



Engineers, Planners & Development Consultants

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June 26, 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 June 19, 2023. Below are written responses to the comments.

**Environmental Review:**

Insufficient pending ETAC meeting and possible MCP changes.

**Response:**

**Natural Resources Review:**

Additional comments pending outcome of Eagle Technical Advisory Committee meeting.

**Response: BEMP has been updated please see attached.**

A revised Schedule of Uses has not yet been provided as was indicated in the March 22, 2023 Lee County Response Letter. Please provide a revised Schedule of Uses document with the resubmittal. Please identify which uses are contemplated on Tract A, Tract C-6, C-5, and C-4. How will the site design of these Tracts minimize potential adverse impacts that may result in abandonment of the nest?

**Response: The Schedule of Uses has been updated, please see attached.**

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](mailto:Sharon@qainc.net)

**ALICO ORIOLE WEST**

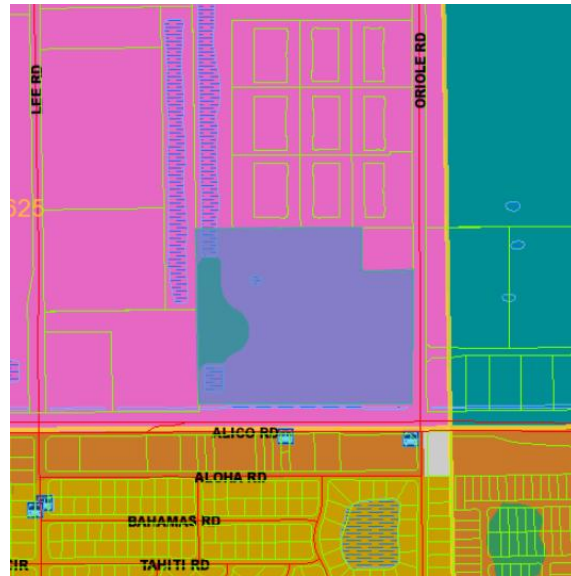
MPD REZONING

±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 as well as 150 hotel rooms.

All square footage uses will be deducted from the maximum allowable square footage on a one-to-one basis.

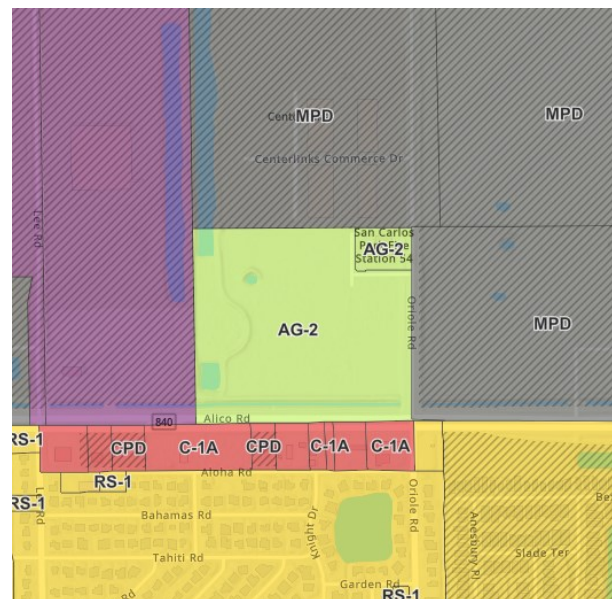
The project proposes three full driveway connections, one onto Alico Road and two onto Oriole Road. Internal roads and driveways will be spaced to meet the minimum road/driveway separations as required by the LDC. The proposed development will connect to Lee County Utilities for potable water and sanitary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

|              | <b>FUTURE LAND USE</b>            | <b>ZONING</b> | <b>EXISTING LAND USES</b> |
|--------------|-----------------------------------|---------------|---------------------------|
| <b>NORTH</b> | Industrial                        | MPD           | Industrial + Commercial   |
| <b>SOUTH</b> | Urban Community                   | C-1A + CPD    | Commercial                |
| <b>EAST</b>  | Industrial Commercial Interchange | MPD           | Industrial + Commercial   |
| <b>WEST</b>  | 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

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### **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<br>Zoned<br>Industrial | Other            |
|-----------------------------------------|---------------|---------------|------------------|---------------|-----------------|-------------------------------|------------------|
| <b>Gateway/Airport - 10.00</b>          |               |               |                  |               |                 |                               |                  |
| 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            |
| <b>Total for PD# 10</b>                 | <b>321.50</b> | <b>762.33</b> | <b>16,349.84</b> | <b>314.89</b> | <b>4,474.68</b> | <b>1,273.96</b>               | <b>10,791.33</b> |

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**

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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.

**SCHEDULE OF USES AND DEVELOPMENT PARAMETERS**

|                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------|
| <b>ALICO ORIOLE WEST</b><br>MPD REZONING<br>±30.65 ACRES<br>STRAP#: 04-46-25-L3-00003.0020<br>Fort Myers, FL 33912 |
|--------------------------------------------------------------------------------------------------------------------|

**PROJECT SUMMARY**

|                                             |                                                |
|---------------------------------------------|------------------------------------------------|
| <b>Future Land Use</b>                      | Industrial Development                         |
| <b>Existing Zoning/Requested Zoning</b>     | AG-2 to MPD                                    |
| <b>Development Program</b>                  | Mixed Use Planned Development (MPD)            |
| <b>Maximum Building Floor Area</b>          | 350,000 SF                                     |
|                                             | <b>Commercial/Retail:</b><br>Minimum 30,000 SF |
|                                             | <b>Industrial:</b><br>Minimum 30,000 SF        |
| <b>Maximum Number Hotel Rooms</b>           | 150                                            |
| <b>Fire District</b>                        | San Carlos Park Fire District                  |
| <b>Water &amp; Sanitary Sewer Utilities</b> | Lee County Utilities                           |



## PROPERTY DEVELOPMENT REGULATIONS

### Minimum Area Dimensions:

|                             |                                                                                                                                                                            |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Min. Lot Size</b>        | 10,000 square feet                                                                                                                                                         |
| <b>Min. Lot Depth</b>       | 100 feet                                                                                                                                                                   |
| <b>Min. Lot Width</b>       | 100 feet                                                                                                                                                                   |
| <b>Maximum Height</b>       | 65 feet (Heights in excess of 35' must maintain additional building setbacks and separation per LDC Section 34-2174(a))                                                    |
| <b>Building Separation</b>  | One-half the sum of the heights of both buildings or 20 feet, whichever is greater per LDC Section 34-935e(4)                                                              |
| <b>Maximum Lot Coverage</b> | 55% Commercial<br>75% Industrial                                                                                                                                           |
| <b>Minimum Open Space</b>   | Commercial Uses: 20%<br>Industrial Uses: 10%<br>(Conservation Easement, Lake Maintenance Easement, Tract D (Total of 5.35 acres) count towards overall project Open Space) |

### Minimum Setbacks:

|                                               |                                                                                                                                            |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Street, public</b>                         | 25 feet                                                                                                                                    |
| <b>Street, private</b>                        | 15 feet                                                                                                                                    |
| <b>Side</b>                                   | 10 feet                                                                                                                                    |
| <b>Rear</b>                                   | 15 feet                                                                                                                                    |
| <b>Water body</b>                             | 20 feet (top of bank)                                                                                                                      |
| <b>Accessory Structures (side &amp; rear)</b> | 5 feet                                                                                                                                     |
| <b>Minimum Development Perimeter Setback</b>  | 15 feet                                                                                                                                    |
| <b>Buffers</b>                                | 15.0-foot Type 'D' Buffer - Oriole Road<br>20.0-foot Type 'D' Buffer - Alico Road<br>(Type 'D' Buffers to have min. 7.5' of planting area) |



## **SCHEDULE OF USES**

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All uses with an asterisk (\*) are not permitted on Tract A (within 660' of the Nest), Tract C-6, C-5, and C-4 (within 660' of the Nest).

### Accessory Uses and Structures

Accessory apartment and accessory dwelling unit

Administrative Offices

Agricultural Uses and Agricultural Accessory Uses

Agricultural Services Office/Base Operations

Aircraft Food Services and Catering

Airport Operations Facilities

Amateur Radio Antennae and Satellite Earth Stations

Animals, Clinic or Kennel

Assisted Living Facility

ATM (automatic teller machines)

Auto Parts Store, with or without installations

Auto Repair and Service, All Groups

\*Automobile Service Station

-Limited to 1 for the entire MPD

Bait and Tackle Shop

Banks and Financial Establishments, Groups I and II

Bar or Cocktail Lounge – limited to 1 for the entire MPD

Boats: Boat Parts Store; Boat Repair and Service,

Boat Sales – in compliance with LDC Sec. 34-1352

Broadcast Studio, Commercial Radio and Television

Building Materials Sales

Business Services, Groups I and II

\*Bus Station/Depot

Caretaker's Residence

Car wash

Cleaning & Maintenance Services

Clothing Stores, General

Clubs: Commercial, Fraternal, Membership Organization

Cold Storage, Precooking, Warehouse & Processing Plant

Computer and Data Processing Services

Consumption on Premises

- In conjunction with a restaurant use, bar, cocktail lounge, hotel/motel, nightclub only

Contractors and Builders, All Groups

\*Convenience Food and Beverage Stores

- Limited to 1 for the entire MPD. See Self Service Fuel Pumps below.

Cultural Facilities

Day Care Center, Child, Adult

Department Store

Drive through for any permitted use

Drugstore, Pharmacy



Emergency Operations Center  
EMS Fire or Sheriff's Office  
Entrance Gates and Gatehouse  
Essential Services  
Essential Service Facilities, Group I  
    - Group II by Special Exception only, public hearing required.  
Excavation: Water Retention  
Excess Spoil Removal  
Factory Outlets, Point of Manufacture Only  
Fences, Walls  
Food and Beverage Service, Limited  
Food Stores, All Groups  
Freight or Cargo Handling Systems  
Funeral Home and Mortuary, with or without crematorium  
\*Gasoline Dispensing Systems, Special  
Gift and Souvenir Shop  
\*Golf Driving Range  
Hardware Store  
Health Care Facilities, Groups I, II, and III  
\*Heliport or Helistop – See Condition 17  
Hobby Toy and Game Shop  
Hospice  
Hotel/Motel – 150 Rooms Maximum  
Household and Office Furnishings, All Groups  
Insurance Companies  
Laundromat  
Laundry and Dry Cleaning, Groups I and II  
Lawn and Garden Supply Store  
Library  
Manufacturing of:  
    - Apparel Products  
    - Boats  
    - Chemical and Allied Products, Groups I and II  
    - Electrical Machinery and Equipment  
    - Fabricated Metal Products, Groups I, II and III  
    - Food and Kindred Products, Group III  
    - Furniture and Fixtures  
    - Leather and Leather Products, Group II  
    - Lumber and Wood Products, All Groups  
    - Machinery, Groups I, II, and III  
    - Measuring, Analyzing and Controlling Instruments  
    - Novelties, Jewelry, Toys and Signs, All Groups  
    - Paper and Allied Products, All Groups  
    - Rubber and Plastic Products, Group II  
    - Stone, Clay, Glass and Concrete Products, Groups I-IV  
    - Textile Mill Products, Groups I, II, and III  
    - Transportation Equipment, Groups I, II, and III



Maintenance Facility (Government)  
Medical Office  
Motion Picture Production Studio  
Nightclub – limited to 1 for the entire MPD  
Nonstore Retailer, All Groups  
Package Store – limited to 1 for the entire MPD  
Paint, Glass and Wallpaper  
Parks, Groups I and II  
Parcel and Express Services  
Package Store  
Parking Lot  
    Accessory, Commercial, Garage, Public Parking, Temporary  
Personal Services, Groups I, II, III, IV  
    Excluding Massage Parlors, Steam or Turkish Baths, Escort Services, Palm Readers  
    Fortunetellers or Card readers  
Pet Services  
Pet Shop  
Pharmacy  
Photofinishing Laboratory  
Post Office  
Printing and Publishing  
Processing and Warehousing  
Real Estate Sales Office  
Recreational Facilities, Commercial, Groups I, \* III and IV (Excluding Outdoor Gun Ranges)  
Rental or Leasing Establishment: Group I, II, III  
Repair Shops: Groups I, II, III and IV  
Restaurant, Fast Food  
Restaurants: All Groups  
Retail and Wholesale Sales, Ancillary to an Approved Use  
\*Self Service Fuel Pumps  
    - With convenience food and beverage use, or auto service station, maximum 20  
    pumps for the entire MPD Additional fuel pumps are permissible as an accessory use  
    to individual businesses to provide fuel for their fleet of vehicles and equipment –  
    Maximum 4 per business  
Signs (in accordance with chapter 30)  
Social Services: Group I-IV  
Specialty Retail Shops: All Groups  
Supermarket  
Storage: Indoor  
Storage, Open  
Studios  
Temporary Uses  
Theater, Indoor  
Transportation Services, Groups I – IV  
\*Truck Stop, Trucking Terminal  
Used Merchandise Stores: Groups I, II and III  
Variety Store



Vehicle & Equipment Dealers: Groups I, II & III  
Warehouse, Mini warehouse, Private, Public, Cold Storage, Hybrid  
Wholesale Establishments: Groups I, II, III and IV

## **AGRICULTURAL CONDITION**

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AGRICULTURAL USES: Existing bona fide agricultural uses on this site are allowed uses in compliance with the following:

- A) Bona fide agricultural uses in the form of cattle grazing currently exist on the entire ± 30.65-acre property. Bona fide agricultural uses may continue on any portion of the property that meets the state requirements for bona fide agricultural use of the property. The approved existing agricultural uses may not be expanded beyond the boundaries that existed at the time of zoning.
- B) Upon rezoning, additional clearing of trees or other vegetation in agricultural areas must receive a vegetation removal permit from Lee County as provided for in the Lee County Development Code. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approval requests for the removal of invasive exotic vegetation.
- C) Termination of the agricultural tax exemption for any lot or portion of the property will be based on the state statute governing receipt of agricultural exemptions which requires bona fide agricultural use of the property. The Property Appraiser shall determine compliance with state regulations as of January 1 of each year. 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.

ALICO ORIOLE WEST, MPD  
DCI2022-00061 -Major PD

Bald Eagle Management Plan  
Eagle Nest LE093  
11 May 2023

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

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

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| 4. | Minimization Measures to Limit Incidental Take | Page 10 |
| 5. | Monitoring and Reporting Requirements          | Page 11 |

## Attachments

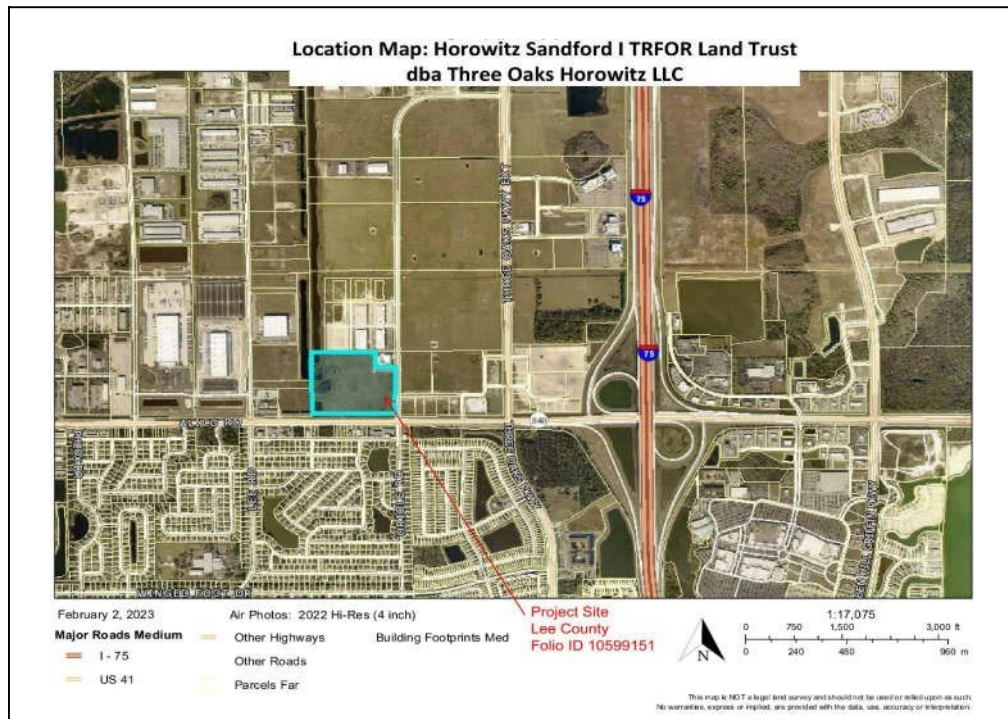
|   |                                                          |
|---|----------------------------------------------------------|
| 1 | Eagle Buffer Planting Exhibit                            |
| 2 | Short-Term Eagle Incidental Take Permit No. MBPER0019112 |
| 3 | LE093 Nesting History                                    |
| 4 | Alternate Eagle Nest/Perch Trees Exhibit                 |
| 5 | Eagle Flight Pattern Exhibits                            |
| 6 | MCP                                                      |

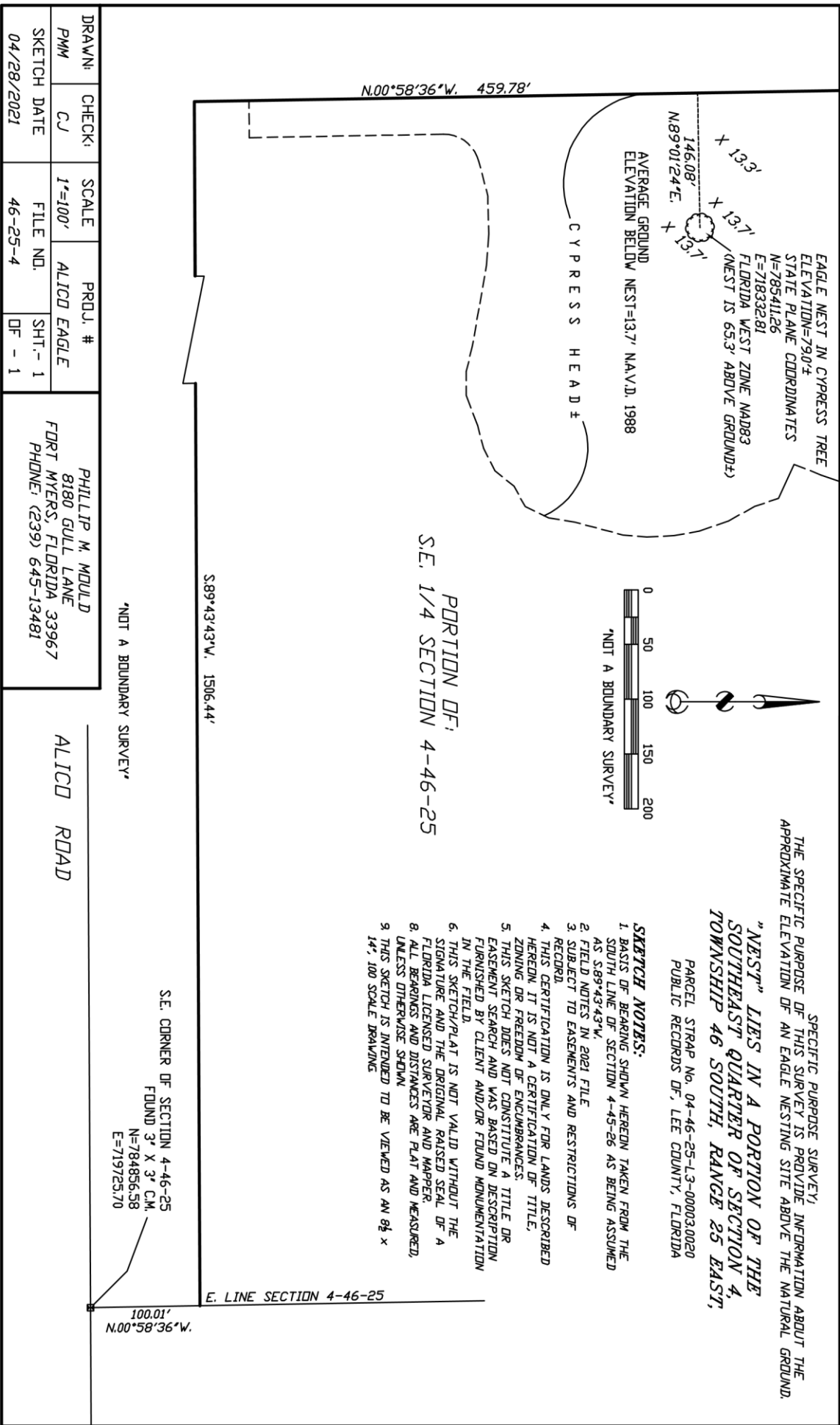
## Background and Introduction

Three Oaks Horowitz LLC is seeking approval to develop the Alico Oriole West MPD project on this approximately 29.16 ac parcel (STRAP 04-46-25-L3-00003.0020). This parcel is bordered by a fire station, 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 has been active since the 2012-13 nesting season. This nest occurs in a recorded 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 agricultural activities and creation of drainage/road networks. This disturbance influenced the majority of this site and occurred in progressive fashion.

The Alico Oriole West 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 by construction of I-75 and the Airport canal. 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 subcanopy 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*).

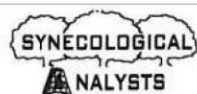
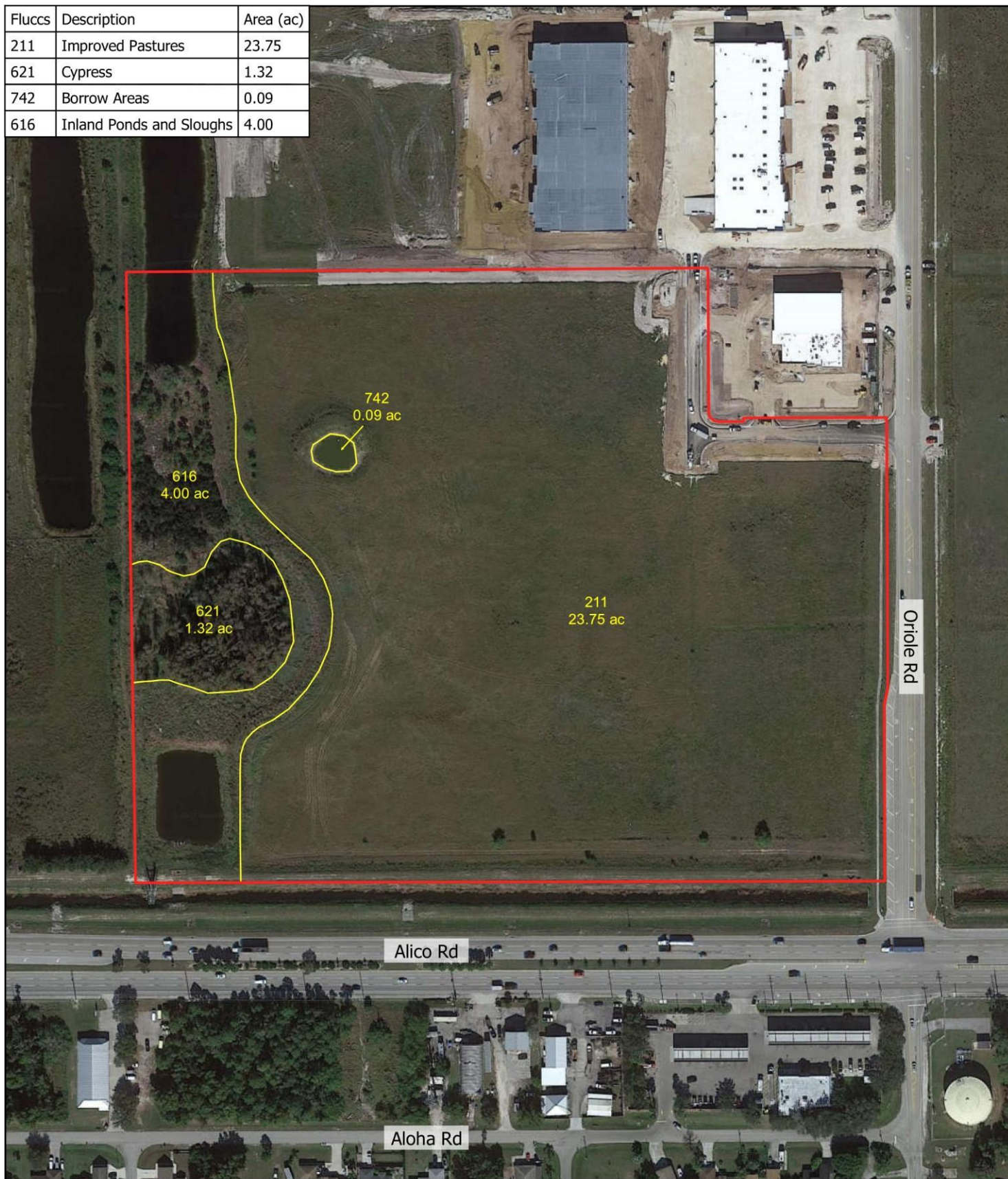
### FLUCCS 616 - Inland Ponds and Sloughs

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 western conservation area site. (The Eagle nest is located in this area)

| FlucCs | 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 ADVISORY

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

PROJECT: West Oriole Marketplace - FlucCs Map

DATE: March 29, 2022

DRAWN BY: NW



0 100 200 ft

Along the southeast and northeast boundary of the 621 area, 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. 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 pages. 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 has been ongoing and the exotic component limited. The herbaceous strata includes Maidencane, *Spartina Bakerii*, Bushybeard bluestem and swamp fern.

#### FLUCCS 742 - Borrow Area

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

### Management Plan

Regulatory basis of activities have resulted in the issuance of an Incidental Take Permit for bald eagles 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 discourages eagle 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 effective on June 22, 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 have been created, 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. If exterior construction work or project activities outlined in Condition D of the USFWS Take Permit are conducted when the nest is in use: (Note: nest in-use generally refers to the bald eagle nesting season (October 1 - May 15) but use may occur earlier if nesting is initiated prior to October 1 and may end earlier or later than May 15, dependent upon date of successful fledging of young or documented nest failure)

- a. Initiate a noise abatement program for construction personnel within 660' of the eagle nest to include:
  - aa. No excessive and/or sudden loud noise including engine braking, tailgate banging, loud radios, shouting/singing, etc.
  - ab. 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.
  - ac. Minimize the need for reverse indicator horns and utilize ground flag crews or guides to the degree practicable to avoid using reverse indicator horns.
  - ad. Provide signage in English and Spanish indicating the need for quiet to the extent practicable.
2. A proposed vegetational visual screen (See Eagle Buffer Planting Exhibit attached) will be installed when the nest is not in use.
3. The previously described landscape/visual buffer.
4. The nesting tree is located in a conservation area, behind a large berm. Based on many hours of nest observation over multiple nesting seasons, these birds are most sensitive to human activity. Planes, buildings, people in association with buildings or equipment do not typically focus the birds attention. Based on this extensive period of observation, it seems likely proposed buildings present no consequential restraint on the birds normal activity and flight patterns so long as the proposed vegetational planted buffer is installed/maintained. Please refer to the wind row base figures showing primary flight sectors to and from this nest.
5. No active external construction within 330' of the nest when the nest is active (nesting season historically Oct 1 through May 15).
6. On-site signage regarding the urgency of being quiet 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 during nesting season (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 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 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. This nest will be censused twice weekly as nesting season approaches to document arrival of the nesting pair. Once an eagle is observed, monitoring will be conducted up to three times a week for a minimum of 90 minutes each to document nest status and eagles reactions to any ongoing work. Monitoring will occur on days that construction is ongoing and in process to the extent possible. Monitoring may be reduced to one day per week five weeks post hatching, with concurrence from County staff.

**Activities Between the 200' - 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 during nesting season. The developers will comply with this restriction, resulting in the need for the proposed outdoor work between 200' - 330' of the nest tree to occur only when the nest is not in-use.

**Between the 0' - 200' (No Development) Buffer of LE093**

No development is proposed on the Alico Oriole West site within 200' of LE093. The Eagle Buffer Planting Exhibit attached shows  $\pm 1.3$  acres of undeveloped land to remain around the nest tree within the Alico Oriole West 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](http://www.aplic.org) to reduce the potential for any electrocution, collision, and/or nesting of avian species.
5. The proposed Eagle Buffer Planting between the wetland area where the eagle nest is located and the proposed development extends over 549 linear feet along the existing berm (Attachment 1). The applicant proposes to install fifteen (15) Pines ("Densa") 12 feet on center [in five groups of 3], thirty (30) Sabal Palms [in six groups of 5], and in addition forty-six (46) Walter's Viburnum #3 under the Sabal Palms as shown on the attached Eagle Buffer Planting Exhibit. The goal is 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 Attachment 1. The purpose of the plantings is to shield both the perch trees and nest to the human activity located in the development to the east of the nest. Based on our observations of this nesting pair they are not influenced by equipment, traffic or noise. Human presence/activity focuses their attention. Plant materials selection for this visual screen/buffer were based on several factors. These included a selection of native trees and plants, canopy density and extent, evergreen/deciduous comparisons, growth form of mature trees, sustainability with regard to extreme weather events and the location on the top of an existing berm. We implemented the recommendation in the US FWS Eagle Take Permit to "enhance and expand the visual vegetation buffer between construction activities and the eagle nest tree by planting native pines and/ or hardwoods". It is worth noting that our observations included periods when the cypress trees surrounding the nest tree had foliage as well as periods when the leaves had

dropped. We also have experience with eagle nests in areas dominated by slash pine. Based on the available plant materials of a size needed for the buffer along canopy density and sustainability, we considered a short list of cypress, oak (both laurel and live oak), slash pine and palms. Our selection of pines and sabal palms was based on the following factors:

- a. Appropriate and available native trees and shrubs,
- b. The lack of canopy density during a good part of the nesting season,
- c. Severe weather event survivability, and
- d. Lack of an extensive root systems to support the trees, particularly in severe weather events,

We selected the Pines and Sabal Palms after consultation with the Lee County Eagle Technical Advisory Committee as they have a stable canopy density, good sustainability through extreme weather events, a compact and dense root system, and sufficient density based on the available native species with a single row of plants. We believe we understand the unusual nature of doing an eagle buffer planting plan and we also understand the sole purpose of this planting effort is to improve the quality of life for this nesting pair of eagles or others that might occupy this nest over time. This is not a landscape requirement and is being installed on top of a berm. We think the benefit to occupants of LE 093 makes this Eagle Buffer Planting Plan the optimal, available native planting solution to creating a dense, sustainable visual screen/buffer that maintains or improves quality of life for these eagles, complies with the policies of the Eagle Take Permit and the Lee County eagle buffer policies, and allows responsible development of the nearby parcel at the NW corner of Alico Rd. and Oriole Rd.

### **Monitoring and Reporting Requirements**

The Federal Take Permit relative to this nest requires a qualified biologist to monitor eagle use of the nesting territory 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 eagles 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](http://www.fws.gov/forms/3,,202-15.pdf)) and submitted annually to the FWS (submitted electronically to [FW4eaglemonitoring@fws.gov](mailto: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 contained herein, including Condition # 2 for monitoring between 330' and 660' contained above, and the referenced federal permit through completion of construction within 660' of the nest tree and close-out of the federal permit. The applicant understands 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.

## ATTACHMENTS





## 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

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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

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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

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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](http://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 a 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

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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

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- 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](http://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](mailto: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

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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.

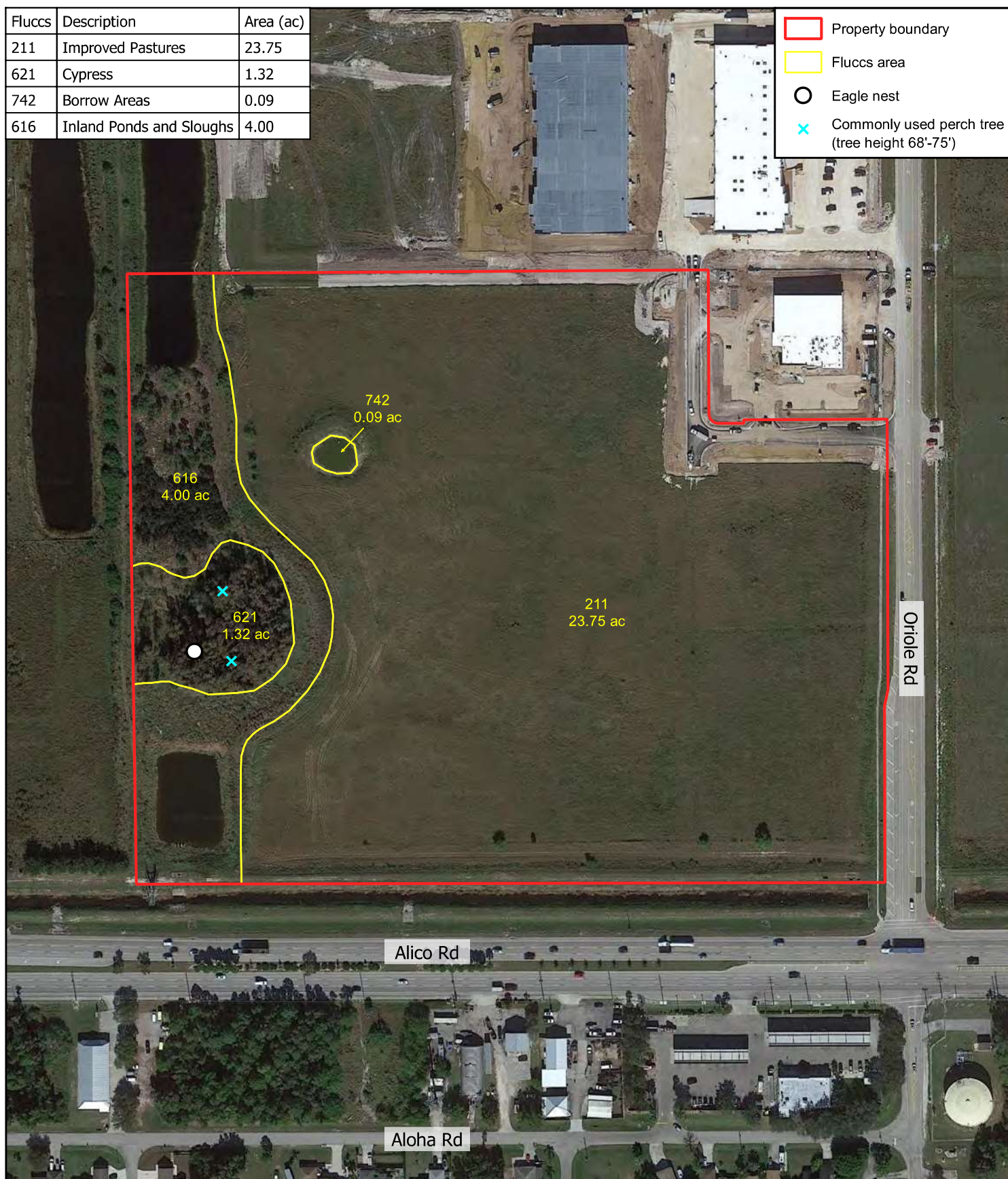
**LE-93: Alico Road****Strap Number: 04-46-25-00-00003.0020**

| <b>Year</b> | <b>History</b>                                                                                                                                 |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 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**

| FlucCs | 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
- FlucCs 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 - FlucCs Map

DATE: Feb 27, 2023

DRAWN BY: NW



Site Location



0 100 200 ft



**Alternate Eagle Nest / Perch trees**

*The arrows indicate the perch trees*



Tree 1: Height

Tree 2: Height

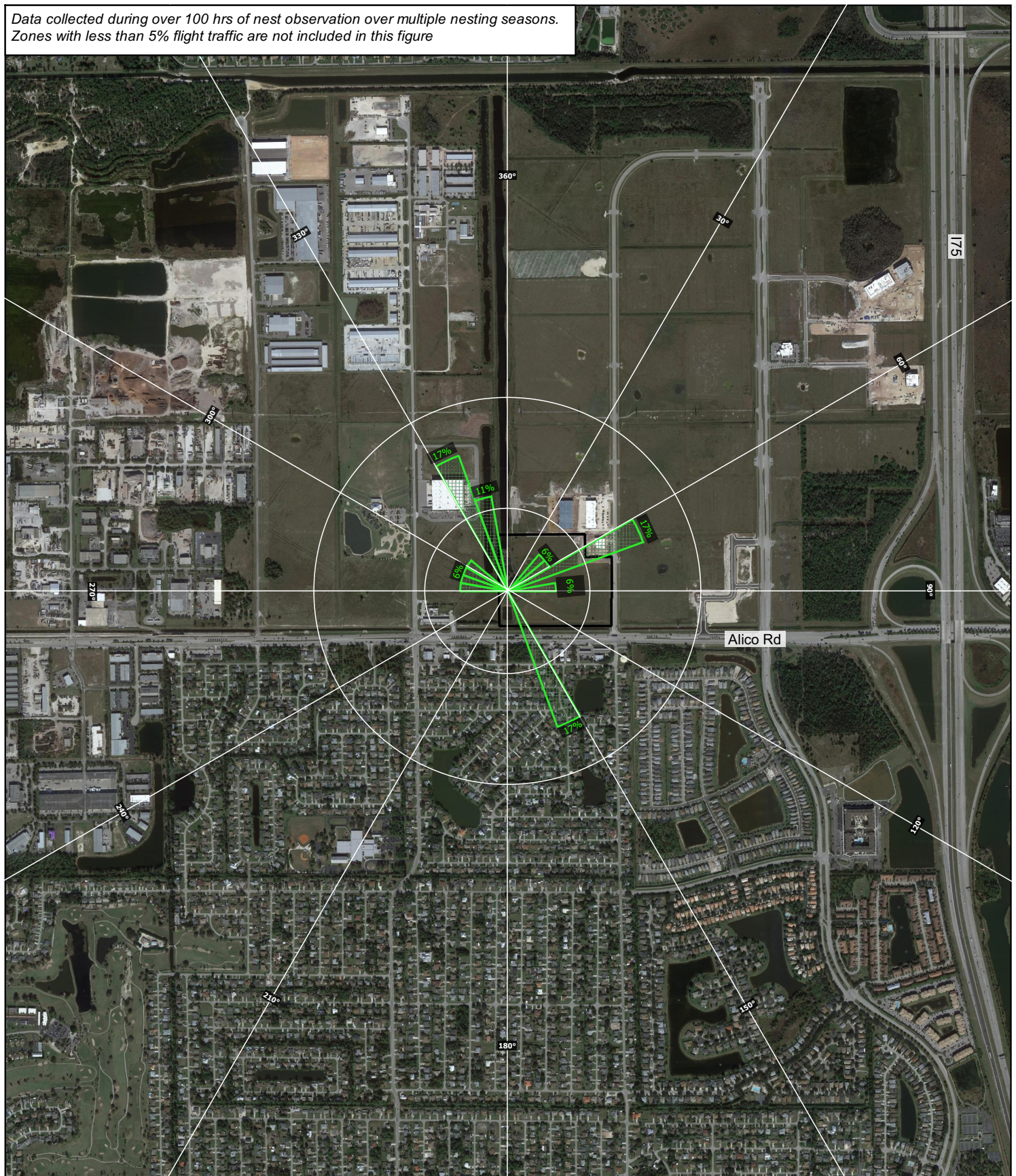


**Tree 1**

**Tree 2**



Data collected during over 100 hrs of nest observation over multiple nesting seasons.  
Zones with less than 5% flight traffic are not included in this figure



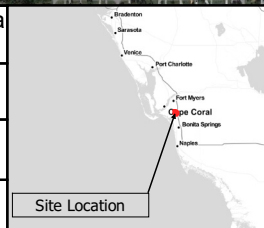
ENVIRONMENTAL EVALUATION AND ADVOCACY

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

PROJECT: Oriole Alico West Eagle Foraging Area  
- Flights To Nest

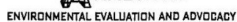
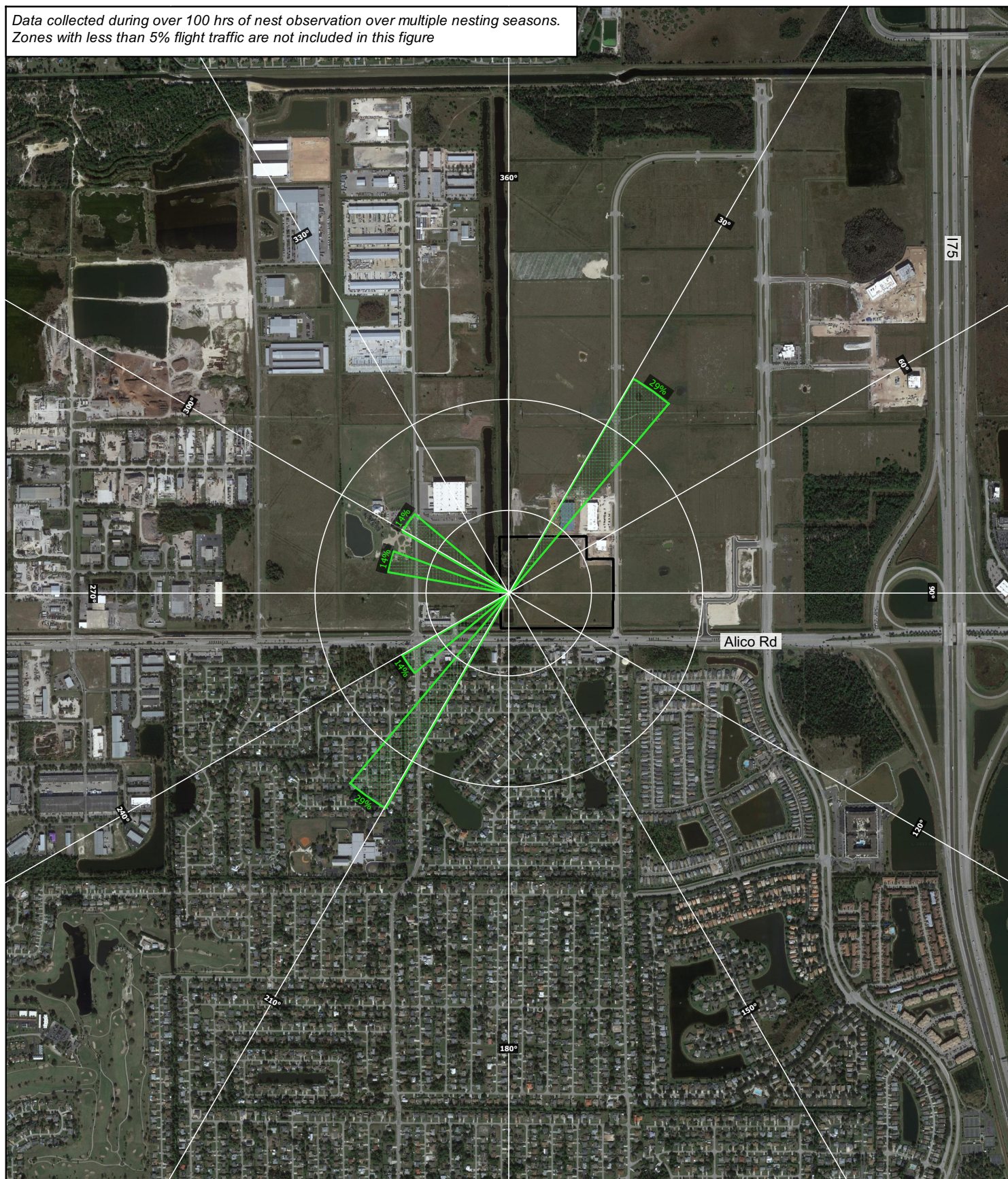
DATE: May 9, 2023

DRAWN BY: NW



0 400 800 1,200 ft

Data collected during over 100 hrs of nest observation over multiple nesting seasons. Zones with less than 5% flight traffic are not included in this figure



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

PROJECT: Oriole Alico West Eagle Foraging Area  
- Flights From Nest

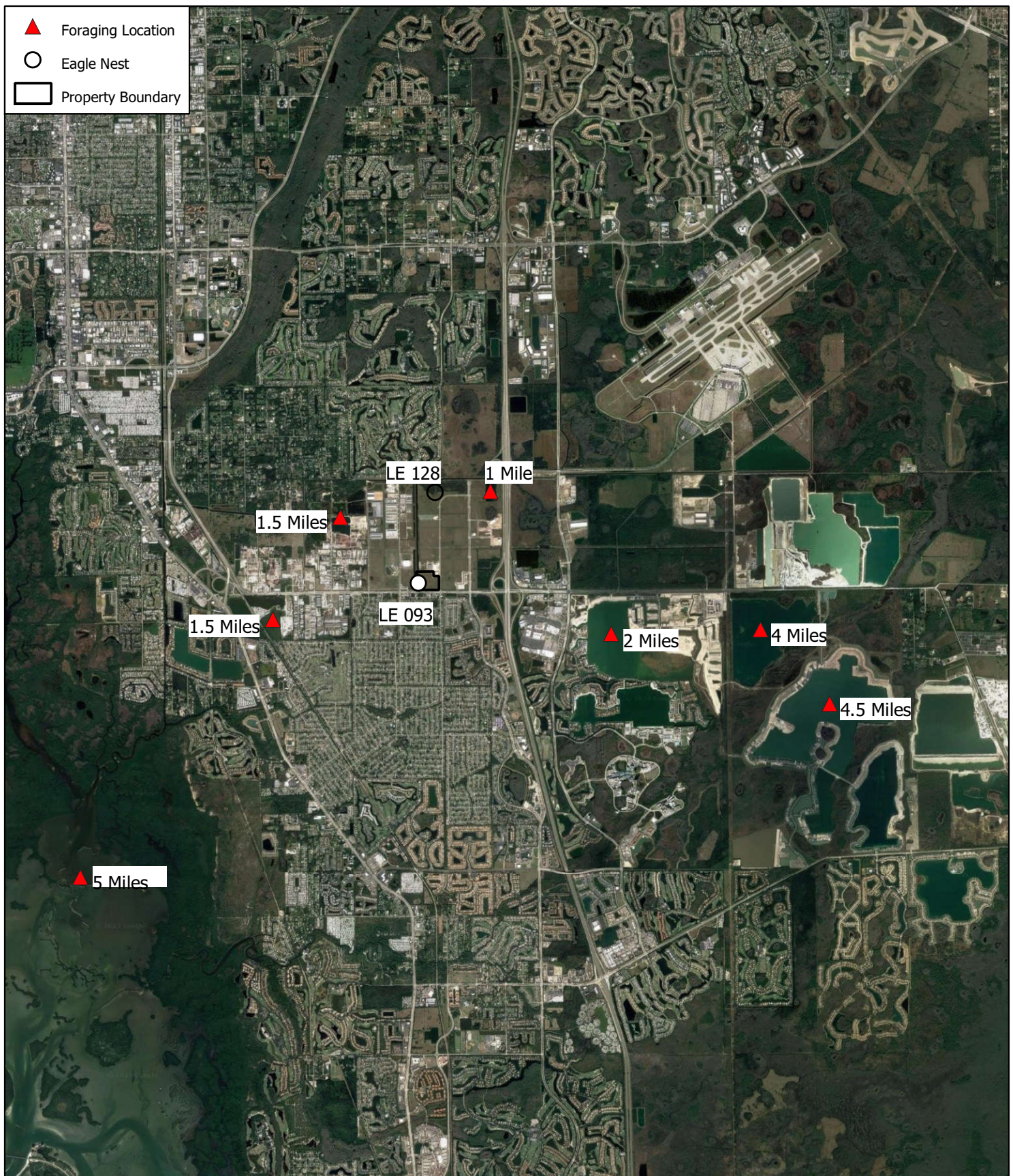
DATE: May 9, 2023

DRAWN BY: NW



0 400 800 1,200 ft





ENVIRONMENTAL EVALUATION AND ADVOCACY

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

PROJECT: LE 093 Nest Foraging Area Figure

DATE: May 9, 2023

DRAWN BY: NW

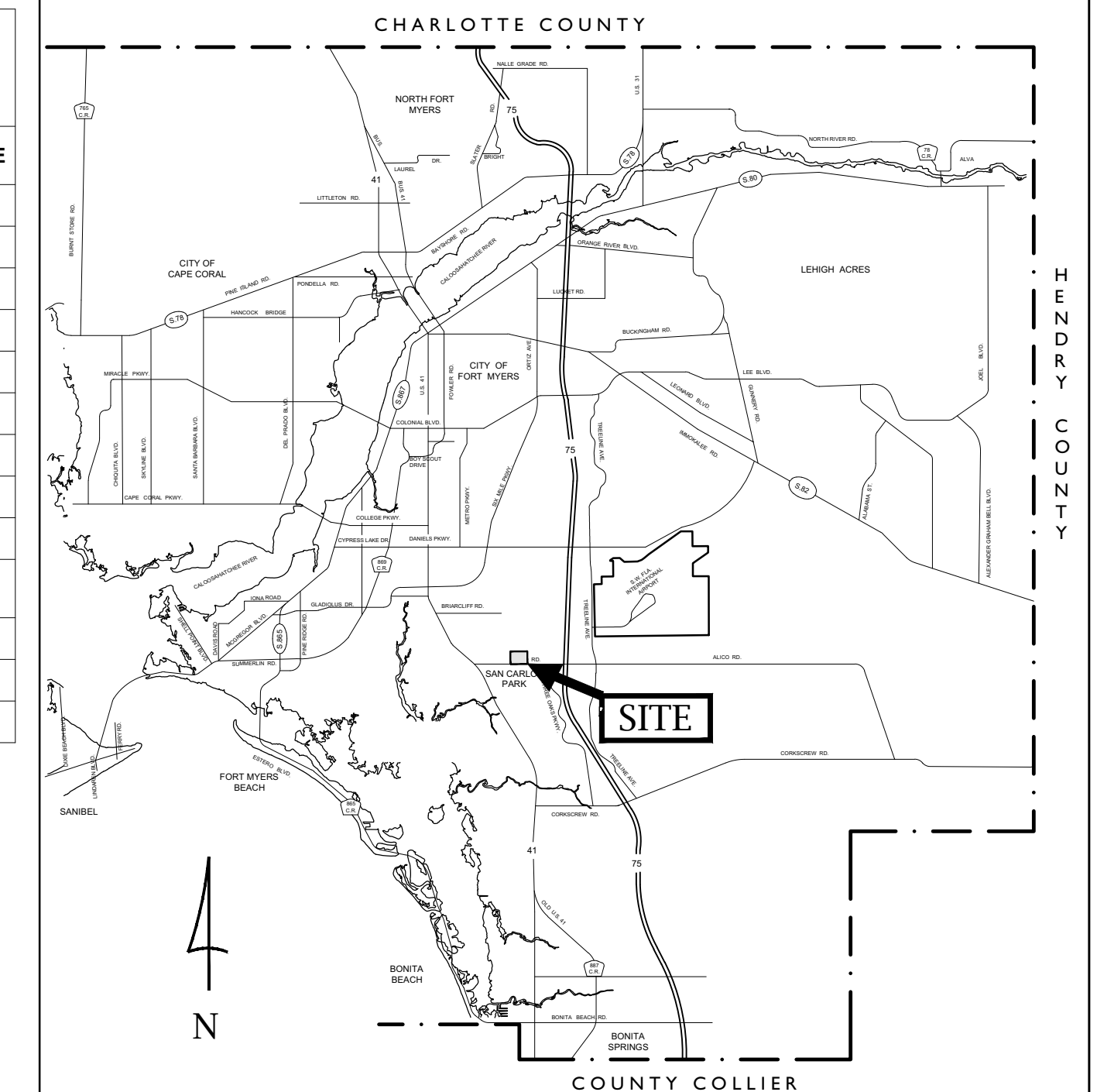


0 0.5 1 1.5 mi



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

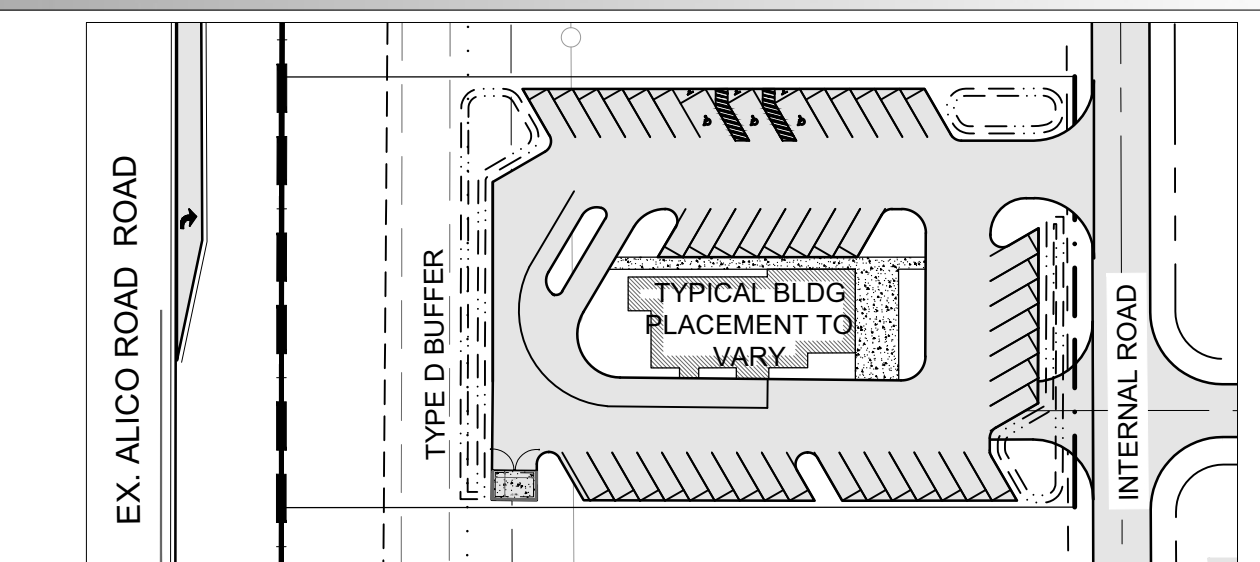
**OPEN SPACE**  
COMMERCIAL USES: 20%  
INDUSTRIAL USES: 10%

**CONSERVATION AND LAKE AREA**  
4.46 ACRES

**DEVIATIONS**



TYPICAL LOT LAYOUT:



**Q** **Quattrone & Associates, Inc.**  
Engineers, Planners & Development Consultants  
4301 McCormick Silverdale Court, Suite 100, Ft. Lauderdale, FL 33309-3622, QALocal: 239.936.5222 | QALocal: 239.936.5222 | QALocal: 239.936.5222

| 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         |
| <b>TOTAL ACREAGE</b>               | <b>30.64</b> |

