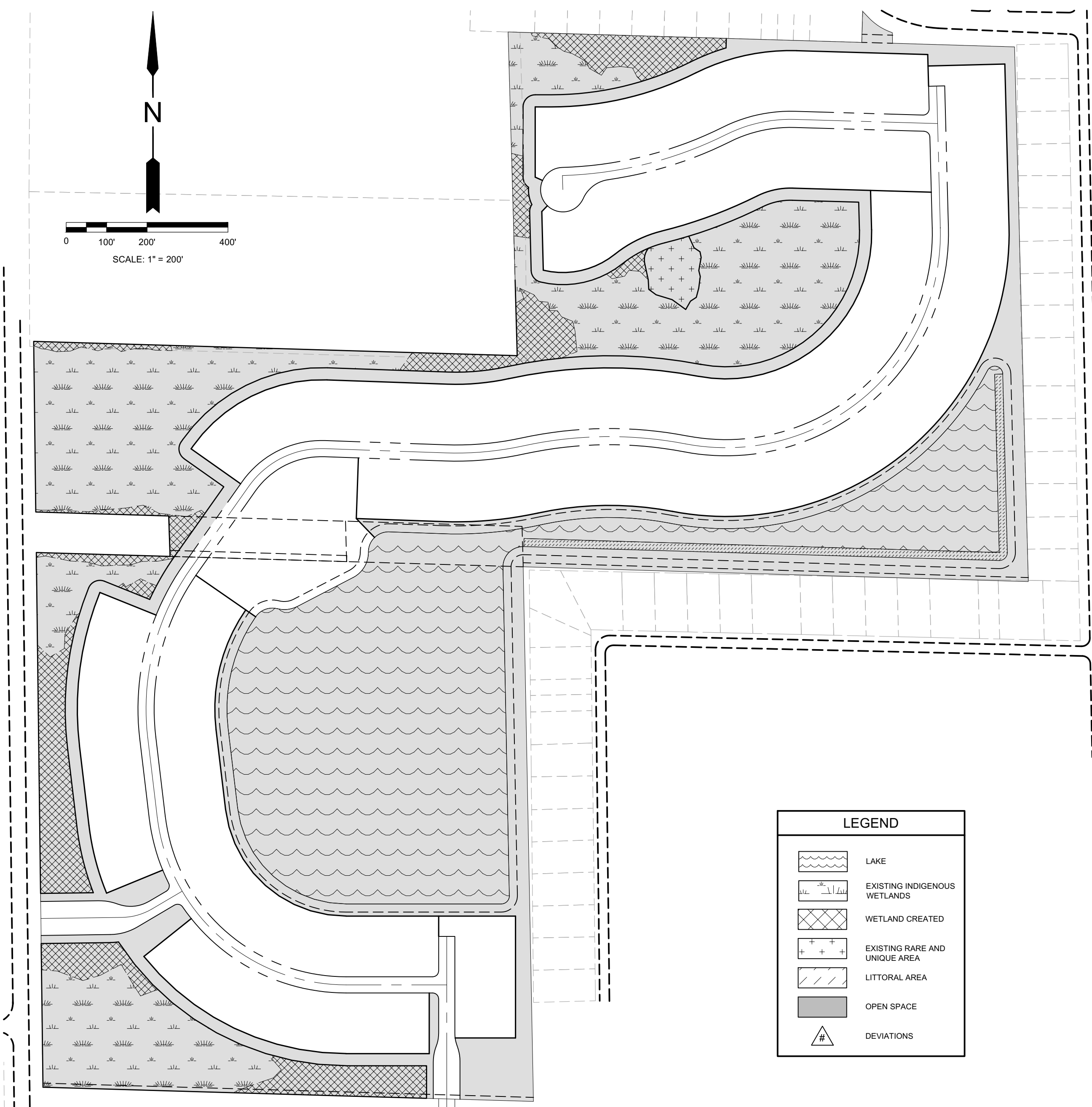
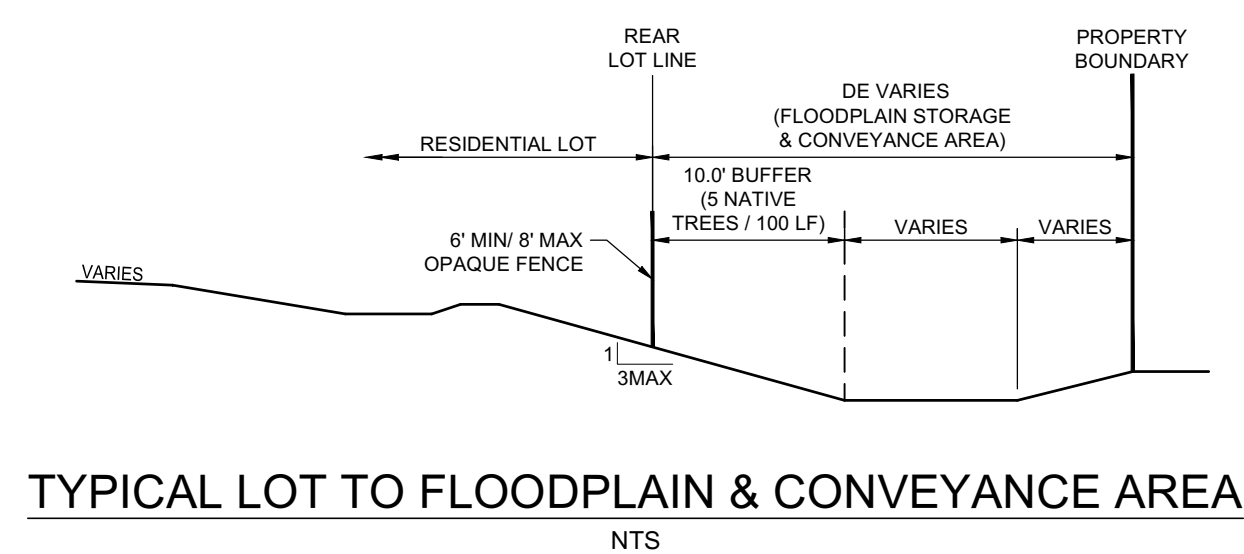
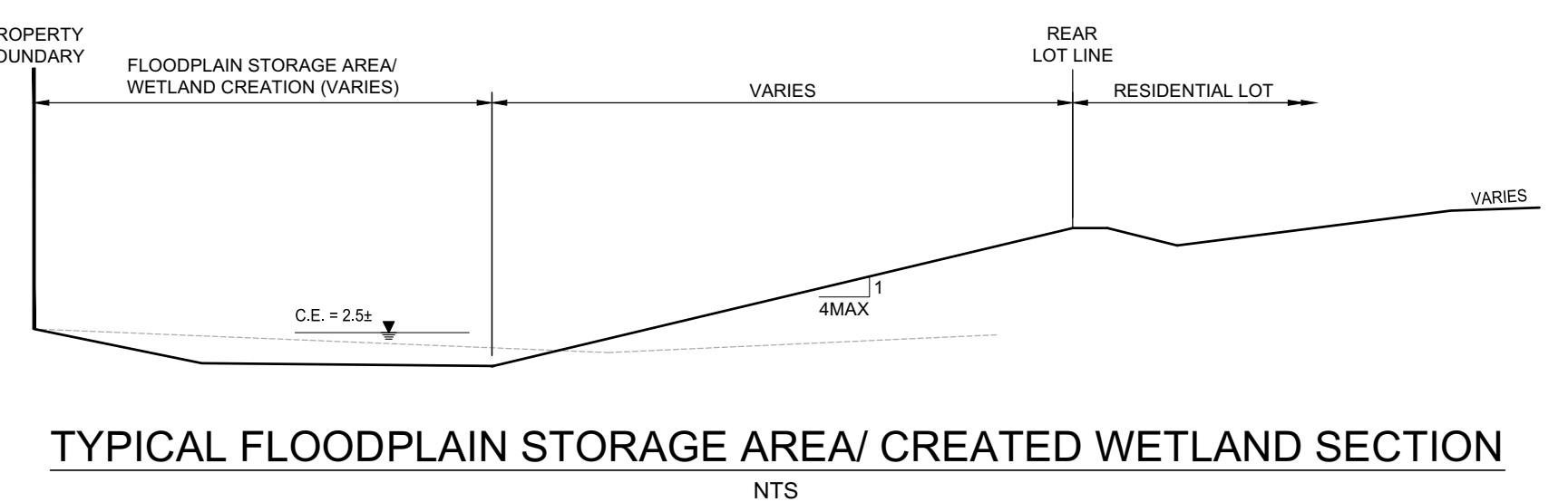
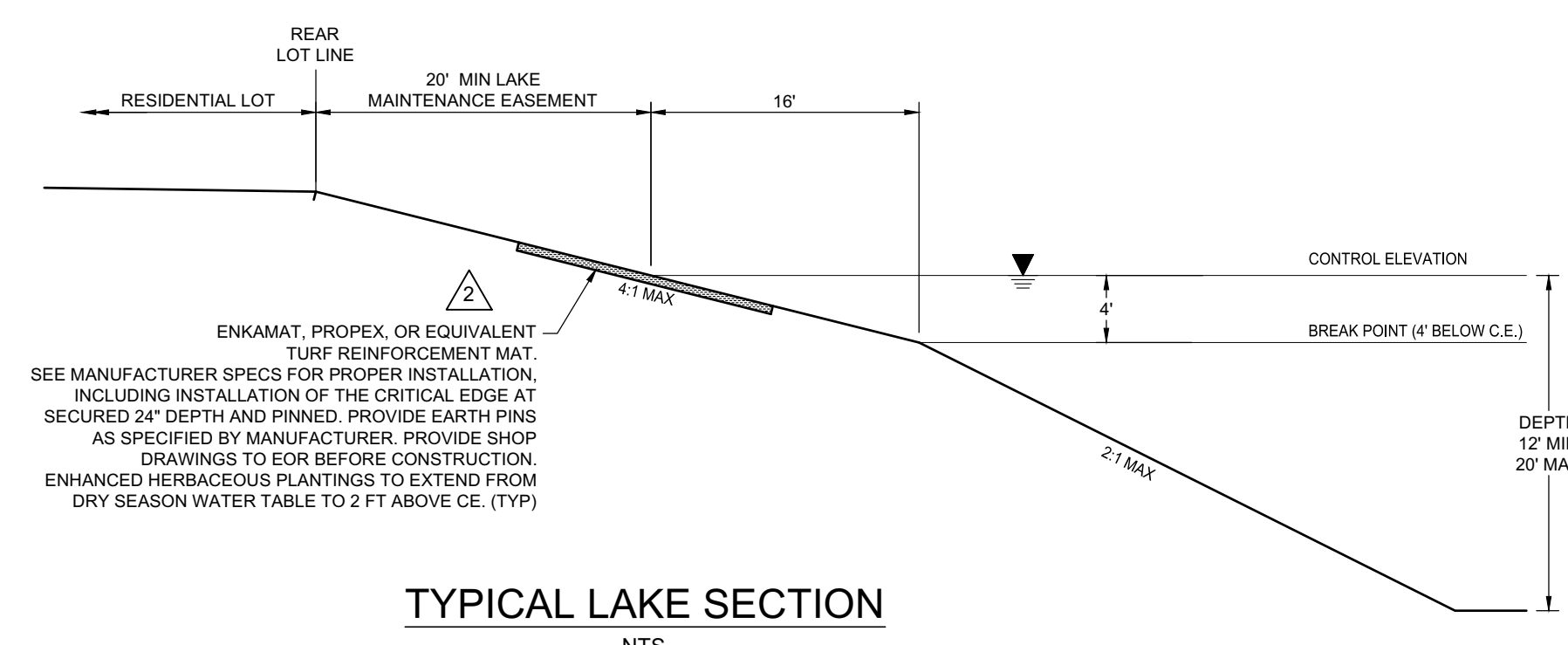
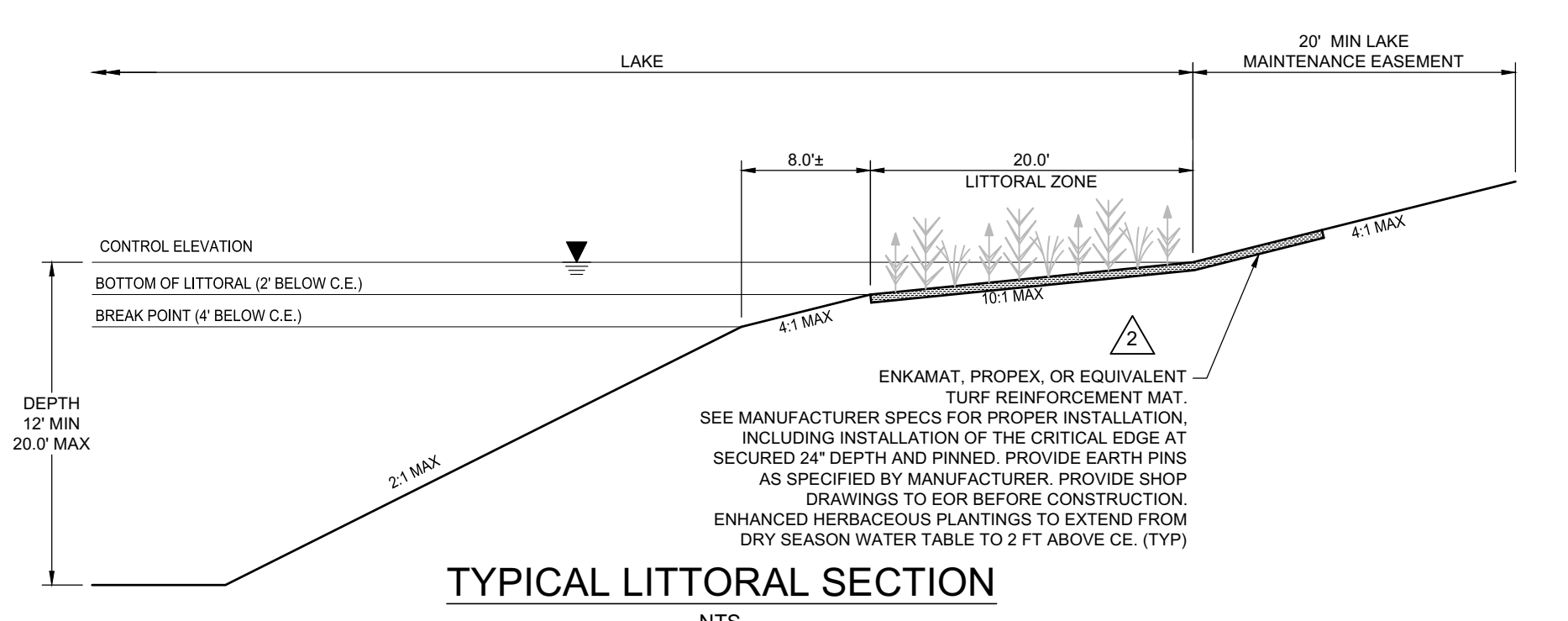
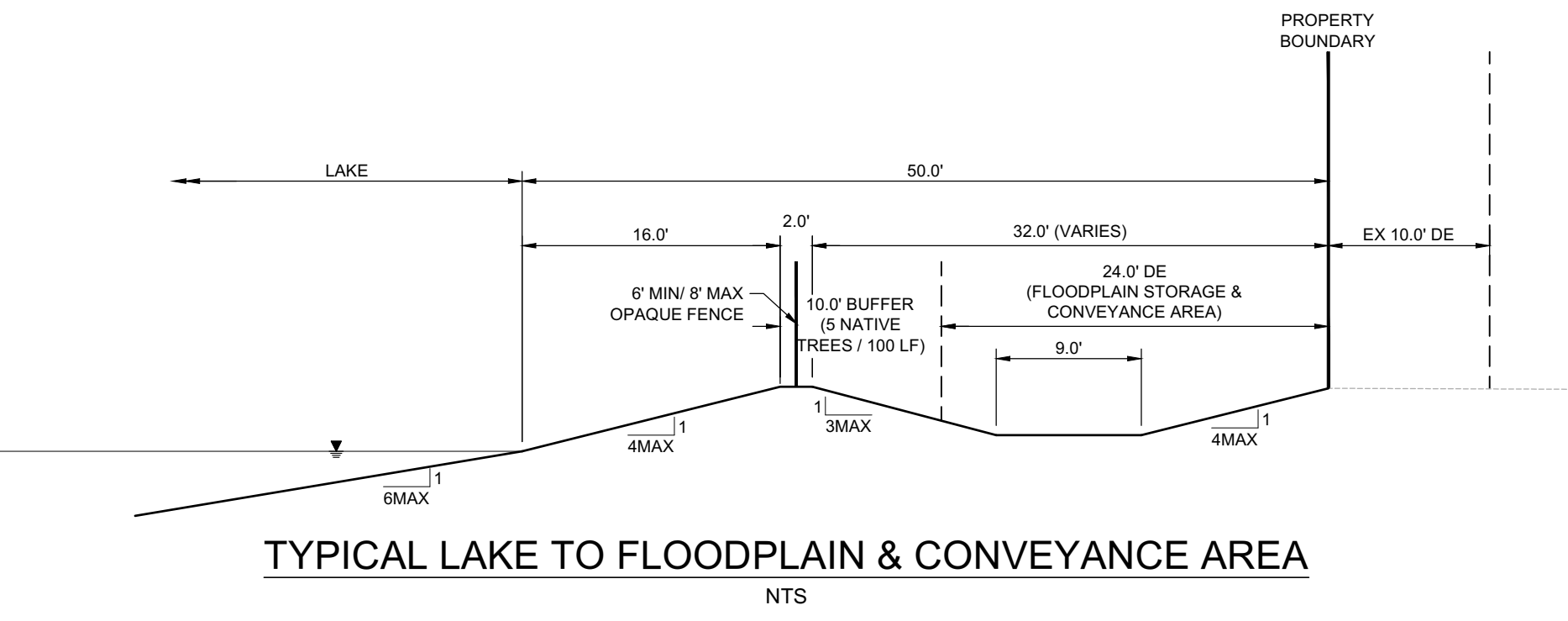
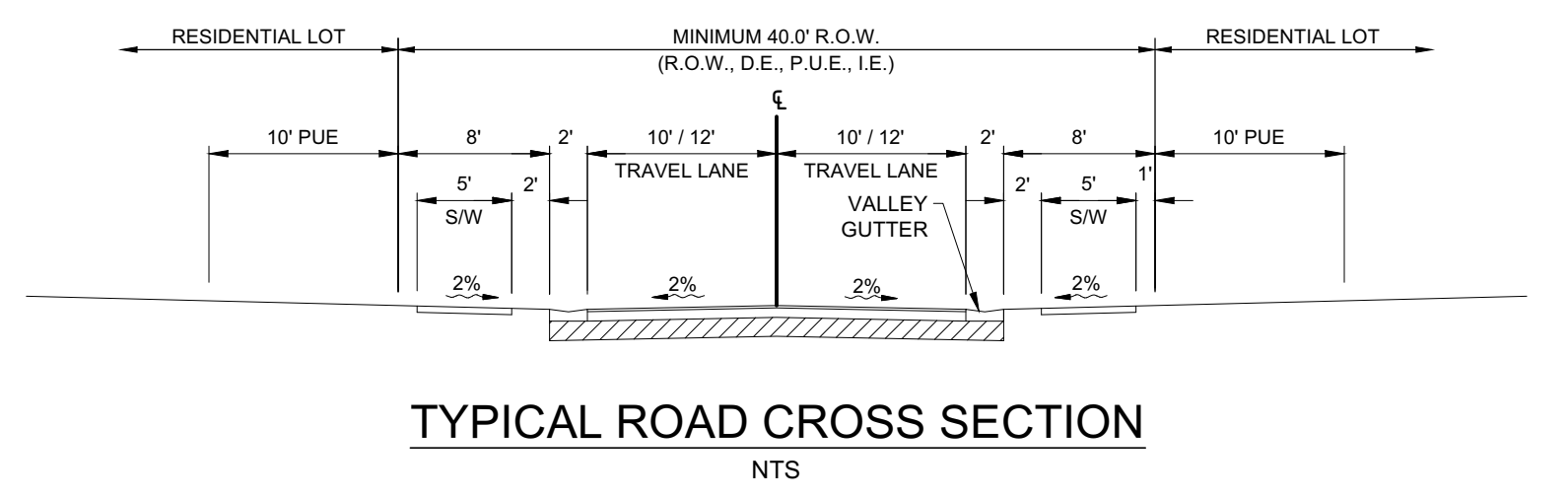
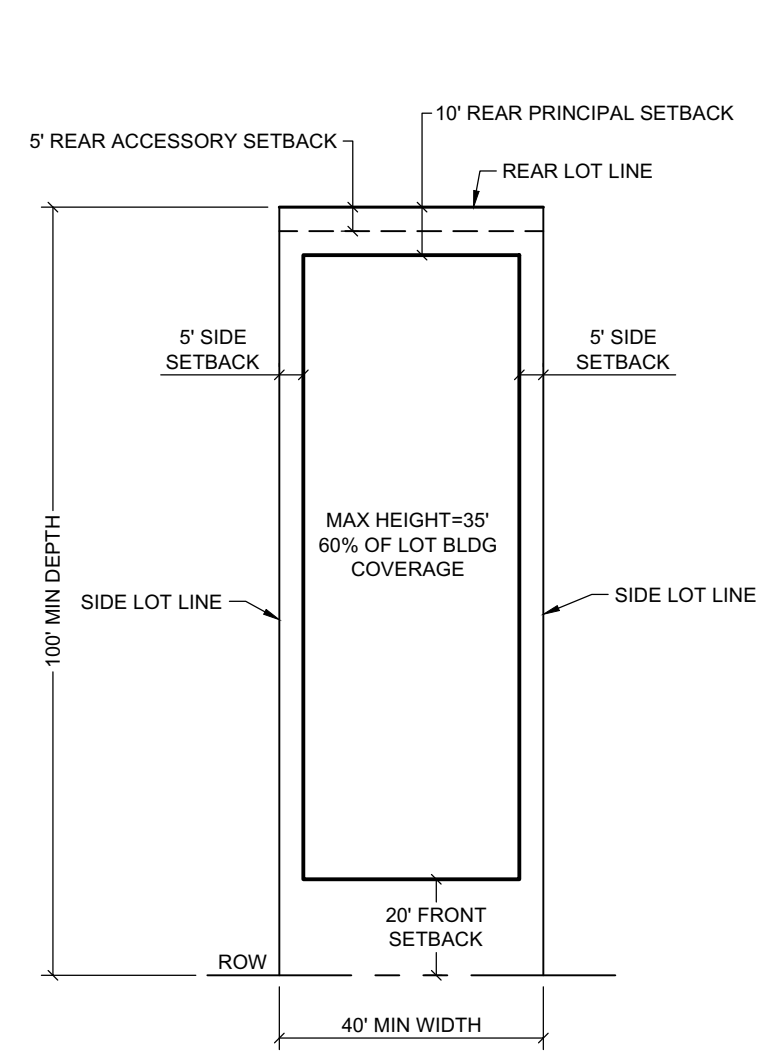
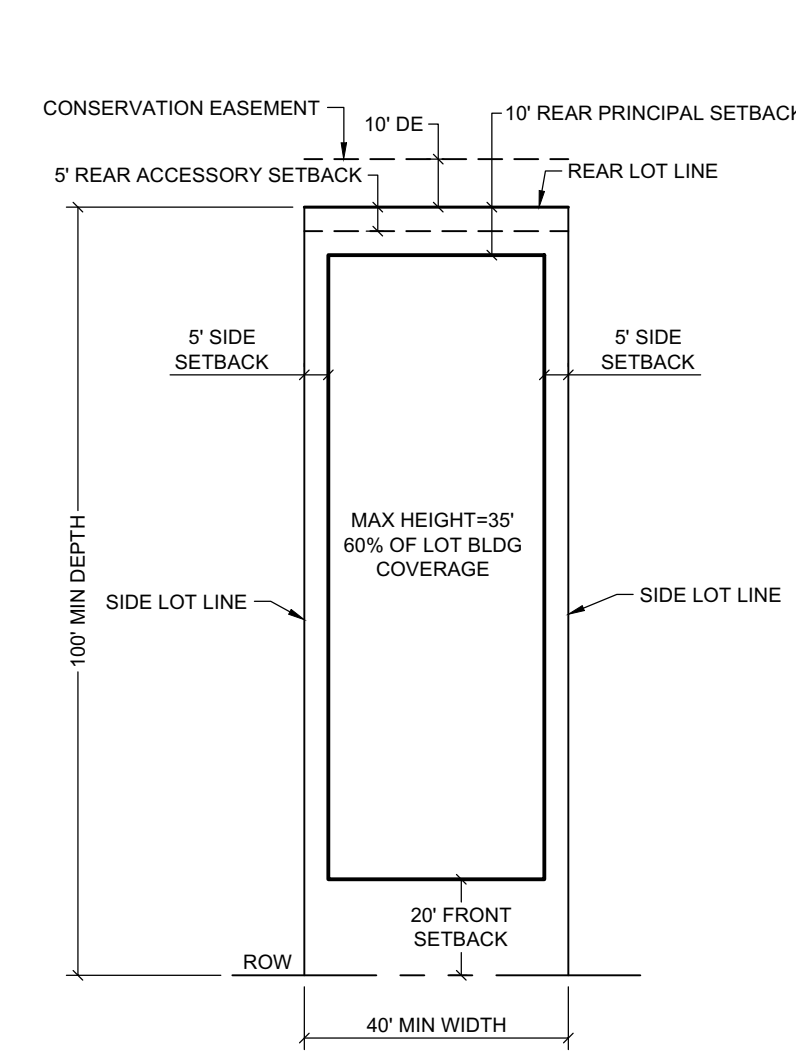
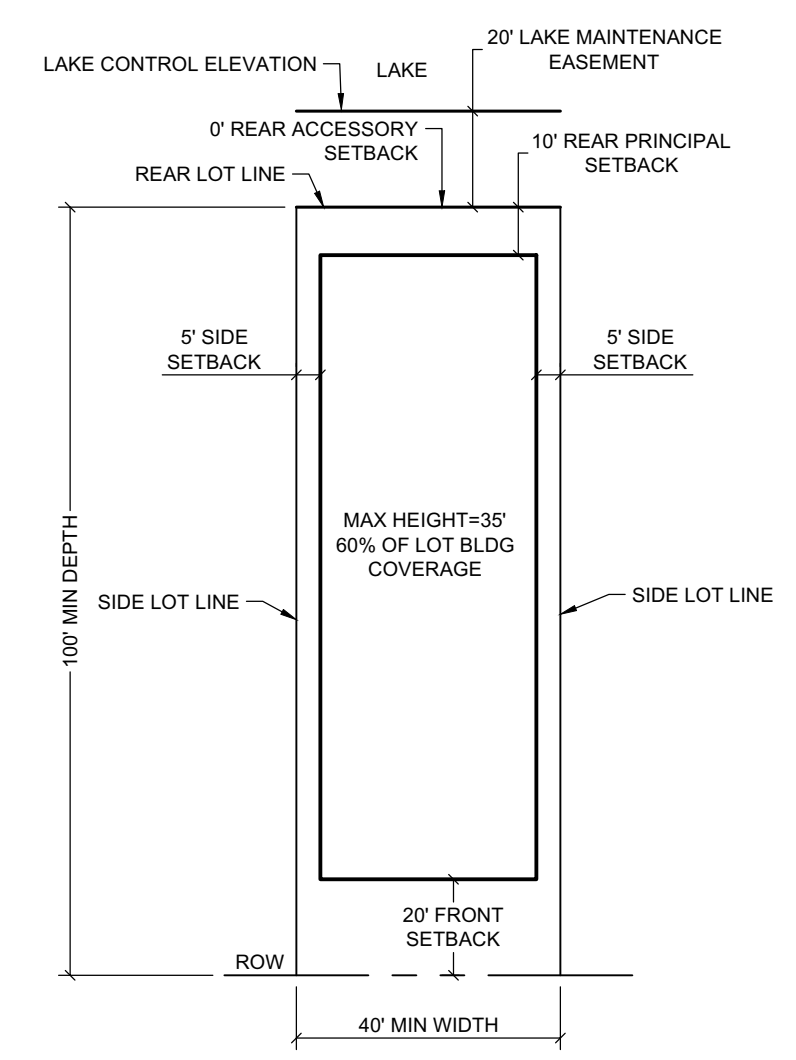
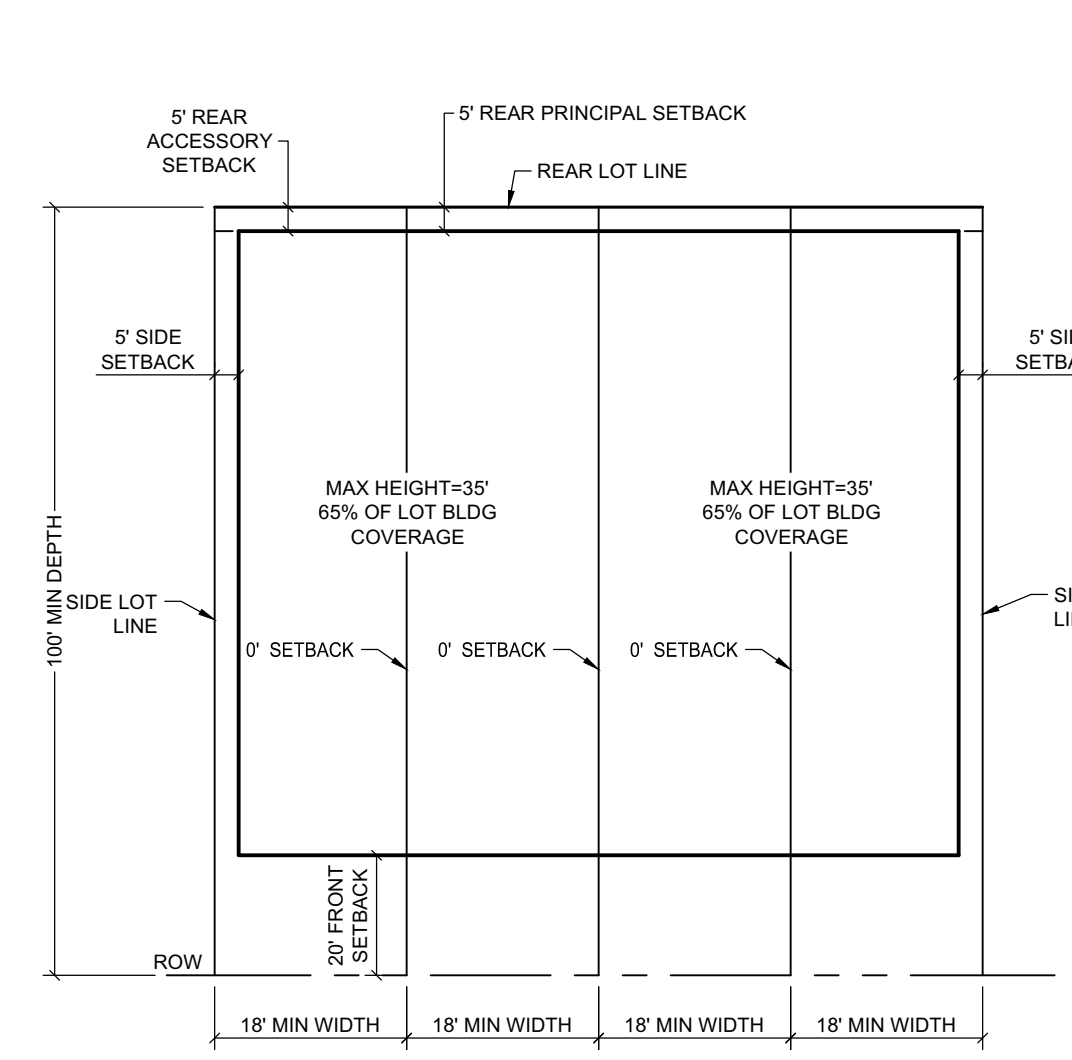
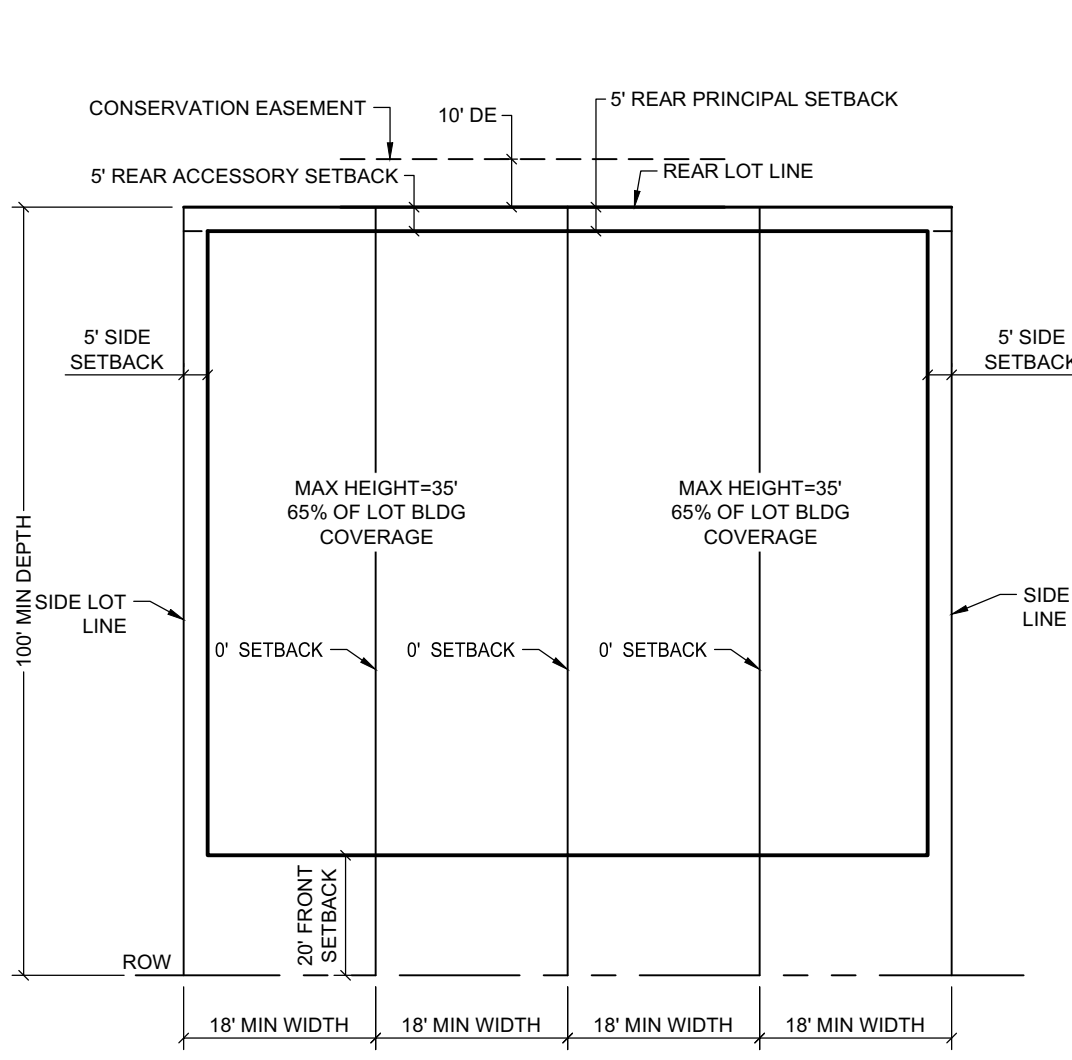
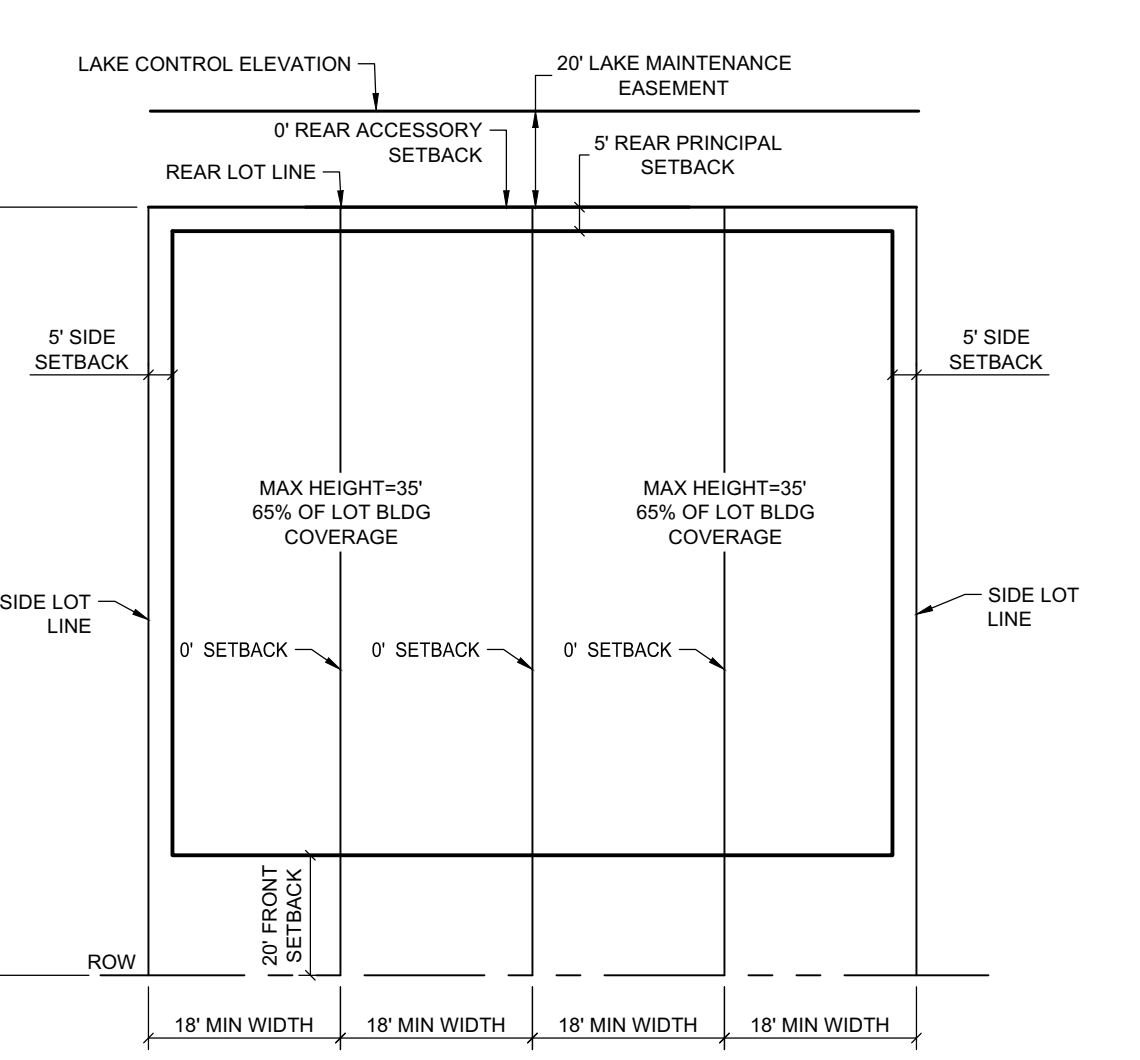


LEGEND	
	LAKE
	EXISTING INDIGENOUS WETLANDS
	WETLAND CREATED
	EXISTING RARE AND UNIQUE AREA
	LITTORAL AREA
	DEVIATIONS

LAND USE SUMMARY (AC)		
PRESERVE	18.38	20.8%
- EXISTING IND WETLAND	13.48	15.3%
- WETLAND CREATION	4.48	5.1%
- RARE AND UNIQUE	0.42	0.5%
DEVELOPMENT	38.64	43.8%
AMENITY	2.53	2.9%
GENERAL OPEN SPACE	12.22	13.8%
LAKE	16.50	18.7%
TOTAL AREA	88.27	100.0%

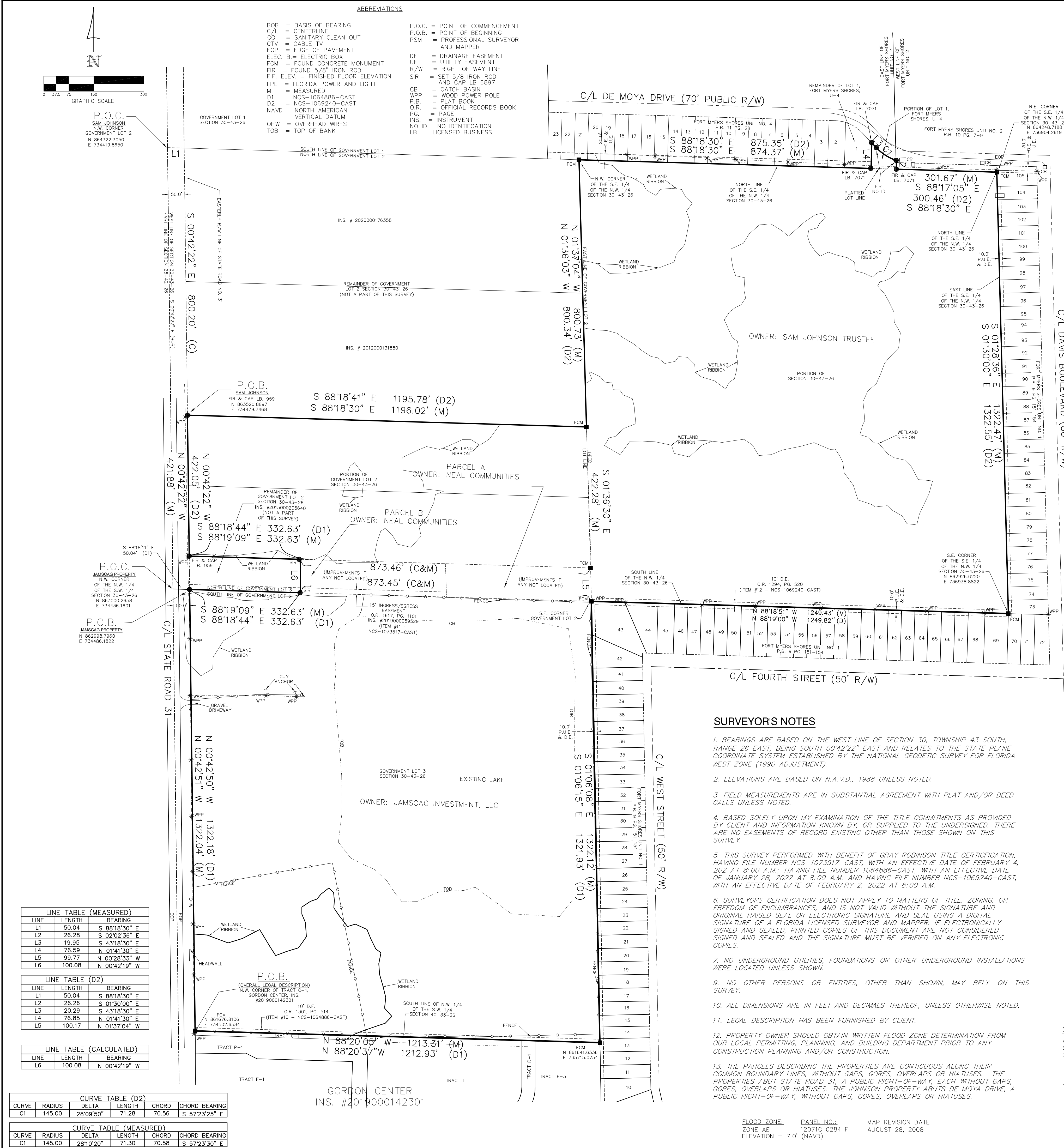
OPEN SPACE SUMMARY (AC)		
PRESERVE	18.38	46.6%
LAKE (25% MAX REQ)	8.83	22.4%
OTHER OPEN SPACE	11.15	28.3%
BUFFERS	1.06	2.7%
TOTAL OPEN SPACE	39.43	100.0%
REQUIRED OPEN SPACE	40% - 35.3 AC	
REQUIRED PRESERVE	50% OF OPEN SPACE - 17.66 AC	

- MCP NOTES:
- THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO MODIFICATION DUE TO AGENCY PERMITTING REQUIREMENTS.
 - ALL ACREAGE AREA APPROXIMATE AND SUBJECT TO MODIFICATION AT THE TIME OF DEVELOPMENT ORDER.
 - THE LOCATION OF THE ONSITE LAKE AND RESIDENTIAL TRACTS IS PRELIMINARY AND MAY BE ADJUSTED AT SITE PLAN APPROVAL.
 - LME = LAKE MANAGEMENT EASEMENT
 - DE = DRAINAGE EASEMENT
 - A 6-FOOT-HIGH OPAQUE FENCE MUST BE CONSTRUCTED AND A VEGETATIVE BUFFER, A MINIMUM OF 10 FEET IN WIDTH, MUST BE PLANTED ALONG THE EASTERN, SOUTHERN, AND NORTHERN PROPERTY LINES (AS ILLUSTRATED) PRIOR TO THE APPROVAL OF ANY BUILDING PERMITS FOR ANY DWELLING UNITS. THIS 10-FOOT-WIDE VEGETATIVE BUFFER IS IN ADDITION TO ANY EXISTING EASEMENTS ALONG PROPERTY LINE. DRAINAGE EASEMENT WILL NOT BE COUNTED AS PART OF THE PROJECT WALL BUFFER.
 - THE VEGETATION IN THE BUFFER MUST CONTAIN, AT A MINIMUM, FIVE NATIVE TREES PER 100 LINEAR FEET. ALL TREES MUST BE A MINIMUM OF 10 FEET TALL AT TIME OF PLANTING. EXISTING INDIGENOUS NATIVE VEGETATION MAY BE COUNTED TOWARD THE VEGETATION REQUIREMENTS OF THIS NOTE.



SINGLE FAMILY DETACHED TYPICAL LOT DETAIL
NTS

TOWNHOUSE TYPICAL LOT DETAIL
NTS



LEGAL DESCRIPTION PER GRAY ROBINSON TITLE CERTIFICATION
(THE "NEAL COMMUNITIES PROPERTY")

PARCEL A: THE EAST 436 FEET OF THE SOUTH 100 FEET OF GOVERNMENT LOT 2, SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LESS ROAD RIGHT-OF-WAY, LEE COUNTY, FLORIDA.

PARCEL B: THE WEST 436 FEET OF THE EAST 872 FEET OF THE SOUTH 100 FEET OF GOVERNMENT LOT 2, SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST, TOGETHER WITH A RIGHT-OF-WAY FOR INGRESS AND EGRESS OVER THE SOUTH 15 FEET WESTERLY TO STATE ROAD 31.

LEGAL DESCRIPTION PER GRAY ROBINSON TITLE CERTIFICATION (THE "JAMSCAG PROPERTY")

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LEE, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, BEING THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LESS AND EXCEPT THE WESTERLY 50 FEET THEREIN FOR STATE ROAD 31 RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE N.W. CORNER OF THE N.W. QUARTER (1/4) OF THE S.W. QUARTER (1/4) OF SAID SECTION 30, BEING THE WEST QUARTER (1/4) CORNER OF SAID SECTION 30; THENCE S88°18'11"E, ALONG THE NORTHERLY LINE OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 30 FOR 50.04 FEET TO AN IRON ROD MARKING THE EASTERLY RIGHT OF WAY OF STATE ROAD 31 (100' WIDE) AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND.

FROM SAID POINT OF BEGINNING CONTINUE S88°18'11"E ALONG SAID NORTHERLY QUARTER SECTION LINE FOR 1204.61 FEET TO A CONCRETE POST MARKING THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 30, SAID NORTHEAST CORNER ALSO BEING THE NORTHWESTERLY CORNER OF FORT MYERS SHORES, BLOCK 1, UNIT 1, A SUBDIVISION AS RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, IN PLAT BOOK 9, AT PAGES 153 AND 154; THENCE S01°04'53"E ALONG THE EASTERLY LINE OF SAID NORTHWEST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SECTION 30, SAID EASTERLY LINE ALSO BEING THE WESTERLY LINE OF SAID BLOCK 1, UNIT 1, FORT MYERS SHORES, FOR 1322.09 FEET TO A CONCRETE POST MARKING THE SOUTHEASTERLY CORNER OF SAID NORTHWEST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 30; THENCE N88°19'03"W, ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 30 FOR 1213.40 FEET TO A CONCRETE POST MARKING THE EASTERLY RIGHT OF WAY OF SAID STATE ROAD 31 (100' WIDE), THENCE N00°42'00"W, ALONG SAID EASTERLY RIGHT OF WAY OF STATE ROAD 31 FOR 1322.00' TO THE POINT OF BEGINNING.

BEARINGS SHOWN HERE IN ARE BASED ON THE EASTERLY RIGHT OF WAY OF STATE ROAD 31 AS N00°42'00"W.

LEGAL DESCRIPTION PER GRAY ROBINSON TITLE CERTIFICATION
(THE "SAM JOHNSON PROPERTY")

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LEE, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF GOVERNMENT LOT 2; THENCE S.88°18'30"E., ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 50.04 FEET TO A POINT ON THE EASTERLY LINE OF STATE ROAD NO. 31; THENCE S.00°42'30"E., ALONG SAID EASTERLY LINE OF STATE ROAD NO. 31, A DISTANCE OF 800.00 FEET TO THE POINT OF BEGINNING; THENCE S.88°18'30"E., A DISTANCE OF 1,196.34 FEET TO A POINT ON THE EAST LINE OF SAID GOVERNMENT LOT 2, THENCE N.01°37'04"W., ALONG SAID EAST LINE, A DISTANCE OF 800.73 FEET, TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 30; THENCE S.88°18'30"E., ALONG SAID NORTH LINE OF THE SE 1/4 OF THE NW 1/4, A DISTANCE OF 875.08 FEET; THENCE N.01°41'30"E., A DISTANCE OF 76.85 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF DE MOYA DRIVE (70'); THENCE S.43°18'30"E., ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 20.29 FEET, TO THE BEGINNING OF A CURVE TO THE LEFT, HAVING A RADIUS OF 145.00 FEET, A CHORD DISTANCE OF 70.56 FEET AND A CHORD BEARING OF S.57°23'30"E., THENCE SOUTHEASTERLY ALONG SAID ARC AND SAID RIGHT-OF-WAY LINE FOR 71.28 FEET; THENCE S.01°30'00"E., A DISTANCE OF 26.26 FEET, TO A POINT ON THE NORTH LINE OF THE SE 1/4 OF THE NW 1/4 OF SAID SECTION 30; THENCE S.88°18'30", ALONG SAID NORTH LINE OF THE SE 1/4 OF THE NW 1/4 OF SAID SECTION 30, A DISTANCE OF 301.13 FEET, TO THE NORTHEAST CORNER OF THE SE 1/4 OF THE NW 1/4 OF SAID SECTION 30; THENCE S.01°30'00"E., ALONG THE EAST LINE OF THE SE 1/4 OF THE NW 1/4 OF SAID SECTION 30, A DISTANCE OF 1,249.82 FEET TO THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 2, THENCE N.01°37'04"W., ALONG SAID EAST LINE OF SAID GOVERNMENT LOT 2, A DISTANCE OF 100.17 FEET; THENCE N.88°19'00"W., A DISTANCE OF 1,203.04 FEET, TO A POINT ON THE EASTERLY LINE OF STATE ROAD NO. 31; THENCE N.00°42'30"W., ALONG SAID EASTERLY LINE OF STATE ROAD NO. 31, A DISTANCE OF 421.89 FEET TO THE POINT OF BEGINNING.

SURVEYOR'S LEGAL DESCRIPTION
OVERALL LEGAL DESCRIPTION

BEING A PORTION OF GOVERNMENT LOTS 2 AND 3, OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST, A PORTION OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA AND A PORTION OF LOT 1, FORT MYERS SHORES UNIT NO. 4, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 11, PAGE 28, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE NORTHWEST CORNER OF TRACT C-1, GORDON CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NUMBER 2019000142301, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°42'50" WEST ALONG THE EAST RIGHT-OF-WAY OF STATE ROAD 31 (A 100.00 FOOT RIGHT-OF-WAY), A DISTANCE OF 1,322.18 FEET TO NORTHWEST CORNER OF GOVERNMENT LOT 3, THE SAME BEING THE SOUTHWEST CORNER OF GOVERNMENT LOT 2, OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST; THENCE SOUTH 88°18'44" EAST LEAVING SAID EAST RIGHT-OF-WAY LINE OF STATE ROAD 31, ALONG SAID BOUNDARY LINE OF GOVERNMENT LOT 2 AND 3, A DISTANCE OF 332.63 FEET; THENCE NORTH 00°42'19" WEST LEAVING SAID BOUNDARY LINE OF GOVERNMENT LOT 2 AND 3, A DISTANCE OF 100.09 FEET; THENCE NORTH 88°18'44" WEST, A DISTANCE OF 332.63 FEET TO A POINT ON THE SAID EAST RIGHT-OF-WAY STATE ROAD 31; THENCE NORTH 00°42'22" WEST ALONG SAID EAST RIGHT-OF-WAY OF STATES ROAD 31, A DISTANCE OF 422.05 FEET; THENCE SOUTH 88°18'41" EAST LEAVING SAID EAST RIGHT-OF-WAY OF STATE ROAD 31, A DISTANCE OF 1,195.78 FEET; THENCE NORTH 01°36'03" WEST, A DISTANCE OF 800.34 FEET TO A POINT ON THE BOUNDARY LINE OF FORT MYERS SHORES UNIT NO. 4, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 11, PAGE 28, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTH 88°18'30" EAST ALONG SAID BOUNDARY LINE OF FORT MYERS SHORES UNIT NO. 4, A DISTANCE OF 875.35 FEET; THENCE NORTH 01°41'30" EAST LEAVING SAID BOUNDARY LINE OF FORT MYERS SHORES UNIT NO. 4, A DISTANCE OF 76.59 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF DE MOYA DRIVE (A 70.00 FOOT RIGHT-OF-WAY), FORT MYERS SHORES UNIT NO. 4. ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 11, PAGE 28, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTHERLY ALONG SAID SOUTH RIGHT-OF-WAY OF DE MOYA DRIVE THE FOLLOWING 2 COURSES, COURSE (1) SOUTH 43°18'30" EAST, 19.95 FEET TO A POINT OF CURVATURE; COURSE (2) SOUTHEASTERLY, 71.28 FEET ALONG THE ARC OF A CIRCULAR CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 145.00 FEET, THROUGH A CENTRAL ANGLE OF 28°09'50" AND BEING SUBTENDED BY A CHORD THAT BEARS SOUTH 57°23'25" EAST, 70.56 FEET TO THE NORTHEAST CORNER OF LOT 1, OF SAID FORT MYERS SHORES UNIT NO. 4; THENCE SOUTH 01°30'00" EAST ALONG SAID BOUNDARY LINE OF LOT 1 FORT MYERS SHORES UNIT NO. 4, A DISTANCE OF 26.28 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1, FORT MYERS SHORES UNIT NO. 4 AND THE SOUTHWEST CORNER OF LOT 105, FORT MYERS SHORES UNIT NO. 2, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGES 7 THROUGH 9, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTH 88°18'30" EAST ALONG SAID BOUNDARY LINE OF LOT 105 FORT MYERS SHORES UNIT NO. 2, A DISTANCE OF 300.46 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 30; THENCE SOUTH 01°30'00" EAST ALONG SAID BOUNDARY LINE OF LOT 105, FORT MYERS SHORES UNIT NO. 2 AND THE NORTHERLY PROLONGATION LINE OF THE BOUNDARY LINE OF FORT MYERS SHORES UNIT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGES 151 THROUGH 154, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, A DISTANCE OF 1,322.55 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 30; THENCE NORTH 88°19'00" WEST ALONG THE BOUNDARY LINE OF SAID FORT MYERS SHORES UNIT NO. 1, A DISTANCE OF 1,249.82 FEET TO THE NORTHWEST CORNER OF LOT 43, SAID FORT MYERS SHORES UNIT NO. 1; THENCE SOUTH 01°06'15" EAST ALONG THE BOUNDARY LINE OF SAID FORT MYERS SHORES UNIT NO. 1, A DISTANCE OF 1,321.93 FEET TO NORTHEAST CORNER OF TRACT F-3, GORDON CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NUMBER 2019000142301, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 88°20'37" WEST ALONG THE BOUNDARY LINE OF SAID GORDON CENTER, A DISTANCE OF 1,212.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,844,190 SQUARE FEET OR 88.250 ACRES, MORE OR LESS

SURVEYORS NOTES

1. BEARINGS ARE BASED ON THE WEST LINE OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST, BEING SOUTH 00°42'22" EAST AND RELATES TO THE STATE PLANE COORDINATE SYSTEM ESTABLISHED BY THE NATIONAL GEODETIC SURVEY FOR FLORIDA WEST ZONE (1990 ADJUSTMENT).
2. ELEVATIONS ARE BASED ON N.A.V.D., 1988 UNLESS NOTED.
3. FIELD MEASUREMENTS ARE IN SUBSTANTIAL AGREEMENT WITH PLAT AND/OR DEED CALLS UNLESS NOTED.
4. BASED SOLELY UPON MY EXAMINATION OF THE TITLE COMMITMENTS AS PROVIDED BY CLIENT AND INFORMATION KNOWN BY, OR SUPPLIED TO THE UNDERSIGNED, THERE ARE NO EASEMENTS OF RECORD EXISTING OTHER THAN THOSE SHOWN ON THIS SURVEY.
5. THIS SURVEY PERFORMED WITH BENEFIT OF GRAY ROBINSON TITLE CERTIFICATION, HAVING FILE NUMBER NCS-1073517-CAST, WITH AN EFFECTIVE DATE OF FEBRUARY 4, 2022 AT 8:00 A.M.; HAVING FILE NUMBER 1064886-CAST, WITH AN EFFECTIVE DATE OF JANUARY 28, 2022 AT 8:00 A.M. AND HAVING FILE NUMBER NCS-1069240-CAST, WITH AN EFFECTIVE DATE OF FEBRUARY 2, 2022 AT 8:00 A.M.
6. SURVEYOR'S CERTIFICATION DOES NOT APPLY TO MATTERS OF TITLE, ZONING, OR FREEDOM OF ENCUMBRANCES, AND IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR ELECTRONIC SIGNATURE AND SEAL USING A DIGITAL SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER, IF ELECTRONICALLY SIGNED AND SEALED, PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.
7. NO UNDERGROUND UTILITIES, FOUNDATIONS OR OTHER UNDERGROUND INSTALLATIONS WERE LOCATED UNLESS SHOWN.
8. NO OTHER PERSONS OR ENTITIES, OTHER THAN SHOWN, MAY RELY ON THIS SURVEY.
9. NO OTHER PERSONS OR ENTITIES, OTHER THAN SHOWN, MAY RELY ON THIS SURVEY.
10. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED.
11. LEGAL DESCRIPTION HAS BEEN FURNISHED BY CLIENT.
12. PROPERTY OWNER SHOULD OBTAIN WHITTEN FLOOD ZONE DETERMINATION FROM OUR LOCAL PERMITTING, PLANNING, AND BUILDING DEPARTMENT PRIOR TO ANY CONSTRUCTION PLANNING AND/OR CONSTRUCTION.
13. THE PARCELS DESCRIBING THE PROPERTIES ARE CONTIGUOUS ALONG THEIR COMMON BOUNDARY LINES, WITHOUT GAPS, GORES, OVERLAPS OR HIATUSSES, THE PROPERTIES ABUT STATE ROAD 31, A PUBLIC RIGHT-OF-WAY, EACH WITHOUT GAPS, GORES, OVERLAPS OR HIATUSSES, THE JOHNSON PROPERTY ABUTS DE MOYA DRIVE, A PUBLIC RIGHT-OF-WAY, WITHOUT GAPS, GORES, OVERLAPS OR HIATUSSES.

CERTIFICATION LIST

NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC, A FLORIDA LIMITED LIABILITY COMPANY
GRAY ROBINSON, P.L.L.C.
FIRST AMERICAN TITLE INSURANCE COMPANY;
JAMSCAG INVESTMENT, LLC, A FLORIDA LIMITED LIABILITY COMPANY;
COLEMAN, YOVANOVICH & KESTER, P.A.;
HENDERSON, FRANKLIN, STARNES & HOLT, P.A.;
JERRY JOHNSON ARTICLE FOURTH FAMILY TRUST;
JD MONTOSH LOTS, LLC, A FLORIDA LIMITED LIABILITY COMPANY

CERTIFICATION:

I CERTIFY THAT THIS SURVEY WAS MADE UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 472, F.S., 17.051-053, FLORIDA ADMINISTRATIVE CODE, PURSUANT CHAPTER 472.027, FLORIDA STATUTES.

John Scott Rhodes PSM
#5739 State of Florida
By: John Scott Rhodes, PSM #5739

REVISIONS:

JAN. 27, 2022 ADDED THE COORDINATES TO THE BOUNDARY CORNERS
FEB. 23, 2022 UPDATE TITLE CERTIFICATION
JUNE 6, 2022 UPDATE ADDED SURVEYOR'S LEGAL DESCRIPTION

BOUNDARY SURVEY

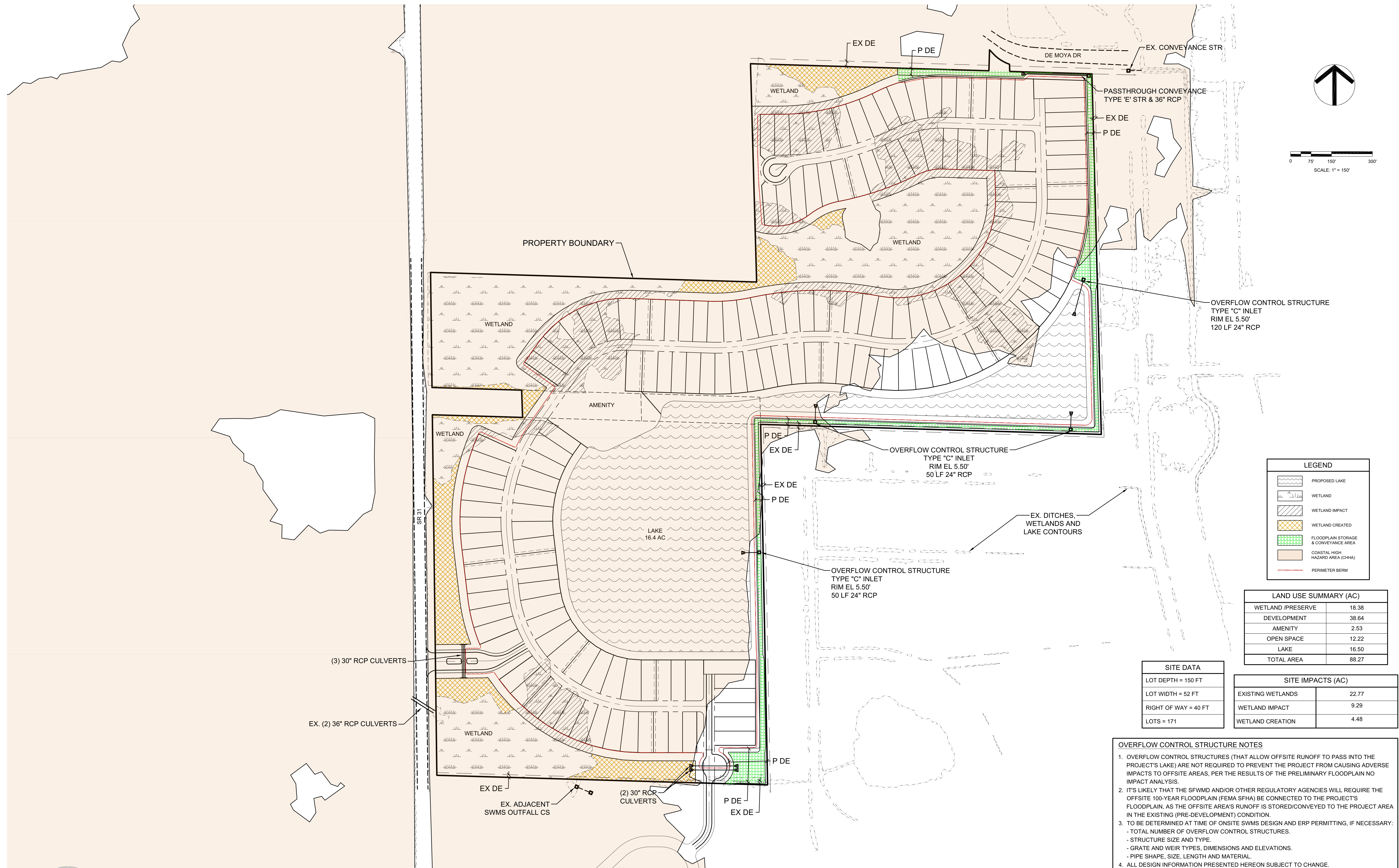
CERTIFIED TO:
SEE CERTIFICATION LIST

RHODES & RHODES
LAND SURVEYING, INC.
LICENSE #LB 6897

bk: pg: date: DEC. 09, 2021
XXX XX-XX scale: = 150'
cogo #: 21-541

design:
drawn: EFC
checked: JSR
acad #: 2021-541
view: PLOT
project #: 2021-541
sheet #: 1 of 1
file #: 2021-541
REZONE

28100 BONITA GRANDE DRIVE SUITE 107
BONITA SPRINGS, FL 34135
(239) 405-8166 (239) 405-8163 FAX



LEGEND	
	PROPOSED LAKE
	WETLAND
	WETLAND IMPACT
	WETLAND CREATED
	FLOODPLAIN STORAGE & CONVEYANCE AREA
	COASTAL HIGH HAZARD AREA (CHHA)
	PERIMETER BERM

LAND USE SUMMARY (AC)	
WETLAND /PRESERVE	18.38
DEVELOPMENT	38.64
AMENITY	2.53
OPEN SPACE	12.22
LAKE	16.50
TOTAL AREA	88.27

SITE DATA	
LOT DEPTH = 150 FT	
LOT WIDTH = 52 FT	
RIGHT OF WAY = 40 FT	
LOTS = 171	

SITE IMPACTS (AC)	
EXISTING WETLANDS	22.77
WETLAND IMPACT	9.29
WETLAND CREATION	4.48

- OVERFLOW CONTROL STRUCTURE NOTES**
- OVERFLOW CONTROL STRUCTURES (THAT ALLOW OFFSITE RUNOFF TO PASS INTO THE PROJECT'S LAKE) ARE NOT REQUIRED TO PREVENT THE PROJECT FROM CAUSING ADVERSE IMPACTS TO OFFSITE AREAS, PER THE RESULTS OF THE PRELIMINARY FLOODPLAIN NO IMPACT ANALYSIS.
 - IT'S LIKELY THAT THE SPWMD AND/OR OTHER REGULATORY AGENCIES WILL REQUIRE THE OFFSITE 100-YEAR FLOODPLAIN (FEMA SFHA) BE CONNECTED TO THE PROJECT'S FLOODPLAIN, AS THE OFFSITE AREA'S RUNOFF IS STORED/CONVEYED TO THE PROJECT AREA IN THE EXISTING (PRE-DEVELOPMENT) CONDITION.
 - TO BE DETERMINED AT TIME OF ONSITE SWMS DESIGN AND ERP PERMITTING, IF NECESSARY:
 - TOTAL NUMBER OF OVERFLOW CONTROL STRUCTURES.
 - STRUCTURE SIZE AND TYPE.
 - GRATE AND WEIR TYPES, DIMENSIONS AND ELEVATIONS.
 - PIPE SHAPE, SIZE, LENGTH AND MATERIAL.
 - ALL DESIGN INFORMATION PRESENTED HEREON SUBJECT TO CHANGE.

