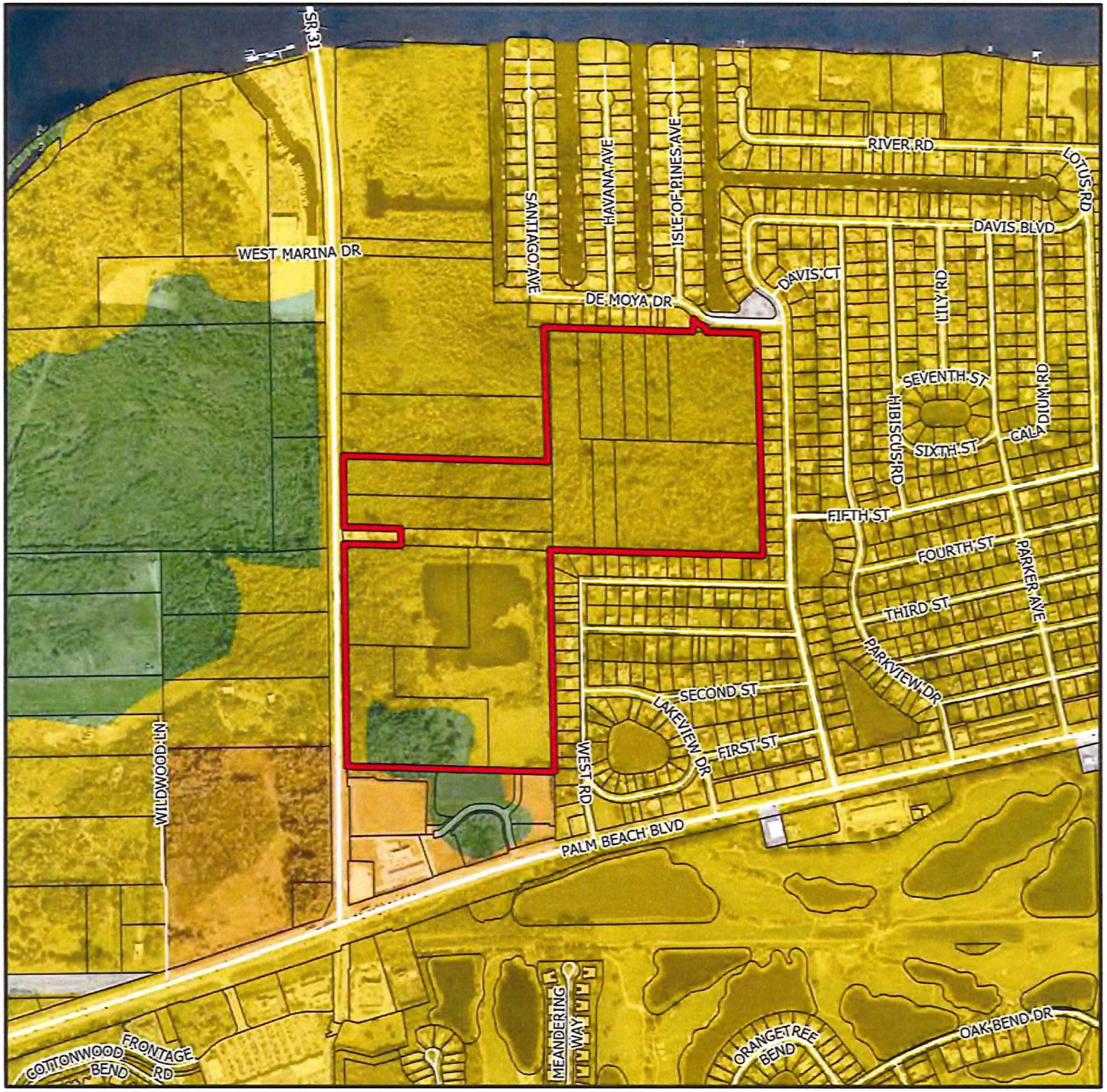
Summary of Hearing Examiner Recommendation

31 OAKS RPD

The request proposes a residential subdivision in the Fort Myers Shores Planning District. The site constitutes infill development complementing existing development patterns.

Detailed recommendation follows



DCI2021-00051

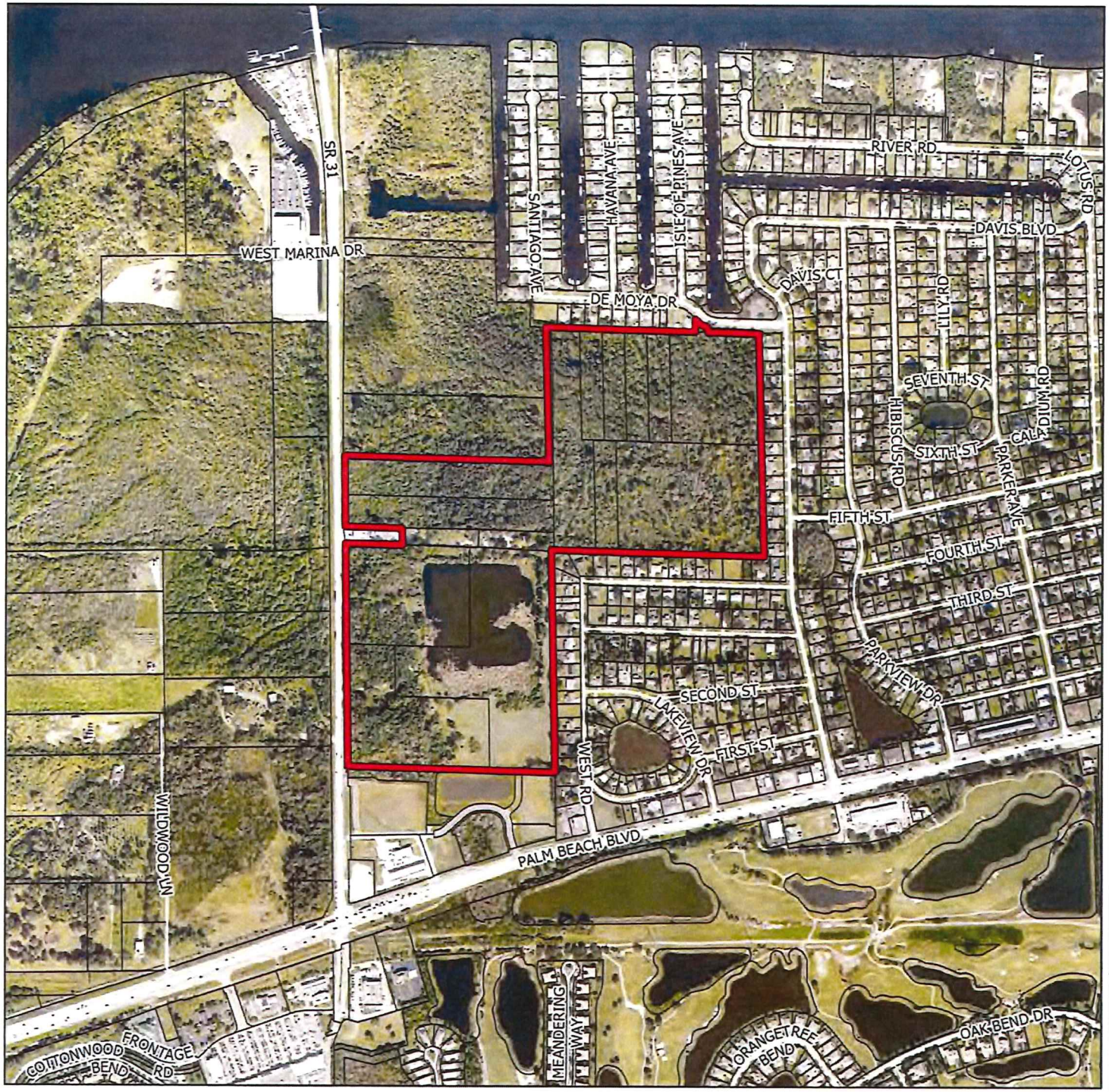
Future Land Use

- Subject Property
- Urban Community
- Suburban
- Public Facilities
- Wetlands

N
W E
S

0 500 1,000 1,500
Feet

Lee County
Southwest Florida



DCI2021-00051

Aerial

Subject Property

N
W E
S

0 500 1,000 1,500
Feet

Lee County
Southwest Florida

DCI2021-00051

Mixed Use Overlay

Subject Property

Mixed Use Overlay

N

W E

S

0 500 1,000 1,500

US Feet

Lee County

Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00051

Regarding: **31 OAKS RPD**

Location: East side of S.R. 31 south of the Caloosahatchee River, approximately 1/4 mile north of the S.R. 31 and Palm Beach Boulevard (S.R. 80) intersection.

Fort Myers Shores Planning District
Caloosahatchee Shores Planning Community

(District 5)

Hearing Date: May 18, 2023

I. Request

Rezone 88.3 acres from Agricultural (AG-2) and Residential Planned Development (RPD) to RPD to allow 265 single family residential dwelling units, or 342 townhouse dwelling units, or a combination of those units.

The property legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

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

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners on applications to rezone property to the planned development zoning district.[1] In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to rezone 88.3 acres to the RPD District.

In preparing a recommendation, the Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), Land Development Code (LDC), and other County regulations to facts adduced at hearing. The Hearing Examiner may take judicial notice of prior zoning decisions.[2] The record must contain substantial competent evidence to support the recommendation.

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[1] LDC §34-145(d)(4) a.
[2] Lee County Administrative Code AC 2-6, §2.3D(4)(b).

Discussion supporting the Hearing Examiner's recommendation of approval with conditions follows below.

Request

The request seeks to rezone 88.3 acres to the RPD District to develop up to 265 single-family residential dwelling units or 342 townhouse units, or a combination of both.

The Master Concept Plan (MCP) depicts residential development tracts around a lake and wetlands. There is an optional amenity area. The request includes four deviations from LDC criteria. Building heights will not exceed 35 feet.[3]

Staff recommended approval with conditions.

History

The 88.3-acre property is zoned Agricultural (AG-2) and RPD. The Board rezoned approximately 49.62 acres to RPD in 2006 authorizing development of 140 dwelling units. The site is vacant and unimproved.

The subject request incorporates the adjacent 38.68 acres to propose a new project/MCP. The proposed MCP includes larger wetland preserves to address floodplain storage and conveyance area.

Character of Area

The property lies within the Fort Myers Shores Planning District and is subject to the Caloosahatchee Shores Community Plan.[4] The goal of the Caloosahatchee Shores Community is to promote new development while protecting existing character, natural resources, and quality of life. The goal includes maintaining a "more rural identity for neighborhoods east of I-75," however most property east of the interstate consists of platted subdivisions and commercial land uses.[5]

Commercial businesses along S.R. 31 include a marina, freestanding cocktail lounge, and convenience store with fuel pumps. Palm Beach Boulevard (S.R. 80) to the south features strip commercial development, fire station, places of worship, and The Verandah residential community.

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[3] Requested deviations pertain to lake bank slopes, lake setbacks from property lines, and dead-end street configurations.
[4] Lee Plan Goal 21, Map 1-B.
[5] Lee Plan Goal 21, Objective 21.1.

Lee Plan

Planned developments must be consistent with the Lee Plan.[6]

The property lies within the Suburban and Wetlands future land use categories. Surburban areas lie outside the urban core where it is appropriate to protect residential neighborhoods. Residential development is permissible at densities ranging from one to six units per acre. Maximum densities may be as high as eight dwelling units per acre.[7] Wetlands may develop with low-density residential uses that do not adversely affect the ecological functions of wetlands.[8]

The Lee Plan encourages diverse housing options.[9] The proposed schedule of uses augments housing options in the Fort Myers Shores community permitting single family, two-family attached, and townhome products. Maximum requested density on the site is 3.87 dwelling units per acre, well below the upper limits allowed in the Suburban land use category.[10]

The Lee Plan encourages compact and contiguous development patterns in areas with services and infrastructure.[11] Surrounding lands include residential and commercial land uses. The site constitutes infill development complementing existing development patterns.[12]

Coastal High Hazard Area

Portions of the property are within the Coastal High Hazard area.[13] Development in coastal areas is subject to additional requirements under the Lee Plan Conservation and Coastal Management Element.[14] Consequently, the project will be subject to land development regulations designed to reduce vulnerability from natural disasters such as hurricanes and flooding.[15]

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[6] LDC §34-411(a).
[7] Lee Plan Policy 1.1.5.
[8] Lee Plan Policy 1.5.1. Residential density is permissible at one unit per 20 acres.
[9] Lee Plan Policies 135.1.9, 160.1.3.
[10] Suburban areas may develop up to 6 dwelling units per acre and potentially 8 units per acres with Greater Pine Island Transfer of Development Units, if outside the Coastal High Hazard Area.
[11] The site has access to public services and infrastructure including public water and sanitary sewer, paved roads, and police, fire, and emergency medical services. Lee Plan Objectives 2.1, 2.2, Policies 2.2.1, 2.2.2; LDC §34-411(i) and (j). Lee County Utilities will provide potable water and sanitary sewer service. The site has access paved roadways.
[12] The zoning request is consistent with emerging development patterns in the area. *See* Lee Plan Glossary definition - infill. Proposed residential uses expands housing options in the planning community. Lee Plan Goals 5, 135, Objective 135.1.
[13] Florida Statutes 163.3178(2)(h), Lee Plan Map 5-A.
[14] Lee Plan Objective 2.6. *See* Lee Plan Goal 101, Policies 101.1.1, 101.3.2, 101.3.4.
[15] Lee Plan Goals 72, 101, Objective 72.2; LDC §2-481 *et seq.* Current Federal Flood Insurance Rate Maps (FIRM) require the first floor building elevation to be 10 feet above mean sea level. Testimony at hearing confirmed first finished floor would be 11 feet above mean sea level. Transcript May 18, 2023: Testimony of Brandon Frey, PE.

The proposed site design impacts wetlands, which typically serve as a natural defense against coastal flooding. However, the plan of development compensates by providing additional floodplain storage within 4.48 acres of "created" wetlands.[16]

Compatibility

Planned developments further the goals of the Lee Plan while providing flexibility in planning and design.[17] Planned development zoning is a means to integrate new development with surrounding land uses, ensuring consistency and visual harmony.[18]

The Caloosahatchee Community Plan encourages protecting existing residential neighborhoods with buffers.[19] The MCP clusters homesites and devotes 45% of the site to open space.[20] Open space areas and perimeter buffers will be planted with native vegetation.[21] The site plan minimizes disruption to area residents with a primary access from S.R. 31 and secondary access to Storage Bay Drive, effectively bypassing the Fort Myers Shores subdivision.[22]

Collectively, these design features ensure compatibility with adjacent land uses.[23]

LDC

Development must comply with County land development regulations or seek deviations. The request seeks four deviations from the LDC. "Deviations" depart from land development regulations.[24] Applicants must demonstrate each deviation enhances the planned development and will not cause a detriment to the public.[25]

Requested deviations seek relief from lake setbacks, bank slopes, dead-end street configuration, and accessory structure encroachment.[26] The requested deviation from lake bank slope requirements increases the bank slopes to provide additional

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[16] Lee Plan Objective 101.3 and proposed Condition 11 requires the development order application to include a Stormwater Report addressing floodplain storage. *See* Staff Report Attachment U: 31 Oaks Surface Water Management Plan prepared by RVI Planning + Landscape Architecture.

[17] LDC §§34-411(a), 34-612(2); Planned developments must be consistent with the Lee Plan. Lee Plan Policy 2.1.2.

[18] LDC §34-612(2). LDC 34-2: Development of County Impact means development that may have a substantial effect on public health, safety, and welfare or upon the County's natural resources. *See also* LDC §34-341(a). Lee Plan Policies 2.1.1, 5.1.1; LDC §34-612(2). The planned development district affords flexibility in site design.

[19] Lee Plan Objective 21.3.

[20] Lee Plan Goal 77, Objectives 77.1, 77.3, Policy 77.3.4; *See* MCP which depicts a project wall and landscaped buffers separating developed areas from abutting residential land uses.

[21] The MCP exceeds LDC buffer requirements from adjacent land uses.

[22] Lee Plan Policy 135.9.5. Storage Bay Drive is a privately maintained local road connecting to Merchandise Way. Merchandise Way connects to SRs 31 and 80.

[23] Lee Plan Goal 77, Objectives 77.1, 77.3, Policies 5.1.5, 77.3.1, 77.3.4.

[24] LDC §34-2.

[25] LDC §34-373(a)(9).

[26] LDC §§ 10-296(k)(1), 10-329(d)(1) and (d)(4).

floodplain storage within the Coastal High Hazard Area.[27] Deviations from lake setbacks, dead-end street design, and setbacks for accessory structures offer flexibility in project design.[28]

Record testimony and evidence support finding the deviations are consistent with the LDC standard of review.[29] Staff recommends approval of all four deviations.

The LDC requires the Hearing Examiner to recommend approval, approval with modifications, or denial of requested deviations based upon findings the deviations (1) enhance the planned development and, (2) preserve/promote public health, safety, and welfare.[30] The Hearing Examiner finds the requested deviations meet the LDC criteria for approval.

Development will be subject to impact fees for road, park, school, fire, and emergency medical services.[31]

Environmental/Natural Resources

Requests to rezone property must not adversely affect environmentally critical/sensitive areas or natural resources.

The site is vacant and comprised of uplands and wetlands with indigenous vegetation. Applicant's protected species survey notes five potentially occupied gopher tortoise burrows. The gopher tortoise and its burrow are protected by Florida law.[32] The law requires relocation of gopher tortoises prior to development activity. Developer must secure a Gopher Tortoise Relocation Permit from the Florida Wildlife Conservation Commission (FWCC) to relocate tortoises to an approved off-site recipient site in accordance with FWC Gopher Tortoise Permitting Guidelines.[33]

The plan of development preserves/restores onsite natural features.[34] The MCP devotes 45% of the property to open space, 50% of which, is native/indigenous vegetation.[35] Restored wetlands and uplands improve the site's environmental integrity. Developer will provide conservation easements over preserve areas.[36] A

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[27] Deviation 2. Applicant requests to deviate from code to allow a 4:1 slope from top of bank to a water depth of two feet below the dry season water table to provide additional floodplain storage. Staff concluded the deviation increases the storage capacity of storm water management lakes enhancing preservation/conservation of onsite uplands and wetlands.
[28] LDC §34-612.
[29] LDC §34-377(a)(4).
[30] *Id.*
[31] LDC Chapter 2, Article VI.
[32] Chapter 68A-27 F.A.C.
[33] Lee Plan Policy 123.8.1.
[34] Lee Plan Goal 4, Standard 4.1.4, Policy 77.3.1.
[35] Lee Plan Goal 77.
[36] Lee Plan Policy 123.2.8; Condition 5. The MCP reflects 18.38 acres of preserves. Preserve areas will consist of indigenous wetland, wetland creation areas, Rare and Unique uplands. The County or other

required management plan provides for maintenance and monitoring of preserved areas with success criteria.[37]

Large developments must provide a minimum of 40% open space.[38] The MCP exceeds required open space devoting 45% of the project area to open space (39.43 acres). Fifty percent of open space must consist of indigenous vegetation. The MCP exceeds this requirement as well providing 18.38 acres, which includes restoration, preservation, and created indigenous areas.[39]

Conditions of approval protect uplands, wetlands, and heritage trees with conservation easements.[40] Developer must implement an Indigenous Habitat Management Plan, which requires long term monitoring and maintenance to ensure viability of protected areas.

The MCP reflects enhanced perimeter buffers where the project abuts residential development.[41] Buffers and landscaped areas within common areas must follow Xeriscape principles and consist of native landscape to conserve water.[42] Wet/dry detention areas and onsite preserves treat/filter storm water flow.[43]

The Hearing Examiner finds the proposed RPD zoning will not harm environmentally critical/sensitive areas or natural resources. The proposed plan of development enhances the site's environmental attributes by removing exotic vegetation and restoring/preserving wetlands.

Transportation

Zoning requests must provide sufficient access to support the proposed development parameters. County regulations and conditions of approval must address the expected impacts to transportation facilities.

Gated access to S.R. 31 will serve as the primary entrance to the site.[44] A secondary access connects to Storage Bay Drive, which connects to Merchandise Way, privately maintained local roads with access to S.R. 31 and S.R. 80.[45]

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public agency will have third party enforcement rights over conservation easements. Lee Plan Objective 123.2. *See* recommended conditions of approval.

[37] The MCP reflects 18.38 acres of preserves.

[38] LDC 10-415.

[39] Lee Plan Goal 123.

[40] Lee Plan Policy 101.1.2.

[41] Staff Report Attachment C: Conditions. *See* Condition 12.

[42] Lee Plan Objective 126.2, Policy 126.2.1 The common elements of the project will have Florida friendly plantings with low irrigation requirements.

[43] Lee Plan Goals 60, 61, 125, Objectives 60.4, 61.2, Policies 60.1.2, 60.4.1, 60.4.2, 60.4.5, 61.3.11, 125.1.2.

[44] S.R. 31 is a state maintained arterial road.

[45] Storage Bay Drive is a privately maintained local road.

Transportation studies show area roadways and intersections will operate at or above adopted levels of service at buildout in 2025.[46] The Transportation Impact Statement predicts turn lane improvements will be necessary at the main project entrance.

Developer must address site related improvements at the development order stage of development.[47]

Public Services and Infrastructure

Public services are services, facilities, capital improvements, and infrastructure necessary to support development.[48] The Lee Plan requires an evaluation of public services during the rezoning process.[49]

The property fronts S.R. 31.[50] The MCP depicts a secondary access to privately maintained local roads providing access to S.R. 31 and 80. The Lee Plan designates S.R. 31 for a sidewalk and shared use path. Applicant must comply with LDC bicycle and pedestrian facility requirements at the time of development order permitting.[51]

Lee County Utilities has potable water and sanitary sewer infrastructure available to serve the property, although site related improvements to extend lines may be necessary.[52]

The Fort Myers Shores Fire Department and Lee County EMS provide fire and emergency medical services to the area.[53] The Lee County Sheriff provides law enforcement services.[54] Schools, parks, community facilities, shopping, and employment centers are within a reasonable distance.[55]

Development will be subject to impact fees.[56]

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[46] Lee Plan Policies 38.1.1, 38.1.5. Staff Report Attachments I, K. Memorandum from Md Rakibul Alam, Senior Transportation Planner to Beth Workman, Principal Planner dated April 20, 2023, and Traffic Impact Statement prepared by TR Transportation Consultants, Inc. dated November 16, 2022.
[47] Lee Plan Objective 39.1 and Policy 39.1.1.
[48] Available public services and infrastructure include public water and sewer (Lee County Utilities), paved streets, parks and recreation facilities, libraries, police, fire and emergency services, urban surface water management, and schools.
[49] Lee Plan Goal 95 and Policy 2.2.1.
[50] Lee Plan Map 3-D.
[51] FDOT's plans to improve S.R. 31 may allow for payment of a fee in lieu of constructing facilities.
[52] Staff Report Attachment H. Lee Plan Goal 4, Standards 4.1.1 and 4.1.2. *See* LDC §§ 10-352 and 10-353
[53] Fort Myers Shores Station 81 is within a half mile of the site. Lee County EMS Medic 11 within 1.5 miles.
[54] Lee County Sheriff Office within 11.3 miles.
[55] Staff Report.
[56] LDC Chapter 2, Article VI.

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect County resources.[57] Conditions must plausibly relate to anticipated impacts, and be pertinent to mitigating impacts to the public. [58] The RPD will be subject to conditions of approval designed to address impacts reasonably anticipated from development.[59]

Hearing Examiner recommends revisions conditions/deviations to improve clarity.

Public

Area residents attended the Hearing Examiner hearing. Participants cited congested traffic conditions, impacts to wildlife, and flooding as the primary concern.

Conclusion

The Hearing Examiner recommends approval of the 31 Oaks RPD subject to conditions in Exhibit B. The Hearing Examiner finds the requested RPD zoning district meets LDC criteria and, as conditioned, is compatible with surrounding development.[60]

The Hearing Examiner revised conditions for clarity, compliance with state law, and removed LDC references applicable by virtue of Condition 1.

IV. Findings and Conclusions

Based on the testimony and exhibits presented in the record, the Hearing Examiner finds:

A. The requested 31 Oaks RPD is consistent with the Lee Plan. Lee Plan Goals 2, 4, 5, 60, 61, 77, 124, 125; Objectives 1.5, 4.1, 5.1, 60.1, 61.2, 77.1, 77.3, 123.2, 123.4, 123.8, 126.2, and Policies 1.1.5, 1.5.1, 2.2.1, 5.1.5, 124.1.1, 135.1.9, 135.9.6, 158.2.1, 160.1.3; Lee Plan Maps 1-A, 1-B, 4-A, 4-B, and Table 1(a).

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[57] Lee Plan Policies 5.1.5, 135.9.6; LDC §§34-145(d)(4) a.2.(b), 34-377(a)(3), 34-411, and 34-932(c).
[58] LDC §34-932(b).
[59] LDC §§34-83(b)(4) a.3, 34-377(a)(2)c, 34-932(b); Lee Plan Goals 59, 61, 77, Policies 5.1.5, 60.1.1, 60.5.1, 60.5.2, 61.3.11, 77.3.1.
[60] Lee Plan Policies 5.1.5, 135.9.5, 135.9.6.

B. As conditioned, the RPD zoning designation:

1. is consistent with the Land Development Code or qualifies for deviations. LDC Chapters 2, 10, and 34.

2. is compatible with existing or planned uses in the surrounding area. Lee Plan Policies 1.1.5, 5.1.5, 135.1.9, 135.9.5, 135.9.6; LDC §§34-411, 34-413, *and*

3. will not adversely affect environmentally sensitive areas or natural resources. Lee Plan Goals 60, 61, 101, 123, 125, Objectives 60.1, 60.4, 61.2, 123.1, 123.2, 123.3, 123.4, 123.8, 124.1, 126.2, Policies 1.5.1, 60.1.1, 60.1.2, 60.4.1, 60.4.2, 60.4.3, 61.1.1, 61.2.4, 61.3.6, 61.3.8, 61.3.11, 77.3.1, 101.1.1, 101.1.2, 123.2.3, 123.2.4, 123.2.6, 123.2.8, 123.2.15, 123.3.1, 123.4.4, 123.8.1, 124.1.1, 125.1.2, 125.1.3, 126.1.4, 126.2.1, and Standard 4.1.4.

C. There is sufficient road access to support the proposed development intensity.

D. The expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. Lee Plan Objective 39.1, Policies 38.1.1, 38.1.5, 39.1.1; LDC §§2-261 *et seq.*, 34-411(d) and (e).

E. Public services and infrastructure will be available to serve the development. Goal 4, Objectives 2.1, 2.2, 4.1, Policies 2.2.1, Standards 4.1.1, 4.1.2.

F. The proposed uses are appropriate at the subject location. Lee Plan Goals 2, 5; Policies 1.1.5, 124.1.1, 135.9.5, 135.9.6.

G. The County regulations and recommended conditions of approval provide sufficient safeguards to protect the public interest. Lee Plan Policies 5.1.2, 5.1.5, 61.3.8, 123.2.8, 123.2.9, 135.9.6; LDC §§34-377(a)(3), 34-411.

H. The recommended conditions reasonably relate to the impacts expected from the proposed development. Lee Plan Policies 5.1.2, 5.1.5, 77.3.1, 123.2.15, 123.8.1, 135.9.6; LDC §§ 34-145(d)(4) a.2.(b), 34-411, and 34-932(c).

I. Deviations recommended for approval enhance the planned development and preserve the intent of the LDC to protect the public health, safety, and welfare. LDC §§ 34-373(a)(9), 34-377(a)(4).

Date of Recommendation: June 6, 2023.

Donna Marie Collins
Chief Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

RHODES & RHODES LAND SURVEYING, INC.
28100 BONITA GRANDE DRIVE #107 NAPLES, FLORIDA 34135
PHONE (239) 405-8166 FAX (239) 405-8163

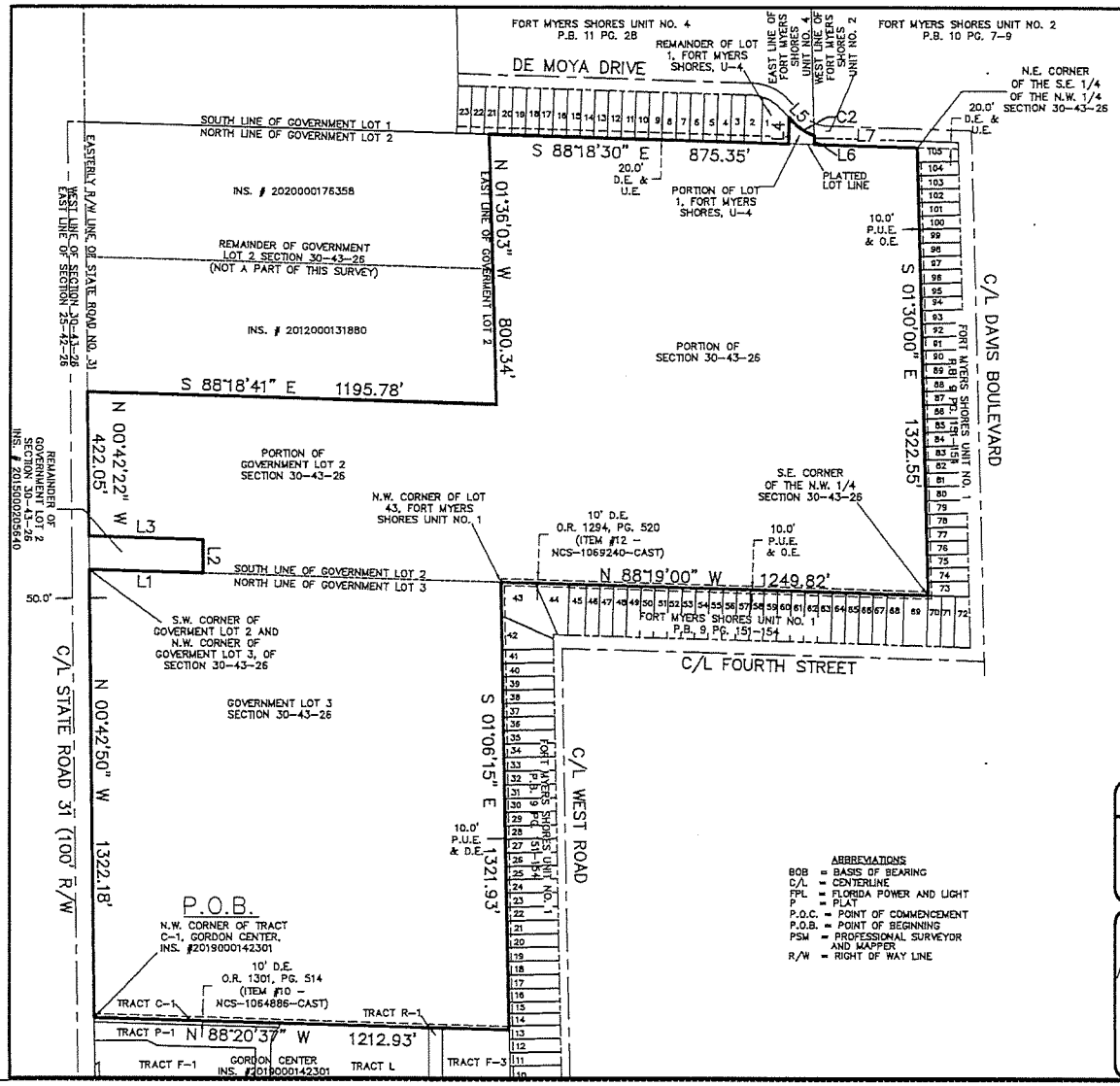
BEING A PORTION OF GOVERNMENT LOTS 2 AND 3, OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST, A PORTION OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA AND A PORTION OF LOT 1, FORT MYERS SHORES UNIT NO. 4, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 11, PAGE 28, OF THE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

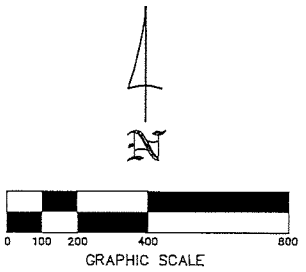
BEGINNING AT THE NORTHWEST CORNER OF TRACT C-1, GORDON CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NUMBER 2019000142301, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°42'50" WEST ALONG THE EAST RIGHT-OF-WAY OF STATE ROAD 31 (A 100.00 FOOT RIGHT-OF-WAY), A DISTANCE OF 1,322.18 FEET TO NORTHWEST CORNER OF GOVERNMENT LOT 3, THE SAME BIENG THE SOUTHWEST CORNER OF GOVERNMENT LOT 2, OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 26 EAST; THENCE SOUTH 88°18'44" EAST LEAVING SAID EAST RIGHT-OF-WAY LINE OF STATE ROAD 31, ALONG SAID BOUNDARY LINE OF GOVEMENT LOT 2 AND 3, A DISTANCE OF 332.63 FEET; THENCE NORTH 00°42'19" WEST LEAVING SAID BOUNDARY LINE OF GOVERNMENT LOT 2 AND 3, A DISTANCE OF 100.09 FEET; THENCE NORTH 88°18'44" WEST, A DISTANCE OF 332.63 FEET TO A POINT ON THE SAID EAST RIGHT-OF-WAY STATE ROAD 31; THENCE NORTH 00°42'22" WEST ALONG SAID EAST RIGHT-OF-WAY OF STATES ROAD 31, A DISTANCE OF 422.05 FEET; THENCE SOUTH 88°18'41" EAST LEAVING SAID EAST RIGHT-OF-WAY OF STATE ROAD 31, A DISTANCE OF 1,195.78 FEET; THENCE NORTH 01°36'03" WEST, A DISTANCE OF 800.34 FEET TO A POINT ON THE BOUNDARY LINE OF FORT MYERS SHORES UNIT NO.4, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 11, PAGE 28, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTH 88°18'30" EAST ALONG SAID BOUNDARY LINE OF FORT MYERS SHORES UNIT NO. 4, A DISTANCE OF 875.35 FEET; THENCE NORTH 01°41'30" EAST LEAVING SAID BOUNDARY LINE OF FORT MYERS SHORES UNIT NO. 4, A DISTANCE OF 76.59 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF DE MOYA DRIVE (A 70.00 FOOT RIGHT-OF-WAY), FORT MYERS SHORES UNIT NO. 4. ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 11, PAGE 28, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTHERLY ALONG SAID SOUTH RIGHT-OF-WAY OF DE MOYA DRIVE THE FOLLOWING 2 COURSES, COURSE (1) SOUTH 43°18'30" EAST, 19.95 FEET TO A POINT OF CURVATURE; COURSE (2) SOUTHEASTERLY, 71.28 FEET ALONG THE ARC OF A CIRCULAR CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 145.00 FEET, THROUGH A CENTRAL ANGLE OF 28°09'50" AND BEING SUBTENDED BY A CHORD THAT BEARS SOUTH 57°23'25" EAST, 70.56 FEET TO THE NORTHEAST CORNER OF LOT 1, OF SIAD FORT MYERS SHORES UNIT NO. 4; THENCE SOUTH 01°30'00" EAST ALONG SAID BOUNDARY LINE OF LOT 1 FORT MYERS SHORES UNIT NO. 4, A DISTANCE OF 26.28 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1, FORT MYERS SHORES UNIT NO. 4 AND THE SOUTHWEST CORNER OF LOT 105, FORT MYERS SHORES UNIT NO. 2, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGES 7 THROUGH 9, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTH 88°18'30" EAST ALONG SAID BOUNDARY LINE OF SAID LOT 105 FORT MYERS SHORES UNIT NO. 2, A DISTANCE OF 300.46 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SAID SECTION 30; THENCE SOUTH 01°30'00" EAST ALONG SAID BOUNDARY LINE OF

LOT 105, FORT MYERS SHORES UNIT NO. 2 AND THE NORTHERLY PROLONGATION LINE OF THE BOUNDARY LINE OF FORT MYERS SHORES UNIT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGES 151 THROUGH 154, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, A DISTANCE OF 1,322.55 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST ¼ OF SAID SECTION 30; THENCE NORTH 88°19'00" WEST ALONG THE BOUNDARY LINE OF SAID FORT MYERS SHORES UNIT NO. 1, A DISTANCE OF 1,249.82 FEET TO THE NORTHWEST CORNER OF LOT 43, SAID FORT MYERS SHORES UNIT NO. 1; THENCE SOUTH 01°06'15" EAST ALONG THE BOUNDARY LINE OF SAID FORT MYERS SHORES UNIT NO. 1, A DISTANCE OF 1,321.93 FEET TO NORTHEAST CORNER OF TRACT F-3, GORDON CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN INSTRUMENT NUMBER 2019000142301, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.; THENCE NORTH 88°20'37" WEST ALONG THE BOUNDARY LINE OF SAID GORDON CENTER, A DISTANCE OF 1,212.93 FEET TO THE POINT OF BEGINNING.

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

REVIEWED
DCI2021-00051
Rick Burris, Principal Planner
Lee County DCD/Planning
2/22/2023





NOT A SURVEY

JOHN SCOTT RHODES CERTIFICATE No. 5739 STATE OF FLORIDA Professional Surveyor & Mapper

LINE TABLE		
LINE	LENGTH	BEARING
L1	332.63	S 88°18'44" E
L2	100.09	N 00°42'19" W
L3	332.63	N 88°18'44" W
L4	76.59	N 01°41'30" E
L5	19.95	S 43°18'30" E
L6	26.28	S 01°30'00" E
L7	300.46	N 88°18'30" W

CURVE TABLE					
CURVE	RADIUS	DELTA	LENGTH	CHORD	CHORD BEARING
C2	145.00	28°09'50"	71.28	70.56	S 57°23'25" E

John Scott Rhodes PSM # 5739 State of Florida
Digitally signed by John Scott Rhodes PSM # 5739 State of Florida Date: 2022.07.13 15:41:04 -04'00'
BY: JOHN SCOTT RHODES PSM #5739

SKETCH AND DESCRIPTION

CERTIFIED TO:
NEAL COMMUNITY

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

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

bk:	pg:	
XX	XX	date: DEC. 07, 2021
		scale: 1" = 400'
		cogo #: 21-541

design:
drawn: EFC
checked: JSR
acad #: 2021-541
view: PLOT
project#: 2021-541
sheet #: 3 of 3
file #: 2021-541 BNDY SD

Z:\01 OAKS AKA (MAGNUS)\SKETCH AND DESCRIPTION\2021-541 BNDY SD.dwg, SKETCH, 12/9/2021 3:20:14 PM, 1:1

DCI2021-00051

Zoning

Subject Property

N
W
E
S

0 500 1,000 1,500

Feet

Lee County
Southwest Florida

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

1. Master Concept Plan (MCP). Development must be consistent with the two-page MCP entitled "31 Oaks Master Concept Plan" prepared by J.R. Evans Engineering., dated May 16, 2023, except as modified by the conditions below (MCP - Exhibit B1)

   Compliance with Lee Plan and Land Development Code (LDC). Development must comply with the Lee Plan and LDC, except where deviations are approved herein. Changes to the MCP or conditions of approval may require further development approvals.

   Approved Development Parameters. The project is approved to construct up to 265 single family dwelling units or 342 townhouse dwelling units, or a combination thereof subject to conditions herein.

2. Schedule of Permitted Uses and Property Development Regulations.

   a. Schedule of Uses

   Accessory uses, buildings, and structures
   Dwelling unit:
   - Single-Family
   - Townhouse

   Entrance gates and gatehouse
   Essential services
   Essential service facilities:
   - Group I

   Excavation:
   - Water retention

   Excess Spoil Removal
   Fences, Walls
   Models:
   - Display Center/Sales Center
   - Model Home
   - Model Unit

   Real Estate Sales Office
   Recreation facilities:
   - Personal
   - Private on-site

   Signs

Temporary Uses:
Sales Office, Construction Office, Construction Related Storage

b. Site Development Regulations

	Single-Family Detached	Townhouse	Recreation/Clubhouse
Minimum Lot Size	4,000 sq. ft.	1,800 sq. ft.	N/A
Minimum Lot Width	40 feet	18 feet	N/A
Minimum Lot Depth	100 feet	100 feet	N/A
Maximum Lot Coverage	60 percent	65 percent	50 percent
Maximum Building Height	35 feet	35 feet	35 feet
Maximum Building Separation	10 feet	15 feet	10 feet
Setbacks			
Street (public roads)	25 feet	20 feet	N/A
Street (private roads)	20 feet/10 feet[1]	20 feet/10 feet[1]	20 feet
Side	5 feet[6]	5 feet/0 feet[2, 6]	10 feet[6]
Rear (Principal)	10 feet	5 feet	10 feet
Rear (Accessory)	5 feet/0 feet[3]	5 feet/0 feet[3]	5 feet
Perimeter	15 feet	15 feet[4]	15 feet
Waterbody	20 feet	20 feet	20 feet
Preserve	20 feet[5]	20 feet[5]	20 feet[4]

[1] 20 feet for front loaded garages, 10 feet for side loaded garages and secondary street setbacks on corner lots.
[2] No side setback is required from common lot line for townhouse units.
[3] 5 feet (0 feet where lot abuts lake maintenance easement).
[4] 15 feet or ½ building height (whichever is greater).
[5] 30 feet for indigenous plant communities subject to fire.
[6]Equipment pads may encroach up to 4.5 feet into a side setback subject to Deviation #4.

3. Mix of Permitted Dwelling Types
The first development order must establish the proposed mix of dwelling units and quantify the number of units for each dwelling unit type.

The dwelling unit mix may not exceed a total weekday PM peak hour trip generation of 265 single-family dwelling units per the latest edition of the ITE Trip Generation Manual, nor may the dwelling unit mix exceed available capacity of the potable water and wastewater system serving the development.

4. Open Space
Development order plans must depict 45 percent (39.43 acres) of open space.

5. Indigenous Open Space
Development order plans must depict 18.38 acres of indigenous open space in substantial compliance with the MCP, consistent with the following distribution:

a. Preserve: 18.38 acres
   i. Indigenous Wetland: 13.48 acres
   ii. Wetland Creation: 4.48 acres
   iii. Rare and Unique: 0.42 acres
b. Other open space: 11.15 acres
c. Buffers: 1.06 acres
d. Lakes: 8.83 acres

6. Indigenous Open Space Restoration and Management
Development order plans must substantially comply with the Indigenous Restoration and Management Plan attached as Exhibit B2.

7. Indigenous Phasing Schedule
The first development order must include a phasing schedule that requires removal of exotics and indigenous restoration and management areas to commence concurrently with land improvements, to ensure completion of preservation and restoration activities within five years following approval of the first development order.

8. Indigenous Monitoring Plan

a. If the proposed restoration plantings fail in the wet season, then prior to the issuance of a Certificate of Completion for the indigenous wetland creation areas, developer must provide temporary above ground irrigation. The irrigation type is subject to approval by Community Development staff.

b. Developer must submit an indigenous monitoring report every year for ten years following the initial report.

9. Vegetation Removal Permit
The Vegetation Removal Permit application must include a map depicting mechanical and hand-removal areas for exotic vegetation removal within preserve and restoration areas. Mechanical clearing must be limited to non-indigenous preserve areas. Native vegetation must be protected by tree barricades.

~~a. For development that proposes impact to wetlands, construction may not commence until the issuance of required state permits. Development activity must remain in compliance with applicable state wetland permits and applicable local development permits. If impacts to wetlands are not~~

~~permitted by the State, or if issued state wetland permits are inconsistent with the proposed impacts to wetlands depicted within local development permit approvals, Developer must amend local development permit approvals to be consistent with issued state wetland permits or applicable Lee Plan and Land Development Code regulations pertaining to development within wetlands.~~

Hearing Examiner Note: Text replaced with Condition 16 below.

10. Recording of Conservation Easement.

a. Upland Preserves: Developer must submit copies of proposed conservation easements over upland indigenous preservation areas depicted on the MCP with the first development order application. Conservation easement(s) must be dedicated to Lee County and recorded prior to issuance of the Certificate of Compliance for the infrastructure.

b. Wetland Preserves: Developer must submit copies of proposed conservation easement(s) over wetland indigenous preservation areas depicted on the MCP with the first development order application. Conservation easement(s) must be dedicated to the South Florida Water Management District, granting third party enforcement rights to Lee County, and recorded prior to issuance of the Certificate of Compliance for the infrastructure.

11. Floodplain Storage

Development order submittals must include a Stormwater Report containing the following information:

a. Pre-Development Drainage Analysis including:
   i. Drainage Map for all contributory areas, including offsite inflow areas,
   ii. Flow-paths,
   iii. Existing structures,
   iv. ICPR Modeling of 5yr-24hr, 10yr-24hr, 25yr-3day, 100yr-3day storm events; and
   v. Pre-development stormwater conditions.

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

c. Profiles and Sections Plans demonstrating compliance with the following criteria:
   i. Existing offsite flows through the project must be maintained during and following construction.
   ii. Development provides SFWMD-required water quantity in the lake system and not in the conservation easement areas; and
   iii. Proposed engineering systems (e.g., wet-retention and dry-detention areas, structures, weirs, pipes, swales, and other conveyances) ensure a hydroperiod in the conservation easement suitable to meet stormwater needs of the plant community.

12. North and East Property Line Buffers
If townhouse units abut the property line, Development order plans must depict an enhanced 15-foot-wide Type B buffer consisting of five trees per 100 linear feet with staggered double hedge row including an eight-foot-high solid wall or opaque fence.

If single family homes abut the property line, development order plans must depict an enhanced ten-foot-wide buffer consisting of five trees per 100 linear feet with staggered double hedge row including a six-foot-high solid wall or opaque fence.

Landscape vegetation must be specified on the development order plans to comply with LDC §10-420.

13. State Road 31 Townhouse Buffer
Development order plans must depict a 15-foot-wide Type D buffer along State Road 31 consisting of five trees per 100 linear feet and a double staggered hedge if townhouse lots are proposed along State Road 31. If preservation and/or creation areas are used to meet buffer requirements, upland and wetland restoration plants within the buffer area must meet installation specifications established in LDC §10-420.

14. Lake Bank Slopes
Development order plans must include detailed drawings of the 4:1 lake bank slope stabilization methods with compensatory littoral plantings consistent with LDC requirements. Developer must provide compensatory littoral plantings regardless of the lake bank slope stabilization method implemented at development.

15. Dead-End Streets
Developer must provide a letter of no objection from the Fort Myers Shores Fire Department with the development order application depicting the dead-end roadway.

16. State and Federal Permits

a. Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

b. State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

If the State does not approve wetland impacts or if State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then Developer must amend County development permit approvals consistent with state wetland permits and Lee Plan/LDC regulations on development within wetlands.

DEVIATIONS

1. Excavation Setback. Deviation 1 seeks relief from LDC §10-329(d)(1)a.3, which requires water retention or detention excavations to be set back a minimum of 50 feet from private property lines under separate ownership, to allow a minimum of 25 feet set back from private property lines.

Hearing Examiner recommendation: Deviation approved subject to Condition 12.

2. Excavation Bank Slope. Deviation 2 seeks relief from LDC §10-329(d)(4), which requires lake banks to be sloped at a 6:1 ratio from the top of bank to water depth of two feet below the dry season water table, to allow for a minimum ratio of 4:1 slope.
Hearing Examiner recommendation: Deviation approved subject to Condition 14.

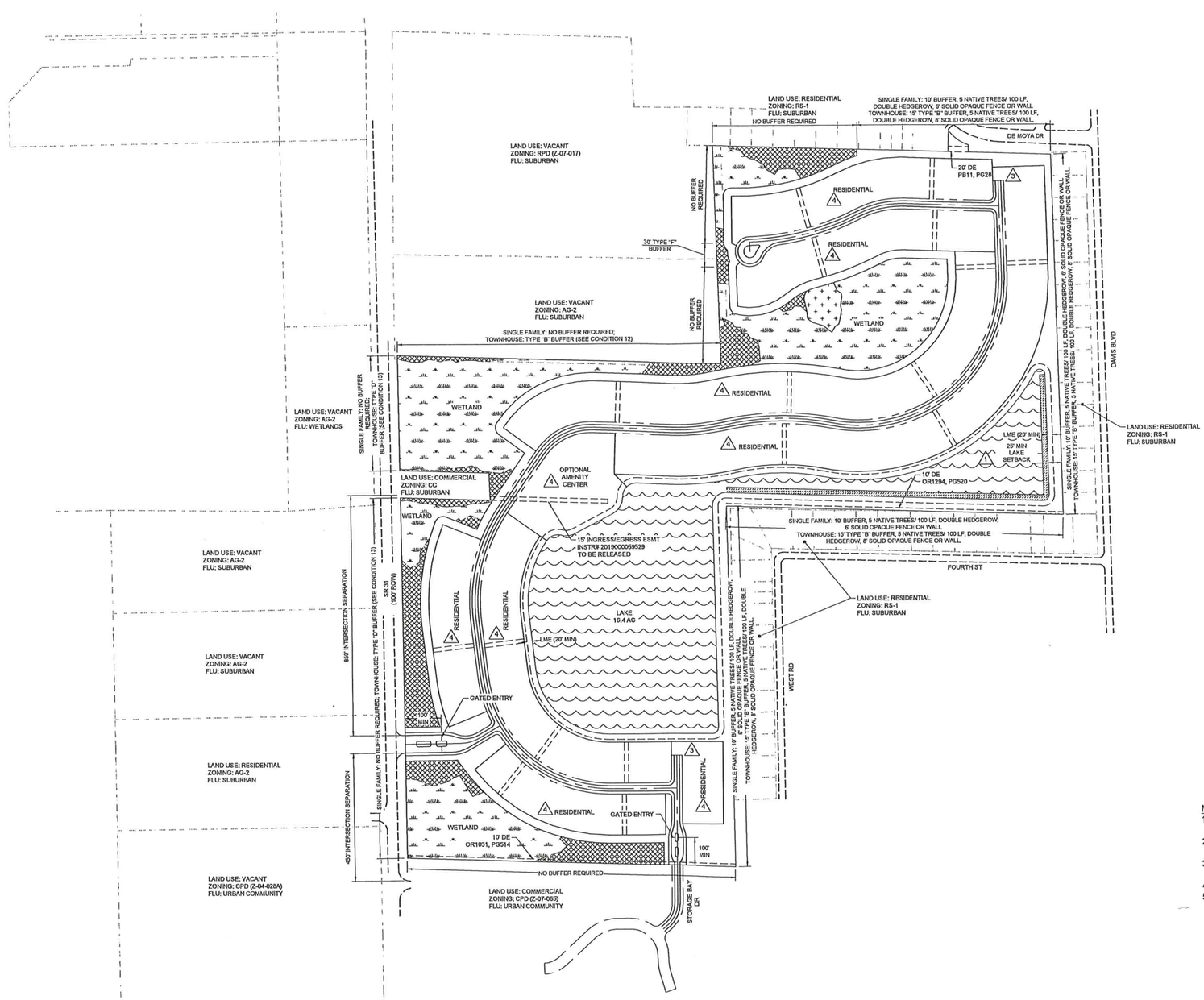
3. Dead End Street Configuration. Deviation 3 seeks relief from LDC §10-296(k)(1), which requires dead-end streets to be closed at one end by a circular turnaround for vehicles, to allow two dead-end streets to be hammerhead design as depicted on the MCP.

Hearing Examiner recommendation: Deviation approved subject to Condition 15.

4. Permitted Setback Encroachments. Deviation (4) seeks relief from LDC §34-2191(5), which allows equipment pads/platforms to encroach into side, rear or waterbody setbacks up to three feet, to allow equipment pads/platforms encroachments up to 4.5 feet.

   Hearing Examiner recommendation: Approved.

Exhibits to Conditions:
B1 MCP entitled "31 Oaks Master Concept Plan" prepared by J.R. Evans Engineering., dated May 16, 2023
B2 Indigenous Restoration and Management Plan



LEGEND

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

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

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

MCP NOTES:

1. THIS PLAN IS CONCEPTUAL IN NATURE AND IS SUBJECT TO MODIFICATION DUE TO AGENCY PERMITTING REQUIREMENTS.
2. ALL ACREAGE AREA APPROXIMATE AND SUBJECT TO MODIFICATION AT THE TIME OF DEVELOPMENT ORDER.
3. THE LOCATION OF THE ONSITE LAKE AND RESIDENTIAL TRACTS IS PRELIMINARY AND MAY BE ADJUSTED AT SITE PLAN APPROVAL.
4. LME = LAKE MANAGEMENT EASEMENT
5. DE = DRAINAGE EASEMENT

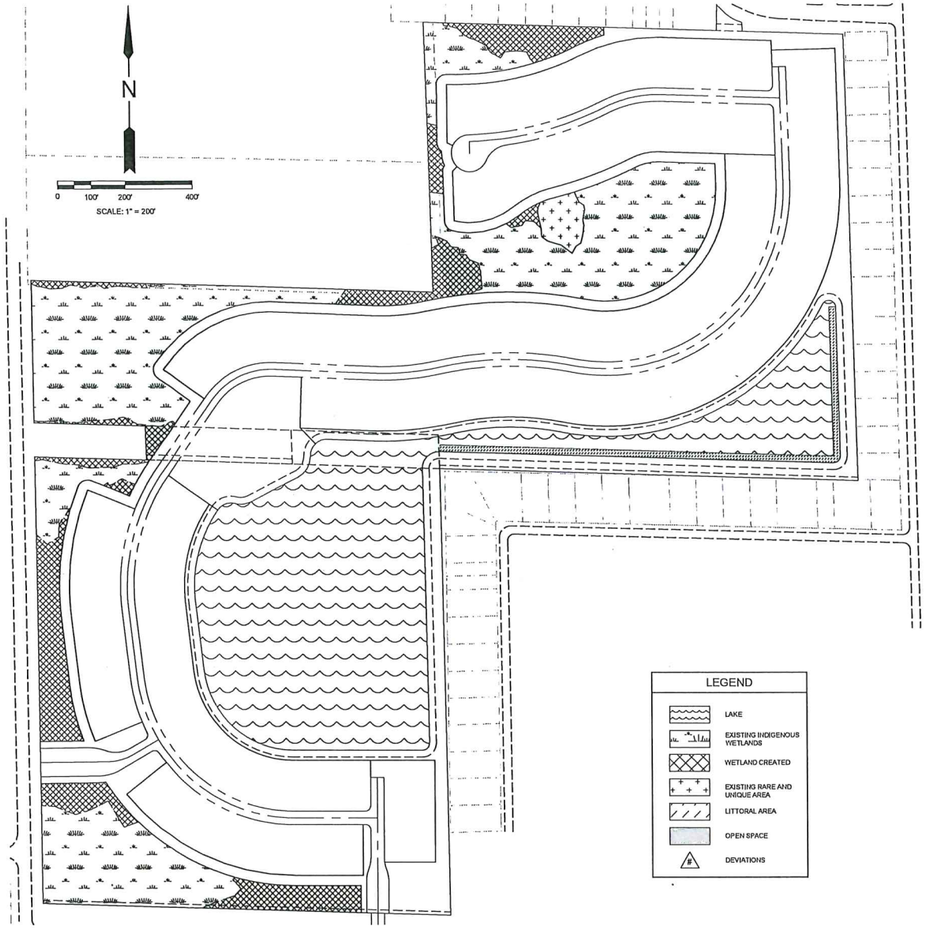
EXHIBIT B-1

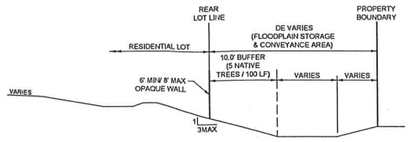
J.R. EVANS ENGINEERING

31 OAKS

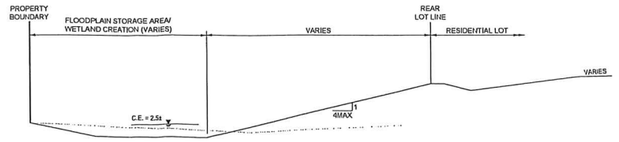
MASTER CONCEPT PLAN

00935-00 E0204 31 OAKS MCP.DWG
May 16, 2023





TYPICAL LOT TO FLOODPLAIN & CONVEYANCE AREA
NTS



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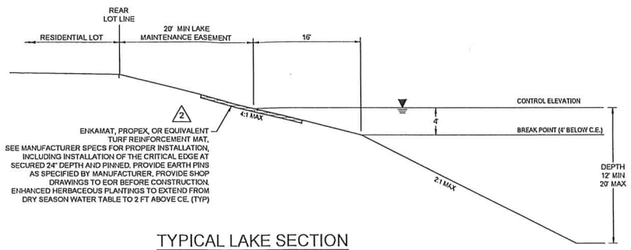

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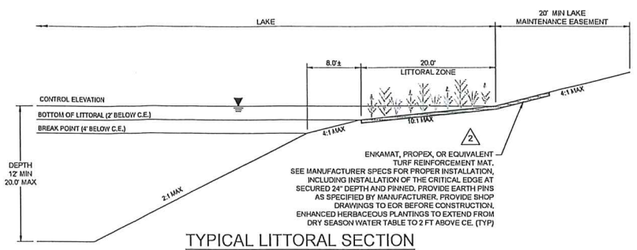

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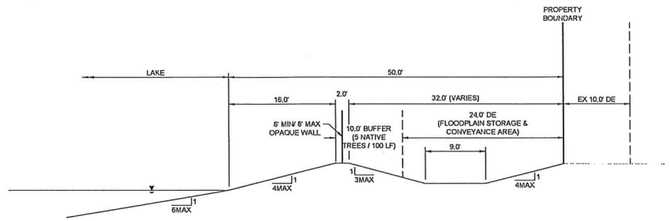

TYPICAL LAKE TO FLOODPLAIN & CONVEYANCE AREA
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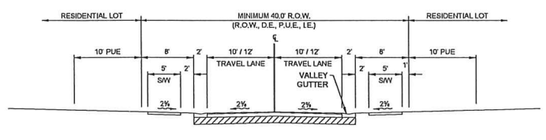

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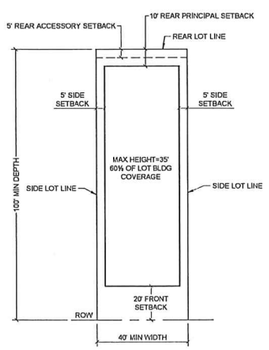

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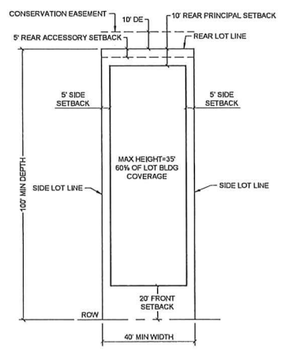

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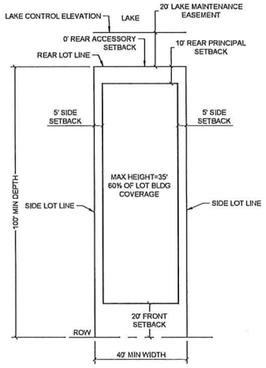

REAR ABUTTING LAKE MAINTENANCE EASEMENT

SINGLE FAMILY DETACHED TYPICAL LOT DETAIL
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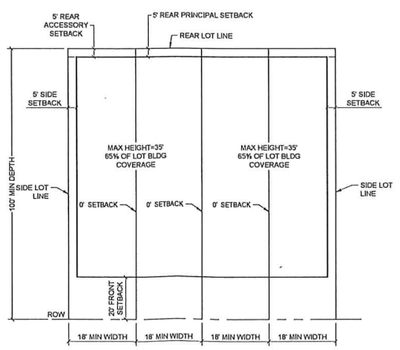

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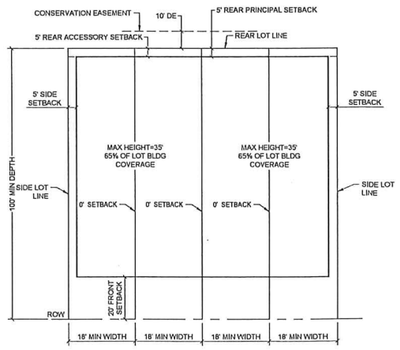
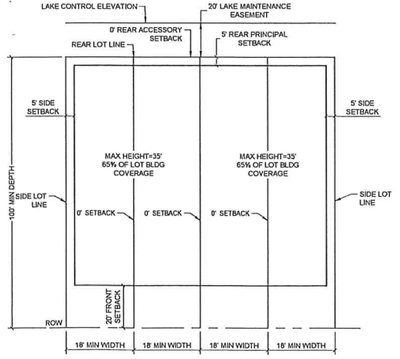


REAR ADJACENT TO CONSERVATION



REAR ABUTTING LAKE MAINTENANCE EASEMENT

TOWNHOUSE TYPICAL LOT DETAIL
NTS

J.R. EVANS ENGINEERING

31 OAKS

OPEN SPACE AND TYPICAL CROSS SECTIONS EXHIBIT

00935-00 E0204 31 OAKS MCP.DWG
May 16, 2023

EXHIBIT B2

31 OAKS
LEE COUNTY INDIGENOUS PRESERVE RESTORATION AND MANAGEMENT PLAN

Revised January 2023

Prepared For:

Neal Communities
28100 Bonita Grande Drive, Suite 106
Bonita Springs, Florida 34135
(239) 221-0446

Prepared By:

Passarella & Associates, Inc.
13620 Metropolis Avenue, Suite 200
Fort Myers, Florida 33912
(239) 274-0067

Project No. 21NCC3643

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Appendix A. Indigenous Preserve Plan A-1

1.0 INTRODUCTION

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

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

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

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

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

2.0 INDIGENOUS VEGETATION PRESERVE

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

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

2.1 Indigenous Wetlands

Cabbage Palm, Hydric (25-49% Exotics) (FLUCFCS Code 4281 E2)
The canopy of this wetland habitat consists primarily of cabbage palm (*Sabal palmetto*) with few scattered laurel oak (*Quercus laurifolia*). The sub-canopy includes primarily cabbage palm with scattered myrsine (*Myrsine cubana*), Brazilian pepper (*Schinus terebinthifolia*), and wild coffee (*Psychotria nervosa*). The ground cover includes scattered swamp fern (*Telmatoblechnum serrulatum*), herb-of-grace (*Bacopa monnieri*), frogfruit (*Phyla nodiflora*), and giant leather fern (*Acrostichum danaeifolium*).

Cabbage Palm, Hydric (50-75% Exotics) (FLUCFCS Code 4281 E3)
The vegetative composition of this disturbed wetland habitat is similar to that of FLUCFCS Code 4281 E2; however, there is more Brazilian pepper and melaleuca (*Melaleuca quinquenervia*) in the canopy and sub-canopy strata.

Mixed Wetland Hardwoods, Disturbed (25-49% Exotics) (FLUCFCS Code 6179 E2)
The canopy of this wetland habitat includes laurel oak and cabbage palm with few scattered live oak (*Quercus virginiana*), melaleuca, and bishopwood (*Bischofia javanica*). The sub-canopy consists of scattered laurel oak, cabbage palm, bishopwood, and Brazilian pepper. The ground cover consists of swamp fern, muscadine grapevine (*Vitis rotundifolia*), giant leather fern, and American evergreen (*Syngonium podophyllum*).

Mixed Wetland Hardwoods, Disturbed (50-75% Exotics) (FLUCFCS Code 6179 E3)
The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6179 E2; however, there is additional Brazilian pepper and melaleuca in the sub-canopy stratum.

Willow, Disturbed (50-75% Exotics) (FLUCFCS Code 6189 E3)
The canopy of this wetland habitat includes Carolina willow (*Salix caroliniana*), Brazilian pepper, and few cabbage palm. The sub-canopy includes Brazilian pepper and Carolina willow. The ground cover is primarily open with scattered swamp fern, fireflag (*Thalia geniculata*), and giant leather fern.

Freshwater Marsh, Disturbed (0-24% Exotics) (FLUCFCS Code 6419 E1)
The canopy of this wetland habitat is open. The sub-canopy includes scattered Brazilian pepper and Peruvian primrose willow (*Ludwigia peruviana*). The ground cover includes string-lily (*Crinum americanum*), swamp fern, and pickerelweed (*Pontederia cordata*).

Freshwater Marsh, Disturbed (25-49% Exotics) (FLUCFCS Code 6419 E2)
The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6419 E1; however, there is additional Brazilian pepper in the sub-canopy stratum.

Freshwater Marsh, Disturbed (50-75% Exotics) (FLUCFCS Code 6419 E3)
The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6189 E2; however, there is additional Brazilian pepper in the sub-canopy stratum.

2.2 Indigenous Uplands

Live Oak, Disturbed (25-49% Exotics) (FLUCFCS Code 4279 E2)
The canopy of this upland habitat consists of live oak. The sub-canopy includes scattered live oak, myrsine, gallberry (*Ilex glabra*), winged sumac (*Rhus copallinum*), Brazilian pepper, wild coffee, and coastal plain staggerbush (*Lyonia fruticosa*). The ground cover includes saw palmetto (*Serenoa repens*), muscadine grapevine, and shiny blueberry (*Vaccinium myrsinites*).

Hardwood/Conifer Mixed, Disturbed (50-75% Exotics) (FLUCFCS Code 4349 E3)
The canopy of this upland habitat includes live oak, slash pine (*Pinus elliottii*), laurel oak, and melaleuca. The sub-canopy includes Brazilian pepper, live oak, laurel oak, myrsine, wax myrtle, gallberry, winged sumac, wild coffee, and coastal plain staggerbush. The ground cover includes scattered saw palmetto, muscadine grapevine, and shiny blueberry.

3.0 EXISTING NON-INDIGENOUS VEGETATION PRESERVE

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

3.1 Non-Indigenous Wetland Habitats

Melaleuca, Hydric (FLUCFCS Code 4241)
This disturbed wetland habitat consists primarily of melaleuca in the canopy and sub-canopy. The ground cover is open.

Mixed Wetland Hardwoods, Disturbed (76-100% Exotics) (FLUCFCS Code 6179 E4)
The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6179 E3; however, there is additional melaleuca in the canopy and sub-canopy strata.

Willow, Disturbed (76-100% Exotics) (FLUCFCS Code 6189 E4)
The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6189 E3; however, there is additional Brazilian pepper in the canopy and sub-canopy strata.

Exotics Wetland Hardwoods (FLUCFCS Code 619)
The canopy of this wetland habitat is open. The sub-canopy includes Brazilian pepper, bishopwood, Java plum, Peruvian primrose willow, and scattered cabbage palm.

Cypress, Disturbed (76-100% Exotics) (FLUCFCS Code 6219 E4)
The canopy of this wetland habitat includes primarily bald cypress (*Taxodium distichum*) with scattered red maple (*Acer rubrum*), cabbage palm, and laurel oak. The sub-canopy includes bald cypress, Brazilian pepper, cabbage palm, red maple, and myrsine. The ground cover includes scattered swamp fern, herb-of-grace, creeping primrose willow (*Ludwigia repens*), and string-lily.

Freshwater Marsh, Disturbed (76-100% Exotics) (FLUCFCS Code 6419 E4)
The vegetative composition of this wetland habitat is similar to that of FLUCFCS Code 6189 E3; however, there is additional Brazilian pepper in the sub-canopy stratum.

3.2 Non-Indigenous Upland Habitats

Residential, Low Density (FLUCFCS Code 110)
This land use type consists of residential properties and dirt roadways. The canopy contains live oak and the sub-canopy is open. The ground cover is dominated by St. Augustine grass (*Stenotaphrum secundatum*).

Improved Pasture (FLUCFCS Code 211)
This land use type consists of agricultural fields used for cattle grazing. The canopy is primarily open with widely scattered live oak and slash pine. The sub-canopy is primarily open with few scattered cabbage palm and Brazilian pepper. The ground cover includes bahiagrass (*Paspalum notatum*), spermacoce (*Spermacoce verticillata*), and dog fennel (*Eupatorium capillifolium*).

Unimproved Pasture (FLUCFCS Code 212)
The canopy is open and the sub-canopy includes widely scattered Brazilian pepper and few cabbage palm. The ground cover is primarily Guinea grass (*Urochloa maxima*), air potato (*Dioscorea bulbifera*), dog fennel, and St. Augustine grass.

Palmetto Prairies, Disturbed (76-100% Exotics) (FLUCFCS Code 3219 E4)
The canopy of this upland community is open. The sub-canopy is primarily open with scattered coastal plain staggerbush, gallberry, wax myrtle (*Morella cerifera*), melaleuca, myrsine, and tarflower (*Bejaria racemosa*). The ground cover is predominantly saw palmetto, with scattered sand blackberry (*Rubus cuneifolius*) and muscadine grapevine.

Brazilian Pepper (FLUCFCS Code 422)
This disturbed upland habitat consists primarily of Brazilian pepper in the canopy and sub-canopy. The ground cover is characteristically sparse.

Melaleuca, Hydric (FLUCFCS Code 4241)
This disturbed wetland habitat consists primarily of melaleuca in the canopy and sub-canopy. The ground cover is open.

Live Oak, Disturbed (76-100% Exotics) (FLUCFCS Code 4279 E4)
The vegetative composition of this upland habitat is similar to that of FLUCFCS Code 4279 E2; however, there is significantly more melaleuca in the canopy and sub-canopy strata.

Hardwood/Conifer Mixed, Disturbed (76-100% Exotics) (FLUCFCS Code 4349 E4)
The vegetative composition of this upland habitat is similar to that of FLUCFCS Code 4349 E3; however, there is additional Brazilian pepper, Java plum (*Syzygium cumini*), and melaleuca in the canopy and sub-canopy strata.

Mixed Hardwoods, Disturbed (76-100% Exotics) (FLUCFCS Code 4389 E4)
The canopy of this upland habitat includes a mixture of scattered live oak, laurel oak, Indian laurel fig (*Ficus microcarpa*), cabbage palm, and slash pine. The sub-canopy includes Brazilian pepper, live oak, laurel oak, cabbage palm, myrsine, and wild coffee. The ground cover includes American evergreen and swamp fern.

Exotic Hardwoods (FLUCFCS Code 439)
The canopy of this upland habitat includes scattered Brazilian pepper, Java plum, and common bamboo (*Bambusa vulgaris*). The sub-canopy contains Brazilian pepper. The ground cover contains scattered air potato and American evergreen.

Spoil Areas (FLUCFCS Code 743)
This land use type consists of a berm comprised of spoil material, including rock and concrete. The canopy of this land use type is open, and the sub-canopy consists of Brazilian pepper and cabbage palm. The ground cover primarily includes Burma reed (*Neyraudia reynaudiana*).

4.0 METHODS TO REMOVE AND CONTROL EXOTIC AND NUISANCE PLANTS

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

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

Table 1. Prohibited Invasive Exotics

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

Table 1. (Continued)

Common Name	Scientific Name
Weeping fig	*Ficus benjamina*
Woman's tongue	*Albizia lebbeck*

4.1 Method and Frequency of Pruning and Trimming

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

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

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

4.2 Debris Removal

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

5.0 WETLAND CREATION

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

6.0 SUPPLEMENTAL PLANTING

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

Table 2. Supplemental Wetland Plantings

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

Table 3. Supplemental Upland Plantings

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

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

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

7.0 MAINTENANCE

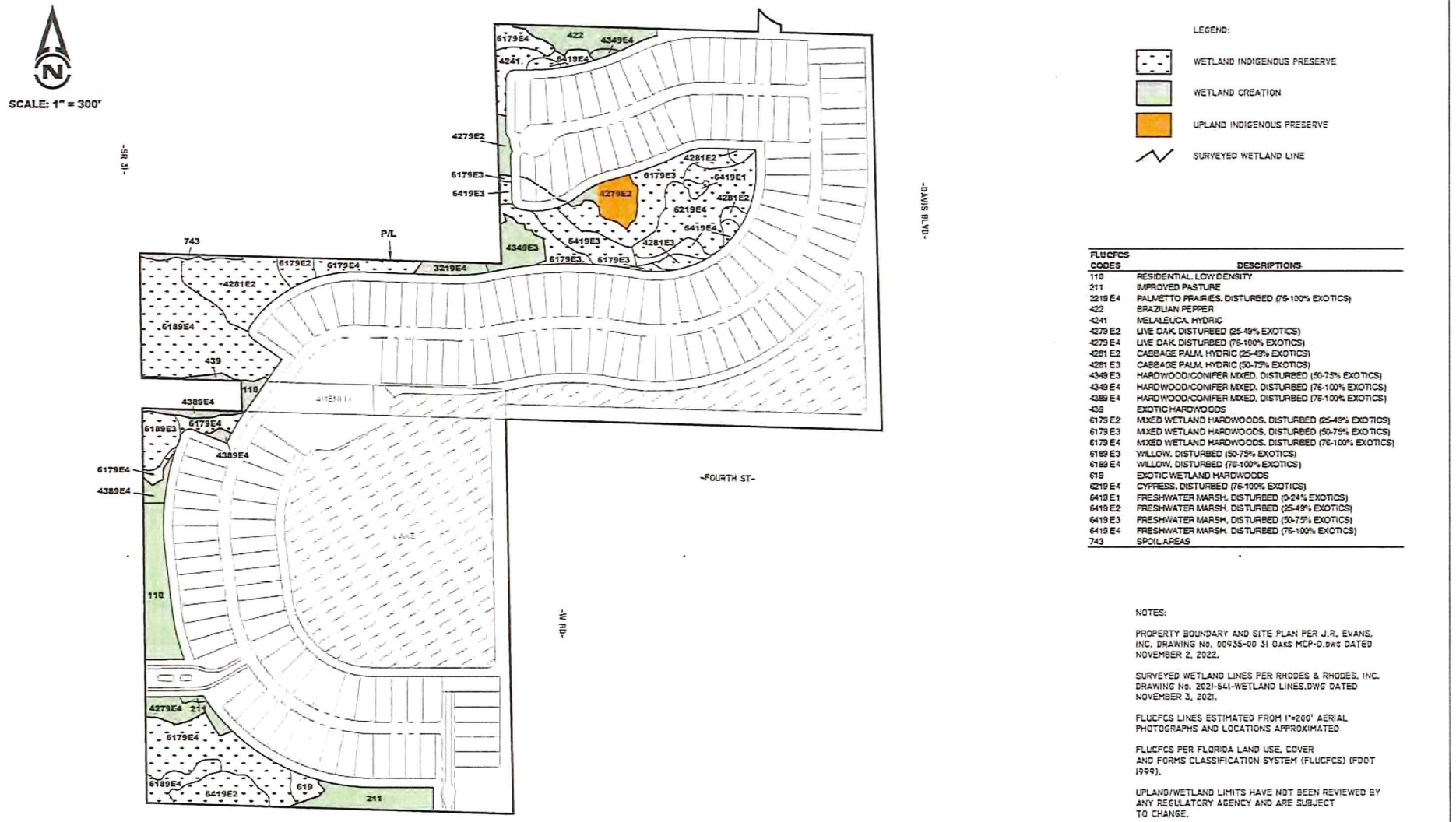
After completing the initial exotic removal, semi-annual inspections of the conservation areas will occur for the first two years. During these inspections, the conservation areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate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

8.0 MONITORING REPORTS

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

APPENDIX A

INDIGENOUS PRESERVE PLAN



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

NOTES:

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

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

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

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

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

REVISIONS	DATE	DRAWN BY	DATE
Revised upland indigenous	6/03/22	H.H./T.S.	2/25/22
Revised plan	11/09/22	DESIGNED BY B.B.	DATE 2/25/22
Revised plan	11/15/22	REVIEWED BY B.B.	DATE 2/25/22

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PASSARELLA & ASSOCIATES, INC.
Consulting Ecologists

31 OAKS
INDIGENOUS PRESERVE PLAN

DRAWING No.: 21NCC3643
SHEET No.: APPENDIX A

31 OAKS
LEE COUNTY
PROTECTED SPECIES MANAGEMENT PLAN

Revised November 2022

Prepared For:

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Project No. 21NCC3643

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1.0 GOPHER TORTOISE MANAGEMENT PLAN

A protected species survey was conducted on the Project on October 22, 27 and November 3, 2021. The survey was conducted to meet Lee County LDC Chapter 10, Article III, Division 8 (Protection of Habitat) Standards. A total of five potentially occupied gopher tortoise (*Gopherus polyphemus*) burrows and one gopher tortoise were identified on-site during the survey.

1.1 Biology

The gopher tortoise is a large, terrestrial turtle averaging 23 to 28 centimeters (9 to 11 inches) in shell length. Maximum length is around 38 centimeters (15 inches). The gopher tortoise is characterized by stumpy, elephantine hind feet and flattened, with shovel-like forelimbs adapted for digging. The tan, brown, or gray carapace (top portion of shell) is domed and oblong. The plastron (bottom portion of shell) is somewhat concave in males. Growth annuli may be conspicuous, particularly in juveniles. Hatchlings are approximately 4.4 centimeters (1.7 inches) in length and are yellowish orange in color (Cox *et al.* 1987).

1.2 Range

The gopher tortoise occurs in the Southeastern Coastal Plain from extreme Eastern Louisiana to Southern South Carolina. In Florida, tortoises occur in all 67 counties (Cox *et al.* 1987).

1.3 Habitat

Three environmental conditions are especially important for gopher tortoises: well-drained, loose soil in which to burrow; adequate low-growing herbs for food; and open sunlit sites for nesting. The gopher tortoise is primarily associated with longleaf pine-scrub oak woodlands (*sandhills*), but it is also found in sand pine scrub, coastal strands, live oak hammocks, dry prairies, pine flatwoods, and mixed hardwood-pine communities. Disturbed habitats, such as roadsides, fencerows, clearings, and old fields often support relatively high tortoise densities (Ashton and Ashton 2002).

1.4 Life History and Ecology

Gopher tortoises excavate burrows averaging 4.5 meters (14.8 feet) in length and 2.0 meters (6.6 feet) in depth and wide enough to allow them to turn around at any point. These burrows provide protection from temperature extremes, desiccation, and predators, as well as serve as refuges for a variety of other animals. The placement and depth of burrows vary with the soil type, geographic location, and ground water levels. An individual tortoise may use more than one burrow and may excavate new burrows at any time during its life (Ashton and Ashton 2002).

Gopher tortoise densities and movements are affected by the amount of herbaceous ground cover present. Generally, feeding activity is confined to within 50 meters (164 feet) of the

burrow. Principal foods include grasses, legumes, and grass-like plants of the sedge and aster families. Legumes appear to be particularly important in the diet of juveniles. Fruits such as blackberries (*Rubus* sp.), pawpaws (*Asimina triloba*), gopher apples (*Geobalanus oblongifolius*), and saw palmetto (*Serenoa repens*) berries are also consumed (Ashton and Ashton 2002).

The gopher tortoise exhibits deferred sexual maturity, low reproductive potential, and a long-life span. Females mature sexually at 10 to 20 years of age, depending on latitude. The breeding season is usually from April to June, but males may attempt to mate throughout the activity season. Eggs are usually deposited in the burrow mounds from mid-May to mid-June. Only one clutch of eggs is produced annually. Clutch size usually ranges from 3 to 12 eggs, with an average of 6 eggs; however, a clutch of 25 eggs has been reported. The incubation period varies from about 80 to 110 days. Predation on eggs and hatchlings is heavy. Predators include raccoons, foxes, skunks, armadillos, snakes, and various raptors. Although some hatchlings immediately construct burrows, others may use burrows of adults or merely shelter opportunistically under sand or litter. Estimated life expectancy is 40 to 60 years (Cox *et al.* 1987).

1.5 Gopher Tortoise Relocation

Five gopher tortoise burrows are located on the Project site during the Lee County Protected Species Survey conducted in October and November 2021. An Florida Fish and Wildlife Conservation Commission (FWCC) Gopher Tortoise Relocation Permit will be obtained, and relocation activities will be conducted in accordance with FWCC Gopher Tortoise Permitting Guidelines (2020).

2.0 REFERENCES

Ashton, R and P. Ashton. 2002. Personal Communication.

Cox, J.D. Inkley, and R. Kantz. 1987. Ecology and Habitat Protection Needs of Gopher Tortoise (*Gopherus polyphemus*). Populations found on State Lands Slated for Large Scale Development in Florida. 69 pp.

Florida Department of Transportation. 1999. Florida Land Use, Cover and Forms Classification System. Procedure No. 550-010-001-a. Third Edition.

FWCC Gopher Tortoise Permitting Guidelines July 2020

LEGEND:

STATE 404 WETLANDS (22.77 Ac.±)

STATE 404 OTHER SURFACE WATERS (1.52 Ac.±)

SURVEYED WETLAND LINE

FLUCFCS CODES	DESCRIPTIONS	ACREAGE	% OF TOTAL
110	RESIDENTIAL, LOW DENSITY	7.37 Ac.±	8.3%
211	IMPROVED PASTURE	9.59 Ac.±	10.9%
212	UNIMPROVED PASTURE	1.34 Ac.±	1.5%
3218 E2	PALMETTO PRAIRIES, DISTURBED (25-49% EXOTICS)	0.17 Ac.±	0.2%
3219 E4	PALMETTO PRAIRIES, DISTURBED (76-100% EXOTICS)	3.10 Ac.±	3.5%
4119 E1	PINE FLATWOODS, DISTURBED (0-24% EXOTICS)	9.25 Ac.±	10.5%
4119 E4	PINE FLATWOODS, DISTURBED (76-100% EXOTICS)	1.50 Ac.±	1.7%
422	BRAZILIAN PEPPER	0.94 Ac.±	1.1%
4241	MELALEUCA, HYDRIC	1.40 Ac.±	1.6%
4279 E1	LIVE OAK, DISTURBED (0-24% EXOTICS)	1.60 Ac.±	1.8%
4279 E2	LIVE OAK, DISTURBED (25-49% EXOTICS)	3.59 Ac.±	4.1%
4279 E4	LIVE OAK, DISTURBED (76-100% EXOTICS)	2.78 Ac.±	3.1%
4281 E2	CABBAGE PALM, DISTURBED, HYDRIC (25-49% EXOTICS)	2.96 Ac.±	3.4%
4281 E3	CABBAGE PALM, DISTURBED, HYDRIC (50-75% EXOTICS)	0.24 Ac.±	0.3%
4280 E2	CABBAGE PALM, DISTURBED (25-49% EXOTICS)	0.90 Ac.±	1.0%
4289 E4	CABBAGE PALM, DISTURBED (76-100% EXOTICS)	0.35 Ac.±	0.4%
4349 E1	HARDWOOD/CONIFER MIXED, DISTURBED (0-24% EXOTICS)	1.29 Ac.±	1.5%
4349 E2	HARDWOOD/CONIFER MIXED, DISTURBED (25-49% EXOTICS)	5.14 Ac.±	5.8%
4349 E3	HARDWOOD/CONIFER MIXED, DISTURBED (50-75% EXOTICS)	0.62 Ac.±	0.7%
4349 E4	HARDWOOD/CONIFER MIXED, DISTURBED (76-100% EXOTICS)	0.57 Ac.±	0.6%
4369 E4	MIXED HARDWOODS, DISTURBED (76-100% EXOTICS)	1.15 Ac.±	1.3%
439	EXOTIC HARDWOODS	0.08 Ac.±	0.1%
6179 E2	MIXED WETLAND HARDWOODS, DISTURBED (25-49% EXOTICS)	0.90 Ac.±	1.0%
6179 E3	MIXED WETLAND HARDWOODS, DISTURBED (50-75% EXOTICS)	4.10 Ac.±	4.6%
6179 E4	MIXED WETLAND HARDWOODS, DISTURBED (76-100% EXOTICS)	4.66 Ac.±	5.3%
6189 E3	WILLOW, DISTURBED (50-75% EXOTICS)	0.44 Ac.±	0.5%
6189 E4	WILLOW, DISTURBED (76-100% EXOTICS)	3.22 Ac.±	3.6%
619	EXOTIC WETLAND HARDWOODS	0.42 Ac.±	0.5%
6219 E2	CYPRESS, DISTURBED (25-49% EXOTICS)	0.39 Ac.±	0.4%
6219 E4	CYPRESS, DISTURBED (76-100% EXOTICS)	1.79 Ac.±	2.0%
6419 E1	FRESHWATER MARSH, DISTURBED (0-24% EXOTICS)	0.07 Ac.±	0.1%
6419 E2	FRESHWATER MARSH, DISTURBED (25-49% EXOTICS)	0.62 Ac.±	0.7%
6419 E3	FRESHWATER MARSH, DISTURBED (50-75% EXOTICS)	0.86 Ac.±	1.0%
6419 E4	FRESHWATER MARSH, DISTURBED (76-100% EXOTICS)	0.56 Ac.±	0.6%
740	DISTURBED LAND	1.43 Ac.±	1.6%
742	BORROW AREA	12.52 Ac.±	14.2%
743	SPOIL AREAS	0.12 Ac.±	0.1%
	TOTAL	88.27 Ac.±	100.0%

NOTES:

AERIAL PHOTOGRAPHS WERE ACQUIRED THROUGH THE LEE COUNTY PROPERTY APPRAISER'S OFFICE WITH FLIGHT DATES OF JANUARY - MARCH 2022.

PROPERTY BOUNDARY PER RW PLANNING PER DRAWING NO. 2022-01-28 I225I6IE0206.DWG DATED FEBRUARY 1, 2022.

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

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

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

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

REVISIONS	DATE

DRAWN BY	DATE
T.S.	11/14/22
CHECKED BY	DATE
B.B.	11/14/22
REVIEWED BY	DATE
B.B.	11/14/22

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

PASSARELLA & ASSOCIATES INC

31 OAKS

AERIAL WITH FLUCFCS AND SITE PLAN

ENCLOSURE NO: 21NCC3643

SHEET NO:

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Elizabeth Workman, Principal Planner, date received May 3, 2023 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

2. *The News-Press Notice of Public Hearing Affidavit:* Notarized by Nicole Jacobs, Notary Public with the State of Wisconsin (1 page – 8.5"x11")

3. *PowerPoint Presentation:* Prepared by Lee County Staff for DCI2021-00051, 31 Oaks RPD, dated May 18, 2023 (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

a. *48-Hour Notice:* Email from Steve Hartsell, Esq., with Pavese Law Firm, to Hearing Examiner, with copies to Elizabeth Workman, Brandon Dunn, Marcus Evans, Brian Roberts, Nicholas DeFilippo, Joseph Adams, Esq., Jack Weber, Jeremy Frantz, Brandon Frey, Bethany Broisous, Laurie Plue, and Steve Hartsell, Esq., dated Monday, May 15, 2023 6:33 AM (multiple pages – 8.5"x11")

b. *Second 48-Hour Notice:* Email from Steve Hartsell, Esq., with Pavese Law Firm, to Hearing Examiner, with copies to Elizabeth Workman, Brandon Dunn, Marcus Evans, Brian Roberts, Nicholas DeFilippo, Joseph Adams, Esq., Jack Weber, Jeremy Frantz, Brandon Frey, Bethany Broisous, Laurie Plue, and Steve Hartsell, Esq., dated Monday, May 16, 2023 4:24 PM (multiple pages – 8.5"x11")

1. *Proposed Revisions to Conditions and Deviations:* Revised May 16, 2023 (multiple pages – 8.5"x"11)

2. *Enlarge Master Concept Plan:* Prepared by J.R. Evans Engineering, dated May 16, 2023 (2 pages – 24"x36")

3. *PowerPoint Presentation:* Prepared for DCI2021-00051, 31 Oaks RPD, for Hearing Examiner's Hearing dated May 18, 2023 (multiple pages – 8.5"x11")[color]

4. *Smaller Sized Master Concept Plan:* Prepared by J.R. Evans Engineering, dated May 16, 2023 (2 pages – 11"x17")

Case: DCI2021-00051

OTHER EXHIBITS

An Jahique Ottley

1. (5 pages – 8.5"x11)

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Elizabeth Workman

Applicant Representatives:

1. Bethany Brosious
2. Yury Bykau
3. Jeremy Frantz
4. Brandon Frey
5. Steve Hartsell, Esq.
6. Pat Neal

Public Participants:

1. Bob DeBrock
2. Fred Fredrickson
3. Rose M. Garcia
4. An Jahique Ottley
5. Terry Short
6. James Simpson

Exhibit E

INFORMATION

UNAUTHORIZED COMMUNICATIONS

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

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.

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

C. Participants may not submit documents to the Board of County Commissioners unless they were marked as Exhibits by the Hearing Examiner. Documents must have the Exhibit number assigned at hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.

B. A verbatim transcript may also be available for purchase from the court reporting service.