



Engineers, Planners & Development Consultants

4301 Veronica Shoemaker Blvd. Fort Myers, FL 33916
239.936.5222 | QAINC.NET | f 239.936.7228

March 22, 2023

Mr. Chahram Badamtchian, Planner, Senior
Lee County Division of Community Development
1500 Monroe Street
Fort Myers, Florida 33901

RE: **Oriole Alico West, MPD**
DCI2022-00061 – Major PD

Dear Mr. Badamtchian,

Please find attached a set of revised plans for the above-mentioned project per your comments dated January 9, 2023. Below are written responses to the comments.

Zoning Review:

Your request language for Deviation 5 is confusing. Do you want two or three signs? Do you want 200 or 300 square feet signs? How did you come up with 550 square feet? Could you please simplify the language of the Deviation and possibly provide a sign package showing the location and area of each sign?

Response: Request language has been updated, please see the revised Deviation request.

Planning Review:

Please expand Lee Plan analysis to include Policy 124.1.2.

Response: Request statement has been revised to include policy 124.1.2.

Development Services Review:

1. Staff is hesitant to support deviation #7. The applicant has requested a deviation to provide multiple access locations along the internal road. The connection separation must be shown on both sides of the road. Additionally, the applicant does not provide a justification as to why joint accesses cannot be provided to meet intersection connection requirements or reduce the number of proposed connections to the internal roadway such as a joint access easement at the eastern most T-intersection between lots C-3 and C-2. The deviation as written and depicted is confusing on the MCP because the access points proposed are scaled to the 60' separation requirement.

Response: Please see the revised MCP

2. Please provide a letter of no objection from the fire department having jurisdiction to support deviation 4B.

Response: Please see attached letter of no objection from San Carlos Fire Department.

3. Please indicate a connection separation deviation at the access point directly south of the fire department access. Staff could not locate an approved deviation for the fire department access.

Response: Deviation for connection separation to Tract "B" has been added to the deviation request to line up with existing driveway and reflecting approved MCP from case SEZ2019-00004.

4. Staff does not support deviation #6A and 6B. As written the request would give blanket approval for any lots in the subdivision and can be interpreted broadly as "physical restraint between properties" is not define. Staff recommends the deviation be revised include specific guidelines on when the deviation applies.

Response: Deviation request has been amended to include specific guidelines. Please see attached deviation request.

5. Note: At time of development order the applicant will be required to provide pedestrian and bikeways in accordance with the Land Development Code.

Response: Acknowledged

6. Please provide property development regulations with your resubmittal.

Response: Property development regulations are provided in the schedule of uses.

7. Please provide approximate dimensions of the lots or parcels in accordance with LDC 34- 373(a)(6)(c)

Response: Please see the revised MCP

Legal Description Review:

(5) Please provide a legal description and sketch in accordance with the requirements County LDC 34-202(a)(5)

The legal description does not match the legal description on the boundary survey. The size of the property as described is different. Please correct either the boundary survey or the legal description to accurately reflect the property being subject to this zoning action.

Response: Please see attached revised Legal Sketch and Description

(6) Please provide a boundary survey in accordance with the requirements of Lee County LDC 34-202(a)(6)

The survey must be based upon a title certification submitted in accord with section 34-201(a)(7). When the Title Certification is updated, the legal description on the boundary survey must match that which is shown on the title.

Response: Please see updated boundary survey

(7) Please provide a title certification in accordance with the requirements of Lee County LDC 34-202(a)(7)

Title certification must include a legal description of the property.

Response: Please see attached Title Certification

Environmental Review:

The applicant is requesting a deviation from the open space and landscaping due to a donation to the county. LDC section 34-3206 states "A structure, lot, tract, or parcel of land that has been or will be rendered non-conforming as to area, width, depth, setbacks, lot coverage or parking because of a taking through eminent domain proceedings, by the voluntary sale of a parcel of land under the threat of eminent domain proceedings by a governmental authority after October 15, 1992, or by the voluntary donation of land to a governmental authority will be deemed conforming under the terms of this chapter." However, the applicant is creating their own hardships through the site design. Please provide more details of why the site cannot provide the required open space and buffer criteria. Please provide the donated right-of-way information and the legals for the taking. Additional comments may follow.

Response: Requesting credit towards open space as a whole for Conservation Easement and Lake Tracts acreage that is are privately owned. The deviation request has been updated.

The applicant is requesting a deviation from the tree and palm spacing to not install any trees in the planting strip. Staff is uncomfortable with the applicant not providing any vegetation. Please consider a substitution to allow 100% palm trees within the area. Please revise deviation.

Response: Deviation has been revised to allow one side 100% palm trees palm trees staggered in height 10 ft to 14 ft

The boundary survey showed a 20-foot utility easement above the 50-foot drainage easement. Please demonstrate the 20-foot utility easement on the MCP. Please note that LDC 10-421(a) (2&5) states that "trees and shrubs used in buffers must be planted in a minimum width area equal to one-half the required width of the buffer. However, in no case may the planting area be less than five feet in width. Utility or drainage easements may overlap required buffers; however, no code required trees or shrubs may be located in any utility or drainage easement unless a written statement, from the entity holding the beneficial interest in the easement, is submitted specifically stating that the entity has no objection to the landscaping and, that the proposed landscaping will not interfere with the long-term maintenance of the infrastructure within easement area." Please demonstrate compliance to LDC 10-421.

Response: 20 ft utility easement has been added to the MCP

Within the narrative, the applicant stated that the pond has existing trees surrounding the shoreline. Please indicate if code required trees will be within the designated area. Please indicate what vegetation is located in the area if preservation is being requested. If preservation is requested, will grading impact the trees that are existing along the shoreline?

Response: No site work or additional plantings are proposed within the Conservation Easement. The intent of not changing the lake bank slope is so that the existing vegetation will not be disturbed. The previously shown type "D" buffer within the conservation area has been removed. There is no code requirement between a ROW and Conservation Easement/Lake Tract.

TIS Review:

I. In the schedule of uses, there are higher trip generating land uses (e.g., manufacturing, medical offices) than proposed land use. The worst scenario in the schedule of uses for trip generation should be analyzed. Otherwise, it is advised to reduce the schedule of uses.

Response: Please see revised TIS

2. It is recommended to provide the methodological steps for calculating the 'Peak Season Correction Factor' in development of future year background turning volumes.

Response: Please see revised TIS

3. It is recommended to provide justifications for considering '50% buildout year reduction' in the calculation for future background through volumes on oriole road.

Response: Please see revised TIS

4. In developing the future background through volumes on oriole road, the AM/PM peak hour trip generation calculation for some land uses (e.g., shopping center, office, and industrial) appear incorrect.

Response: Please see revised TIS

Natural Resources Review:

Please provide a written surface water management narrative that complies with 34-373(b)(1).

Response: Please see attached surface water management plan

Please depict the 660' buffer zone on the MCP.

Response: Please see attached revised MCP

Has the proposed Schedule of Uses been evaluated for compatibility with the adjacent bald eagle nest? Several of the proposed uses are intensive in nature and will result in frequent use of heavy equipment, loud noises, vehicular traffic, and lighting.

Response: Truck Stop, Truck Terminal has been removed from the schedule of uses.

Please revise the bald eagle management plan to include locations and height of active and alternative nest tree and perch tree, a description of the location height, species, and density of the understory and canopy vegetation as required by LDC 14-119(c)(4a).

Response: "Please see the revised Bald Eagle Management Plan" This discussion has been added to the 621 FLUCCS discussion, along with a figure showing the two primary perch trees.

Please revise the bald eagle management plan to include an aerial map at the scale of the development that shows the location of the eagle's nest, flight path to and from the nest, location and size of visual obstacles, such as trees, between the nest and proposed development, nearest known foraging area for the eagle, location and type of existing and permitted developments within 1500 feet of the nest, and other critical eagle nesting habitat features as well as the proposed development as required by LDC 14-119(c)(4c).

Response: "Please see the revised Bald Eagle Management Plan" with the added 1500 feet.

Please depict the 330' and 660' buffer zones on the MCP provided in the bald eagle management plan. Please clarify what size buffer the applicant proposing in the bald eagle management plan as required by LDC 14-119 (c)(4d). Is the stabilized berm shown in the "Line-Of-Sight Elevation" existing or proposed? Where on the property is the "Line-Of-Sight Elevation" depicting?

Response: The 330' and 660' buffer zone is included in revised version of BEMP, attached.

This 6' berm is both permitted and constructed. It has been in place for several years.

This line of sight in this figure is due east from the nest. The bamboo plantings are designed to shield site humans on site as that is what seems to capture the attention of the eagles.

They do not seem to respond to the site buildings or vehicle cover in the radius shown on Figure 2.

Please revise the bald eagle management plan to include the conservation measures proposed. Staff

appreciates the inclusion of the USFWS permit but the proposed conservation measures need to be outlined in the bald eagle management plan. What conservation measures are proposed within 330' during nesting season? What conservation measures are proposed within 660' during nesting season? Conservation measures outlined in 14-119(c)(4e) include but are not limited to, establishment of a planted landscape buffer, construction phasing indicating timing and location of construction activities during nesting and non-nesting periods, i.e. no construction within 330 feet of a nest during nesting season, height limits on buildings within the buffer area, protection of the flight path and the nesting tree, monitoring of eagles and nests using the federal monitoring guidelines, conservation easement, and other necessary measures to protect or enhance critical eagle nesting habitat.

Response: The BEMP has been revised to include conservation measures. It is located near the end of the monitoring section.

The bald eagle management plan references a nesting history to be included in the Appendix, but no nesting history document was found by Staff.

Response: The nesting history has been added, please see page 15 of the revised BEMP

Is the bamboo clump existing or proposed? Please revise the plan to include a native vegetation buffer if one is proposed as a conservation measure.

Response: Bamboo Clumps are existing

Please revise the bald eagle management plan to include a commitment to educate future owners, tenants, or other users of the development about the specific requirements of the approved eagle management plan and the state and federal eagle protection laws as required by LDC 14-119(c)(4h).

Response: The BEMP has been revised to include this. It is located near the end of the monitoring section.

Once a complete bald eagle management plan is provided the plan will be scheduled for the next available Eagle Technical Advisory Committee meeting.

Response: Acknowledged

If you have any questions regarding the above responses or any of the attachments, please contact our office at (239) 936-5222.

Sincerely,
Quattrone & Associates, Inc.

Sharon Hrabak
Permitting Manager
Email: Sharon@qainc.net

Attachments:
Revised BEMP
Revised MCP
Revised TIS
Revised Deviation
Revised Schedule of Uses
Revised Request Statement
Revised Legal Sketch and Description
Revised Survey
Revised Title

Fire Dept. "No Objection"
Surface Water Management Plan
Conservation Easement

**LIST OF DEVIATIONS AND JUSTIFICATION**

ALICO ORIOLE WEST
MPD REZONING
±30.7 ACRES
STRAPS#: 04-46-25-13-0003.0020
Fort Myers, FL 33912

Surface Water Management**DEVIATION 2A**

Relief from LDC §10-329(d)(1)a.2 Setbacks for Water Retention or Detention Excavations. Deviation from the requirement that no excavation will be allowed within 50 feet of any existing or proposed right-of-way line or easement for a collector or arterial street; to allow a 25-foot setback.

JUSTIFICATION: The adjacent properties are part of a master water management system under SFWMD permit # 36-05268-P which provide existing drainage easements that extend beyond the north and south property line (See "Surface Water Management System"). The request enhances the planned development and promotes the general intent of the LDC to protect the public health, safety and welfare. The developer will provide for the protection of wayward vehicles through the use of guardrails, berms, swales, vegetation or other suitable methods as determined by the Director.

DEVIATION 2B

Relief from LDC §10-329(d)(1)a.3 Setbacks for Water Retention or Detention Excavations. Deviation from the requirement that no excavation will be allowed within 50 feet of any private property line under separate ownership; to allow a 25-foot setback and/or to allow a zero-foot setback when the lake is combined with an adjacent property lake.

JUSTIFICATION: All adjacent properties are or are anticipated to be developed as commercial and/or industrial and as such, the additional setback is not necessary. The adjacent properties north and south are part of a master water management system under SFWMD permit # 36-05268-P which system provides an existing drainage easement which extends beyond the property line (See "Surface Water Management System"). The request also includes the existing lakes located along the west property line which are directly adjacent to the Formosa Industrial Parks lakes. The request enhances the planned development and promotes the general intent of the LDC to protect the public health, safety and welfare.

DEVIATION 2C

Relief from LDC §10-329(d)(4) Bank Slopes. Deviation from the requirement that the banks of excavations permitted under this section must be sloped at a ratio not greater than six horizontals to one vertical from the top of bank to a water depth of two feet below the dry season water; to allow the existing lake to be sloped at a ratio of four horizontal to one vertical.



JUSTIFICATION: The existing lake was constructed in 2009 when the code allowed for lakes to be sloped at a ratio of four horizontal to one vertical. The lake banks already have established vegetation to prevent erosion, as such, the existing conditions meet the intent of the LDC and will not impact public health, safety and welfare. Furthermore, the 4:1 lake bank slope is necessary to comply with FAA requirements for lakes located within 10,000 feet of airport operations.

DEVIATION 2D

Relief from LDC §10-329(d)(6) Fencing. A four-foot fence may be required, at the discretion of the Director, to be placed around excavations for water retention when located less than 100 feet from any property under separate ownership; to not require fencing around any existing or proposed lakes.

JUSTIFICATION: The lakes are existing and, in some cases, straddle the property lines (north and south perimeter lakes). In addition, the project is surrounded by other industrial properties that are either part of the same master drainage system (north and south) or is adjacent to the drainage system of another industrial park (west side), as such, the deviation will not impact public health, safety and welfare.

Landscape Standards & Open Space

DEVIATION 3A

Relief from LDC §10-415(a) Open Space. Deviation from the requirement that all Large Industrial Developments must provide a minimum of 20% open space and all Large Commercial Developments must provide a minimum of 30% open space to allow the $\pm$ 5 acres Conservation Easement and Lake Tract parcels to be credit toward the open space as a whole and reduce the requirement to 20% for commercial uses and 10% industrial uses on individual parcels.

JUSTIFICATION: The Conservation Easement and Lake Tract are privately owned, not eminent domain. The overall parcel is $\pm$ 30.65 acres and the Conservation Easement and Lake Tract account for $\pm$ 5 acres which is 16.3% of the overall parcel.

DEVIATION 3B

Relief from LDC §10-416(d)(4) Buffer Types. Deviation from the requirement that Type D Right-of-Way buffers must be a minimum of 15' wide to allow the Type D buffer on Oriole Road to be 10' wide for Tracts B and C-1.

JUSTIFICATION: Lee County required the developer to dedicate 80 feet Right-of-Way as approved in the original development order for Oriole Rd. Per LDC §34-3206, which in part states that "parcels that have been rendered unable to comply with current regulations as to required landscape buffers, because of a voluntary donation of land to a governmental authority may request relief." The applicant will provide a 10-foot-wide Type D buffer with a minimum planting area of 7.5 feet which will provide the same effective planting area as a 15' Type D buffer, as such, the deviation will not adversely impact the intent of the code.

DEVIATION 3C (Proposed Lakes Only)



Relief from LDC 10-418(2)(a) Planted Littoral Shelf, which requires all surface water management systems to provide a planted littoral shelf that mimics the function of a natural marsh, provide no littoral shelf in the Lake Tract A water management area

JUSTIFICATION: This is consistent with the approval for the existing water management area established in the master ERP for the area in related zoning cases such as Z-21-002 and Z-21-012.

DEVIATION 3D (Proposed Lakes Only)

Relief from LDC 10-418(2)(d)3. which allows native wetland trees to be substituted for up to 25% of the total number of herbaceous plants required, to allow native wetland trees to be substituted for 100% of the total number of herbaceous plants required.

Justification: This is consistent with the approval for the existing water management area established in the master ERP for the area in related zoning cases such as Z-21-002 and Z-21-012.

Street Design & Construction Standards

DEVIATION 4A

Relief from LDC §10-296(e)(2)d. Tree and Palm Spacing in Roadway Planting Areas (Street Trees). Deviate from the requirement that Street Trees must be planted on both sides of the road, that palm trees may only be substituted for a maximum of 50 percent of the required small trees, and that the trees must be spaced evenly along the frontage and not clustered, to allow the trees required per this section of the code to be planted on one side of the road, to allow 100 percent of the trees to be palm trees, and to allow the palm trees to be clustered. As an enhancement to the code, the palms must be staggered in height from 10' to 14'.

JUSTIFICATION: The proposed deviation will prevent and/or minimize conflicts between the Street Trees and water mains. Most roadways have a parallel water main located on one side of the road that is typically placed midway between the curb and the right-of-way line. Both the Lee County Land Development Code and the Lee County Utilities Design Manual (Section 2.2E.5.d) require a separation of 10 feet for canopy trees and 5 feet for palm trees from all utility lines. The purpose of planting the trees on only one side of the road is to allow the trees to be placed on the side of the road that does not have the watermain. The purpose of allowing only palm trees is to further avoid conflicts with utility lines that may be present in the adjacent PUE and/or minimize conflicts when there are other utility lines installed in the right-of-way (i.e. force mains). The purpose of allowing the palm trees to be clustered is avoid potential line-of-sight conflicts that may occur if the trees are evenly spaced.

DEVIATION 4B

Relief from LDC §10-296(k)(1) Cul-de-Sacs. Deviation from the requirement that requires dead-end streets to be closed at one end by a circular turnaround for vehicles; to allow the internal roads and/or accessways to be constructed without cul-de-sacs.

JUSTIFICATION: The dead-end roads and/or accessway or any phased road or accessway will be designed to allow vehicles and emergency vehicles to turn around using a hammer head road configuration which are typically approved by fire departments and have been previously approved for the Florida Gulf Coast Business Center in the nearby vicinity of this project. The request enhances the planned development and promotes the general intent of the LDC to protect the public health, safety and welfare.



Developer Signs

DEVIATION 5A and 5B

Relief from LDC §30-153(2)a. and §30-153(2)a.i.ii. Nonresidential Identification Signs. Deviate from the requirement that the development is permitted to have one identification sign equal to one square foot of sign area per face for every one linear foot of frontage.

To allow one additional sign on the projects road frontage, Oriole Road for a total of two ground-mounted developer signs on Oriole Road (§30-153(2)a.); and

To allow two signs on Oriole Road with 200 square feet per sign area per face. This is a deviation of an additional 100 square feet of sign area on Oriole Road.

JUSTIFICATION: The developer, or common area frontage, on roads is determined by adding the widths of the entrance roads that intersect with main roads. The developer has ± 840 linear feet of frontage on Oriole Road for identification of the overall development. The deviation allows an additional 100 square feet of total sign area and one additional ground-mounted developer signs to serve the portion of Oriole Road. The supporting rationale for the additional sign and sign area is:

- The diversity and the large size of the development requires additional signage to bring clarity, order, and support to the office, retail, and industrial centers, some of which will be internal to the project and otherwise difficult to find.
- The developer signs bring order to the development. The developer signs are neutral to the development as a whole seeking to properly inform the travelling public by directing traffic to a destination, thereby avoiding confusion and lessening dangerous traffic conditions and shortening trip lengths.
- Developer area signs add beauty. The sign areas are generally well-landscaped, designed with consistent architecture, and maintained by the developer; therefore, not dependent on a particular lease, business or lot owner.
- The faster speeds on Oriole Road require additional square footage of signage to properly size the lettering to be readable at the speeds expected on collector road.
- Given the amount of frontage on each of the abutting roads (approximately ± 840 LF), there are significant distances between entrances to the development, on average over 330 feet, which allows for adequate spacing between signs.

NOTE: The signs discussed in these deviations are developer signs. They do not preclude the individual lots and buildings on Oriole Road from having building and ground-mounted signs as permitted in LDC 30-153(3).

Proposed conditions to approval:

- The developer must submit a detailed, final sign package covering the proposed signs along Oriole Road, for review and approval by the Department of Community Development in conjunction with the first local development order for the property.
- 100-foot minimum separations between common area signs.



- Limit height to 20 feet maximum.
- The signs will be placed and constructed in accordance with LDC 30-93, visibility triangle safe sight distance requirements.

Site Design Standards

DEVIATION 6A-

Relief from LDC §10-610(e). Guidelines for Commercial Buildings and Developments. Deviate from the requirement that projects must provide parking lot interconnections, to allow properties with a drive thru (i.e.: fast food restaurant, banks, etc.), when proposed parking lot drive isles do not line up with a developed adjacent property, when interconnection will adversely impact the security of the property or deemed by the engineer or the county interconnection would create a traffic hazard (i.e. when a business has service bays with car-/trucks).

DEVIATION 6B-

Relief from §34-2015(2)(f) Parking. Deviate from the requirement that adjacent commercial uses must provide parking lot interconnections for automobile traffic to allow properties with physical restraint between properties to deviate from this requirement.

JUSTIFICATION: The definition of a “Local Road” means a route providing service which is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property. The proposed parcels will have access to a private association maintained local road that serves as a reverse frontage road with a posted speed limit of 25 mph which is sufficient for safe access to these parcels. With the low-speed, limits vehicles will be able to enter and exit the commercial development safely. The requirement for connection of between out-parcels creates legal and safety concerns for drive thru circulation and private property security issues.

Connection Separation

Deviation 7 LDC §10-285(a) Connection Separation. From the requirement that motor vehicle connection(s) to a road from privately maintained streets, access roads or accessways onto local roads in future suburban areas must be separated a minimum of 125 feet apart; to allow a connection separation of 60 feet on proposed access roads from anticipated entrances on Tracts “B”, C-1, C-2, C-3, C-4,C-5, C-6” (proposed commercial”) in accordance with the attached Master Concept Plan.

JUSTIFICATION: The proposed road will act more as an urban access road or access way with its types of uses and lower speeds (at or less than 25 mph) and as such, the reduced separation will not create a detriment to the traveling public and will allow for adequate internal circulation of each parcel. It is anticipated that all other driveways will comply with the LDC requirement of a minimum separation of 125 feet from major intersections, unless otherwise approved through another ADD.

**ALICO ORIOLE WEST**

MPD REZONING

±30.65 ACRES

STRAP#: 04-46-25-L3-00003.0020

Fort Myers, FL 33912

The applicant, Sanford I Horowitz, Co-Trustee, is requesting approval for a Mixed Use Planned Development (MPD) for a 30.65-acre site located in Section 04, Township 46 South, Range 25 East, Lee County, Florida which is on the northwest corner of Alico Road and Oriole Road. The property is in the Gateway/Airport Planning Community and falls within the Industrial Development Future Land Use Category.



The applicant is requesting a rezoning from Agriculture (AG-2) to Mixed Use Planned Development (MPD) to allow up to 350,000 square feet of office, retail, commercial and/or industrial uses. All square footage uses will be deducted from the maximum allowable square footage on a one-to-one basis.

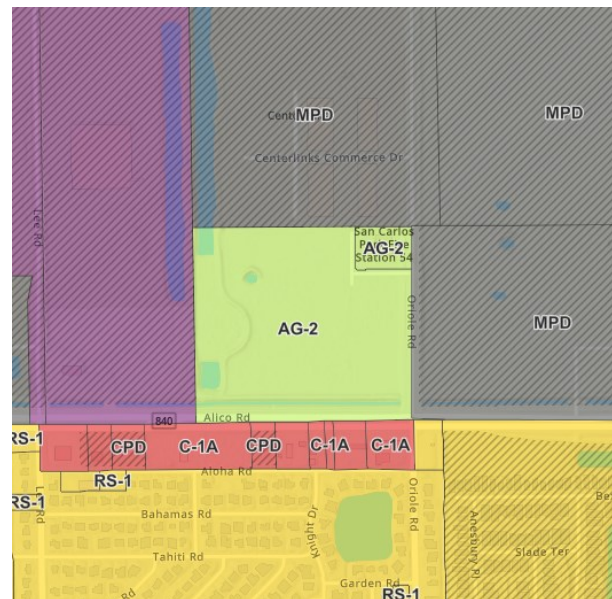
The project proposes three full driveway connections, one onto Alico Road and two onto Oriole Road. Internal roads and driveways will be spaced to meet the minimum road/driveway separations as required by the LDC. The proposed development will connect to Lee County Utilities for potable water and sanitary sewer.

Since this is an industrial/commercial subdivision divided into lots that will be developed over a period of time, we request that the termination of agricultural uses will not be triggered by approval of a development order for non-vertical improvements such as plats, infrastructure improvements, landscaping, surface water management, or other non-vertical development.

**Table 1: Inventory of Surrounding Lands**

	FUTURE LAND USE	ZONING	EXISTING LAND USES
NORTH	Industrial	MPD	Industrial + Commercial
SOUTH	Urban Community	C-1A + CPD	Commercial
EAST	Industrial Commercial Interchange	MPD	Industrial + Commercial
WEST	Industrial	IPD	Industrial + Commercial

The adjacent property to the north is zoned Three Oaks Distribution, MPD (Mixed Planned Development) and developed with Center links Industrial Development. To the east is zoned Three Oaks Marketplace, MPD (Mixed Planned Development) and partially developed with Infrastructure and proposed commercial. To the south is Alico Road ROW then zoned C-1A + CPD and developed with commercial uses such as a shopping Plaza, tire store and restaurants. To the west is zoned Formosa Commerce Center, IPD (Industrial Planned Development) and partially developed with Race Trac Convenient/Gas station store.



REZONING JUSTIFICATION

The proposed rezoning requests allows the Property to be developed in a similar manner to the surrounding properties. The Alico Road corridor has experienced rapid growth and development of several industrial planned developments. The current AG-2 zoning will not allow intense development suitable for the Property's central location for transportation and workforce housing.

Demand for warehousing, manufacturing, and research space is increasing due to changes in the national and global supply chains. Larger distribution centers and in high demand as Lee County and the region's population is growing to a range that has attracted national companies. A recent example is Uline's warehousing and office project in Collier County totaling 1 million square feet of floor area. More examples are on the way in the corridor that include Amazon, Wayfair and other



online retailers. For these reasons, the request intensity and uses are needed to position the project for the intensive market-drive demand of distribution and employment-generating uses intended for the Industrial future land use category.

The site is also in an area of the county where the proposed intensity is appropriate based upon surrounding land use pattern, arterial roadway network, and proximity to major economic engines including RSW, the Alico Road industrial corridor, and Gulf Coast Town Center.

LEE PLAN VISION

Goal 1: Future Land Use

Policy 1.1.7: *The Industrial Development future land use category plays an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These uses have special locational requirements that are more stringent than those for residential areas, including transportation needs (e.g. air, rail, highway); industrial levels of water, sewer, fire protection, and other urban services; and locations that are convenient for employees to reach. The Industrial Development future land use category is reserved mainly for industrial activities and selective land use mixtures. Appropriate land use mixtures include industrial, manufacturing, research, recreational uses and office complex that constitute a growing part of Florida's economic development sector. Retail, recreational and services uses are allowed as follows:*

1. *Retailing and/or wholesaling of products manufactured or directly related to that manufactured on the premises; or*
2. *Recreational, service and retail uses may not exceed 20% of the total acreage within the Industrial Development future land use categories of each Planning Community.*

Applicant Narrative: **The subject property is located within the Industrial Development Future Land Use Category. The proposed rezoning is intended to allow to be developed primarily into commercial uses such as office and some retail along the road frontages, and light industrial, manufacturing, and warehousing type uses and to a lesser degree, commercial uses such as office and retail.**

The Industrial FLU category's intention, as the applicant understands, is to be an employment center with convenient travel options and adequate utilities to support industrial activities. The requested schedule of uses and intensity are consistent with the intended uses in the Industrial category including but not limited to manufacturing, research, recreational uses, and related office complexes. Retail, recreational, and service uses will be limited to only those uses that are related to the manufacturing or wholesaling on the premises. In this case, market demand and the intention of the Industrial Development future land use category are working hand-in-hand as demand for these uses are increasing as is the demand for large gross floor area all of which is consistent with the set aside Industrial lands



POLICY 1.4.6: Conservation Lands include uplands and wetlands that are owned and used for long range conservation purposes. Upland and wetland conservation lands will be shown as separate categories on the Future Land Use Map. Upland conservation lands will be subject to the provisions of this policy. Wetland conservation lands will be subject to the provisions of both the Wetlands category described in Objective 1.5 and the Conservation Lands category described in this policy. The most stringent provisions of either category will apply to wetland conservation lands. Conservation Lands will include all public lands required to be used for conservation purposes by some type of legal mechanism such as statutory requirements, funding and/or grant conditions, and mitigation preserve areas required for land development approvals. Conservation Lands may include such uses as wildlife preserves; wetland and upland mitigation areas and banks; natural resource based parks; ancillary uses for environmental research and education, historic and cultural preservation, and natural resource based parks (such as signage, parking facilities, caretaker quarters, interpretive kiosks, research centers, and quarters and other associated support services); and water conservation lands such as aquifer recharge areas, flow-ways, flood prone areas, and well fields. Conservation 20/20 lands designated as conservation are also subject to more stringent use provisions of the 20/20 Program or 20/20 ordinances. (Ord. No. 98-09, 02-02)

OBJECTIVE 1.5: WETLANDS. Designate on the Future Land Use Map those lands that are identified as Wetlands in accordance with § 373.019(27), Fla. Stat. through the use of the unified state delineation methodology described in Fla. Admin. Code R. 62-340, as ratified and amended in § 373.4211, Fla. Stat. (Ord. No. 94-30, 21-09)

POLICY 1.5.3: Wetlands that are conservation lands will be subject to the provisions of Policy 1.4.6 as well as the provisions of Objective 1.5. The most stringent provisions of either category will apply. Conservation wetlands will be identified on the Future Land Use Map to distinguish them from non-conservation wetlands. (Ord. No. 98-09)

Applicant Narrative: The wetlands designated on the future Land Use Map has been updated based on the 3.114-acre wetland preserve established in the ERP permit #36-05268-P. The proposed MCP honors this permit and preserve area to be consistent with Policy 1.4.6 and Objective 1.5.

OBJECTIVE 1.6: SPECIAL TREATMENT AREAS. Designate on the Future Land Use Map, as overlays, special treatment areas that contain special restrictions or allowances in addition to all of the requirements of their underlying categories. (Ord. No. 18-06)

Zone C and D allow existing and new construction and land uses as would otherwise be permitted by the LDC. These zones require formal notification as provided for in the LDC. (Ord. No. 00-22, 02-02, 03-02. 16-16)

Applicant Narrative: The proposed rezoning falls within the Airport Noise zone C which does not restrict new construction or land uses but requires formal notification as provided for in the Land Development Code. The property also falls within the School Protection zone as outlined in Sec. 34-1007 and Appendix C Map 4 of the Land Development Code (LDC). The code states that “constructing public or private educational facilities are prohibited within the established Airport School Protection Zones for SWFIA and Page Field”. It is noted that no schools are being proposed with this rezoning.

POLICY 1.6.5: The Planning Districts Map and Acreage Allocation Table (Map 1-B and Table 1(b)) depict the proposed distribution, extent, and location of generalized land uses through the Plan’s horizon. Acreage totals are provided for land in each Planning District in unincorporated Lee County. No development orders or extensions to development orders will be issued or approved by Lee County that would allow the acreage totals



for residential, commercial or industrial uses contained in Table 1(b) to be exceeded. This policy will be implemented as follows:

1. For each Planning District the County will maintain a parcel-based database of existing land use.
2. Project reviews for development orders must include a review of the capacity, in acres, that will be consumed by buildout of the development order. No development order, or extension of a development order, will be issued or approved if the acreage for a land use, when added to the acreage contained in the updated existing land use database, exceeds the limitation established by Table 1(b) regardless of other project approvals in that Planning District.
3. When updating the Lee Plan's planning horizon, a comprehensive evaluation of the Planning Districts Map and Acreage Allocation Table will be conducted. (Ord. No. 94-29, 98-09, 00-22, 07-13, 10-20, 19-13, 21-09)

Applicant Narrative: The proposed development would comply with the Gateway/Airport limitation of a maximum of 20% commercial uses for the Planning District as a whole as the development within the district is currently well below the maximum allocation of commercial uses within the Gateway/Airport Planning Community (currently at approximately 2.31%) as indicated below.

Industrial Development FLUM Commercial Inventory

Report Generated: Tuesday, 22 November, 2022

Future Land Use	Commercial	Industrial	Acreage	Retail	Undeveloped	Vacant Zoned Industrial	Other
Gateway/Airport - 10.00							
Airport	31.18	60.04	6,306.89	31.18 0.49%	17.67	0.00	6,198.00
Conservation Lands Uplands and Wetlands	0.00	0.00	66.02		0.00	0.00	66.02
Conservation Lands Wetland	0.00	0.00	20.39		0.00	0.00	20.39
General Interchange	43.35	35.77	227.13	43.35 19.09%	82.90	16.89	65.11
Industrial Commercial Interchange	23.97	0.00	239.32	23.97 10.02%	198.01	0.00	17.34
Industrial Development	40.73	380.35	1,760.27	40.73 2.31%	957.66	512.55	381.53
MLUC*	5.59	19.25	511.77	5.59 1.09%	346.27	178.90	140.66
New Community	100.43	76.46	2,548.80	95.08 3.73%	98.85	0.00	2,273.06
none/not recorded	0.00	0.00	55.75		29.00	0.00	26.75
Public Facilities	0.00	0.00	198.75		0.00	0.00	198.75
Rural	0.00	0.00	41.43		37.50	0.00	3.93
Wetlands	0.00	0.00	201.55		0.00	0.00	201.55
Sub-Outlying Suburban	0.00	0.00	613.73		295.95	0.00	317.78
Tradeport	74.62	159.46	3,055.73	73.36 2.40%	2,059.42	425.20	762.23
Urban Community	0.00	31.00	412.14		347.50	140.42	33.64
University Village Interchange	1.63	0.00	5.58	1.63 29.21%	3.95	0.00	0.00
Wetlands	0.00	0.00	84.59		0.00	0.00	84.59
Total for PD# 10	321.50	762.33	16,349.84	314.89	4,474.68	1,273.96	10,791.33

The proposed uses are compatible with uses in the surrounding area and consistent with the intent of the Industrial Development land use as described above.

Goal 2: Growth Management

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, and prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Ordinance No. 94-30, 00-22)

Applicant Narrative: As demonstrated in the attached graphics, land along Alico Road has established an entitlement trend of commercial, industrial and mixed



use planned development zoning. This trend is expected to continue along Oriole Road given their proximity to I-75, residential developments to the south, the Gulf Coast Town Center to the east, the proximity to Southwest Florida International Airport and Florida Gulf Coast University. The proposed development is an infill parcel with existing industrial development to the north and west and commercial and interchange development to the east. The proposed request exhibits contiguous and compact growth and does not bypass larger tracts of land in favor of development more distant from services and existing communities.

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, F.S. and the concurrency requirements in the Land Development Code. (Ordinance No. 94-30, 00-22, 17-19)

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. (Ordinance No. 94-30, 00-22)

Applicant Narrative: The subject property is in proximity to Alico Road, an Arterial roadway and Oriole Road, a Major Collector. As summarized in the Transportation Impact Statement a functioning roadway network is in place to support the level of industrial and commercial development expected for the MPD. The road network in the region has been specifically constructed to support large-scale employment centers and industrial activity that is dependent on shipping and access to major transportation networks. Alico Road connects to I-75 and the RSW airport, keeping shipping and trucking traffic from needing to use other surrounding roadway networks.

The applicant has provided letters of availability with this application package demonstrating there is existing utility infrastructure in place to support the project. Lee County utilities has both sewer and water infrastructure available to the property with capacities to serve the requested intensity and the surrounding area approved zoning to the west north and south of Alico Road. The area, as part of the Industrial Development FLUC, is designed to be an intense employment center that places industrial and commercial centers near major networks, utility services and compatible, similar land uses.

Pedestrian, bicycle and transit facilities are available along Oriole Road and the proposed project will connect to in accordance with Land Development Code requirements.

Goal 4: General Development Standards.

Objective 4.1: Water, Sewer, and Environmental Standards.



Consider water, sewer, and environmental standards during rezoning process. Ensure the standards are met prior to issuing a local development order. (Ordinance No. 17-13)

Applicant Narrative: Utility service is available at or near the proposed project through Lee County Utilities. The developer will undertake any improvements that may be required to connect the project to these existing services. Availability letters are enclosed as a supplement to the rezoning application.

Goal 6: Commercial Land Uses.

Policy 6.1.1: All applications for commercial development will be reviewed and evaluated as to:

a. Traffic and Access impacts (rezoning and development orders)

Applicant Narrative: The development will be designed to protect the traffic carrying capacity of the adjacent roads and streets. See attached Transportation Study.

c. Screening and buffering (Planned development rezoning and development orders):

Applicant Narrative: The project intends to meet all buffering, open space and landscape requirements other than where deviations are requested that will complement the design and layout of the Master Concept Plan.

d. Availability and adequacy of services and facilities (rezoning and development orders)

Applicant Narrative: Adequate services and facilities are available to serve the development. This property is in the center of the Industrial Development FLUC. This area is programmed to be a major employment center. Lee County Utilities has adequate services for substantial industrial and business park development as evident by the letter of utility availability in the zoning package. Zoning approvals of surrounding properties along Oriole Road include substantial gross floor area mixed-use approvals. Development is taking place in this corridor serviced by an expanded Alico Road. The property is served by the San Carlos Fire District with a primary station (#51) located approximately 3.5 miles from the property south on Sanibel Boulevard. The Lee County Sheriff provides service in South Zone 1.

e. Impact on adjacent land uses and surrounding neighborhoods (rezoning)

Applicant Narrative: The proposed project land uses are compatible and complementary with the existing and proposed land uses adjacent to the property. No residential uses exist adjacent to the property.

f. Proximity to other similar centers (rezoning);

Applicant Narrative: The surrounding area west of I-75 is approved for or pending approval for similar industrial and commercial uses.

To the North of the subject property is the Three Oaks Distribution MPD occupying 93+/- acres. Initial approvals were in 2020 (Z-20-002) for 600,000 sf industrial and 600,000 sf commercial.

To the East is the Three Oaks Marketplace, MPD occupying 40+/- acres. Initial approvals were in 2018 (Z-18-037) for 400,000 sf Mixed Use-Maximum 400,000 of



commercial and industrial (Minimum of 30,000 sf commercial and minimum of 30,000 sf industrial).

Directly to the west along Lee Road is the Formosa Commerce Center IPD occupying 130+/- acres. Initial approvals were in 2011 (Z-11-020) for 30,000 sf commercial and 1,100,000 sf industrial

Finally, to the South abutting Alico Rd., then conventionally (C-1A, CN-1) zoned commercial parcels.

g. Environmental considerations (rezoning and development orders).

Applicant Narrative: See the attached Environmental Report.

POLICY 6.1.3: Commercial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as commercial planned developments designed to arrange uses in an integrated and cohesive unit in order to:

- provide visual harmony and screening;
- reduce dependence on the automobile;
- promote pedestrian movement within the development;
- utilize joint parking, access and loading facilities;
- avoid negative impacts on surrounding land uses and traffic circulation;
- protect natural resources; and
- provide necessary services and facilities where they are inadequate to serve the proposed use. (Ordinance No. 94-30, 00-22)

Applicant Narrative: The proposed MPD will require a visual harmony and screening throughout the development, to develop as a cohesive interconnected industrial and commercial center with consistent architectural themes, pedestrian access and protection of natural resources. Please see attached MCP.

POLICY 6.1.5: The land development regulations will require that commercial development be designed to protect the traffic-carrying capacity of roads and streets. Methods to achieve this include but are not limited to: frontage roads; clustering of activities; limiting access; sharing access; setbacks from existing rights-of-way; acceleration, deceleration and right-turn-only lanes; and, signalization and intersection improvements. (Ord. No. 94-30, 00-22)

Applicant Narrative: The development has two access points onto Oriole Road and proposing an access point onto Alico Road. Site design as depicted on the MCP enables utilizing reverse frontage roads and full traffic circulation between developments within the MPD. The circulation also includes an access point to the abutting property to the north to encourage travel between properties and not to utilize Oriole Road.

Policy 6.1.6: The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally



designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

Applicant Narrative: The project intends to be developed without substantial deviations to landscaping, open space, or buffering. The project proposes to meet open space requirements of the LDC and meet or exceed landscaping requirements, subject to the deviations requested.

Goal 7: Industrial Land Uses

OBJECTIVE 7.1: *All development approvals for industrial land uses must be consistent with the following policies, the general standards under Goal 4, and other provisions of this plan. (Ordinance No. 94-30)*

POLICY 7.1.2: *Industrial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as Planned Developments designed to arrange uses as an integrated and cohesive unit in order to:*

- *promote compatibility and screening;*
- *reduce dependence on the automobile;*
- *promote pedestrian movement within the development;*
- *utilize joint parking, access and loading facilities;*
- *avoid negative impacts on surrounding land uses and traffic circulation;*
- *protect natural resources; and*
- *provide necessary facilities and services where they are inadequate to serve the proposed use. (Ordinance No. 94-30, 98-09, 00-22)*

Applicant Narrative: The project intends to construct retail and commercial uses abutting Oriole Road and Alico Road, a mix of industrial and commercial/office flex properties and industrial uses to tract "A". The project intends to develop as a coherent, consistent development with roadway interconnections, pedestrian access where possible, as well as shared access and common loading areas where appropriate. The project will be developed without any substantial deviations to buffers, screening or landscaping and will provide compatible architectural themes throughout the development.

POLICY 7.1.3: *Industrial land uses must be located in areas appropriate to their special needs and constraints, including, but not limited to, considerations of: topography; choice and flexibility in site selection; access by truck, air, deep water, and rail; commuter access from home-to-work trips; and utilities; greenbelt and other amenities; air and water quality considerations; proximity to supportive and related land uses; and compatibility with neighboring uses. (Ordinance No. 93-25, 94-30, 00-22)*

Applicant Narrative: The Industrial Development area was designated as a major employment area for Lee County that would include a mix of industrial uses, such as warehousing and manufacturing and allow for supporting office and retail commercial. This Industrial corridor was programmed over the last 20+ years to have multiple access points to all forms of shipping particularly truck and vehicle access to major transportation corridors, including excellent access to Alico



Road, Three Oaks Parkway (including the eventual connection to Daniels Parkway), US 41 (via Alico) and I-75 and Ben Hill Griffin Parkway.

The development of this property is also in a prime location to reduce work-to-home trips. Within 1-2 miles are 1,000's of roof tops including San Carlos Park, the apartments on Three Oaks Parkway south of Alico, Miromar Lakes and Esplanade on Alico Road east of Ben Hill Griffin Parkway. To the north within the 3-4 mile range is the Gateway residential and mixed-use development

POLICY 7.1.5: *The timing and location of industrial development will be permitted only with the availability and adequacy of existing or planned services and facilities. (Ordinance No. 00-22)*

Applicant Narrative: Existing services and facilities are available to adequately serve the site. Lee County Utility infrastructure is in place for water and sewer and a roadway network is available to accommodate traffic generated from the development. Pedestrian, bicycle and transit facilities are in place in the surrounding area. Furthermore, the planned Three Oaks Parkway Extension (4-lane arterial continuing north to Daniels Parkway) which is expected to begin construction in the near future will provide additional support for the continued growth in the area, providing an alternate north south corridor and helping to distribute traffic.

POLICY 7.1.8: *Land development regulations will require that industrial uses be adequately buffered and screened from adjacent existing or proposed residential areas so as to prevent visual blight and noise pollution. (Ordinance No. 00-22)*

Applicant Narrative: No residential uses exist or are planned adjacent to the property.

POLICY 7.1.9: *Industrial development will not be permitted if it allows industrial traffic to travel through predominantly residential areas. (Ordinance No. 00-22)*

Applicant Narrative: Industrial traffic will access the project from the adjacent arterial and collector roadways and will not travel through any residential areas.

Goal 11: Mixed Use

OBJECTIVE 11.1: *Allow and encourage mixed use development within certain future land use categories and at appropriate locations where sufficient infrastructure exists to support development. (Ordinance 17-13)*

Applicant Narrative: The diverse mix of uses that are envisioned for this project will allow for a range of options for end user businesses within a growing market, while providing a compact and functional mixed industrial and commercial development. This project will attract industrial, commercial, and office users and contribute to the expansion and diversification of Lee County's economic base. The mix of uses proposed will promote a diversified economy and will provide positive employment opportunities for local workers. The proximity of



complementary uses within the master plan will help to reduce and distribute traffic through internal trip capture, shared loading, and vehicle circulation areas.

GOAL 60: Coordinated surface water management and land use planning on a watershed basis.

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. (Ord. No. 03-06, 18-28, 19-02)

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. (Ord. No. 03-06, 18-28, 19-02)

POLICY 60.4.2: The County encourages new developments to design their surface water management system to incorporate existing wetland systems. (Ord. No. 03-06, 19-02)

Applicant Narrative: When any part of this MPD receives a development order then that portion of the project be removed from the existing agricultural exception and fulfill this objective.

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.

Applicant Narrative: The Applicant has obtained Environmental Resource Permit (ERP # 36-05268-P) from the South Florida Water Management District.

GOAL 77: Development Design Requirements.

OBJECTIVE 77.3: New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing rights-of-way. This objective and subsequent policies are to be implemented through the zoning process. (Ord. No. 02-02)

POLICY 77.3.1: Any new development with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Any new development with existing native trees without associated native groundcover or understory is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged. (Ord. No. 02-02)

POLICY 77.3.2: Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees. (Ord. No. 02-02)



POLICY 77.3.3: The County encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way. (Ord. No. 02-02)

POLICY 77.3.4: The County encourages new developments to incorporate large, contiguous open space areas in the development design. (Ord. No. 02-02)

POLICY 77.3.5: Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas. (Ord. No. 02-02)

APPLICANT NARRATIVE: As part of the Three Oaks Parkway-Oriole Road water management system that was permitted through South Florida Water Management District (SFWMD), along the western edge of the project there is a 3.12-acre native wetland preserve, 1.34-acres of lakes, and a 0.21-acre open space tract (Tract "D") for a total of 4.67 acres which is 15.2% of the overall project area.

All parcels used for commercial development shall provide an 30% open space and all parcels used for industrial development shall provide total 20% open space.

GOAL 124: WETLANDS. To maintain and enforce a regulatory program for development in wetlands that is cost-effective, complements federal and state permitting processes, and protects the fragile ecological characteristics of wetland systems

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.

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



Applicant Narrative: The property has an ERP permit (#36-05268-P) has a monitoring program that has been implemented for the preserved/enhanced wetland/upland areas on a regular basis to ensure the integrity and viability of the areas that are permitted. Furthermore, a conservation easement has been deeded to SFWMD (Instrument #2011000192265).

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

Applicant Narrative: As mentioned, the Applicant has obtained the requisite ERP # 36-05268-P. The site design will ensure pretreatment of stormwater prior to discharge off-site.

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.*

Applicant Narrative: The property is part of an ERP permit #36-05268-P from the South Florida Water Management District

Land Development Code Analysis

The proposed rezoning complies with the general standards in the Land Development Code Section 34-411 as follows:

(A) All planned developments must be consistent with the provisions of the Lee Plan.

The proposed rezoning to a MPD is consistent with the Comprehensive Plan as demonstrated above.

(b) All planned developments must be designed and constructed in accordance with the provisions of all applicable County development regulations in force at that time. Deviations from the general provisions of this chapter may be permitted if requested as part of the application for a planned development in accordance with section 34-373(a)(9) and approved by the Board of County Commissioners based on the findings established in section 34-377(b)(4). Pursuant to section 34-373(a)(10) the establishment of property development regulations for planned developments does not require deviations from articles VI and VII of this chapter. Amendments to approved master concept plans may be reviewed pursuant to section 34-380.

The proposed development will comply with applicable Lee County regulations and does not include any deviation requests.

(c) The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties and the public interest generally, and must be of such size, configuration and dimension as to adequately accommodate the proposed structures, all required open space, including private recreational facilities and parkland, bikeways, pedestrian ways, buffers, parking, access, on-site utilities, including wet or dry runoff retention, and reservations of environmentally sensitive land or water.



The proposed rezoning to MPD is compatible with surrounding land uses. The 30.65-acre site can adequately accommodate the proposed structure, open space, pedestrian ways, buffers, parking, access, utilities and storm water management without deviations from LDC

(d) All planned developments must have access to existing or proposed roads. Access must comply with the requirements of chapter 10 and be located so that site-related industrial traffic does not travel through predominantly residential areas.

The proposed MPD has access to Oriole Road (Major Collector) and Proposing access to Alico Road (Arterial Roadway).

(e) If within the Lee Tran public transit service area, the development shall be designed to facilitate the use of the transit system.

The property is within the Lee Tran public transit service area, route 60. Lee Tran stops #11635 is adjacent to the property

(f) Development and subsequent use of the planned development shall not create or increase hazards to persons or property, whether on or off the site, by increasing the probability or degree of flood, erosion or other danger, nor shall it impose a nuisance on surrounding land uses or the public's interest generally through emissions of noise, glare, dust, odor, air or water pollutants.

The proposed development will not create any hazards to persons or property and will comply with all applicable regulations.

(g) Every effort shall be made in the planning, design and execution of a planned development to protect, preserve or to not unnecessarily destroy or alter natural, historic or archaeological features of the site, particularly mature native trees and other threatened or endangered native vegetation. Alteration of the vegetation or topography that unnecessarily disrupts the surface water or groundwater hydrology, increases erosion of the land, or destroys significant wildlife habitat is prohibited. That habitat is significant that is critical for the survival of rare, threatened or endangered species of flora or fauna.

The site has previously been cleared and did not show any environmentally critical or sensitive areas. The proposed MPD will not create any new adverse effects.

(h) A fundamental principle of planned development design is the creative use of the open space requirement to produce an architecturally integrated human environment. This shall be coordinated with the achievement of other goals, e.g., the preservation or conservation of environmentally sensitive land and waters or archaeological sites.

The proposed MPD will meet the open space requirements of the Land Development Code (LDC). The site does not have any environmentally sensitive lands and is not within the archaeological sensitivity zone.

(i) Site planning and design shall minimize any negative impacts of the planned development on surrounding land and land uses.



The proposed development will be designed to minimize any potential negative impacts to surrounding land uses by meeting the requirements of the LDC without deviations.

(j) Where a proposed planned development is surrounded by existing development or land use with which it is compatible and of an equivalent intensity of use, the design emphasis shall be on the integration of this development with the existing development, in a manner consistent with current regulation.

The proposed Mixed-Use Planned Development (MPD) is consistent and is compatible with existing development patterns.

(k) Where the proposed planned development is surrounded by existing development or land use with which it is not compatible or which is of a significant higher or lower intensity of use (plus or minus ten percent of the gross floor area per acre if a commercial or industrial land use, or plus or minus 20 percent of the residential density), or is surrounded by undeveloped land or water, the design emphasis will be to separate and mutually protect the planned development and its environs.

The proposed project design is compatible and consistent with the existing development patterns. The surrounding land use patterns are equivalent in intensity, type of uses (commercial and industrial) and of similar approved and proposed densities.

(l) In large residential or commercial planned developments, the site planner is encouraged to create subunits, neighborhoods or internal communities which promote pedestrian activity and community interaction.

The requested rezoning is considered a mixed-use planned development that does not require subunits, neighborhoods or internal communities. However, internal sidewalks to encourage pedestrian activity and to expand transportation options are being proposed.

(m) In order to enhance the viability and value of the resulting development, the designer shall ensure the internal buffering and separation of potentially conflicting uses within the planned development.

The proposed development includes a variety of general commercial, office, and industrial uses. The MPD promotes a compact development footprint in an area of the county that is classified as Industrial development. Common open space, parking and walkways with supportive infrastructure will be integrated within the development. The proposed development will not have conflicting uses within the planned development.

(n) Density or type of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter, or, conversely, to permit the concentration of intensity where it is desirable, e.g., on a major road frontage or at an intersection.

Care has been given to selecting land uses that are consistent with adjacent development. The proposed location of the Commercial is abutting the southern



boundary of the site, which abuts a Alico Road. The proposed location for Industrial northern abutting existing industrial uses.

(o) Minimum parking and loading requirements are set forth in article VII, divisions 25 and 26 of this chapter. Where land uses are generators of occasional peak demand for parking space, a portion of the required parking may be pervious or semi-pervious surfaces, subject to the condition that the parking area is constructed and maintained so as to prevent erosion of soil. In all cases, sufficient parking must be provided to prevent the spilling over of parking demand onto adjacent properties or rights-of-way at times of peak demand.

Sufficient parking with these uses will be provided to prevent from spillover to adjacent properties and will be consistent with LDC requirements.

(p) Internal consistency through sign control, architectural controls, uniform planting schedules and other similar controls is encouraged.

The proposed mix planned development will be developed with internal consistent with signage, architectural and landscaping.

DECISION-MAKING COMPLIANCE

In accordance with LDC Section 34-145(d)(4), the data and analysis provided in the enclosed application demonstrate the following

a) Complies with the Lee Plan;

The application is consistent with the uses and densities set forth for the Industrial Development Future Land Use designation. The rezoning will allow for a mix of office, retail, commercial and industrial uses distributed over the MPD with the majority of the industrial and manufacturing uses concentrated on the far western portion of the property and the mixed industrial/commercial/retail uses to the east of the property, along the Oriole Road and Alico Road frontages.

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

The applicant has proved entitlement to the rezoning by demonstrating compliance with the Lee Plan, the land development code, and any other applicable code or regulation, except where a deviation is requested and demonstrates the protection of public health, safety and welfare.

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

The request is compatible with existing or planned uses in the surrounding area as indicated by the adjacent MPD, IPD and CPD planned developments with similar uses in the vicinity of the project. The surrounding area contains a mixture of existing and planned industrial developments, shopping centers, hotels, institutional uses, retail and office with the commercial, retail and service uses along Alico Road, and the industrial development concentrated to the west of



Oriole Road The proposed rezoning represents a continuation of the development patterns within the surrounding area.

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

Just south of the subject property is Alico Road (a major arterial roadway) and the site is bounded on the east by Oriole Road (a major collector). The property proposes one access onto Alico Road and two access points onto Oriole Road, providing access to the diverse mix of uses developing throughout the area. The access points will provide ingress/egress for the individual Tracts within the development.

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

As demonstrated in the Traffic Impact Study, approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development. The projected level of service and significant impacts to the surrounding areas were analyzed and there is no expected adverse impact to roadway level of service as a result of the proposed development.

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

The site consists primarily of heavily grazed cleared pastureland. An environmental report and protected species survey were prepared and there are no environmentally critical lands on-site and no expected impacts to any protected species. All wetlands on-site have been previously identified and permitted through the State and Federal Wetlands Program and covered by SFWMD Permit 36-05268-P. An existing canal is located at the western boundary of the property which will not be impacted by the proposed development and the existing wetland on-site is within the Conservation and Water Management area. within the subject property.

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

The subject property is located within the Industrial Development land use category, which is in the Future Urban area. Adequate potable water and sanitary sewer services are available to this area. The property is adjacent to arterial and collector roadways and located in an area convenient for employees to access. Adequate public services including EMS, Sheriff and fire protection are available to service the proposed development.

CONSISTENCY SUMMARY



As discussed in this application, the applicant has demonstrated that the proposed Alico Oriole West MPD is consistent with the goals, objectives, policies, and the intent of the Lee Plan and that the proposed mix of uses is consistent with the intent for growth and development within the Industrial Development Land Use Category.

The request will not cause damage, hazard, nuisance or other detriment to persons or property. It is being integrated into the existing neighborhood as a relatively low intensity development and is similar in nature to the uses in the area.

There is no error or ambiguity that must be corrected.

Urban services, as defined in the Lee Plan, are available for this site. Public utilities and a roadway network are already in place and available for use.

Sufficient evidence has been provided within this application that this rezoning is in compliance with the Lee Plan, the Land Development Code, and all other applicable rules and regulations. The requested uses will be in compliance with the general zoning provisions and supplemental regulations pertaining to the uses set forth in Chapter 34 of the LDC.

The request will meet or exceed all performance and location standards set forth for the uses allowed by the request.

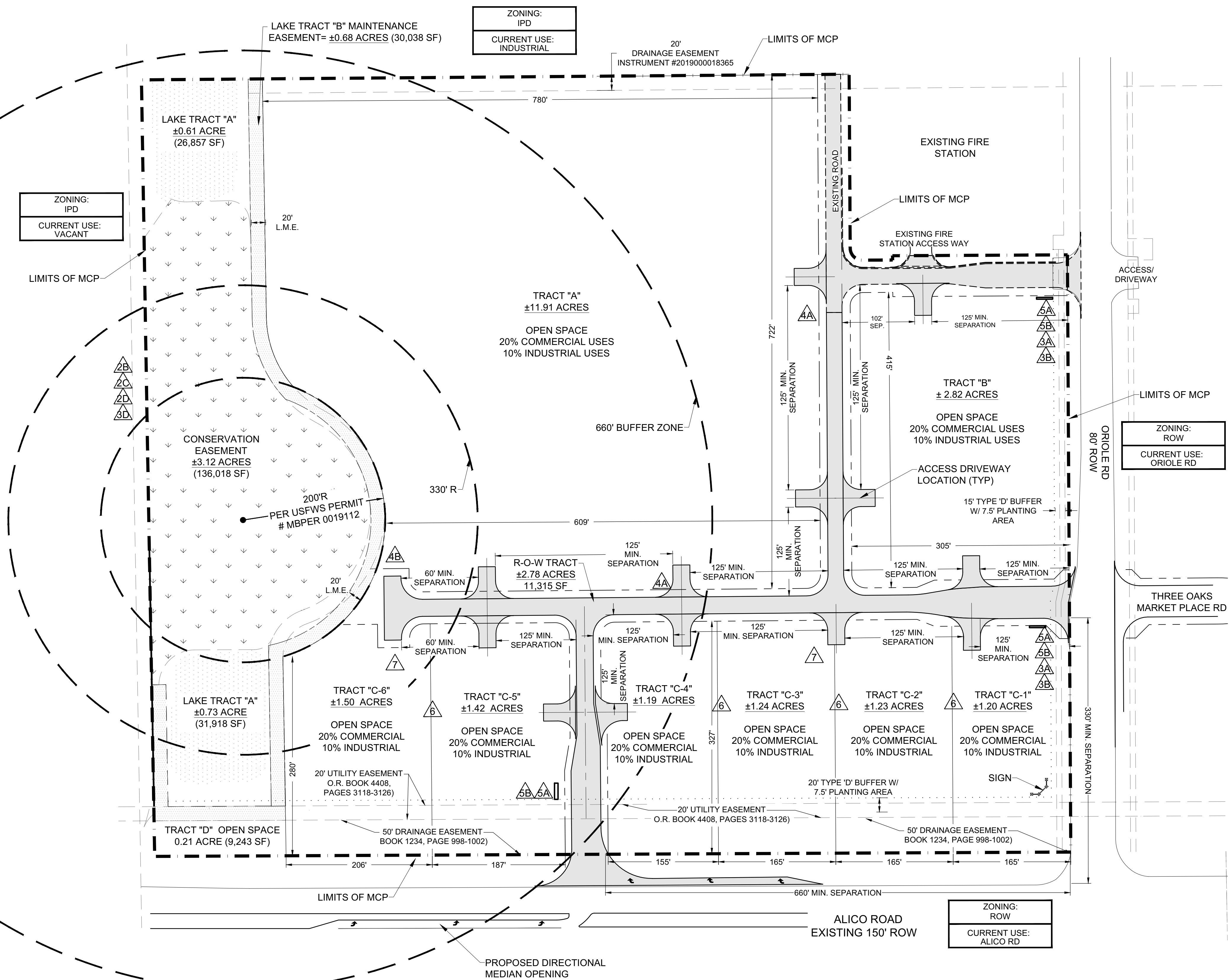
The request is consistent with the densities, intensities and general uses set forth in the Lee Plan and compatible with existing or planned uses in the surrounding area.

Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development.

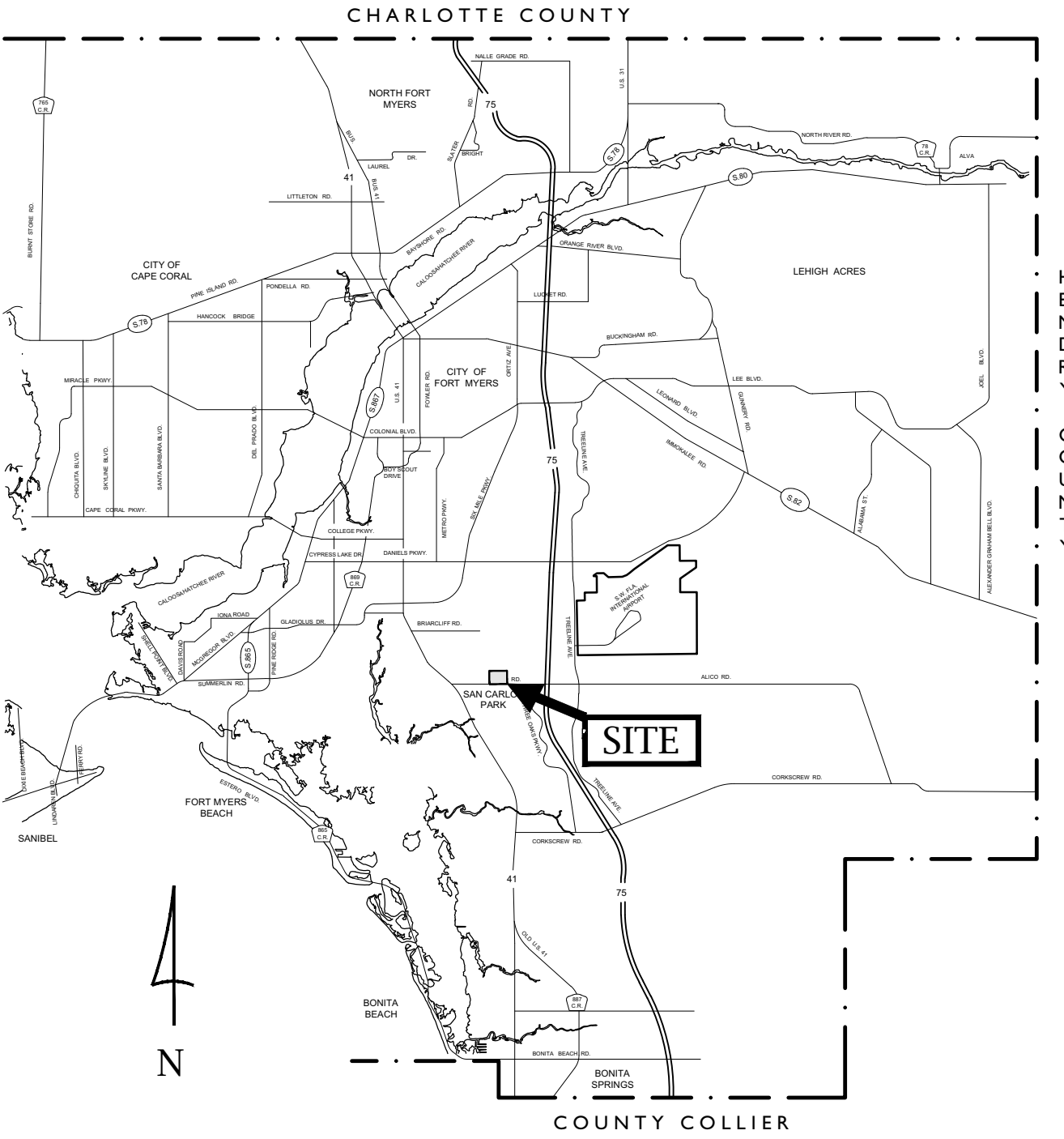
Additional info dated 03-22-2023

ALICO ORIOLE WEST

LOCATED IN SECTION 04, TOWNSHIP 46-S, RANGE 25-E, LEE COUNTY, FLORIDA



MASTER CONCEPT PLAN



LOCATION MAP

(NOT TO SCALE)

PROJECT SUMMARY:

ZONING
AG-2 to MPD

STRAP #s
04-46-25-L3-00003-0020

PROJECT ACREAGE
30.64 ACRES (1,334,896 SF)

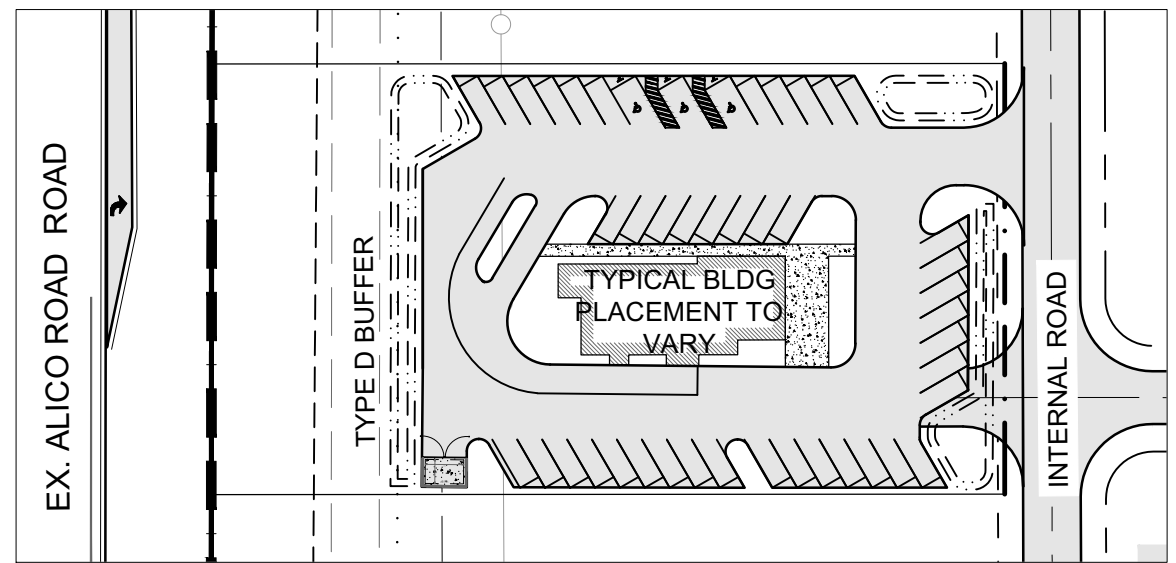
PROJECT INTENSITY
MAX BUILDING FLOOR AREA = 350,000 SF
MINIMUM 30,000 SF COMMERCIAL
MINIMUM 30,000 SF INDUSTRIAL

OPEN SPACE
COMMERCIAL USES: 20%
INDUSTRIAL USES: 10%

CONSERVATION AN LAKE AREA
4.46 ACRES

DEVIATIONS
XX

TYPICAL LOT LAYOUT:



Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net



2726 OAK RIDGE COURT, SUITE 503
FORT MYERS, FL 33901-9356
OFFICE 239.278.3090
FAX 239.278.1906

TRAFFIC ENGINEERING
TRANSPORTATION PLANNING
SIGNAL SYSTEMS/DESIGN

January 20, 2023

Mr. Al Quattrone, P.E.
Quattrone & Associates, Inc.
11000 Metro Pkwy, Suite 27
Fort Myers, FL 33912

RE: Oriole Alico West MPD
DCI2022-00061

Dear Mr. Quattrone:

TR Transportation Consultants, Inc. has reviewed the Traffic Impact Statement (TIS) comments issued by the Lee County Department of Community Development regarding the above project. The comments and TR Transportation's response to those comments are listed below for reference.

LC T.I.S. Application Sufficiency Checklist:

1. *In the schedule of uses, there are higher trip generating land uses (e.g. manufacturing, medical offices) than the proposed land use. The worst scenario in the schedule of uses for trip generation should be analyzed. Otherwise, it is advised to reduce the schedule of uses.*

The traffic study was completed consistent with the approved TIS practices in Lee County for rezoning projects. See approved traffic studies for Three Oaks Distribution Center (DCI2019-00013) and Three Oaks Logistics Center (DCI2020-00014), which were conducted based on the SAME trip generation methodology as this project.

A more detailed traffic study will be provided at the time the project seeks a local Development Order approval which is when more specific end-users/intensities will be known. Since the end-users are unknown at this time, assuming general retail and industrial park land use categories for the rezoning traffic study purposes is acceptable. Additionally, the ITE description for Land Use Code 820 (Shopping Center) states that "*a shopping center of this size typically contains more than retail merchandising facilities. Office space, a movie theater, restaurants, a post office, banks, a health club, and recreational facilities are common tenants*". Therefore, most of the uses that are included in the proposed Schedule of Uses were technically accounted for by utilizing ITE LUC 820 for the trip generation purposes of this project. For planning purposes, it would be also unreasonable to assume that all of 175,000 square feet of commercial floor area will consist of medical office space. The trip generation was also completed consistent with the proposed Master Concept Plan.



Mr. Al Quattrone
Oriole Alico West MPP
DCI2022-00061
January 20, 2023
Page 2

2. *It is recommended to provide the methodological steps for calculating the "Peak Season Correction Factor" in development of future year background turning volumes.*

The peak season correction factor was simply obtained from the *FDOT's Florida Traffic Online webpage* for the September 15th date, which is when the traffic counts were conducted on the surrounding intersections. This methodology is consistent with the other traffic studies prepared in Lee County.

3. *It is recommended to provide justifications for considering "50% build-out year reduction" in calculation for future background through volumes on oriole road.*

The reason for "50% build-out reduction" in the calculation of the future background through traffic volumes on Oriole Road is because the build-out of the other remaining properties along Oriole Road is not expected to be completed before the build-out of this project. Additionally, the future background through traffic volumes were calculated based on the approved zoning intensities on those properties. The actual vertical development on those properties is likely to be less than what was approved in their zonings. Additionally, the methodology used for calculating the future background through traffic volumes is consistent with the approved traffic studies that were previously prepared in this area (see approved TIS for DCI2020-00014).

4. *In developing the future background through volumes on oriole road, the AM/PM peak hour trip generation calculations for some land uses (e.g., shopping center, office, and industrial) appear incorrect.*

Acknowledged. The reason the AM and PM peak hour generation calculations appear incorrect in this spreadsheet is because it was calculated based on the *ITE Trip Generation Manual, 10th Edition*. Attached is the revised spreadsheet based on the *ITE Trip Generation Manual, 11th Edition*, which illustrates a lower trip generation when compared to the previous version of the ITE Manual. Therefore, the analysis as part of the previously submitted TIS report was completed based on the worse trip generation scenario and therefore no revisions should be necessary.

If you have any additional questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Yury Bykau', is written over a light blue horizontal line.

Yury Bykau, P.E.
Senior Project Manager

Attachments

K:\2020\03 March\16 Three Oaks Logistics Center\Sufficiency\6-3-2021 Sufficiency.doc

Land Use Intensity

Land Use	Land Use Code	Unit Count	Unit Type
Shopping Center	LUC 820	0	square feet
General Office	LUC 710	75,000	square feet
Medical Office	LUC 720	0	square feet
Single-Family	LUC 210	0	dwelling units
Multi-Family	LUC 220	0	dwelling units
Hotel	LUC 310	0	rooms
Industrial	LUC 130	1,375,000	square feet

E. side of Oriole		Unit Count	Unit Type
		815,000	square feet
		815,000	square feet
		0	square feet
		0	dwelling units
		0	dwelling units
		0	rooms
		1,070,000	square feet

Trip Generation W. of Oriole

Land Use	Land Use Code	AM Peak Hour		Total
		In	Out	
Shopping Center	LUC 820	0	0	0
General Office	LUC 710	115	16	131
Industrial	LUC 130	379	89	468
Total Trips		494	105	599
Total Trips (50% Build-out Yr Reduction)		247	53	300

Trip Generation W. of Oriole

Land Use	Land Use Code	PM Peak Hour		Total
		In	Out	
Shopping Center	LUC 820	0	0	0
General Office	LUC 710	22	109	131
Industrial	LUC 130	103	365	468
Total Trips		125	474	599
Total Trips (50% Build-out Yr Reduction)		63	237	300

Trip Generation E. of Oriole

Land Use	Land Use Code	AM Peak Hour		Total
		In	Out	
Shopping Center	LUC 820	308	188	496
General Office	LUC 710	895	122	1,017
Industrial	LUC 130	295	69	364
Total Trips		1,498	379	1,877
Total Trips (50% Build-out Yr Reduction)		749	190	939
Total Trips to Oriole Road (40%)		300	76	375

(Remaining 60% will directly use Three Oaks Pkwy)

Trip Generation E. of Oriole

Land Use	Land Use Code	PM Peak Hour		Total
		In	Out	
Shopping Center	LUC 820	1,002	1,085	2,087
General Office	LUC 710	161	786	947
Industrial	LUC 130	80	284	364
Total Trips		1,243	2,155	3,398
Total Trips (50% Build-out Yr Reduction)		622	1,078	1,699
Total Trips to Oriole Road (40%)		249	431	680

(Remaining 60% will directly use Three Oaks Pkwy)

Total Trips on Oriole Rd		
AM Peak Hour		
In	Out	Total
547	128	675
PM Peak Hour		
In	Out	Total
311	668	979

ORIOLE ALICO WEST, MPD
DCI2022-00061 -Major PD

Bald Eagle Management Plan
Eagle Nest LE093
February 24 2023

Owner
Horowitz Sanford I TRFOR Land Trust
d.b.a. Three Oaks Horowitz LLC
Alan Freeman
Suite 5
28120 Hunters Ridge Blvd
Bonita Springs, FL 34135

Preparer
Synecological Analysts® Inc.
2159 Morning Sun Ln
Naples, FL 34119

Table Of Contents

1	Background and Introduction	Page 3
2.	Existing Conditions	Page 4
3.	Management Plan	Page 6
4.	Minimization Measures to Limit Incidental Take	Page 7
5.	Monitoring and Reporting Requirements	Page 9

Attachments

Short-Term Eagle Incidental Take Permit No. MBPER0019112

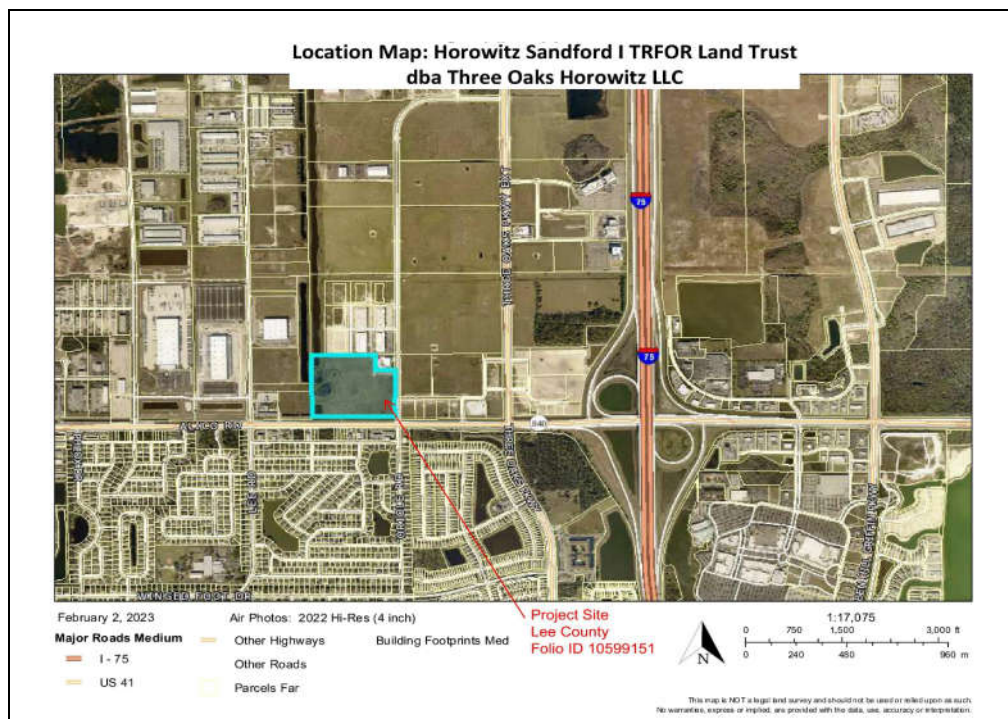
LE093 Nesting History

Background and Introduction

Three Oaks Horowitz LLC is seeking approval to develop the West Oriole Marketplace project on this approximately 29.16 ac parcel (STRAP 04-46-25-L3-00003.0020). The proposed development This parcel is bordered by a fire saltation, industrial park and vacant land to the north, Oriole Rd to the east, Alico Rd to the south and water management areas and vacant land to the west. This site has both State (SFMWD Permit No. 36-0568-P) and Federal (No Permit Required SAJ-2006888) wetland approvals. All wetland impacts have been mitigated consistent with these approvals.

Nest LE-093 have been active since the 2012-13 nesting season. This nest occurs in a conservation easement that was created by the previously referenced SFMWD ERP permit. The nest is located in a large cypress tree at elevation 79'+-, State Plane Coordinates N= 785411.26 E= 718332.81. The nest is located 65.3' above ground. The nest has been destroyed by storms and rebuilt multiple times over the years. Most recently, Hurricane Ian damaged but did not destroy this nest. The nesting pair repaired the damage soon thereafter and the nest is observed to be active.

This Eagle Management Plan is intended to facilitate both the long term habitat quality for this pair of nesting eagles and responsible development of the parcel as proposed. The applicant has been granted a Short Term Eagle Take Permit No. MBPER00119112. This permit allows for development of this project within portions of the buffer zones, consistent with Permit Conditions/guidelines and minimization protocols. The conditions of this permit will be discussed in more detail in subsequent sections.



Existing Conditions

Synecological Analysts® (SAI) conducted an Environmental Assessment on this site. SAI evaluated this property to determine distribution, extent, and character of vegetational communities. Habitat types, jurisdictional wetland status, potential or presence of listed species, and suitability of the on-site habitat for listed species habitat were also evaluated. Soil types, distribution and extent were determined to assist in other evaluations.

All native communities except the Cypress head (FLUCCS 621) have been disturbed over an extended period of time as a result of AG management practices and drainage/road work networks. This disturbance influenced the considerable majority of this site and occurred in progressive fashion.

Oriole Marketplace site is not a pristine area that approximates the pre-development character of this general area. Plant communities and habitat have been severely impacted over time by ongoing AG activity. Most of the non-Cypress canopy and much of the Saw palmetto upland shrub strata are largely absent. Regional and area drainage has been massively disrupted. Cycles of fire and renewal have been absent from this site for decades.

Plant communities and land uses were identified according to the Florida Department of Transportation (FDOT1999) Florida Land Use, cover and Forms Classification system (FLUCCS) protocol.

FLUCCS 211 - Improved Pasture

This upland habitat type is found in both the primary and secondary buffers of the bald eagle nest tree and contains several shallow ditches/swales that were part of the historic agricultural use. The canopy is mostly open with scattered live oak (*Quercus virginiana*), laurel oak (*Quercus laurifolia*), and slash pine along the edges. The sub-canopy is mostly open with scattered Brazilian pepper (*Schinus terebinthifolius*) and cabbage palm (*Sabal palmetto*). The groundcover is dominated by Bahia grass (*Paspalum notatum*), with scattered Spanish needles (*Bidens alba*), false buttonweed (*Spermacoce verticillata*), ragweed (*Ambrosia artemisiifolia*), broomsedge (*Andropogon virginicus*), caesarweed (*Urena lobata*), dog fennel (*Eupatorium capillifolium*), smutgrass (*Sporobolus* spp.), and other various opportunistic weedy species. Commonly observed vines include greenbriar (*Smilax* spp.), and grapevine (*Vitis rotundifolia*).

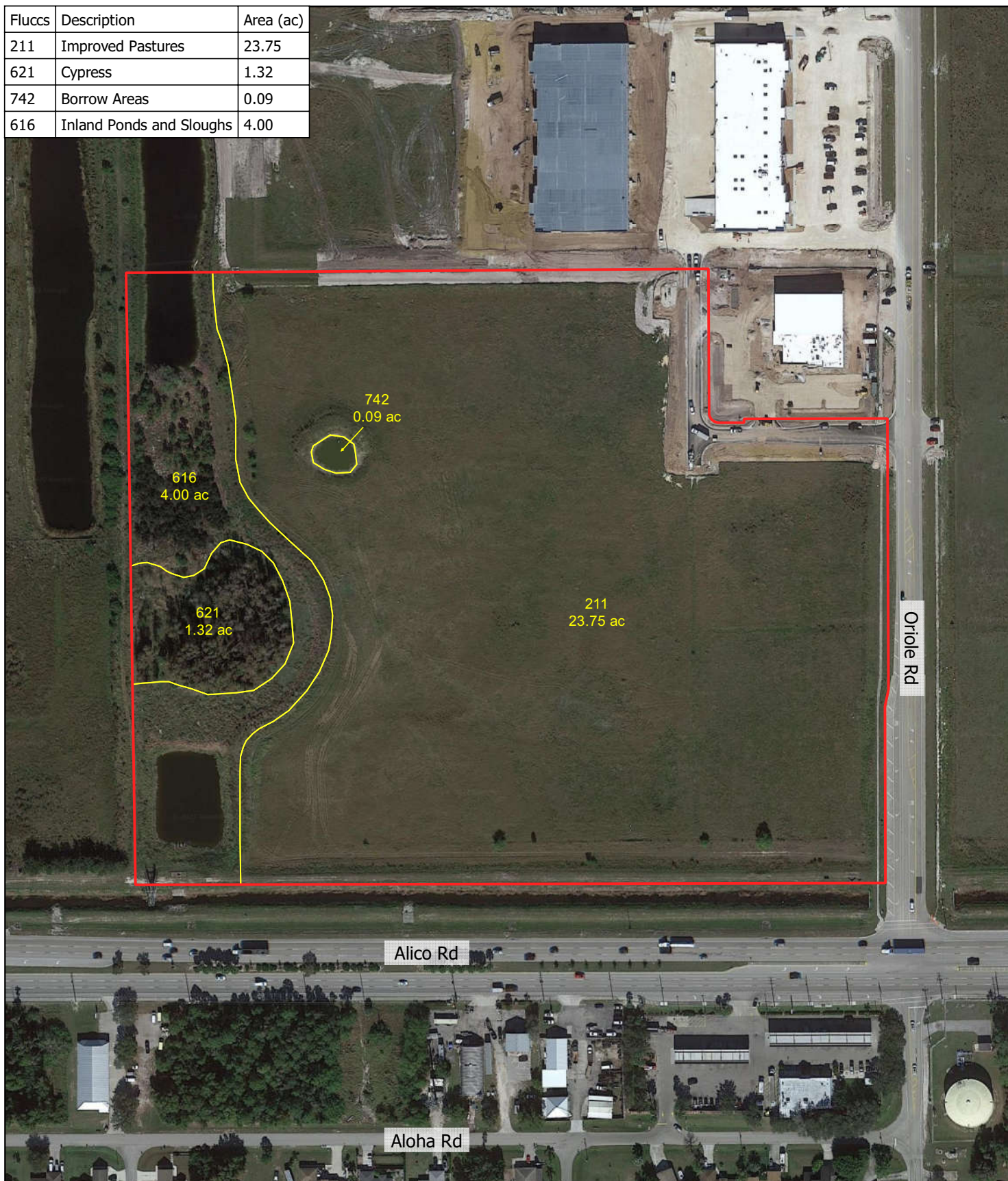
FLUCCS 616 - Inland Ponds and Sloughs

This area is a human constructed conservation area and water management system and mimics closely these Inland Ponds and Sloughs systems occurring naturally. The dominant shrubs are Wax myrtle and Willow. Herbaceous components include Maiden cane, Sawgrass, and a wide variety of sedges and rushes. This area is excluded from cattle grazing.

FLUCCS 621 - Cypress

This community occurs as isolated heads in the central portion of the site. Along the

Flucss	Description	Area (ac)
211	Improved Pastures	23.75
621	Cypress	1.32
742	Borrow Areas	0.09
616	Inland Ponds and Sloughs	4.00



ENVIRONMENTAL EVALUATION AND ADVOCACY

2159 Morning Sun Lane
NAPLES, FLORIDA 34119
PHONE: (239) 514-3998
www.synecol.com

PROJECT: West Oriole Marketplace - Flucss
Map

DATE: March 29, 2022

DRAWN BY: NW



southeast and northeast site boundary, larger areas occur. Bald Cypress (*Taxodium distichum*) and Pond Cypress dominate the canopy. Scattered Slash pine occur within this cypress matrix. Swamp bay and Dahoon characterize the shrub stratum along the margins. The shrub component Representative herbaceous components include Swamp Fern and Laurel greenbrier. The canopy in this community is mature Pond cypress varying between 65' to 75' in height. There are two primary perch trees at the north and south sides of this head. These perch trees are 68' and 75' tall, respectively. Their location is shown on the following page. There are 5-8 trees in this head that could be considered as adequate as nest trees. If this pair relocates the nest there are several trees that would be adequate for this use.

The shrub canopy is largely Cabbage palm, with considerable composition of Dahoon holly, Pond apple, Buttonbush and Willow. These trees are on the order of 10-20' in height. Because this area is a preserve, exotic control is ongoing and the exotic component limited. The herbaceous strata includes Maidencane, *Spartina Bakerii*, Bushybeard bluestem and swamp fern.

FLUCCS 742 - Borrow Area

Borrow areas cover approximately 0.1 acres of this site and are essentially devoid of emergent vegetation.

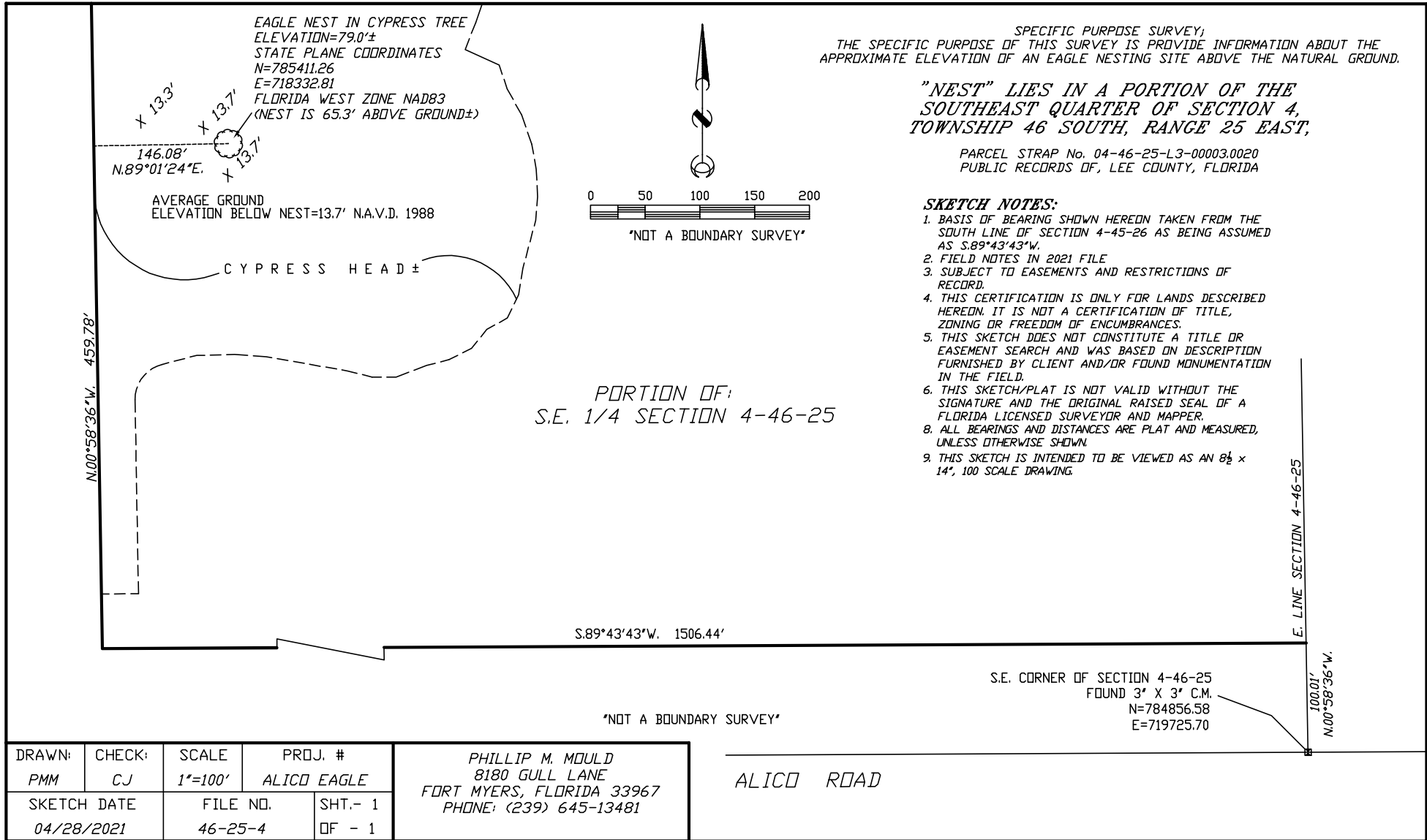
Management Plan

Regulatory basis of activities result in the issuance of an Incidental Take Permit issuance of bald eagles occurs through the USFWS Eagle Permit (Eagle Permit) process under 50 C.F.R. 22.26. The 2007 FWS National Bald Eagle Management Guidelines ("Guidelines") provide guidance regarding options to minimize disturbance (impacts) to bald eagles. The Bald and Golden Eagle Protection Act does not allow disturbance. The Federal Take Permit and County Eagle Management Plan provide guidance to minimize such disturbance. On April 20, 2017, the Florida FWC approved revisions to the state's bald eagle rule (68A16.002, F.A.C.) That became effect on 22 June 2017. The result of this revision is that only a Federal permit is required for activities with the potential to take or disturb bald eagles or their nests. This Bald Eagle Management Plan reflects necessary minimization and Special Conditions set forth in the Short-Term Eagle Incidental Take Permit obtained for the project. Two zones , 330' and 660' feet from nest LE093, each of which has differing levels of restrictions as to the proposed development and timing of constructions.

Proposed Conservation Measures Within 660' -

What conservation measures are proposed within 660' during nesting season?

1. The proposed vegetation/visual buffer (Figure 2) will be installed when the nest is not in use, generally 1 Oct - 15 May.
2. The previously described landscape/visual buffer.



Flucss	Description	Area (ac)
211	Improved Pastures	23.75
621	Cypress	1.32
742	Borrow Areas	0.09
616	Inland Ponds and Sloughs	4.00

- Property boundary
- Flucss area
- Eagle nest
- x Commonly used perch tree (tree height 68'-75')



ENVIRONMENTAL EVALUATION AND ADVOCACY

2159 Morning Sun Lane
NAPLES, FLORIDA 34119
PHONE: (239) 514-3998
www.synecol.com

PROJECT: West Oriole Marketplace - Flucss Map

DATE: Feb 27, 2023

DRAWN BY: NW



0 100 200 ft



3. The nesting tree is located in a conservation area, behind a large berm. The proposed buildings present no restraint on the birds flight path.
4. No active external construction within 330' of the nest when the nest is active, nesting season (1 Oct through 15 May).
5. On site signage regarding the urgency of being quite during the nesting season.

Proposed Activities Between the 330' - 660' Buffer of LE093

The onsite development and associated utilities needed to support the onsite development, located between 330' and 660' of the eagle nest are presented below.

If any exterior construction or project activities within this zone need to occur when the nest is in-use, (October 1 — May 15), the following restrictions/management practices will be utilized

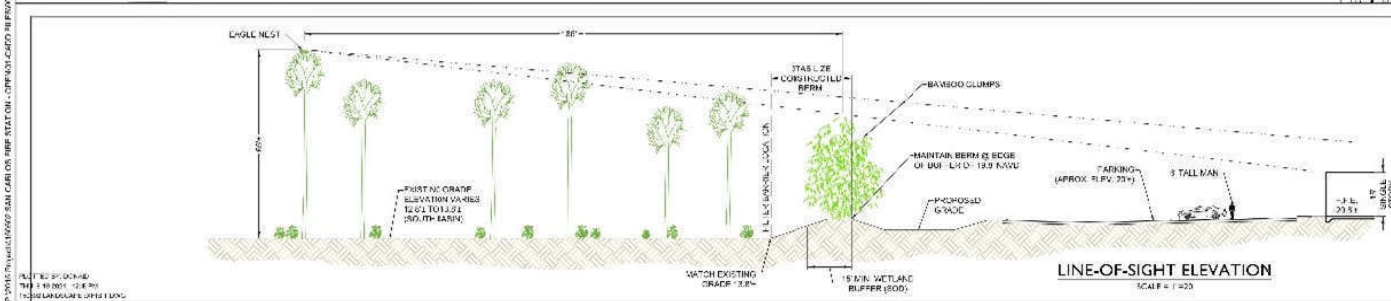
1. A traffic/noise abatement program will be initiated for construction personnel, which includes:
 - a. no excessive and/or sudden loud noise, including engine braking, tailgate banging, loud radios, shouting, singing, etc
 - b. All motorized equipment, including saws or other hand held power tools must be moved indoors if possible or placed to minimize noise at and reflect noise away from the direction of the eagle nest tree
 - c. Minimize the need for "reverse" indicator horns and utilize ground flag crews to the degree practicable to avoid using reverse indicator horns
 - d. Provide signage in English and Spanish emphasizing the need for quiet to the extent practicable.
 - e. A staging area for equipment and parking/car pool location for construction or project personnel will be established outside of 330' of the eagle nest tree.
2. Monitoring will be conducted up to three times a week for a minimum of 90 minutes each to document nest status, eagles reactions to ongoing work. Monitoring will occur on days that construction is ongoing and in process to the extent possible. Monitoring may be reduced to on day per week five weeks post hatching, with concurrence from County staff.

Activities Between the 196' - 330' Buffer of LE093

Exterior construction, heavy landscaping, and associated activities are prohibited within 330' of the nest tree when the nest is in-use. The developers will comply with this restriction, resulting in the need for the proposed work between 196' - 330' of the nest tree to occur only when the nest is not in-use.

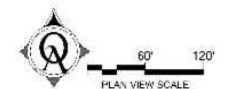
NW CORNER OF ALICO ROAD & ORIOLE ROAD, FORT MYERS, FL 33912
LOCATED IN SECTION 03 & 04, TOWNSHIP 46-S, RANGE 25-E, LEE COUNTY, FLORIDA

NW CORNER OF ALICO ROAD & ORIOLE ROAD, FORT MYERS, FL 33912
LOCATED IN SECTION 03 & 04, TOWNSHIP 46-S, RANGE 25-E, LEE COUNTY, FLORIDA



LOCATION MAP

PROJECT SUMMARY:



Q **Quattrone & Associates, Inc.**
Engineers, Planners, & Development Consultants
4301 Virginia Shattuck Blvd. | Fort Myers, FL 33916 | 239.656.5722 | Q@qai.com

Between the O' — 196' (No Development) Buffer of LE093

No development is proposed on the West Oriole Marketplace site within 196' of LE093. Attachment Two shows ±1.3 acres of undeveloped land to remain around the nest tree within the West Oriole Marketplace site, Per Lee County Development Code requirements, invasive vegetation will be removed within the entire development area, including this buffer zone. This exotic control is also mandated by the existing SFWMD permit for this site. Such invasive removal will only occur outside of the bald eagle nesting season and when the nest is not in-use.

Minimization Measures to Limit Incidental Take

In accordance with Eagle Incidental Take Permit MBPER0019112, the following measures will be implemented by the developer to help minimize disturbance to eagle nest LE093:

1. Prior to construction of the proposed work within 660' of the eagle nest tree, educational materials that outline how to minimize disturbance to eagles, along with contact information for the local eagle rehabilitator, will be prepared and provided to project personnel, tenants occupying any building located within 660' of the nest tree, and maintenance personnel responsible for the post-project maintenance of the project area within 660' of the nest tree.
2. All project related exterior or temporary construction lighting, if used, will be shielded/directional in nature so that lights do not shine directly onto the eagle nest.
3. If using pesticides, herbicides, or other chemicals onsite, State and federal BMP's, laws and label instructions will be followed at all times.
4. Overhead utility lines will be coordinated to be in compliance with the Avian Power Line Interaction Committee (APLIC) Guidelines found at www.aplic.org to reduce the potential for any electrocution, collision, and/or nesting of avian species.
5. The proposed visual buffer between the wetland area where the eagle nest is located and the proposed development extends over 630 linear feet along the existing berm (Attachment 2). The applicant proposes to install fifty three (53) 25-30' OA Bamboo (*Bambusa textilis gracillis*) on 12' centers with the goal to create a visual buffer between LE093 and the proposed development. These plants will have an irrigation system installed to support their vigor and growth. The location and extent of this buffer is shown in figure two. The line of sight drawn extends is due east from the nest. The purpose of the bamboo plantings is to shield human activity from both the perch trees and nest. Based on our observations of this nesting pair they are not influenced by equipment, traffic or noise. Human presence/activity not mounted on equipment focuses their attention.

Monitoring and Reporting Requirements

The Federal Take Permit relative to this nest requires a qualified biologist is required to monitor eagle use of the nesting territory h is defined as up to a 1.5-mile radius of eagle nest LE093, onsite that is legally accessible by the developer and where the activities occur. The monitor will be experienced in recognizing specific patterns and changes of eagle behavior and employed by or contracted by the permittee, landowner, company, or entity responsible for having the activity monitored. The monitor will be as inconspicuous as possible, so not to cause a disturbance with his/her presence, and when applicable, a wildlife blind or viewing location out of direct sight of the eagle will be utilized.

Monitoring will be conducted at a distance that allows for observation without an interruption in the eagle's normal breeding behavior. If the eagles do not return to the known nest location (LE093), the site will be monitored to assess whether or not the eagle nest, roost, and/or forage at a new location.

If a new eagle nest is built on the site or within the nesting territory, the monitor will report the new eagle nest location within 10 days to the FWS Southeast Region Eagle Biologist and ETAC through the assigned Lee County personnel. Monitoring will be conducted in the methodology previously described under the monitoring requirements for work within the 330'-660' buffer zone of the eagle nest, with the monitor using the FWS Bald Eagle Monitoring Data Report to record ongoing construction activities and eagle behaviors observed during each monitoring event. This information will be compiled onto the Eagle Take Annual Report Form (found online at www.fws.gov/forms/3,,202-15.pdf) and submitted annually to the FWS (submitted electronically to FW4eaglemonitoring@fws.gov and mailed to the migratory bird permit issuing office) and ETAC through the designated Lee County personnel.

The FWS Eagle Incidental Take Permit remains valid through September 30, 2025. However, if full construction on the subject site is complete prior to expiration of the federal permit, the FWS may be notified to have the permit closed accordingly. Lee County will be copied on all related Federal correspondence. Monitoring and reporting will continue in accordance with this Bald Eagle Management Plan and the referenced federal permit through completion of construction within 660' of the nest tree and close-out of the federal permit. The applicant understand that these compliance commitments at both the Federal, State and Local levels will transfer to any and all owners and users going forward. Regarding requirements of the approved eagle management plan and the state and federal eagle protection laws

The Federal Take permit mandates the following monitoring schedule.

Frequency	Eagle Monitoring Schedule	Duration	Timing
Once	November	60-90 minutes	Begin ½ hr before sunrise/set
Once	Between 15 Dec. and 15 Jan.	60-90 minutes	Begin ½ hr before sunrise/set
Once	Between 15 Feb. and 15 March	60-90 minutes	Begin ½ hr before sunrise/set
Once	April	60-90 minutes	Begin ½ hr before sunrise/set
Once	May	60-90 minutes	Begin ½ hr before sunrise/set
Once	Monthly thereafter until fledging or nest failure documented	60-90 minutes	Begin ½ hr before sunrise/set

ATTACHMENTS

LE-93: Alico Road**Strap Number: 04-46-25-00-00003.0020**

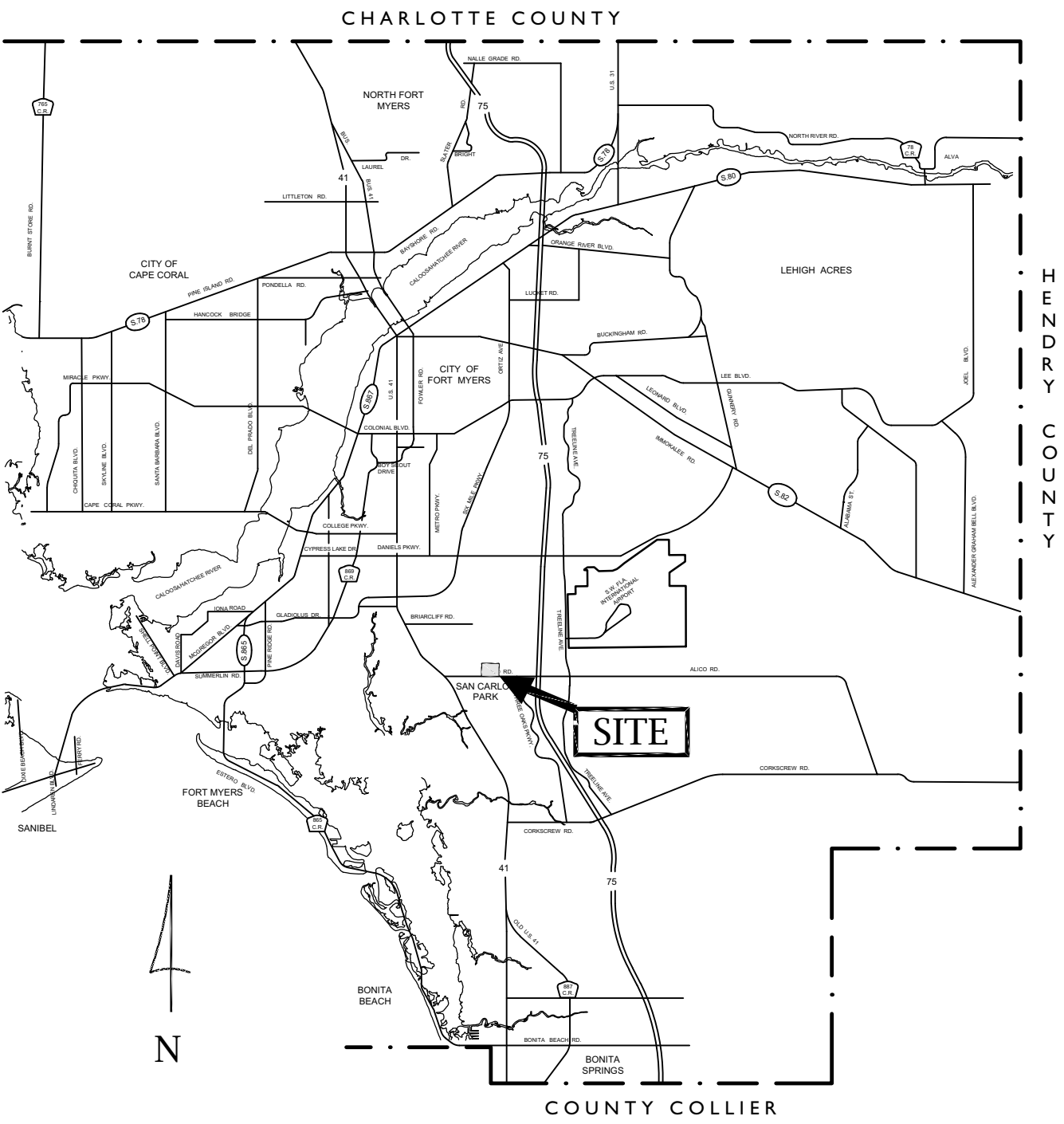
Year	History
2012-2013	Active, 1 Fledgling. Nest in Cypress Tree
2013-2014	Active, Nest Failed. Great Horned owl in nest.
2014-2015	Inactive, Eagles observed in the area but no activity at the nest
2015-2016	Active, 1 Fledgling. Nest was down at the end of the season.
2016-2017	Active, adults constructed nest but no incubation observed.
2017-2018	Active, nest failed. Incubation observed Dec 2017 and adult appeared to be feeding young in Jan 2018. No activity was observed after Jan 2018.
2018-2019	Active, 2 Fledglings confirmed
2019-2020	Active, 1 Fledgling confirmed
2020-2021	Active, 2 Fledglings confirmed

2021 - 2022 **Active, fledglings****2022 - 2023** **Active, fledglings not observed, but feeding behavior exhibited**

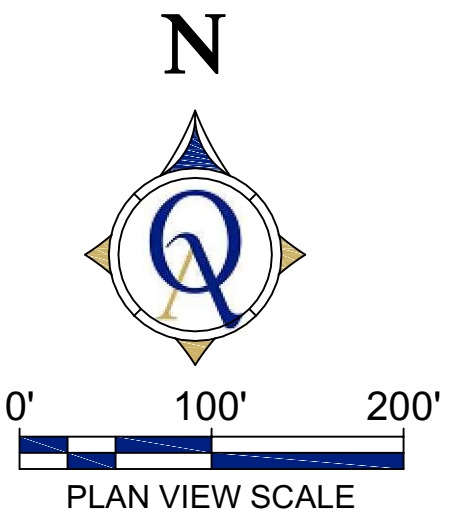
ALICO ORIOLE WEST

LOCATED IN SECTION 04, TOWNSHIP 46-S, RANGE 25 -E, LEE COUNTY, FLORIDA

AERIAL WITH 1,500' NEST RADIUS



LOCATION MAP
(NOT TO SCALE)



Quattrone & Associates, Inc.

Engineers, Planners, & Development Consultants

4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net

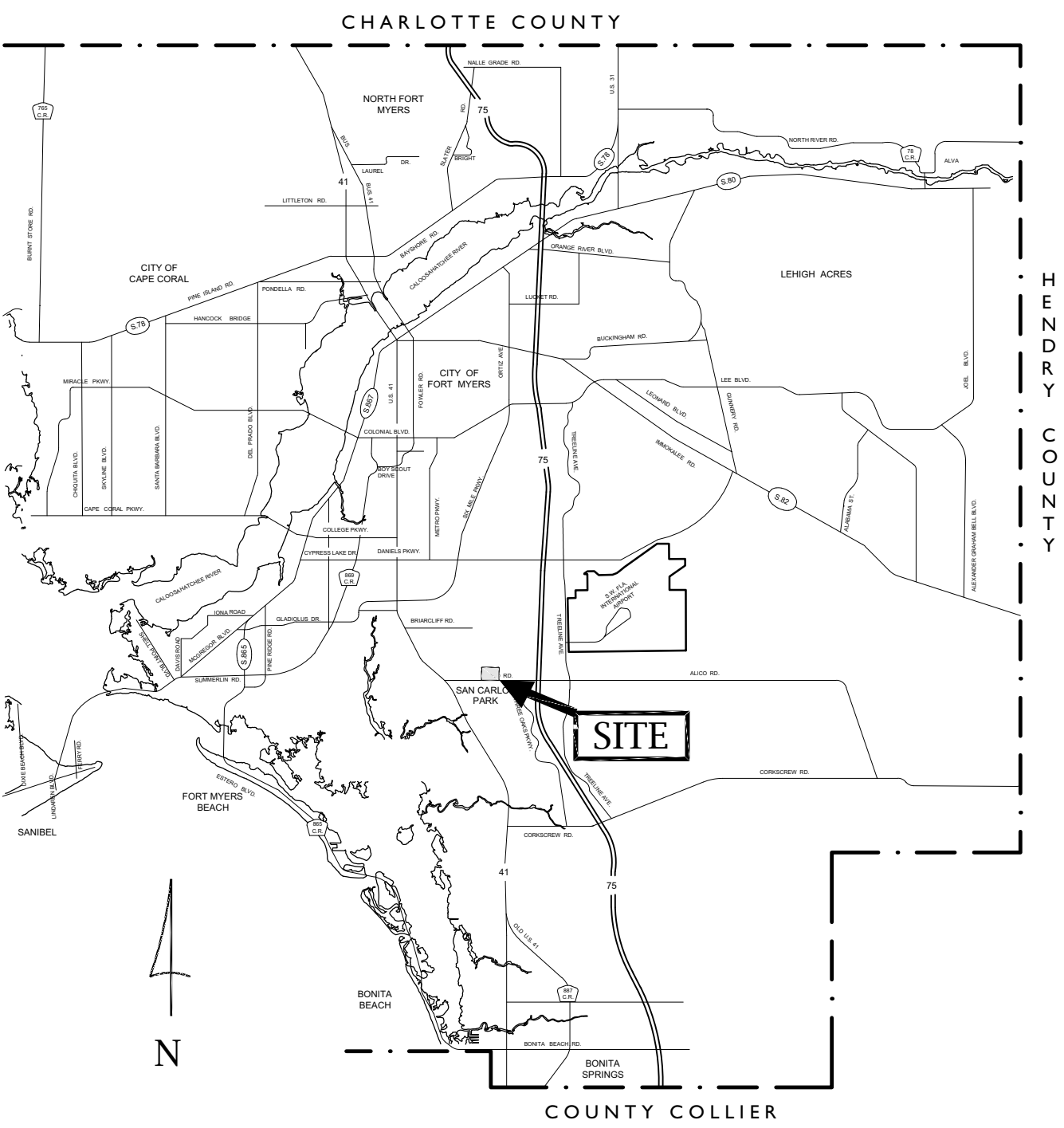
ALICO ORIOLE WEST

LOCATED IN SECTION 04, TOWNSHIP 46-S, RANGE 25 -E, LEE COUNTY, FLORIDA

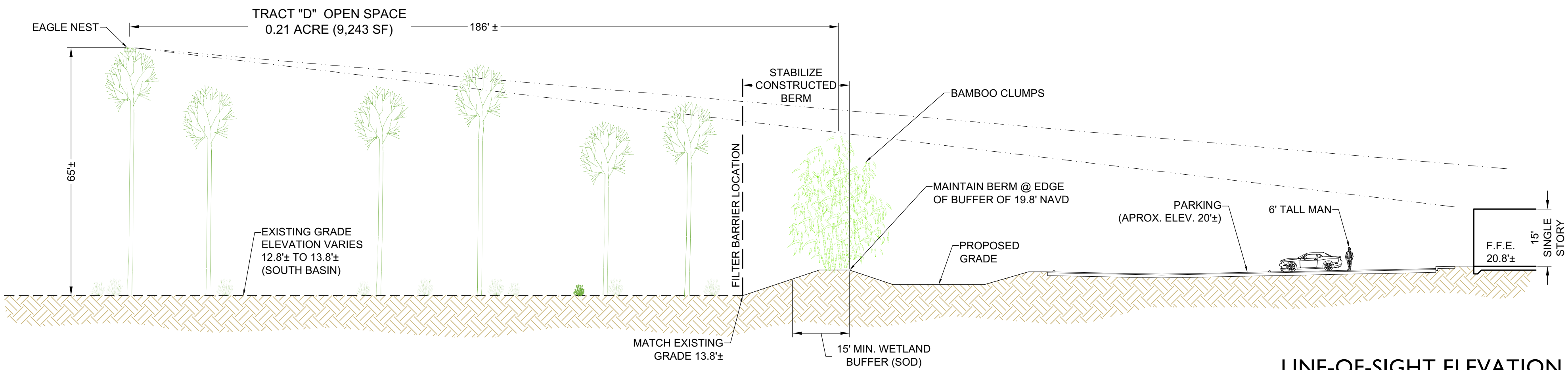
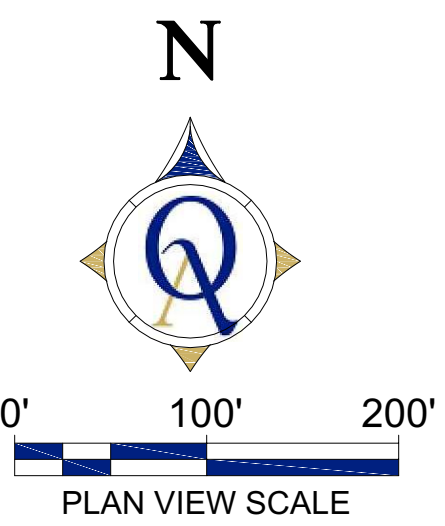
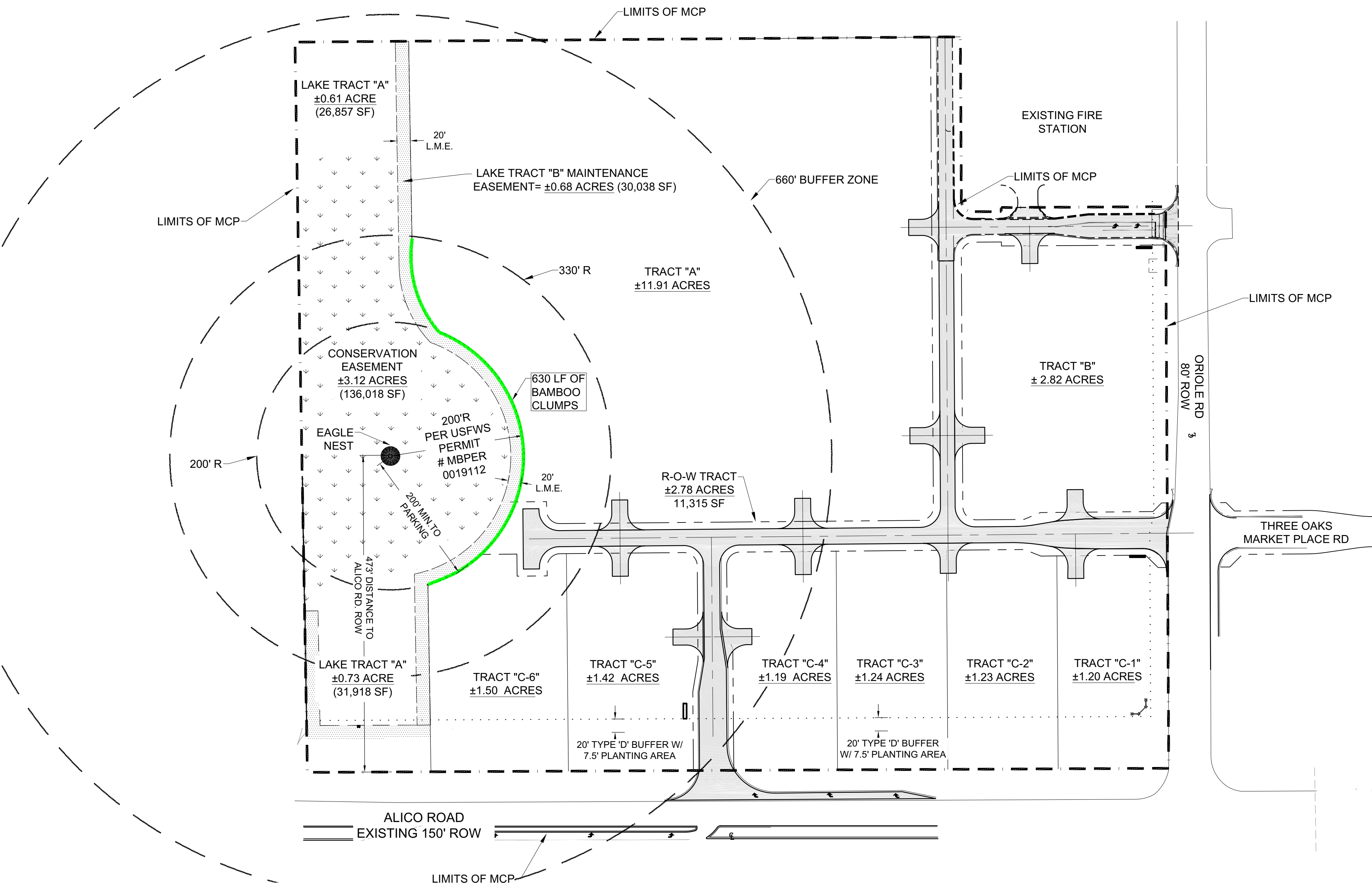
LANDSCAPE EXHIBIT

ALICO ORIOLE WEST MCP AREAS

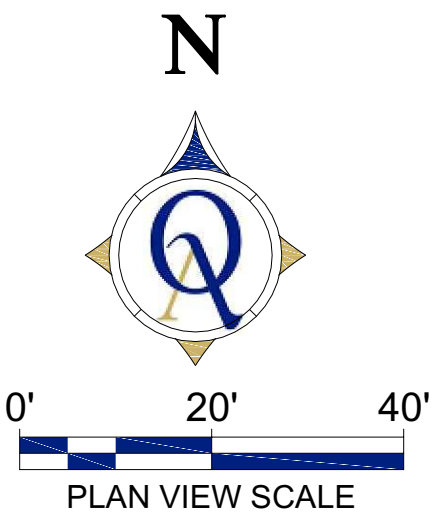
DESCRIPTION	ACREAGE
TRACT A	11.91
TRACT B	2.82
TRACT C-1	1.20
TRACT C-2	1.23
TRACT C-3	1.24
TRACT C-4	1.19
TRACT C-5	1.42
TRACT C-6	1.50
ROW TRACT	2.78
CONSERVATION EASEMENT & LAKE TRACT	4.46
LAKE MAINTENANCE EASEMENT	0.68
TRACT D OPEN SPACE	0.21
TOTAL ACREAGE	30.64



LOCATION MAP
(NOT TO SCALE)



LINE-OF-SIGHT ELEVATION
SCALE = 1"=20'



P:\2022 Projects\220104 ALICO ORIOLE WEST\01-CADD FILES\00-QA CADD - CONCEPTS\23-03-13 REV MCP 220104 BASE-MCP.DWG

PLOTTED BY: GABRIELA
MON. 3-13-2023 11:04 AM
220104 BASE-MCP.DWG



Quattrone & Associates, Inc.

Engineers, Planners, & Development Consultants

4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112**Version Number:** 0**Effective:** 2021-11-23 **Expires:** 2025-09-30**Issuing Office:**

Department of the Interior
U.S. FISH AND WILDLIFE SERVICE

MB Atlanta Permit Office
1875 Century Boulevard, NE
Atlanta, Georgia 30345
permitsR4MB@fws.gov
Tel: 404-679-7070
Fax: 404-679-4180

Carmen
Simonton

Digitally signed by

Carmen Simonton
2021-11-23 12:53:56

Chief, Migratory Bird Permit
Office, Atlanta, Georgia

Permittee:

Horowitz Sanford I TRFOR Land Trust
dba Three Oaks Horowitz LLC
Alan Freeman
28120 Hunters Ridge Boulevard Suite 5
Bonita Springs, Florida 34135

Authority: Statutes and Regulations: 16 U.S.C. 668-668(d), 16 U.S.C 703-712 50 CFR Part 13, 50 CFR 22.26

Location where authorized activity may be conducted:

See Condition D.

Reporting requirements:

Monitoring requirements are outlined in Condition I Monitoring Requirements.

Reporting requirements are outlined in Condition D, E, F, I. and in Condition J Reporting Requirements.

Condition J Reporting Requirements outlines the required schedule of monitoring reports (Condition I3) and the content of the annual summary monitoring report.

Authorizations and Conditions:

Southeast Region Eagle Biologist Ulgonde Kirkpatrick, Ulgonde_Kirkpatrick@fws.gov, (352) 406-6780

Southeast Region Eagle Permit Coordinator Resee Collins, Resee_Collins@fws.gov, (404) 679-4163



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112**Version Number:** 0**Effective:** 2021-11-23 **Expires:** 2025-09-30

Link to federal permit regulations: <https://www.fws.gov/birds/policies-and-regulations/permits/permit-policies-and-regulations.php>

Eagle nest means any assemblage of materials built, maintained, or used by Bald Eagles or Golden Eagles for the purpose of reproduction.

In-use nest means a bald or golden eagle nest characterized by the presence of one or more eggs, dependent young, or adult eagles on the nest in the past 10 consecutive days during the breeding season.

Alternate nest means one of potentially several nests within a nesting territory that is not an in-use nest at the current time. When there is no in-use nest, all nests in the territory are alternate nests.

Disturb/disturbance means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

A. General conditions set out in Subpart B of 50 CFR 13, and specific conditions contained in Federal regulations cited above, are hereby made a part of this permit. All activities authorized herein must be carried out in accordance with and for the purposes described in the application submitted. Continued validity, or renewal of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.

B. You are responsible for ensuring that the permitted activity is in compliance with all federal, tribal, state, and local laws and regulations applicable to eagles.

C. Valid for use by permittee named and any subpermittees (See Condition H).

D. Due to all construction activities associated with the development of West Oriole Market Place located north of Alico Road and west of Oriole Road in Fort Myers, Lee County, Florida, you are authorized to:

Take by means of disturbance incidental to your activities (1) pair of nesting Bald Eagles including the loss of productivity of eggs or young due to potential abandonment of the Bald Eagle nest identified as LE093

Eagle Nest LE093 location: 26.494333N, -81.809833W, Fort Myers, Lee County, Florida

Reporting Required: Annual Summary by June 30 of 2022, 2023, 2024, 2025, 2026

Construction activities will be phased over a multi-year period and will include adding fill dirt to property; building a foundation, multiple warehouse and commercial buildings, and associated infrastructure.

The project impacts are occurring within the 660-foot buffer zone around eagle nest LE093. The closest construction is occurring no closer than 200 feet from the eagle nest tree at any time of the year.

The authorizations granted by this permit apply only to take that results from activities conducted in accordance with the description contained in the permit application and the terms of the permit. If the permitted activity changes, you must immediately contact the Eagle Biologist to determine whether a permit amendment is required in order to retain take authorization.

E. This permit does not authorize intentional take or injury of any live eagles, excluding take of eggs or young by nest abandonment as described in Condition D, nor does it authorize take of any eagle nest.



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112**Version Number:** 0**Effective:** 2021-11-23 **Expires:** 2025-09-30

You must immediately notify the Southeast Region Eagle Permit Coordinator by phone and email upon discovery of any unanticipated take or regarding any apparent injury or death occurring to any eagle, including viable eggs or young, for any reason during project activities. You must immediately contact the Conservancy of Southwest Florida von Arx Wildlife Hospital, 1495 Smith Preserve Way, Naples, Florida. 34102, (239) 262-0304, to coordinate transportation of any injured eagle.

F. You are authorized to salvage eagle feathers found on the ground in the vicinity of the Bald Eagle nest located in Condition D. Any salvaged items found at the site must be shipped within 30 days to the National Eagle Repository, Contact: U.S. Fish and Wildlife Service, National Eagle and Wildlife Repository, RMA, Bldg. 128, 6550 Gateway Road, Commerce City, Colorado, 80022, (303) 287-2110.

You must immediately notify the Southeast Region Eagle Permit Coordinator by phone and email upon discovery of any eagle carcass(es) at the location listed in Condition D.

G. You must comply with the following avoidance or minimization measures prescribed by this permit for take of eagle(s) identified in Condition D. **All minimization measures, unless noted otherwise, are applicable when any eagles are present at the nest site and the nest meets the definition of an in-use nest during the Bald Eagle nesting season (October 1 – May 15); or when the nest is in-use before October 1 or after May 15:**

1. Eagle Nest Buffer. You will erect a temporary protective barrier to delineate the 200-foot buffer around the eagle nest tree to prevent construction personnel and heavy equipment from entering into this buffer while any construction or associated project activities outlined in Condition D are occurring. All exterior development and heavy equipment access is strictly prohibited in this area. Exclude human access by foot or vehicle within 200 feet of the eagle nest tree when the nest is in-use.

2. FOR ACTIVITIES WITHIN 660 FEET OF THE EAGLE NEST TREE:

a. If exterior construction work or project activities outlined in Condition D are conducted when the nest is in-use:

(1) Initiate a noise abatement program for construction personnel within 660 feet of an eagle nest, to include:

- (a) No excessive and/or sudden loud noise, including engine braking, tailgate banging, loud radios, shouting, singing, etc.;
- (b) All motorized equipment, including saws or other handheld power tools, must be moved indoors if possible or placed to minimize noise at and reflect noise away from the direction of the eagle nest, i.e. behind a temporary structure that reflects noise away from the direction of the eagle nesting area;
- (c) Minimize the need for "reverse" indicator horns and utilize ground flag crews to the degree practicable to avoid using reverse indicator horns; and
- (d) Provide signage in English and Spanish (if applicable) indicating the need for quiet to the extent practicable; and

3. FOR ACTIVITIES BETWEEN 660 AND 330 FEET OF THE EAGLE NEST TREE:

a. If any construction work or project activities outlined in Condition D are conducted when the nest is in-use, you must initiate a traffic abatement program which includes that you establish equipment staging and offsite parking/carpool locations for construction personnel outside of 330 feet from the eagle nest tree.



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112**Version Number:** 0**Effective:** 2021-11-23 **Expires:** 2025-09-30

4. To the extent practicable, construction or associated project activities farthest from an eagle nest should occur prior to construction or associated project activities closest to the nest.
5. Prior to conducting or while activities in Condition D are occurring, in the event any eagle is injured or is found on the ground, you must provide educational materials that outline how to minimize disturbance to eagles, along with contact information for an eagle rehabilitator to the following:
 - a. All project personnel; and
 - b. Maintenance personnel responsible for the post-project maintenance of the project area described in Condition D.
6. Preserve the largest native pines and hardwoods outside of the project footprint for use as potential eagle roost or nest sites.
7. Maintain and/or create, enhance or expand the visual vegetation buffer between construction activities and the eagle nest tree by planting **native** pines and/or hardwoods.
8. Down-shield all new permanent exterior lighting so that lights do not shine directly onto the eagle nest.
9. Follow state and federal guidelines, laws and label instructions at all times if using pesticides, herbicides, or other chemicals on property identified in Condition D.
10. If applicable, coordinate the design and construction or retrofitting of new and existing utility lines to be in compliance with the Avian PowerLine Interaction Committee (APLIC) Guidelines found at www.aplic.org to reduce the potential for any electrocution, collision and/or nesting of avian species.

H. Subpermittees.

1. Any person who is employed by or under contract to you for the activities specified in this permit, or otherwise designated a subpermittee by you in writing, may exercise the authority of this permit.
2. A subpermittee is an individual to whom you have provided written authorization to conduct some or all of the permitted activities in your absence. Subpermittees must be at least 18 years of age.
3. Any subpermittee who has been delegated this authority may not re-delegate to another individual/business.
4. You are responsible for ensuring that your subpermittees are qualified to perform the work and adhere to the terms of your permit. You are also responsible for maintaining current records of designated subpermittees. As the permittee, you are ultimately legally responsible for compliance with the terms and conditions of this permit and that responsibility may not be delegated.
5. You and any subpermittees must carry a legible copy of this permit and display it upon request whenever exercising its authority.

I. Monitoring Requirements.



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112**Version Number:** 0**Effective:** 2021-11-23 **Expires:** 2025-09-30

1. A qualified monitor is required to monitor eagle use of the nesting territory, which is defined as up to a 1.5 mile radius of the eagle nest identified in Condition D, on property that is legally accessible by you and where the activities outlined in Condition D. occur. The monitor must be experienced in recognizing specific patterns and changes of eagle behavior, and employed by or contracted by the permittee, landowner, company or entity responsible for having the activity monitored. The monitor must also be as inconspicuous as possible, so not to cause a disturbance with their presence, and when applicable, a wildlife blind or viewing location out of direct sight of the eagles is recommended.

Monitoring must be conducted at a distance that allows for observation without an interruption in the eagle's normal breeding behavior. If eagles do not return to the nest at the location described in Condition D, you are required to monitor on adjacent property that is accessible by you to assess whether or not eagles nest, roost and/or forage at a new location.

If a new eagle nest is built on the property described in Condition D. or within the nesting territory, you must report that new eagle nest location within 10 days to the Southeast Region Eagle Biologist. Additional monitoring and authorization may be required based on the new eagle nest location in relation to activities described in Condition D.

2. Monitoring must occur at a time of day when eagles are most likely to be in the area, (early morning, beginning ½ hour before sunrise, or late afternoon, beginning ½ hour before sunset). You must assess whether or not eagles return to the nesting territory as identified in Monitoring Requirements No.1 and continue to nest, roost and/or forage there, and/or if the eagles attempt to build or occupy another nest. Monitoring must be conducted for a minimum of 60-90 minutes.

3. Once project activities have begun, including if construction activities have begun but are not occurring, monitoring is required annually to determine eagle nesting activity and/or nest failure. During each nesting season, no additional monitoring is required once eaglets have fledged from the nest or nest failure is documented.

The required monitoring period is:

- During each eagle nesting season, defined as October 1 through May 15, or when eagles are present at the nest and
- For an additional (1) nesting season after project has been completed.

Monitoring must be conducted according to the following Eagle Monitoring Schedule:

Frequency	Eagle Monitoring Schedule	Time	Time of Day
Once	November	60 – 90 minutes	Begin ½ hour before sunrise or before sunset
Once	Between December 15 and January 15	60 – 90 minutes	Begin ½ hour before sunrise or before sunset
Once	Between February 15 and March 15	60 – 90 minutes	Begin ½ hour before sunrise or before sunset
Once	April	60 – 90 minutes	Begin ½ hour before sunrise or before sunset
Once	May	60 - 90 minutes	Begin ½ hour before sunrise or before sunset
Once	Every month after until fledging or nest failure is documented	60 – 90 minutes	Begin ½ hour before sunrise or before sunset

4. Monitoring reports must include the following information:



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112**Version Number:** 0**Effective:** 2021-11-23 **Expires:** 2025-09-30

- a. Date and length of time Bald Eagles were observed;
- b. Time of day;
- c. Number and age of Bald Eagles observed (i.e. juvenile, immature, subadult, adult); if age is not known provide description;
- d. Observed behavior (e.g. perching, feeding, sitting on or attending nest, in flight);
- e. If a new eagle nest is built on or adjacent to your property, the new location and whether the eagles produced young at that site;
- f. If any eagle nesting attempt was successful, failed or the eagles abandoned the area; and
- g. A description of any human activity at the time eagles are observed during each month of the monitoring period (e.g. construction, road building, use of machinery, etc.).

J. Reporting Requirements.

1. You may use Form 3-202-15 (Eagle Take Annual Report) found online at www.fws.gov/forms/3-202-15.pdf to report monthly and annual Bald Eagle monitoring activities. Use of this form is not mandatory, but the same information must be submitted.
2. You must annually submit your monitoring reports, including your summary Eagle Take Annual Report (Form 3-202-15), by June 30 of each calendar year a report is required as follows:
 - a. Electronically to FW4eaglemonitoring@fws.gov. The email subject line for each report submitted must reference the permit number, project title or name, and month/year of report, and
 - b. Mailed to the migratory bird permit issuing office at U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345.

If no eagle activity is observed, a report indicating "no activity observed" is required.

If project activities were delayed or not conducted, an annual report indicating "no activities occurred" is required.

50 CFR 22.26 STANDARD CONDITIONS EAGLE TAKE (DISTURBANCE) PERMIT

All of the provisions and conditions of the governing regulations at 50 CFR part 13 and 50 CFR part 22.26 are conditions of your permit. Failure to comply with the conditions of your permit could be cause for suspension of the permit and/or citation. The standard conditions below are a continuation of your permit conditions. If you have questions regarding these conditions, refer to the regulations and forms, or to obtain contact information for your issuing office, visit:

<https://www.fws.gov/birds/policies-and-regulations/permits.php>

1. This permit does not authorize you to conduct activities on federal, state, tribal or other public or private property without additional prior written permits or permission from the agency/landowner.
2. You remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit. Provisions for discontinuance of permit activity are outlined in 50 CFR 13.26.



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112**Version Number:** 0**Effective:** 2021-11-23 **Expires:** 2025-09-30

3. You must maintain records as required in 50 CFR 13.46. Your records must also include the data gathered for monitoring and reporting purposes. All records relating to the permitted activities must be kept at the location indicated in writing by you to the migratory bird permit issuing office.
4. Acceptance of this permit authorizes the U.S. Fish and Wildlife Service to inspect and audit or copy any permits, books or records required to be kept by the permit and governing regulations (50 CFR 13.47).
5. You must allow Service personnel or other qualified persons designated by the Service, access to the areas where eagles are likely to be affected by your project activities, at any reasonable hour, and with reasonable notice from the Service, for purposes of monitoring eagles at the site(s) while the permit is valid and for up to 3 years after it expires.
6. The Service may amend, suspend, or revoke a permit issued under this section if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspensions and revocation of Federal permits set forth in 50 CFR 13.23, 13.27, and 13.28 of this chapter.
7. To renew this permit if the activities described in Condition D have not been completed by the expiration date of this permit, permittee must meet issuance criteria at the time of renewal and must also have been in compliance with permit conditions, including all monitoring and reporting requirements of the original permit.
8. You may request amendment to your permit. The Service will charge a fee for substantive amendments made to permits within the time period that the permit is still valid. The fee is \$500 for commercial permittees and \$150 for non-commercial permittees (50 CFR 13.11(d)(4)). Substantive amendments are those that pertain to the purpose and conditions of the permits and are not purely administrative. Administrative changes, such as updating name and address information, are required under 13.23(c), and the Service will not charge a fee for such amendments. Requests for substantive amendment must be submitted via Form 3-200-71.

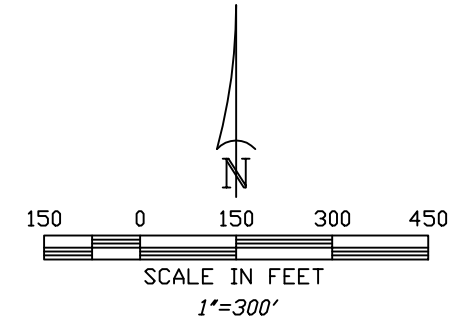
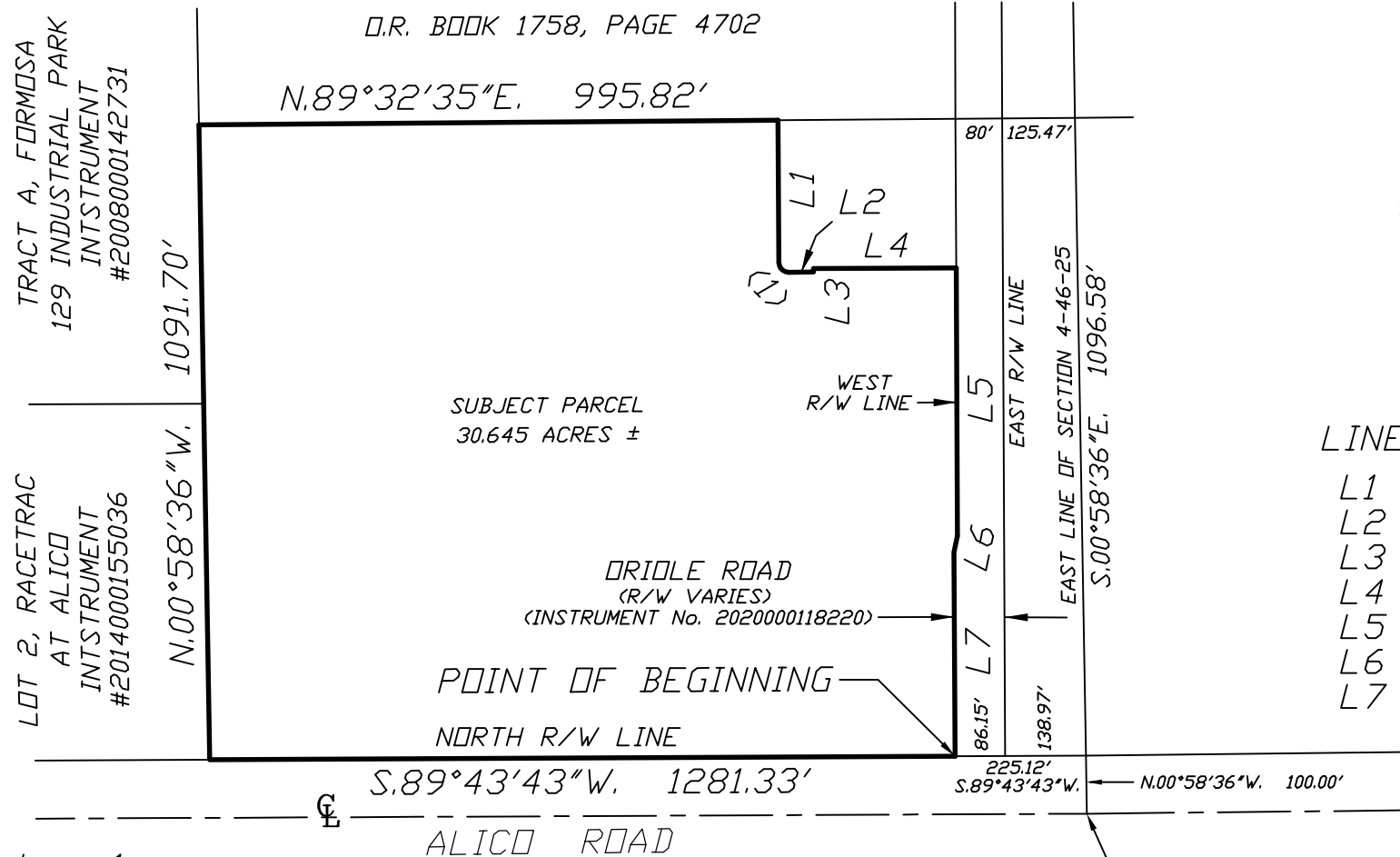
HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD, S. SUITE 100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

SKETCH TO ACCOMPANY DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 4

TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

SEE EXHIBIT "A" (SHEET 2 OF 2)
FOR DESCRIPTION
THIS IS NOT A BOUNDARY SURVEY



LINE TABLE

LINE	BEARING	DISTANCE
L1	S.00°17'39"E.	244.48'
L2	N.89°42'21"E.	42.55'
L3	N.00°17'39"W.	6.00'
L4	N.89°42'21"E.	245.45'
L5	S.00°16'17"E.	460.65'
L6	S.12°01'31"W.	28.89'
L7	S.00°16'17"E.	350.62'

Curve number 1

Radius= 17.00'
Delta= 90°00'00"
Arc= 26.70'
Chord= 24.04'
Chord Brg.= S.45°17'39"E.

DESCRIPTION TO ACCOMPANY SKETCH

EXHIBIT "A"

DESCRIPTION:

A TRACT OR PARCEL OF LAND LYING IN SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE AFORESAID SECTION 4; THENCE RUN N.00°58'36"W. ALONG THE EAST LINE OF SAID SECTION 4 FOR 100.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF ALICO ROAD; THENCE RUN S.89°43'43"W. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 225.12 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°43'43"W. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 1281.33 FEET; THENCE RUN N.00°58'36"W. (AS MEASURED PERPENDICULAR) WEST OF AND PARALLEL WITH THE COMMON LINE BETWEEN SECTIONS 3 & 4, FOR 1091.70 FEET; THENCE RUN N.89°32'35"E. FOR 995.82 FEET; THENCE RUN S.00°17'39"E. FOR 244.48 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 17.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF S.45°17'39"E. AND A CHORD DISTANCE OF 24.04 FEET TO A POINT OF TANGENCY; THENCE RUN N.89°42'21"E. FOR 42.55 FEET; THENCE RUN N.00°17'39"W. FOR 6.00 FEET; THENCE RUN N.89°42'21"E. FOR 245.45 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF ORIOLE ROAD (80 FEET WIDE); THENCE RUN S.00°16'17"E. ALONG SAID WEST RIGHT-OF-WAY LINE FOR 460.65 FEET; THENCE RUN S.12°01'31"W. ALONG THE WEST RIGHT-OF-WAY LINE OF ORIOLE ROAD (R/W VARIES) FOR 28.89 FEET; THENCE RUN S.00°16'17"E. ALONG SAID WEST RIGHT-OF-WAY LINE FOR 350.62 FEET TO THE POINT OF BEGINNING.

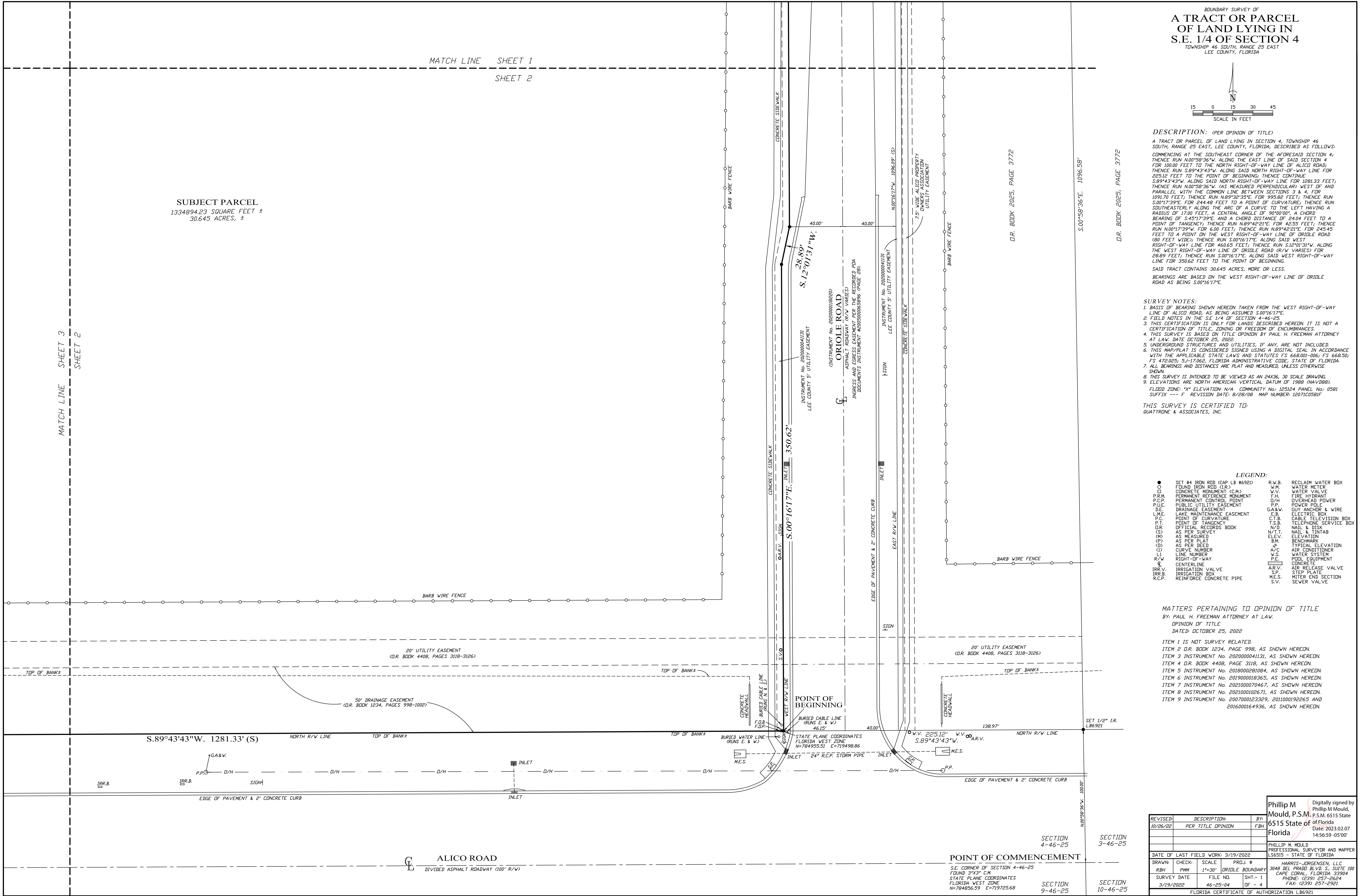
SAID TRACT CONTAINS 30.645 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST RIGHT-OF-WAY LINE OF ORIOLE ROAD AS BEING S.00°16'17"E.

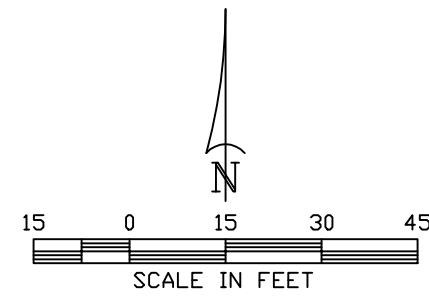
Phillip M Mould, Digitally signed by
Phillip M Mould, P.S.M.
6515 State of Florida
Date: 2023.02.07
15:02:12 -05'00'
P.S.M. 6515
State of Florida

PHILLIP M MOULD
LS6515
MAY 27, 2020

NOTE: THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.



BOUNDARY SURVEY OF
A TRACT OR PARCEL
OF LAND LYING IN
S.E. 1/4 OF SECTION 14
TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA



CONSERVATION EASEMENT
(INSTRUMENT No. 2007000123329)
RELEASE PARCEL
(INSTRUMENT No. 2011000192265)
CONSERVATION EASEMENT / RELEASE PARCEL
(INSTRUMENT No. 2016000164936)

SUBJECT PARCEL
1334894.23 SQUARE FEET ±
30.645 ACRES, ±

LOT 2, RACETRAC AT ALICO
INSTRUMENT No. 2014000155036

N 00° 58' 36" W, 1091.70'

20' DRAINAGE EASEMENT
(D.R. BOOK 4408, PAGES 3118-3126)
INSTRUMENT No. 2009000157633

INSTRUMENT No. 2018000281084
20' LAKE MAINTENANCE EASEMENT

INSTRUMENT No. 2018000281084
20' LAKE MAINTENANCE EASEMENT

MATCH LINE SHEET 3
MATCH LINE SHEET 2

LEGEND:		
●	SET #4 IRON ROD (CAP LB #6921)	R.W.B. RECLAIM WATER BOX
○	FOUND IRON ROD (I.R.)	W.M. WATER METER
□	CONCRETE MONUMENT (C.M.)	W.V. WATER VALVE
P.R.M.	PERMANENT REFERENCE MONUMENT	F.H. FIRE HYDRANT
P.C.P.	PERMANENT CONTROL POINT	D/H. OVERHEAD POWER
P.U.E.	PUBLIC UTILITY EASEMENT	P.P. POWER POLE
D.E.	DRAINAGE EASEMENT	G.A.S.V. GUY ANCHOR & WIRE
L.M.E.	LAKE MAINTENANCE EASEMENT	E.B. ELECTRIC BOX
P.C.	POINT OF CURVATURE	C.T.B. CABLE TELEVISION BOX
P.T.	POINT OF TANGENCY	T.S.B. TELEPHONE SERVICE BOX
D.R.	OFFICIAL RECORDS BOOK	N/D. NAIL & DISK
(S)	AS PER SURVEY	N/T.T. NAIL & TINTAB
(M)	AS MEASURED	ELEV. ELEVATION
(P)	AS PER PLAT	B.M. BENCHMARK
(D)	AS PER DEED	⊕. TYPICAL ELEVATION
(C)	CURVE NUMBER	A/C. AIR CONDITIONER
L1	LINE NUMBER	W.S. WATER SYSTEM
R/W	RIGHT-OF-WAY	P.E. POOL EQUIPMENT
CL	CENTERLINE	CONCRETE CONCRETE
IRR.V.	IRRIGATION VALVE	A.R.V. AIR RELEASE VALVE
IRR.B.	IRRIGATION BOX	S.P. STOP PLATE
R.C.P.	REINFORCE CONCRETE PIPE	M.E.S. METER END SECTION
		S.V. SEWER VALVE

LAKE TRACT
INSTRUMENT 2018000281084

M.E.S.
TOP OF BANK±
STORM PIPE (TYPICAL)

INLET
CONCRETE INLET BOX

M.E.S.
TOP OF BANK±
SIGN

LAKE MAINTENANCE EASEMENT
INSTRUMENT No. 2018000281084

20' UTILITY EASEMENT
(D.R. BOOK 4408, PAGES 3118-3126)

50' DRAINAGE EASEMENT
(D.R. BOOK 1234, PAGES 998-1002)

BARB WIRE FENCE

NORTH R/W LINE

S.89°43'43"W, 1281.33' (S)
W.V.○ ○V.V.

CONCRETE WEIR

IRR.V.

F.H.

INLET

IRR.B.

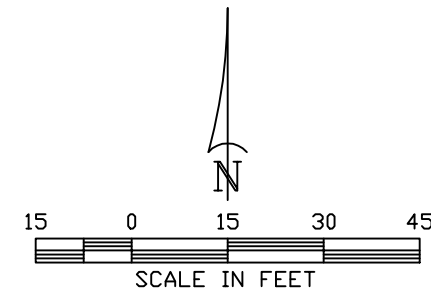
EDGE OF PAVEMENT & 2' CONCRETE CURB

REVISED		DESCRIPTION		BY
10/26/22		PER TITLE OPINION		FBH
DRAWN	CHECK	SCALE	PROJ. #	HARRIS-JORGENSEN, LLC
RBH	PM	1"=30'	ORACLE BOUNDARY	3048 DEL PRADO BLVD. S., SUITE 100
SURVEY DATE		FILE NO.	SHT. -	CAPE CORAL, FLORIDA 33904
3/19/2022		46-25-04	DF - 4	PHONE: (239) 257-2624 FAX: (239) 257-2921
FLORIDA CERTIFICATE OF AUTHORIZATION LB6921				



ALICO ROAD
DIVIDED ASPHALT ROADWAY (100' R/W)

BOUNDARY SURVEY OF
A TRACT OR PARCEL
OF LAND LYING IN
S.E. 1/4 OF SECTION 4
TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA



FOUND 1/2" I.R. LB6921
STATE PLANE COORDINATES
FLORIDA WEST ZONE
N=786040.99
E=718198.95

30" R.C.P. STORM PIPE
(TYPICAL)
M.E.S.

CONCRETE INLET BOX
M.E.S.

D.R. BOOK 1758, PAGE 4702

N.89°32'35"E. 995.82'

INSTRUMENT No. 201900019365
20' DRAINAGE EASEMENT

INSTRUMENT No. 2018000281084
20' DRAINAGE EASEMENT

L A K E
LAKE TRACT
INSTRUMENT No. 2018000281084

EASEMENT LINE
TOP OF BANK ±

INSTRUMENT No. 2018000281084
20' LAKE MAINTENANCE EASEMENT

P O N D

TOP OF BANK +/-

SUBJECT PARCEL
1334894.23 SQUARE FEET ±
30.645 ACRES, ±

MATCH LINE SHEET 4
SHEET 1

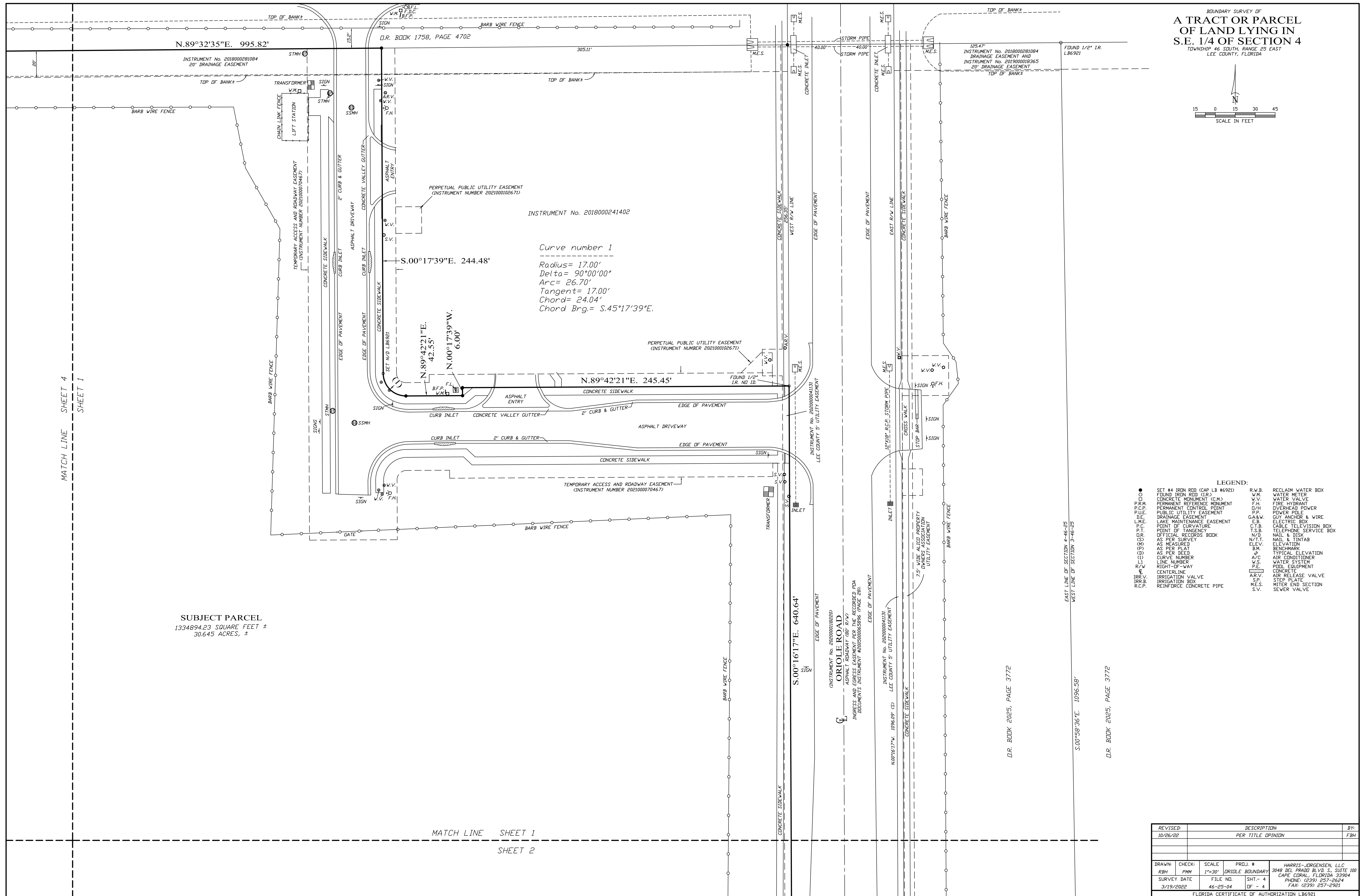
LEGEND:

●	SET #4 IRON ROD (CAP LB #6921)	R.W.B.	RECLAIM WATER BOX
○	FOUND IRON ROD (I.R.)	W.M.	WATER METER
□	CONCRETE MONUMENT (C.M.)	W.V.	WATER VALVE
P.R.M.	PERMANENT REFERENCE MONUMENT	F.H.	FIRE HYDRANT
P.C.P.	PERMANENT CONTROL POINT	D/H	OVERHEAD POWER
P.U.E.	PUBLIC UTILITY EASEMENT	P.P.	POWER POLE
D.E.	DRAINAGE EASEMENT	G.A.&W.	GUY ANCHOR & WIRE
L.M.E.	LAKE MAINTENANCE EASEMENT	E.B.	ELECTRIC BOX
P.C.	POINT OF CURVATURE	C.T.B.	CABLE TELEVISION BOX
P.T.	POINT OF TANGENCY	T.S.B.	TELEPHONE SERVICE BOX
D.R.	OFFICIAL RECORDS BOOK	N/D	NAIL & DISK
(S)	AS PER SURVEY	N/T.T.	NAIL & TINTAB
(M)	AS MEASURED	ELEV.	ELEVATION
(P)	AS PER PLAT	B.M.	BENCHMARK
(D)	AS PER DEED	TYP.	TYPICAL ELEVATION
(C)	CURVE NUMBER	A/C	AIR CONDITIONER
L.I.	LINE NUMBER	W.S.	WATER SYSTEM
R/W	RIGHT-OF-WAY	P.E.	POOL EQUIPMENT
●	CENTERLINE	CONC.	CONCRETE
IRR.V.	IRRIGATION VALVE	A.R.V.	AIR RELEASE VALVE
IRR.B.	IRRIGATION BOX	S.P.	STEP PLATE
R.C.P.	REINFORCE CONCRETE PIPE	M.E.S.	MITER END SECTION
		S.V.	SEWER VALVE

CONSERVATION EASEMENT
(INSTRUMENT No. 2007000123329)
RELEASE PARCEL
(INSTRUMENT No. 2011000192265)
CONSERVATION EASEMENT / RELEASE PARCEL
(INSTRUMENT No. 2016000164936)

REVISED:		DESCRIPTION:		BY:
10/26/22		PER TITLE OPINION		FBH
DRAWN:	CHECK:	SCALE:	PROJ. #	HARRIS-JORGENSEN, LLC
RBH	PM	1"=30'	010101 BOUNDARY	3048 DEL PRADO BLVD. S. SUITE 100
SURVEY DATE:		FILE NO.	SHT. - 3	CAFE CORAL, FLORIDA 33504
3/19/2022		46-25-04	DF - 4	PHONE: (239) 257-2624 FAX: (239) 257-2921
FLORIDA CERTIFICATE OF AUTHORIZATION LB #6921				

MATCH LINE SHEET 4
SHEET 3



REVISED:		DESCRIPTION		BY:
10/26/22		PER TITLE OPINION		FBH
DRAWN:	CHECK:	SCALE:	PROJ. #	HARRIS-JORGENSEN, LLC 3040 DEL PRADO BLVD S., SUITE 100 CAPE CORRAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921
RBH	PMW	1"=30'	DRIDLE BOUNDARY	
SURVEY DATE		FILE NO.	SHT. - 4	
3/19/2022		46-25-04	OF - 4	
FLORIDA CERTIFICATE OF AUTHORIZATION LB6921				

FLORIDA CERTIFICATE OF AUTHORIZATION LB6921

PAUL H. FREEMAN**Attorney At Law***2455 East Sunrise Boulevard**Suite 200**Ft. Lauderdale, Florida 33304**Telephone: 954-380-8784*

October 25, 2022

Board of County Commissioners
Lee County Florida
2115 Second Street
Fort Myers, FL 33901

Re: Project Alico-Oriole West per attached Legal Description ("Exhibit A")

Certified To: Lee County Board of County Commissioners

In connection with the zoning application for the property known as Alico-Oriole West, I have reviewed all matters affecting the title to the real property particularly described on Exhibit A, attached hereto and made a part of this Opinion (the "Property"). This title opinion covers the Property. I certify that I have examined a title search through the 17th day of October, 2022, at 5:00 P.M. Pursuant to the requirements of the Lee County Board of County Commissioners Administrative Code 13-19 (the "Code"), the owners of the Property have the unrestricted right to develop the Property.

Based on the foregoing, I am of the opinion that: Title to the property, as of the Effective Date of the Opinion of Title set forth above, is vested in:

SANFORD I. HOROWITZ and ALAN C. FREEMAN, as Co-Trustees, under an unrecorded Florida Land Trust Agreement according to Florida Statute Sections 689.071 and 689.073.

The following are all of those persons or entities holding a mortgage secured by the property:

NONE

GENERAL EXCEPTIONS

Taxes for the year 2022 and subsequent years, not yet due. Taxes for 2021 have been paid.

SPECIAL EXCEPTIONS

The following are all easements and rights of way affecting the property to be platted, whether recorded or unrecorded:

1. Declaration of Covenants and Restrictions of the North Alico Property Owners' Association (the "Association") as recorded on October 11, 2005 in Official Records Instrument 2005000065896 of the Public Records of Lee County, Florida and as amended and supplemented by Supplemental Declaration recorded April 30, 2007 in Official Records Instrument No. 2007000139305; Supplemental Declaration recorded August 8, 2008 in Official Records Instrument No. 2008000213922; Supplemental Declaration recorded August 8, 2008 in Official Records Instrument No. 2008000213924; Supplemental Declaration recorded September 3, 2008 in Official Records Instrument No. 2008000234500; Supplemental Declaration recorded January 6, 2009 in Official Records Instrument No. 2009000002723; Amendment to Declaration of Covenants and Restrictions of the North Alico Property Owners' Association recorded January 9, 2020 in Official Records Instrument No. 20200000007170; Supplemental Declaration recorded May 12, 2020 in Official Records Instrument No. 2020000110195 all in the Public Records of Lee County, Florida.

2. Easements and reservations contained in deed recorded in Official Records Book 1234, Pages 998 of the Public Records of Lee County, FL. which relates a fifty (50') foot easement for canal right of way along the North boundary of Alico Road (the right of way is recorded at Official Records Book 1234, page 1001).

3. Grant of Public Utility Easement and Right to Convey Utility and Service Provider Easements to Lee County and North Alico Property Owners Association, Inc. recorded February 17, 2020 at Official Records Instrument No. 2020000041131 of the Public Records of Lee County, Florida, depicted on the Plat.

4. Easement Agreement in favor of Lee Land Holdings, LLC, for a twenty (20') foot utility easement for construction of a sewer line recorded in Official Records Book 4408, Page 3118 of the Public Records of Lee County, Florida, assigned to Lee County and consented to in that Acknowledgement of Assignment of Easement recorded July 27, 2007 in Official Records Instrument No. 2007000235021 of the Public Records of Lee County, Florida.

5. Permanent Lake, Lake Maintenance, and Stormwater Drainage Easement Agreement in favor of North Alico Property Owners Association, Inc., recorded November 30, 2018 in Official Records Instrument No. 2018000281084 of the Public Records of Lee County, Florida.

6. Surface Water Management System Easement Agreement in favor of CLE FL RE Investment I, LLC, an Ohio limited liability company recorded January 25, 2019 in Official Records Instrument No. 2019000018365 of the Public Records of Lee County, Florida and which is located within the area described in the Permanent Lake, Lake Maintenance, and Stormwater

Drainage Easement Agreement recorded in Official Records Instrument No. 2018000281084 of the Public Records of Lee County, Florida and described in item 8 above and which is depicted on the Plat.

7. Temporary Access and Roadway Easement to San Carlos Fire Protection and Rescue Service District dated March 3, 2021 recorded March 8, 2021 at Official Records Instrument No. 2021000070467 of the Public Records of Lee County, Florida.

8. Grant of Perpetual Public Utility Easement to Lee County dated March 29, 2021 and recorded April 1, 2021 at Official Records Instrument No. 2021000102671 of the Public Records of Lee County, Florida.

9. Deed of Conservation Easement recorded in Instrument No. 2007000123329, Assignment of Rights recorded in Instrument No. 2011000192265; Consent to Assignment of Rights recorded in Instrument No. 2012000221535; and Partial Release recorded in Instrument No. 2016000164936; all in the Public Records of Lee County, Florida.

This Opinion of Title is provided pursuant to the requirements of Florida Statute 177.041 and Lee County Administrative Code AC-13-19 for the uses and purposes specifically stated therein and is not to be used as the basis for the issuance of a title insurance commitment or policy. This Opinion is limited to the matters expressly stated herein and no opinions are to be inferred or implied beyond the opinions expressly stated herein.

I, the undersigned, further certify that I am an attorney at law, duly admitted to practice in the State of Florida, and a member in good standing of the Florida Bar.

Respectfully Submitted,



Paul H. Freeman
Fla. Bar No. 161840

DESCRIPTION TO ACCOMPANY SKETCH

EXHIBIT "A"

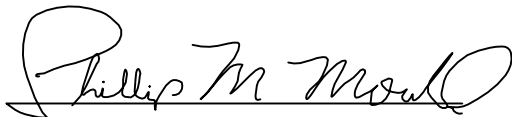
DESCRIPTION:

A TRACT OR PARCEL OF LAND LYING IN SECTION 4, TOWNSHIP 46 SOUTH,
RANGE 25 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE AFORESAID SECTION 4;
THENCE RUN N.00°56'55"W. ALONG THE EAST LINE OF SAID SECTION 4 FOR
100.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF ALICO ROAD; THENCE RUN
S.89°43'43"W. ALONG THE NORTH LINE OF SAID ALICO ROAD FOR 218.97 FEET
TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°43'43"W. ALONG THE
NORTH LINE OF SAID ALICO ROAD FOR 1287.48 FEET; THENCE RUN N.00°58'36"W.
FOR 1091.70 FEET; THENCE RUN N.89°32'35"E. FOR 995.81 FEET; THENCE RUN
S.00°17'39"E. FOR 244.48 FEET TO A POINT OF CURVATURE; THENCE RUN
SOUTHEASTERLY FOR 26.70 FEET ALONG THE ARC OF A CURVE TO THE LEFT
HAVING A RADIUS OF 17.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD
BEARING OF S.45°17'39"E. AND A CHORD DISTANCE OF 24.04 FEET TO A POINT
OF TANGENCY; THENCE RUN N.89°42'21"E. FOR 42.55 FEET; THENCE RUN
N.00°17'39"W. FOR 6.00 FEET; THENCE RUN N.89°42'21"E. FOR 245.45 FEET TO A
POINT ON THE WEST RIGHT-OF-WAY LINE OF ORIOLE ROAD (80 FEET WIDE);
THENCE RUN S.00°16'17"E. ALONG SAID WEST RIGHT-OF-WAY LINE FOR 839.48
FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 30.696 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST LINE OF THE AFORESAID SECTION 4 AS
BEING N.00°56'55"W.



PHILLIP M MOULD
LS6515
FEBRUARY 3, 2020

Sharon Hrabak

From: Lennon, Stephen <lennon@SanCarlosFire.org>
Sent: Wednesday, February 8, 2023 8:46 AM
To: Sharon Hrabak
Subject: RE: Alico Oriole West.

EXTERNAL SENDER

Good morning Sharon,
We do not have any objections to your proposed hammerhead as long as it is constructed to accommodate a turn around for our 100' aerial truck.

Steve Lennon

Fire Marshal/Fire Investigator

San Carlos Park Fire & Rescue

Lee County Fire-Arson Task Force

239-267-7525 (office)

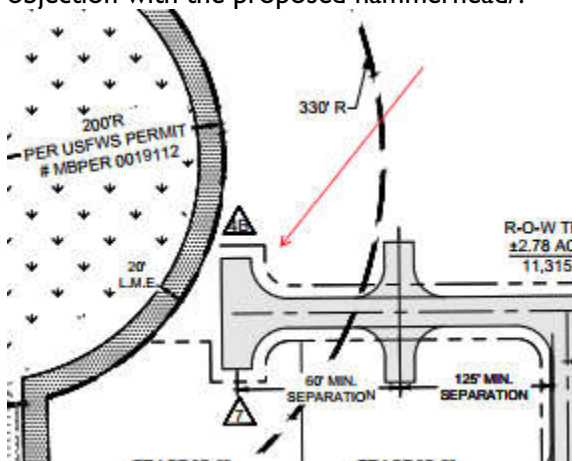
239-246-1152 (cell)

Lennon@sancarlosfire.org

From: Sharon Hrabak <Sharon@qainc.net>
Sent: Tuesday, February 7, 2023 11:19 AM
To: Lennon, Stephen <lennon@SanCarlosFire.org>
Subject: Alico Oriole West.

Hello Steve,

We are proposing a MPD zoning with Lee County for property located at 04-46-25-L3-00003.0020. We would like to utilize a hammerhead for the east-west access road. Please review the attached and let us know if you have any objection with the proposed hammerhead/?



Please feel free to contact me if you have nay questions.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@qainc.net | www.qainc.net



SURFACE WATER MANAGEMENT SYSTEM

ALICO ORIOLE WEST
MPD REZONING
±30.65 ACRES
STRAP#: 04-46-25-L3-00003.0020

The Alico Oriole West is part of the Three Oaks Parkway / Oriole Road drainage system as permitted by SFWMD under permit #36-05268-P. This permit made accommodations for a backbone conveyance system that allows water to drain to the west into a north-south drainage ditch that is controlled by a master outfall structure before discharging into the Alico Road drainage ditch and is maintained by the North Alico Property Owners Association, Inc.

The drainage system of the Alico Oriole West project will consist of primary attenuation and water quality treatment within each of the development tracts. A backbone conveyance system will be integrated into the design of the internal road system to convey runoff to existing east – west drainage ditches that are located in existing drainage easements that straddle on the north property line.

ASSIGNMENT OF RIGHTS UNDER CONSERVATION EASEMENT

THIS ASSIGNMENT OF RIGHTS UNDER CONSERVATION EASEMENT is given this 32nd day of December, 2010, by North Alico Property Owners' Association, Inc., 13891 Jetport Loop Road, Suite 9, Fort Myers, Florida 33913, a Florida not for profit corporation, (the "Grantor") to South Florida Water Management District, an agency of the State of Florida, (the "Grantee" or the "District"). As used herein, the term Grantor shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Property" (as hereinafter defined) and the term Grantee shall include any successor or assignee of Grantee.

WITNESSETH:

WHEREAS, the Grantor is the grantee under certain Conservation Easements located in Lee County, Florida and which Conservation Easements are particularly described on Exhibit "A" attached hereto and incorporated herein (the "Conservation Easements"); and

WHEREAS, District Permit No. 36-05268-P (the "Permit") authorizes certain activities which affect surface waters in or of the State of Florida and affects the easement areas described on Exhibit "A", as subsequently modified, amended, or partially vacated; and

WHEREAS, the Conservation Easements have been placed on sites in Lee County, Florida, which are subject to the regulatory jurisdiction of the District, under the Permit; and

WHEREAS, the Permit requires that the respective grantors under the Conservation Easements described on Exhibit "A" preserve and/or mitigate wetlands under the District's jurisdiction; and

WHEREAS, the Conservation Easements were granted in accordance with Section 704.06, Florida Statutes (2000), and in consideration of the consent granted by the Permit; and

WHEREAS, in accordance with the provisions of Paragraph 9 of the respective Conservation Easements held by Grantor, the Grantor has the right to assign its rights under the Conservation Easements to any organization qualified to hold such interests in accordance with the laws of the State of Florida; and

WHEREAS, the Grantee is an agency of the State of Florida which regulates wetlands and conservation easements over wetlands, is the issuer of the Permit under which the Conservation Easements were granted, and is an organization qualified to hold conservation easements under the laws of the State of Florida.

NOW, THEREFORE, consistent with the agreements in connection with the issuance of the Permit by Grantee to construct and operate the permitted activity, and in consideration of other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, Grantor hereby assigns rights to the perpetual Conservation Easements for and in favor of the Grantee upon the properties described in Exhibit "A", which shall run with the land and be binding upon the respective grantors under the Conservation Easements described in Exhibit "A", and shall remain in full force and effect forever, and which are described in this Assignment.

The scope, nature, and character of the Conservation Easements are as follows:

1. It is the purpose of the Conservation Easements to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife. Those wetland and/or upland areas included in the Conservation Easements which are to be enhanced or created pursuant to the Permit shall be retained and maintained in the enhanced or created conditions required by the Permit.

To carry out this purpose, in addition to all rights held by the Grantor, the Grantor grants to the Grantee the following rights in connection with this Assignment of Rights Under Conservation Easement, which may be exercised solely by the Grantee or in conjunction with the Grantor:

a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by owner of the respective parcel of property at the time of such entry; and

b. To enjoin any activity on or use of the Property that is inconsistent with the Conservation Easement for that property, and to enforce the restoration of such areas or features of the respective property that may be damaged by any inconsistent activity or use.

2. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, which are permitted or required by the Permit, the following activities are prohibited in or on any of the properties described in the Conservation Easements:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a District approved maintenance plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses which are detrimental to the preservation of any features or aspects of the any portion of the Conservation Easement properties having historical or archaeological significance.

3. Passive Recreational Facilities. Grantor reserves all rights it has been granted under the respective Conservation Easements described on Exhibit "A", and those rights may be exercised by the Grantor alone or in conjunction with the Grantee. The Grantor shall not exercise any of those rights in contravention of the purpose of the Conservation Easements. The rights of the Grantor and Grantee hereunder shall also be consistent with the rights retained by the respective owners of the Conservation Easement properties, which include the right to engage in uses of the Property that are not prohibited herein or otherwise in the Conservation Easements, and that are not inconsistent with any District rule, criteria, the Permit and the intent and purposes of the respective Conservation Easement. Passive recreational uses that are not contrary to the purpose of the respective Conservation Easement may be permitted upon written approval by the District.

a. The Grantor or the respective property owner may conduct limited land clearing for the purpose of constructing such pervious facilities as docks, boardwalks or mulched walking trails.

b. The construction and use of any approved passive recreational facilities shall be subject to the following conditions:

i. Grantor or the owner of the respective property shall minimize and avoid, to the fullest extent possible, impact to any wetland or upland buffer areas within the Conservation Easement

Area and shall avoid materially diverting the direction of the natural surface water flow in such area;

ii. Such facilities and improvements shall be constructed and maintained utilizing best management practices;

iii. The respective Conservation Easements do not constitute permit authorization for the construction and operation of any passive recreational facilities. Any such work shall be subject to all applicable federal, state, District or local permitting requirements.

4. No right of access by the general public to any portion of the Property is conveyed by this Assignment of Rights Under Conservation Easement.

5. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the properties described in the Conservation Easements.

6. The grantors of the respective Conservation Easements shall pay any and all real property taxes and assessments levied by competent authority on the respective properties described in the Conservation Easements.

7. Any costs incurred in enforcing, judicially or otherwise, the terms, provisions and restrictions of any of the Conservation Easements shall be borne by and recoverable against the non-prevailing party in such proceedings.

8. Enforcement of the terms, provisions and restrictions of these Conservation Easements shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

9. Grantee will hold these Conservation Easements exclusively for conservation purposes. Grantee will not assign its rights and obligations under these Conservation Easements except to another organization qualified to hold such interests under the applicable state laws.

10. If any provision of the Conservation Easements or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of the Conservation Easements shall not be affected thereby, as long as the purpose of the Conservation Easements is preserved.

11. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

12. This Assignment of Rights Under Conservation Easement and the Conservation Easements referred to herein may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Lee County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purpose imposed with the Conservation Easements shall be binding upon grantors of the respective Conservation Easements, and shall continue as a servitude running in perpetuity with the respective properties.

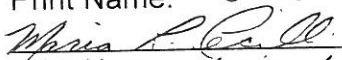
Grantor hereby covenants with said Grantee that Grantor is lawfully seized of the rights in and to the Conservation Easements; that the properties which are the subject matter of the Conservation Easements are free and clear of all encumbrances that are inconsistent with the terms of the Conservation Easements at the time of the recording of the Conservation Easements, and all mortgages, if any, joined or subordinated; that Grantor has good right and lawful authority to assign the rights to the Conservation Easements, as provided for herein; and that the Grantor hereby fully warrants and defends the title to the Conservation Easements hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the undersigned, Alan C. Freeman, President of North Alico Property Owners Association, Inc. has hereunto set his hand this 30th day of December, 2010.

Signed, sealed and delivered
in our presence as witnesses:

North Alico Property Owners Association, Inc.
a Florida not for profit corporation


Print Name: Ellen Everskitzer


Print Name: MARIA L. Cecil

By: 
Alan C. Freeman, President

STATE OF FLORIDA

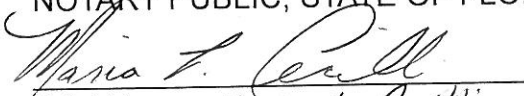
) ss:

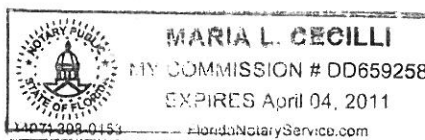
COUNTY OF LEE

On this 30th day of December, 2010, before me, the undersigned notary public, personally appeared Alan C. Freeman, the President of North Alico Property Owners Association, Inc., a Florida not for profit corporation, personally known to me to be the person who subscribed to the foregoing instrument and did not take an oath, and he acknowledged that he executed the same on behalf of said corporation and that he was duly authorized to do so.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA


Print Name: MARIA L. CECILLI



My Commission Expires: April 04, 2011

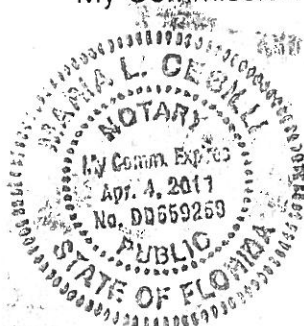


EXHIBIT "A"
CONSERVATION EASEMENTS

Below is a description of the Conservation Easements being assigned to the South Florida Water Management District in accordance with the terms of the above Assignment.

1. Deed of Conservation Easement from Harold Horowitz, as Trustee to North Alico Property Owners' Association, Inc. recorded in Instrument # 2007000123329, in the Official Records of Lee County, Florida, and as subsequently modified and reduced in size by a permit modification to Permit # 36-05268-P dated January 13, 2009 from the South Florida Water Management District reducing the Conservation Easement to 3.11 acres by releasing from the Conservation Easement 2.366 acres with such Release Parcel further described on the attached Exhibit "B" pages 1 through 3.
2. Deed of Conservation Easement from Bradley S. Weiss, as Trustee to North Alico Property Owners' Association, Inc. recorded in Instrument # 2007000123330, in the Official Records of Lee County, Florida.
3. Deed of Conservation Easement from Paul H. Freeman, as Trustee to North Alico Property Owners' Association, Inc. recorded in Instrument # 2007000123331, in the Official Records of Lee County, Florida.
4. Deed of Conservation Easement from Three Oaks 59, LLC to North Alico Property Owners' Association, Inc. recorded in Instrument # 2007000123332, in the Official Records of Lee County, Florida.

EXHIBIT "B"

DESCRIPTION: (Release Parcel)

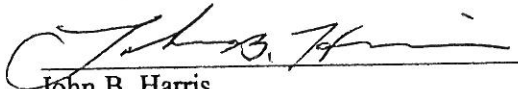
A tract or parcel of land lying in Section 4, Township 46 South, Range 25 East, Lee County, Florida, described as follows:

Commencing at the Southeast corner of the aforesaid Section 4; thence run N.00°56'55"W. along the East line of said Section 4 for 100.00 feet to the North right-of-way line of Alico Road; thence run S.89°45'24"W. along the North line of Alico Road for 1506.44 feet; thence run N.00°56'55"W. for 50.00 feet to the point of beginning; thence continue N.00°56'55"W. for 191.16 feet; thence run N.88°59'23"E. for 10.02 feet to a point on a non-tangent curve thence run North-easterly for 77.29 feet along the arc of a curve concave Southeasterly, with a radius of 50.00 feet, a delta of 88°33'45", a chord bearing of N.45°28'36"E. and a chord distance of 69.82 feet to a point of tangency; thence run N.89°45'28"E. for 84.79 feet to a point of curvature; thence run Northeasterly for 32.41 feet along the arc of a curve conave Northwesterly, with a radius of 28.00 feet, a delta of 66°19'15", a chord bearing of N.56°35'50"E and a chord distance of 30.63 feet to a point of reverse curvature; thence run Northeasterly for 57.41 feet along the arc of a curve concave Southeasterly, with a radius of 70.00 feet, a delta of 46°59'40", a chord bearing of N.46°56'02"E. and a chord distance of 55.82 feet to a point of reverse curvature; thence run Northeasterly and Northwesterly for 336.12 feet along the arc of a curve concave Westerly, with a radius of 145.00 feet, a delta of 132°48'50", a chord bearing of N.04°01'27"E. and a chord distance of 265.76 feet to a point of reverse curvature; thence run Northwesterly for 200.37 feet along the arc of a curve concave Northeasterly, with a radius of 170.00 feet, a delta of 67°31'50", a chord bearing of N.28°37'02"W. and a chord distance of 188.97 feet to a point of reverse curvature; thence run Northwesterly for 118.70 feet along the arc of a curve concave Westerly, with a radius of 580.00 feet, a delta of 11°43'34", a chord bearing of N.00°42'54"W. and a chord distance of 118.50 feet to a point of common curvature; thence run Northwesterly for 44.52 feet along the arc of a curve concave Southwesterly, with a radius of 30.00 feet, a delta of 85°01'55", a chord bearing of N.49°05'39"W. and a chord distance of 40.55 feet to a point of tangency; thence run S.88°23'24"W. for 57.65 feet to a point of curvature; thence run Northwesterly for 21.83 feet along the arc of a curve concave Northerly, with a radius of 50.00 feet, a delta of 25°00'56", a chord bearing of N.79°06'38"W. and a chord distance of 21.66 feet to a point of non-tangency; thence run N.34°55'31"E. for 206.20 feet; thence run S.32°10'25"E. for 216.59 feet; thence run S.32°15'37"E. for 25.38 feet; thence run S.39°09'25"E. for 90.31 feet; thence run S.32°48'47"E. for 95.67 feet; thence run S.08°10'01"E. for 79.05 feet; thence run S.19°14'08"W. for 34.27 feet; thence run S.21°07'07"W. for 26.43 feet; thence run S.65°43'54"E. for 34.06 feet; thence run S.18°24'50"E. for 23.17 feet; thence run S.28°42'07"E. for 27.09 feet; thence run S.19°21'27"E. for 28.36 feet; thence run S.09°39'00"E. for 23.23 feet; thence run S.02°56'19"E. for 25.08 feet; thence run S.04°41'33"W. for 21.84 feet; thence run S.14°53'26"W. for 45.44 feet; thence run S.08°55'53"W. for 24.42 feet; thence run S.26°01'32"W. for 23.50 feet; thence run S.60°44'39"W. for 21.70 feet; thence run S.38°43'42"W. for 22.06 feet; thence run S.63°47'12"W. for 23.15 feet; thence run S.75°02'22"W. for 20.92 feet; thence run S.69°21'31"W. for 29.98 feet; thence run N.89°58'50"W. for 22.09 feet; thence run N.75°39'58"W. for 22.85 feet; thence run N.80°03'33"W. for 75.60 feet; thence run N.86°04'34"W. for 28.85 feet; thence run S.88°35'07"W. for 34.63 feet; thence run S.75°39'20"W. for 32.53 feet to a point of curvature; thence run Southwesterly for 44.12 feet along the arc of a curve concave Southeasterly, with a radius of 33.00 feet, a delta of 76°36'01", a chord bearing of S.37°21'20"W. and a chord

distance of 40.91 feet to a point of tangency; thence run S.00°56'55"E. for 177.41; thence run S.89°45'24"W. for 33.82 feet to the point of beginning.

Said tract contains 2.366 acres, more or less.

Bearings are based on the North right-of-way line of the aforesaid Alico Road as bearing S.89°45'24"W.



John B. Harris
P.S.M. #4631
August 7, 2008

CURVE TABLE

NO.	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
1	33.00'	76°36'01"	44.12'	40.91'	S.37°21'20"W.
2	50.00'	88°33'45"	77.29'	69.82'	N.45°28'36"E.
3	28.00'	66°19'15"	32.41'	30.63'	N.56°35'50"E.
4	70.00'	46°59'40"	57.41'	55.82'	N.46°56'02"E.
5	145.00'	132°48'50"	336.12'	265.76'	N.04°01'27"E.
6	170.00'	67°31'50"	200.37'	188.97'	N.28°37'02"W.
7	580.00'	11°43'34"	118.70'	118.50'	N.00°42'54"W.
8	30.00'	85°01'55"	44.52'	40.55'	N.49°05'39"W.
9	50.00'	25°00'56"	21.83'	21.66'	N.79°06'38"W.

EXHIBIT "B" SKETCH OF LEGAL DESCRIPTION **RELEASE PARCEL** **LYING IN SECTION 4**

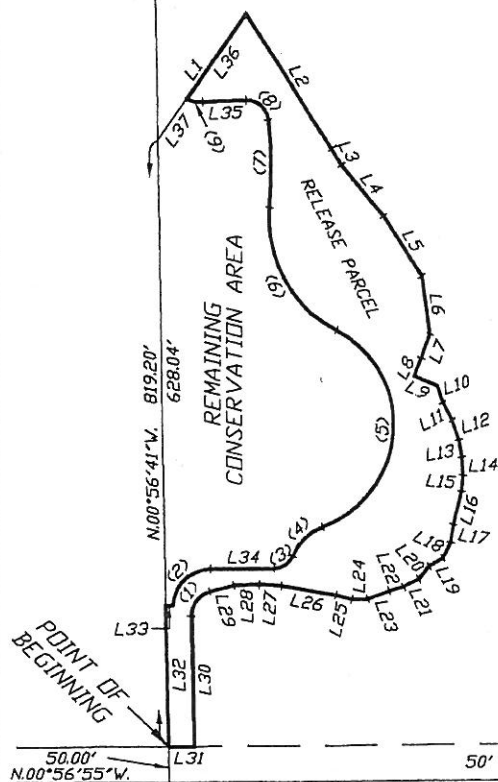
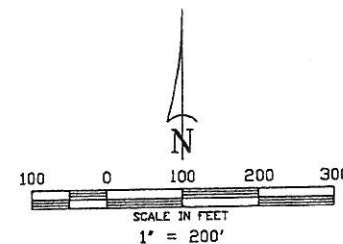
TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

PAGE 3 OF 3

LINE TABLE

Line	Bearing	Distance
L1	N.34°55'31"E.	206.20'
L2	S.32°10'25"E.	216.59'
L3	S.32°15'37"E.	25.38'
L4	S.39°09'25"E.	90.31'
L5	S.32°48'47"E.	95.67'
L6	S.08°10'01"E.	79.05'
L7	S.19°14'08"W.	34.27'
L8	S.21°07'07"W.	26.43'
L9	S.65°43'54"E.	34.06'
L10	S.18°24'50"E.	23.17'
L11	S.28°42'07"E.	27.09'
L12	S.19°21'27"E.	28.36'
L13	S.09°39'00"E.	23.23'
L14	S.02°56'19"E.	25.08'
L15	S.04°41'33"W.	21.84'
L16	S.14°53'26"W.	45.44'
L17	S.08°55'53"W.	24.42'
L18	S.26°01'32"W.	23.50'
L19	S.60°44'39"W.	21.70'
L20	S.38°43'42"W.	22.06'
L21	S.63°47'12"W.	23.15'
L22	S.75°02'22"W.	20.92'
L23	S.69°21'31"W.	29.98'
L24	N.89°58'50"W.	22.09'
L25	N.75°39'58"W.	22.85'
L26	N.80°03'33"W.	75.60'
L27	N.86°04'34"W.	26.85'
L28	S.88°35'07"W.	34.63'
L29	S.75°39'20"W.	32.53'
L30	S.00°56'55"E.	177.41'
L31	S.89°45'24"W.	33.82'
L32	N.00°56'55"W.	191.16'
L33	N.88°59'23"E.	10.02'
L34	N.89°45'28"E.	84.79'
L35	S.88°23'24"W.	57.65'
L36	N.34°55'31"E.	139.10'
L37	N.34°55'31"E.	67.10'

SEE EXHIBIT "B" FOR LEGAL DESCRIPTION.



HOROWITZ
(O.R. BOOK 2025, PAGE 3772)

WEST LINE OF SECTION 4-46-25

PROJECT # 3-DAKS-P-A2
JOB # 3-DAKS-EXT-4625
SKETCH DATE: 8/1/08
HARRIS - JORGENSEN, INC. 2706 S.E. SANTA BARBARA PLACE CAPE CORAL, FLORIDA PHONE: (941) 772-9939 FAX: (941) 772-1315
<i>John B. Harris</i> AUGUST 7, 2008
JOHN B. HARRIS, PSM FLORIDA LAND SURVEYOR #4631
FLORIDA CERTIFICATE OF AUTHORIZATION LB #6921

50.00' N.00°56'55"W. L31
NORTH R/W LINE S.89°45'24"W. 1506.44' N.00°56'55"W. 100.00'
ALICO ROAD POINT OF COMMENCEMENT
SOUTH LINE OF SECTION 4-46-25 S.E. CORNER OF SECTION 4-46-25