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Certificate of Authorization # 29086

August 2, 2023

Ms. Elizabeth Workman, Principal Planner  
**Lee County Department of Community Development**  
1500 Monroe Street  
Fort Myers, FL 33901

**Reference: Blue Wave Express Car Wash**  
**DCI2023-00025 (1<sup>st</sup> Resubmittal)**

Dear Ms. Workman:

We are in receipt of your review letter dated July 7, 2023 for the above referenced project. The following items are submitted for your continued review per this request for additional information:

1. One (1) copy of the revised Narrative of Request/Lee Plan Compliance;
2. One (1) copy of the revised MCP;
3. One (1) copy of the Cross-Section Exhibit;
4. One (1) copy of the revised Environmental Survey and FLUCCS Map;
5. One (1) copy of the revised Schedule of Deviations;

Responses to each individual item/comment are as follows:

**Planning Review Comments:**

Joseph Sarracino – [jsarracino@leegov.com](mailto:jsarracino@leegov.com)

1. Address Lee Plan Policies 11.2.2, 21.1.2, and 77.3.7.

**Response: Please see the revised Narrative of Request/Lee Plan Compliance for an analysis of the Lee Plan Policies as requested.**

2. Discuss how the requested deviations will maintain consistency with Lee Plan Goals 21 and 22.

**Response: The applicant has withdrawn all deviations, either voluntarily or at the suggestion of staff, with the exception of Deviation #4 – architectural standards in the Caloosahatchee Shores Planning Community.**

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The Blue Wave Express Car Wash is a franchise. To summarize House Bill 1021 (2017), political subdivisions (Lee County) are prohibited from imposing requirements regarding building aesthetics that conflict with or impairs corporate trademarks, image standards or other features of corporate branding. Please see the relevant subsection below.

Lee Plan Policy 21.1.2 states that “Any deviation from landscaping, buffering, signage or architectural requirements MAY not be granted unless the request meets the approval criteria for variances set forth in the LDC, Chapter 34.” The applicant contends that House Bill 1021 supersedes Lee Plan Policy 21.1.2. Please see the revised deviation based on House Bill 1021.

*Section 3. Subsection (20) is added to section 553.79, Florida Statutes, to read: 553.79 Permits; applications; issuance; inspections.— (20)(a) A political subdivision of this state may not adopt or enforce any ordinance or impose any building permit or other development order requirement that: 1. Contains any building, construction, or aesthetic requirement or condition that conflicts with or impairs corporate trademarks, service marks, trade dress, logos, color patterns, design scheme insignia, image standards, or other features of corporate branding identity on real property or improvements thereon used in activities conducted under chapter or in carrying out business activities defined as a franchise by Federal Trade Commission regulations in 16 C.F.R. ss. 436.1, et. seq.; or 2. Imposes any requirement on the design, construction or location of signage advertising the retail price of gasoline in accordance with the requirements of ss. 526.111 and 526.121 which prevents the signage from being clearly visible and legible to drivers of approaching motor vehicles from a vantage point on any lane of traffic in either direction on a roadway abutting the gas station premises and meets height, width, and spacing standards for Series C, D, or E signs, as applicable, published in the latest edition of Standard Alphabets for Highway Signs published by the United States Department of Commerce, Bureau of Public Roads, Office of Highway Safety. (b) This subsection does not affect any requirement for design and construction in the Florida Building Code. (c) All such ordinances and requirements are hereby preempted and superseded by general law. This subsection shall apply retroactively. (d) This subsection does not apply to property located in a designated historic district.*

### **Zoning Review Comments:**

Elizabeth Workman – [eworkman@leegov.com](mailto:eworkman@leegov.com) or 239-533-8793

3. Indicate if a formal jurisdictional wetland determination has been submitted to determine the wetlands regulated by the State of Florida. Be aware that in order to be in compliance with Lee Plan Policy 124.1.2 (Note 2), the developer must provide the SFWMD permit prior to developing the land. If the wetlands regulated by the State of Florida will be impacted by the development, the developer must submit documentation that the impacts have been mitigated through the State (Lee Plan Policy 124.1.2 Notes 4 and 5).

**Response:** A formal jurisdictional wetland determination has not been submitted as part of this rezoning request. The applicant does not intend to impact the wetlands identified on-site by the environmental consultant as demonstrated on the MCP. This site design will be utilized at time of Development Order permitting, which will undergo

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**another independent review by Lee County development services (and SFWMD, if required).**

4. Revise the Master Concept Plan to depict the 50-foot natural waterway buffer per LDC Section 10-416(d)(9).

**Response: Please see the revised MCP for the 50-foot natural waterway buffer as required. Note this area is identified as the development's indigenous preserve area. If the existing native vegetation does not meet the buffer vegetation requirements, additional plantings will be proposed at time of development order permitting.**

5. Provide a cross section of the creek depicting the mean high water line or top of bank whichever is further landward with the 50 foot buffer measured from that point.

**Response: Please see the attached cross-section exhibit as requested.**

6. Indicate if the applicant intends to utilize the existing indigenous vegetation to meet the 25-foot-wide right-of-way buffer abutting Palm Beach Boulevard. Provide details of the indigenous area with details focused on the amount of exotics that will be removed and if the remaining indigenous vegetation will meet the code required buffer landscaping. If supplemental planting will be required, indicate the details.

**Response: Yes, the applicant intends to utilize existing indigenous vegetation to meet the 25-foot ROW buffer requirements, enhancing where necessary. Exotics will be removed on-site as consistent with the requirements of the LDC. All additional information, including the amount of exotics, supplemental plantings, etc, will be provided at time of D.O. permitting.**

7. The applicant is requesting deviations from landscaping and architectural standards. Lee Plan Policy 21.1.1 states that Florida Vernacular architectural style is preferred. In addition, Lee Plan Policy 21.1.2 states any deviation from landscaping or architectural requirements may not be granted unless the request meets the approval criteria for variances set forth in the LDC Section 34-145(b)(3). Provide an analysis for each deviation seeking relief from architectural or landscaping requirements and state how the request for each is meeting the variance criteria.

**Response: The deviation from the landscape buffer requirement has been withdrawn. The applicant will work with staff at time of DO permitting on the ROW buffer overlapping the indigenous preserve.**

**The Blue Wave Express Car Wash is a franchise. To summarize House Bill 1021 (2017), political subdivisions (Lee County) are prohibited from imposing requirements regarding building aesthetics that conflict with or impairs corporate trademarks, image standards or other features of corporate branding. Please see the relevant subsection below.**

**Lee Plan Policy 21.1.2 states that "Any deviation from landscaping, buffering, signage or architectural requirements MAY not be granted unless the request meets the approval criteria for variances set forth in the LDC, Chapter 34." The applicant**

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contends that House Bill 1021 supersedes Lee Plan Policy 21.1.2. Please see the revised Schedule of Deviations based on House Bill 1021.

*Section 3. Subsection (20) is added to section 553.79, Florida Statutes, to read: 553.79 Permits; applications; issuance; inspections.— (20)(a) A political subdivision of this state may not adopt or enforce any ordinance or impose any building permit or other development order requirement that: 1. Contains any building, construction, or aesthetic requirement or condition that conflicts with or impairs corporate trademarks, service marks, trade dress, logos, color patterns, design scheme insignia, image standards, or other features of corporate branding identity on real property or improvements thereon used in activities conducted under chapter or in carrying out business activities defined as a franchise by Federal Trade Commission regulations in 16 C.F.R. ss. 436.1, et. seq.; or 2. Imposes any requirement on the design, construction or location of signage advertising the retail price of gasoline in accordance with the requirements of ss. 526.111 and 526.121 which prevents the signage from being clearly visible and legible to drivers of approaching motor vehicles from a vantage point on any lane of traffic in either direction on a roadway abutting the gas station premises and meets height, width, and spacing standards for Series C, D, or E signs, as applicable, published in the latest edition of Standard Alphabets for Highway Signs published by the United States Department of Commerce, Bureau of Public Roads, Office of Highway Safety. (b) This subsection does not affect any requirement for design and construction in the Florida Building Code. (c) All such ordinances and requirements are hereby preempted and superseded by general law. This subsection shall apply retroactively. (d) This subsection does not apply to property located in a designated historic district.*

**Development Services Review Comments:**

Brian Roberts - [broberts@leegov.com](mailto:broberts@leegov.com) or 239-533-8890

8. The subject property accesses Palm Beach Boulevard which is State maintained. Deviations 1 and 3 do not apply and should be withdrawn. Permitting will be required by the State and will be stipulated in the Development Order.

**Response: This comment is acknowledged and understood. Deviations 1 and 3 have been withdrawn as requested.**

9. Staff does not support a deviation from LDC 10-256(a). The proper relief is a fee-in-lieu at time of Development Order in accordance with LDC 10-256(b)(5).

**Response: This comment is acknowledged and understood. This deviation has been withdrawn.**

10. Policy 21.1.2 of the Lee Plan requires deviations from architectural requirements (Deviation 4) to meet the approval criteria for variances set forth in LDC 34-145(b)(3). Revise your justification to address the approval criteria for a variance. Is it the intent of the applicant to meet all other architectural requirements in the Planning Community and Architectural code requirements?

**Response: The Blue Wave Express Car Wash is a franchise. To summarize House Bill 1021 (2017), political subdivisions (Lee County) are prohibited from imposing**

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requirements regarding building aesthetics that conflict with or impairs corporate trademarks, image standards or other features of corporate branding. Please see the relevant subsection below.

Lee Plan Policy 21.1.2 states that “Any deviation from landscaping, buffering, signage or architectural requirements MAY not be granted unless the request meets the approval criteria for variances set forth in the LDC, Chapter 34.” The applicant contends that House Bill 1021 supersedes Lee Plan Policy 21.1.2. Please see the revised Schedule of Deviations based on House Bill 1021.

*Section 3. Subsection (20) is added to section 553.79, Florida Statutes, to read: 553.79 Permits; applications; issuance; inspections.— (20)(a) A political subdivision of this state may not adopt or enforce any ordinance or impose any building permit or other development order requirement that: 1. Contains any building, construction, or aesthetic requirement or condition that conflicts with or impairs corporate trademarks, service marks, trade dress, logos, color patterns, design scheme insignia, image standards, or other features of corporate branding identity on real property or improvements thereon used in activities conducted under chapter or in carrying out business activities defined as a franchise by Federal Trade Commission regulations in 16 C.F.R. ss. 436.1, et. seq.; or 2. Imposes any requirement on the design, construction or location of signage advertising the retail price of gasoline in accordance with the requirements of ss. 526.111 and 526.121 which prevents the signage from being clearly visible and legible to drivers of approaching motor vehicles from a vantage point on any lane of traffic in either direction on a roadway abutting the gas station premises and meets height, width, and spacing standards for Series C, D, or E signs, as applicable, published in the latest edition of Standard Alphabets for Highway Signs published by the United States Department of Commerce, Bureau of Public Roads, Office of Highway Safety. (b) This subsection does not affect any requirement for design and construction in the Florida Building Code. (c) All such ordinances and requirements are hereby preempted and superseded by general law. This subsection shall apply retroactively. (d) This subsection does not apply to property located in a designated historic district.*

11. Address the pedestrian and vehicular interconnections required in LDC 33-1493(b) and LDC 10-610(d).

**Response:** Please see the revised MCP for the pedestrian connection and stub-out as requested.

12. LDC 34-373(a)(6)(a) – The survey includes a note that the survey does not certify that the land is free of encumbrances. The referenced LDC section requires all easements to be shown on the MCP. Clarify that all easements are reflected on the MCP.

**Response:** The Attorney’s Opinion of Title identifies three (3) easements encumbering the property: Lee County Ordinance No. 86-38, OR 2189, PG 3334 (Solid Waste Collection), Miscellaneous Book 23, PG 304 (Oil, Gas and Mineral Lease), and Deed Book 228, PG 214 (Oil, Gas and Mineral Rights). Those easements are considered “blanket” easements encumbering the entire subject property and therefore cannot be shown on the MCP.

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13. LDC 34-202(a)(6) requires applications for public hearing to include a boundary survey that identifies and depicts all easements affecting the subject property, recorded or unrecorded, and all other physical encumbrances readily identified by field inspection. Survey Note #2 doesn't meet this requirement. Revise as necessary.

**Response: Survey Note #3 is common, especially when those encumbrances are identified by the Title Opinion referenced by Note #4. Those encumbrances are listed and identified under comment #12 above and cannot be shown on the survey.**

14. LDC 34-373(a)(6)(c) The plan must indicate the general location, configuration, and approximate dimensions of the lots or parcels. Add parcel dimensions to the MCP.

**Response: Please see the revised Master Concept Plan for the parcel dimensions as requested.**

**Environmental Sciences Review Comments:**

Camryn Siverson – [csiverson@leegov.com](mailto:csiverson@leegov.com) or 239-533-8313

15. The FLUCCS map does not have an Exotic Value after the FLUCCS codes. Note that staff visited the site and observed exotics. Include the E-values within the FLUCCS Map and Environmental Survey.

**Response: Please see the revised Environmental Survey and FLUCS Map for the Exotic Values as requested.**

16. LDC 10-416(d)(9) must provide a 50-foot-wide vegetative buffer landward of nonseawalled natural waterways as measured from the mean high-water line or top of bank, whichever is further landward. Also provide a cross-section of the buffer and depict the natural waterway buffer on the MCP.

**Response: Please see the revised Master Concept Plan for the 50-foot buffer and the cross-section exhibit as requested.**

17. The FLUCCS map depicts wetlands onsite. Lee Plan Policy 124.1.1 states, "Ensure that development in wetlands is limited to very low-density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions." Provide a formal JD or ERP to demonstrate that wetlands will be preserved or the impacts will be mitigated/limited to low density uses.

**Response: Although the development is considered a "small" development, the applicant is preserving the indigenous wetlands along the creek to the maximum extent possible, with the exception of the access and maintenance easement required by Lee County Natural Resources. Please see the Master Concept Plan. A minimum of 35,000 sf (0.80 acres) of indigenous wetland preserve is provided by the Applicant.**

18. LDC 33-1494 states dry detention areas must be planted with Southern Red Maple (*Acer rubrum*), South Florida Slash Pine (*Pinus elliottii* var. *densa*), Laurel Oak (*Quercus hemisphaerica*), and/or Cypress (*Taxodium distichum*) trees. The trees must be planted twenty (20) feet on center and at time of installation the trees must be six (6) feet in height,

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two (2) inch caliper, and a three (3) foot spread. Be aware that the detention area will have to demonstrate compliance with LDC 33-1494.

**Response: This comment is acknowledged and understood and will be complied with at time of Development Order permitting.**

19. The MCP is not clear on the amount of impervious that is being proposed. Provide the amount of impervious area on the MCP.

**Response: Master Concept Plans are conceptual in nature and do not show miscellaneous impervious areas such as curbing, concrete AC pads, etc. As a result, only the amount of open space is required, which is shown on the MCP.**

20. LDC 33-1514 states that properties under five (5) acres in the Caloosahatchee Olga Overlay District must provide 30% open space. Revise open space exhibit to depict the required 30% open space.

**Response: Please see the revised MCP for the corrected open space calculations.**

21. Lee Plan Policy 21.1.2 states any deviation from landscaping, buffering, signage, or architectural requirements may not be granted unless the request meets the approval criteria for variances set forth in the LDC, Chapter 34. Note that the deviation requested for 10-416(c) must meet variance criteria. Note that variance criteria is not being met currently. Revise or remove the deviation.

**Response: This deviation has been withdrawn. LDC 10-416(c)(2)(d) permits a row of 20 parking spaces when 18-foot wide landscape islands are used, as is the case in the proposed master concept plan.**

22. The open space table must be revised to 30% of the total site area, not only the developable area. Revise to demonstrate compliance with the Caloosahatchee Shore Community Planning Area.

**Response: Please see the revised MCP for the correct 30% open space calculation.**

23. The applicant speaks to the preservation and management of the proposed preserve area. Provide an Indigenous Management Plan in compliance with LDC 10-474.

**Response: An Indigenous Management Plan will be provided during Development Order permitting as required.**

24. Demonstrate the area where the vacuums will be located. Layout of vacuums and canopy structures may impact the site design. Additional comments may follow.

**Response: Please see the revised MCP for the addition of the vacuums as requested. Note the sidewalks are 8-foot wide to accommodate the vacuums and canopies. In addition the vacuum stalls also double as parking spaces for customers as is typical of most car washes like the Blue Wave Express.**

25. Provide more details within the narrative discussing the Olga Overlay District, supplementary district, and wetlands.

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**Response: Please see the revised Narrative of Request/Lee Plan Compliance for the additional information requested.**

**Natural Resources Comments:**

Nicholas DeFilippo – [ndefilippo@leegov.com](mailto:ndefilippo@leegov.com) or 239-533-8983

26. Depict the location of the access and drainage easement that is required by LDC 10-328. Currently the MCP depicts an indigenous preserve abutting the drainageway which would be incompatible with the access and drainage easement.

**Response: Please see the revised MCP for the 20-foot wide A.E. and D.E. abutting the existing creek as requested.**

27. Provide an analysis of Lee Plan goal 125.

**Response: Please see the revised Narrative of Request/Lee Plan Compliance for the analysis of Lee Plan Goal 125 as requested.**

**Lee Tran Review Comments:**

Clarissa Diaz – [cmarinodiaz@leegov.com](mailto:cmarinodiaz@leegov.com) or 239-533-0340

28. The proposed development is beyond one-quarter mile of a bus stop or a fixed-route corridor. Based on the current Transit LDC Section 10-441, no improvements are required by the developer at this time but will reassess at the time of DO or LDO.

**Response: This comment is acknowledged and understood.**

This should allow for continued review and a finding of sufficiency of this rezoning request. Your time and attention to this matter is appreciated. Should County staff require additional information or have any questions regarding this submittal, feel free to call this office.

Sincerely,

**TDM CONSULTING, INC.**



Veronica Martin  
Senior Planner



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Blue Wave Express Car Wash  
Narrative of Request/Lee Plan Compliance  
Revised 8/1/2023

**Narrative of Request**

The applicant assembled three lots at 14700, 14780, and 14800 Palm Beach Boulevard with the intention of developing the land for commercial use – specifically a free-standing car wash. The lots have a mix of zoning districts including AG-2, IL, C-2 and CPD. The applicant is requesting to rezone the lots to Commercial Planned Development (CPD) for a consistent zoning district for all three lots.

As stated above, the lots have multiple zoning districts. The lot at 14780 Palm Beach Boulevard is zoned AG-2 and IL as identified by Lee County GIS. The lot at 14700 Palm Beach Boulevard is zoned CPD. The CPD zoned lot was rezoned from AG-2 to CPD via Zoning Resolution Z-88-035 (Palm Beach Center). A Development Order was issued for the property (88-08-015.00D) identifying the portion that is the subject of this zoning application as Out Parcel 2.

The CPD zoned property was rezoned again from CPD and AG-2 to CPD via Zoning Resolution Z-92-020 Food Lion Center CPD. There were several subsequent amendments including PD-96-016, PD-96-016A, PD-96-059, and Z-98-002. However, somewhere between the original zoning resolution Z-88-035 and Z-92-020, the boundary of the CPD property changed and Out Parcel 2 (the lot a 14700 Palm Beach Boulevard) was no longer included in the Food Lion Center CPD.

**Land Development Code Compliance**

The applicant intends to comply with the Land Development Code at time of Development Order permitting unless deviations are granted with this planned development application.

**Lee Plan Compliance**

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

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The property is located within the Suburban future land use category with frontage on Palm Beach Boulevard (SR 80). It is also located in the Mixed-Use Overlay. The subject property has a mix of zoning districts including AG-2, IL, C-2 and CPD. Industrial zoning is inconsistent with the Suburban future land use category. The applicant is requesting to rezone the property to Commercial Planned Development (CPD) to permit a consistent zoning district for commercial development. This is consistent with **Lee Plan Policy 1.1.5**.

**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.*

**POLICY 2.1.1:** *Most residential, commercial, industrial, and public development is expected to occur within the designated future urban areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.*

**POLICY 2.1.2:** *New land uses will be permitted only if they are consistent with the Future Land Use Map and the goals, objectives, policies, and standards of this plan.*

**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.*

**POLICY 2.2.1:** *Rezoning and DRI 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.*

**POLICY 2.2.2:** *The Future Land Use Map indicates the uses and density ranges that will ultimately be permitted on a given parcel. However, it is not a guarantee that such densities or uses are immediately appropriate, as the map provides for the County's growth beyond the 2045 planning horizon. During the rezoning process the Board of County Commissioners will balance the overall standards and policies of this plan with three additional factors:*

- 1. Whether a given proposal would further burden already overwhelmed existing and committed public facilities such that the approval should be delayed until the facilities can be constructed; and*
- 2. Whether a given proposal is for land so far beyond existing development or adequate public facilities that approval should be delayed in an effort to encourage compact and efficient growth patterns; and*
- 3. Whether a given proposal would result in unreasonable development expectations that may not be achievable because of acreage limitations contained in the Acreage Allocation Table (see Table 1(b)).*

The property to the west of the subject parcel is zoned CPD and is developed as a commercial shopping plaza. The property to the east is zoned CPD and RPD with an existing place of worship and planned commercial uses along the SR 80 frontage. Land south of SR 80 is zoned C-1A and CC and has a variety of commercial uses. The land to the north is vacant. Urban

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services are available and adequate to service the development as outlined below. Rezoning the subject property to CPD for commercial use creates contiguous growth patterns and minimizes urban sprawl. This is consistent with **Lee Plan Objective 2.1, Policies 2.1.1 and 2.1.2, Objective 2.2, and Policies 2.2.1 and 2.2.2.**

|                 |                                                                                                                                            |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Fire:           | Fort Myers Shores Fire District, Station # 1, located at 12345 Palm Beach Blvd., is approximately 2.5 miles away.                          |
| Police:         | Lee County Sheriff's Department, located at 1301 Homestead Rd N, is approximately 11.7 miles away.                                         |
| EMS:            | Fort Myers Shores Fire District, Station # 1, located at 12345 Palm Beach Blvd., is approximately 2.5 miles away.                          |
| Solid Waste:    | The property is within Lee County Solid Waste Franchise Area 4 and is served by Advanced Disposal.                                         |
| Public Transit: | Lee Tran does not service this segment of Palm Beach Blvd (SR 80).                                                                         |
| Public Schools: | The property is within the Lee County School District East Zone, District Area 2.                                                          |
| Public Parks:   | The property is approximately 1.1 miles south from Olga Community Park and approximately 3.7 miles west from Hickey Creek Mitigation Park. |

**OBJECTIVE 4.1: WATER, SEWER, AND ENVIRONMENTAL STANDARDS.** *Consider water, sewer, and environmental standards during the rezoning process. Ensure the standards are met prior to issuing a local development order.*

Lee County Utilities provided a Letter of Availability confirming that potable water and sanitary sewer lines are in operation adjacent to the subject property; however, there are no reuse mains in the vicinity of the site. The applicant will connect to potable water and sanitary sewer at time of development order permitting. This is consistent with **Objective 4.1, Standard 4.1.4: Potable Water and Standard 4.1.2: Sanitary Sewer.**

**STANDARD 4.1.4: ENVIRONMENTAL FACTORS.**

- 1. In any case where there exists or there is the probability of environmentally sensitive areas (as identified by Lee County, the Corps of Engineers, Department of Environmental Protection, South Florida Water Management District (SFWMD), or other applicable regulatory agency), the developer/applicant must prepare an environmental assessment that examines the existing conditions, addresses existing or anticipated environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources.*
- 2. Ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site.*
- 3. Ensure development minimizes the need for expansion and construction of street and utility improvements.*

A Protected Species Survey/Environmental Assessment with FLUCFCS Map is included with this planned development rezoning request due to the presence of wetlands on-site. According to the FLUCFCS Map, 1.35 acres of the land to be rezoned is Mixed Wetland Hardwoods while the

## Narrative of Request/Lee Plan Compliance

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remaining 2.30 acres is Pine-Mesic Oak. The Master Concept Plan shows that 1.25-acres of the mixed wetland hardwoods along the west property line will be preserved in its entirety. Development is concentrated along the east property line, giving adequate space to avoid impacts to the preserve. The applicant will be required to obtain an Environmental Resource Permit from SFWMD at time of Development Order permitting. This is consistent with **Lee Plan Objective 4.1 and Standard 4.1.4: Environmental Factors**.

**GOAL 6: COMMERCIAL LAND USES.** *To permit orderly and well-planned commercial development at appropriate locations within the County.*

**OBJECTIVE 6.1:** *Development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 4 and other provisions of this plan.*

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

- 1. Traffic and access impacts (rezoning and development orders);*
- 2. Landscaping and detailed site planning (development orders);*
- 3. Screening and buffering (planned development rezoning and development orders);*
- 4. Availability and adequacy of services and facilities (rezoning and development orders);*
- 5. Impact on adjacent land uses and surrounding neighborhoods (rezoning);*
- 6. Proximity to other similar centers (rezoning); and*
- 7. Environmental considerations (rezoning and development orders).*

**POLICY 6.1.4:** *Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities.*

**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.*

**POLICY 6.1.7:** *Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.*

As previously noted, the subject property is located between two commercially zoned properties. The property to the west is zoned CPD and developed as a commercial shopping plaza and the property to the east is zoned CPD along Palm Beach Boulevard and RPD to the north to permit a mixed-use development. The subject property is also in the mixed-use overlay and is considered an infill property on the north side of Palm Beach Boulevard. Urban services are available and adequate to service the site, the Traffic Impact Statement demonstrates that the addition of the commercial development does not degrade the level of services of Palm Beach Boulevard, appropriate buffers are proposed, and the existing wetlands will be preserved. The proposed rezoning is/will be consistent with the Land Development Code regarding availability of urban services, environmental concerns and impacts on surrounding uses. A Development Order will be required for future commercial development, which will be consistent with traffic, access,

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screening and buffering, landscaping, and environmental considerations. The rezoning request is consistent with **Lee Plan Goal 6, Objective 6.1, Policies 6.1.1, 6.1.4, 6.1.6, and 6.1.7.**

**OBJECTIVE 11.2: MIXED USE OVERLAY.** *The County will maintain an Overlay in the future land use map series identifying locations appropriate for mixed use located in proximity to: public transit routes; education facilities; recreation opportunities; and, existing residential, shopping and employment centers. Mixed Use, Traditional Neighborhood, and Transit Oriented development patterns are encouraged and preferred within the Mixed Use Overlay.*

**POLICY 11.2.2:** *Development in the Mixed Use Overlay should accommodate connections to adjacent uses.*

**POLICY 11.2.5:** *Lee County will maintain land development regulations for properties within the Mixed Use Overlay that allow for urban forms of development and a variety of uses.*

The subject property is located in the mixed-use overlay. Urban services are available and adequate to service the site. Nearby commercial uses include the Winn-Dixie shopping plaza to the west and a Place of Worship and the Tractor Supply to the east. The land immediately east of the property is zoned MPD to permit commercial uses along Palm Beach Boulevard and future residential uses to the north. The applicant is proposing a stub-out to the east for a future interconnect to the commercial property. However, there is an existing creek and wetlands that separates the proposed development from the existing commercial uses to the west. In the interest of preserving those wetlands from development, no interconnect is proposed to the west. Land to the north is generally used for single-family residential and agricultural use or vacant. The applicant is requesting to rezone the subject property from AG-2, IL, C-2 and CPD to a consistent CPD zoning district to permit limited commercial uses. Properties in the mixed-use overlay are permitted reduced parking, buffers and open space. This will be beneficial at time of development order permitting as it will allow development to be concentrated within the uplands so the existing wetlands can be preserved. This is consistent with **Lee Plan Objective 11.2 and Policies 11.2.2 and 11.2.5.**

**OBJECTIVE 17.3: PUBLIC INPUT.** *To provide opportunities for public input as part of the comprehensive plan and land development code amendment process.*

**POLICY 17.3.3:** *Public information meetings required pursuant to the provisions of this sub-element must be held within the established community plan area boundary that is affected by the amendment.*

**POLICY 17.3.4:** *For required public information meetings, the applicant must provide the following:*

- *Adequate meeting space to accommodate projected attendance and security measures (as needed).*
- *Advance notice of the meeting in a publication of local distribution provided at least ten calendar days prior to the meeting, unless otherwise specified herein.*
- *At the meeting, a general overview of the text or map amendment and effect thereof.*
- *After the meeting, a meeting summary document submitted to the County that contains the following information: the date, time, and location of the meeting; a list of attendees.*

## Narrative of Request/Lee Plan Compliance

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The property is located in the Caloosahatchee Shores and Olga planning communities. The applicant held one public information meeting that was advertised in the News Press; however, only one person from the public attended. This is consistent with **Lee Plan Objective 17.3 and Policies 17.3.3 and 17.3.4.**

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

**OBJECTIVE 21.1: COMMUNITY CHARACTER.** *To create a visually attractive community.*

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

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

**OBJECTIVE 21.2: COMMERCIAL LAND USES.** *New commercial uses will be limited to properties already zoned for commercial uses as well as properties located at the intersection of I-75 and S.R. 80, the intersection of S.R. 31 and S.R. 80, the State Route 80 Corridor Overlay, the Verandah Boulevard commercial node, and the Commercial, Central Urban and Suburban future land use categories adjacent to S.R. 80. New commercial zoning must be approved through the planned development rezoning process. Commercial redevelopment and increased commercial opportunities on properties adjacent to SR 80 to service the needs of the Caloosahatchee Shores Community Plan area and surrounding areas are encouraged.*

**POLICY 21.2.1:** *To service the retail needs of Caloosahatchee Shores and the surrounding rural communities, the intersection of SR 80 and SR 31, north of SR 80 and east and west of SR 31 are designated as commercial nodes to allow for greater commercial intensity. Commercial nodes are intended for development or redevelopment at Community Commercial levels as defined in the Glossary.*

*The Verandah Boulevard commercial node is intended for Minor Commercial levels as defined in the Glossary. Office and residential uses consistent with the Suburban designation are also allowed in this Minor Commercial node.*

The subject property is located on the north side of SR 80 between Old Olga Road and South Olga Drive in the Suburban future land use category. This section of SR 80 is considered a commercial node. The applicant assembled 3 lots with a mix of zoning districts including AG-2, IL, C-2 and CPD with the intent to rezone the properties to a consistent commercial zoning of CPD. Industrial land uses are not permitted in the Suburban future land use category. The land to the west is zoned CPD and is developed as a commercial shopping plaza with Winn Dixie as the anchor. The land to the east is zoned CPD and RPD. The land along SR 80 is vacant while the lot to the north is developed as a place of worship. Further east is a Tractor Supply store.

## Narrative of Request/Lee Plan Compliance

Page 7 of 10

According to the environmental report and FLUCCS, the subject property is a mix of uplands and wetlands, including a creek along the west property line. The applicant has designed the proposed development to stay entirely within the uplands, preserving the wetlands from any impacts. In addition, 25-foot wide buffers are proposed along SR 80, as required by the LDC for car washes. The development footprint is small compared to the site. The applicant is exceeding the minimum amount of open space required, exceeding the minimum amount of indigenous preserve required, will be able to preserve as many native trees as possible due to the limited development area, and the building design, although not Florida Vernacular, is aesthetically pleasing. The single deviation from the architectural requirements complies with House Bill 1021 (2017). Providing a consistent commercial zoning district at this location, providing abundant green open space, preserving the wetlands in their entirety, preserving native trees where possible, and minimizing the development footprint is consistent with **Lee Plan Goal 21, Objective 21.1, Policies 21.1.1 and 21.1.2, Objective 21.2 and Policy 21.2.1.**

**GOAL 22: OLGA COMMUNITY PLAN.** *Maintain Olga's heritage and rural character.*

**POLICY 22.1.5:** *Heritage trees will be preserved or, when possible, may be relocated on-site. If a heritage tree must be removed from the site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space.*

**POLICY 22.1.7:** *Maintain LDC regulations that require natural habitats, such as tree canopies, be incorporated into project site designs.*

The subject property is also located in the Olga Community Plan Overlay. As the subject property is located on the north side of SR 80 between properties with existing commercial zoning districts and uses, it is reasonable to rezone the AG-2, IL, C-2 and CPD lots to a consistent commercial zoning district that is appropriate for the area.

The Master Concept Plan has been designed to comply with LDC Chapter 33, Article VII, Division 3, Subdivision I – Olga Planning Community. The proposed development complies with the minimum setbacks and maximum building height permitted. The maximum square footage proposed is 5,309 square feet on 3.92 acres. A minimum of 30% open space is provided and although indigenous preservations isn't required, the application is preserving 35,000 square feet of existing wetlands located along the creek as part of this rezoning request. The site design also complies with parking locations, buffers, and stormwater management requirements for developments in the Olga Overlay. As stated previously, the industrial (IL) zoned lot is inconsistent with the Suburban future land use and the Olga Community Plan. Rezoning the land for a uniform zoning district of CPD with a limited schedule of uses is consistent with **Lee Plan Goal 22 and Policies 22.1.5 and 22.1.7.**

**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.*

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

The applicant intends to preserve the 1.25 acres of wetlands along the west property line. Those wetlands are connected to other wetlands to the west and north, then spreading east as well. The MCP shows a preliminary drainage plan; however, full paving, grading, and drainage plans

## Narrative of Request/Lee Plan Compliance

Page 8 of 10

won't be provided until development order permitting. A surface water management narrative providing a description of the preliminary drainage system is included with this application. This is consistent with **Policy 60.4.1** and **Policy 60.4.2**.

**POLICY 77.3.7:** *New development and redevelopment in areas containing a component of the greenways trail system, as identified by the Lee County Greenways Master Plan, must incorporate the greenway trail into their development design. In addition to counting towards the project's general open space requirements, development constructing the onsite portions of the greenway trail will be eligible for community and regional park impact fee credit.*

The subject property is located along a portion of the Lee County Greenways Master Plan – Palm Beach Boulevard, which is a state-maintained road. The applicant will coordinate with FDOT at time of Development Order permitting to incorporate pedestrian facilities, a shared use path, and/or other requirements of the Greenways Master Plan. Due to the existing site conditions along Palm Beach Boulevard, including the creek, wetlands, guard rails, drainage ditch, overhead power lines, other infrastructure, etc., detailed site construction plans will be required to design the facilities. This is consistent with the requirements of **Lee Plan Policy 77.3.7**.

**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.*

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

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

**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.*

## Narrative of Request/Lee Plan Compliance

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

The applicant had a protected species survey/environmental assessment completed during his due diligence phase of the property. According to the FLUCFCS Map, 1.35± acres identified as mixed wetland hardwoods. The applicant is aware the existing on-site wetlands connect to the north, east, and western properties and doesn't intend to impact the wetlands during development. This is a commercial rezoning specifically for the development of a car wash. The Master Concept Plan shows a limited area of development, with the wetlands being preserved in their entirety. If the rezoning is approved, the applicant will be required to obtain a local development order and possibly a SFWMD ERP prior to construction. Development will be located on the uplands portion of the subject property only so the wetlands can be preserved in their entirety. The proposed development is consistent with **Goal 124, Objective 124.1, and Policies 124.1.1 and 124.1.2.**

***GOAL 125: WATER QUALITY.*** *To ensure that water quality is maintained or improved for the protection of the environment and people of Lee County.*

***OBJECTIVE 125.1:*** *Maintain high water quality, meeting or exceeding state and federal water quality standards.*

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

***POLICY 125.1.3:*** *The design, construction, and maintenance of artificial drainage systems must provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems.*

The Master Concept Plan clearly demonstrates that the bulk of the existing wetlands will be preserved. A dry detention area is provided along with pipes, catch basins, a control structure, and other infrastructure to provide for water quality, attenuation, and pre- and post treatment. A Development Order will be required, which will require a more thorough review and include drainage calculations, detention area volumes, pipe sizing, vegetative plantings, etc. This is consistent with **Goal 25, Objective 125.1, Policy 125.1, and Policies 125.1.2 and 125.1.3.**

***POLICY 126.1.4:*** *Development designs must provide for maintaining or improving surface water flows, groundwater levels, and lake levels at or above existing conditions.*

The applicant will be required to obtain a local Development Order prior to construction. Lee County Land Development Code Section 10-328 requires the applicant to provide a drainage easement whenever a proposed development abuts a watercourse, stream, etc. The requisite easement/upland buffer to the existing creek will maintain and preserve it, without altering the existing offsite flows. This is consistent with **Lee Plan Policy 126.1.4.**

As demonstrated throughout this Narrative of Request/Lee Plan Compliance, the applicant has proven entitlement to the rezoning as set forth in LDC Sec. 34-145(d)(4). The request:

- (a) Complies with the Lee Plan;

## Narrative of Request/Lee Plan Compliance

Page 10 of 10

- (b) Meets the Land Development Code and other applicable County regulations or qualifies for deviations;
- (c) Is compatible with existing and planned uses in the surrounding area;
- (d) Will provide access sufficient to support the proposed development intensity;
- (e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- (f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- (g) Will be served by urban services.

In addition, the applicant has demonstrated that:

- (a) The proposed use or mix of uses is appropriate at the proposed location;
- (b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development;
- (c) Each requested deviation:
  - (1) Enhances the achievement of the objectives of the planned development; and
  - (2) Preserves and promotes the general intent of this code to protect the public health, safety and welfare.

STREET ADDRESS

14700, 14780, AND 14800 PALM BEACH BLVD  
FORT MYERS, FL 33905

STRAP NUMBERS

28-43-26-00-00001.0050  
28-43-26-00-00003.0010  
28-43-26-00-00008.0010

PROJECT INFORMATION

LOT SIZE = 3.92 AC  
CURRENT ZONING = C-2 - COMMERCIAL  
= CPD - COMMERCIAL PLANNED DEVELOPMENT  
= IL - LIGHT INDUSTRIAL  
= AG-2 - AGRICULTURAL  
PROPOSED ZONING = COMMERCIAL PLANNED DEVELOPMENT (CPD)  
FUTURE LAND USE = SUBURBAN  
PLANNING COMMUNITY = CALOOSAHATCHEE SHORES  
MIXED USE OVERLAY = YES  
PROPOSED USE = COMMERCIAL - CAR WASH  
EXIST. FLORIDA LAND = #414 - PINE - MESIC OAK  
USE CLASSIFICATIONS = #617 - MIXED WETLAND HARDWOODS  
EXIST. SOIL TYPES = #13 - CYPRESS LAKE FINE SAND  
= #45 - COPELAND SANDY LOAM DEPRESSIONAL  
IRRIGATION SERVICE = WELL  
ARCHAEOLOGICAL SENSITIVITY LEVEL = NONE

ZONING/ACTUAL USE

PROJECT SITE = CPD/CAR WASH  
NORTH = C-2/VACANT  
SOUTH = PALM BEACH BLVD ROW  
EAST = CPD/VACANT  
WEST = CPD/SHOPPING PLAZA

BUILDING SETBACK REQUIREMENTS

PER LDC SECTION 34-1353(D)  
STREET SETBACK (SOUTH) = 50 FEET  
SIDE YARD SETBACKS (EAST AND WEST) = 15 FEET  
REAR YARD SETBACK (NORTH) = 20 FEET

BUFFER REQUIREMENTS

PER LDC SECTION 34-1353(E)(1) AND 10-425(F)  
NORTH = CPD TO C-2/CPD: NO BUFFER REQUIRED  
SOUTH = COM TO ROW: 25' WIDE BUFFER REQUIRED  
EAST = CPD TO CPD: NO BUFFER REQUIRED  
WEST = CPD TO CPD: NO BUFFER REQUIRED

OPEN SPACE REQUIREMENTS

PER CALOOSAHATCHEE SHORES COMMUNITY PLANNING AREA:  
REQUIRED OPEN SPACE = 30% OF DEVELOPABLE PARCEL AREA  
= 0.30 X 170,898 SF  
= 51,269 SF REQUIRED  
PROVIDED OPEN SPACE = 7,859 SF (BUFFERS) + 33,708 SF (DETENTION AREA)  
+ 40,836 SF (WETLAND PRESERVE) + 10,468 SF  
(ACCESS EASEMENT) = 92,871 SF/2.13 AC (54.3% PROVIDED)

INDIGENOUS PRESERVE

PER CALOOSAHATCHEE SHORES COMMUNITY PLANNING AREA:  
REQUIRED INDIGENOUS PRESERVE: 50% REQUIRED OPEN SPACE  
= 0.50 X 51,269 SF  
= 25,635 SF REQUIRED  
PROVIDED = 35,000 SF/0.80 AC WETLAND PRESERVE

PARKING REQUIREMENTS

PER LDC SECTION 34-2020(B)  
1.5 SPACES PER CAR STALL FOR CAR WASH  
1 PROPOSED STALL = 1.5 SPACES  
TOTAL REQUIRED SPACES: 2 SPACES (INCLUDING 1 HANDICAP SPACE)  
TOTAL PROVIDED SPACES: 5 (INCLUDING 1 HANDICAP SPACE)  
PLUS 22 VACUUM STALLS

ZONING: C-2  
USE: VACANT

ZONING: CPD  
USE: VACANT

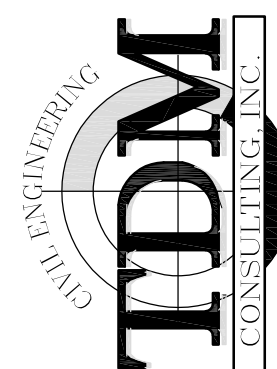
R  
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R/W.  
E.O.P.  
CONC.  
TYP.  
PROP.  
SF  
LF  
E.O.P.  
P.U.E.  
D.E.  
LC  
LP.  
CLF  
10SP  
LDC  
N.T.S.  
C.P.  
MUO  
△

RADIUS (5' UNLESS OTHERWISE NOTED)  
EXISTING  
RIGHT-OF-WAY  
EDGE OF PAVEMENT  
CONCRETE  
TYPICAL  
PROPOSED  
SQUARE FEET  
LINEAR FEET  
EDGE OF PAVEMENT  
PUBLIC UTILITY EASEMENT  
DRAINAGE EASEMENT  
LEE COUNTY  
LIGHT POLE  
EXISTING CHAIN LINK FENCE  
NUMBER OF PARKING SPACES IN LOT  
PROPOSED PAVEMENT  
PROPOSED CONCRETE  
LAND DEVELOPMENT CODE  
NOT TO SCALE  
CONCRETE PAD  
MIXED USE OVERLAY  
DEVIATION

1" = 30'

BLUE WAVE EXPRESS  
CAR WASH  
MASTER CONCEPT PLAN

Civil Engineering  
and  
Planning



43 Barkley Circle, Suite 200  
Fort Myers, FL 33907  
Phone: (239) 433-4231  
Fax: (239) 433-9632  
Cert. of Authorization # 29086

sclark@tdmconsulting.com  
www.tdmcivilengineering.com

PALM BEACH  
DIVIDED ASPHALT

PALM BEACH BOULEVARD  
DIVIDED ASPHALT ROADWAY (150' R/W)

ZONING: CC  
USE: VACANT (WETLANDS)

ZONING: C-1A  
USE: COMMERCIAL PLAZA

SHEET #

1 of 1

SCALE: 1" = 30'

NOT VALID WITHOUT EMBOSSED SEAL SIGNATURE AND DATE

DATE: \_\_\_\_\_  
Dean Martin, P.E.  
Florida #52022

This form has been digitally signed and sealed by Dean Martin on the  
code adjacent to the seal. Printed copies of this document are not  
considered signed and sealed for electronic copies.



**43 Barkley Circle, Suite 200**  
**Fort Myers, FL 33907**  
**Phone 239-433-4231 Fax 239-433-9632**  
**www.tdmcivilengineering.com**  
**Certificate of Authorization # 29086**

**Blue Wave Express Car Wash**  
**Schedule of Deviations**  
**Revised 8/1/2023**

**DEVIATION #1: WITHDRAWN**

Seeks relief from the **LDC §10-285** requirement to provide a minimum connection separation of 660 feet for a principal arterial roadway in a future Suburban area. Request to permit the minimum connection separation of the proposed driveway to be located 343 feet to the existing driveway to the west and 387 feet to the existing driveway to the east along Palm Beach Boulevard.

**DEVIATION #2: WITHDRAWN**

Seeks relief from the **LDC §10-256(a)** requirement that all development proposed within future urban areas or future suburban areas, as defined by the Lee Plan, or along trails depicted on the Greenways Master Plan (Lee Plan Map 22), or along walkways and bikeways depicted on the Lee County Walkways and Bikeways Map (Lee Plan Map 3D) are required to provide for bikeways and pedestrian ways. Request to not provide a bikeway and pedestrian way along Palm Beach Boulevard.

**DEVIATION #3: WITHDRAWN**

Seeks relief from the **LDC §10-296(e) Table 11** requirement that commercial developments along Suburban principal arterial roadways must provide a 5-foot bike lane, 6-foot planting strip, and 8-foot pedestrian facility. The applicant is requesting to not provide those items at this location.

**DEVIATION #4:**

Seeks relief from the **LDC §33-1496** requirement that the Florida Vernacular architectural style must be displayed through the inclusion of building materials, roof overhangs, porches, columns, covered corridors walkways, and pitched roofs (where applicable). Request to permit the Blue Wave Express Car Wash to retain its original architectural design as required by the franchise.

**JUSTIFICATION:**

The Blue Wave Express Car Wash is a franchise. To summarize House Bill 1021 (2017), political subdivisions (Lee County) are prohibited from imposing requirements regarding building aesthetics that conflict with or impairs corporate trademarks, image standards or other features of corporate branding. Please see the relevant subsection below.

## Schedule of Deviations

Page 2 of 3

*Section 3. Subsection (20) is added to section 553.79, Florida Statutes, to read: 553.79 Permits; applications; issuance; inspections.— (20)(a) A political subdivision of this state may not adopt or enforce any ordinance or impose any building permit or other development order requirement that: 1. Contains any building, construction, or aesthetic requirement or condition that conflicts with or impairs corporate trademarks, service marks, trade dress, logos, color patterns, design scheme insignia, image standards, or other features of corporate branding identity on real property or improvements thereon used in activities conducted under chapter or in carrying out business activities defined as a franchise by Federal Trade Commission regulations in 16 C.F.R. ss. 436.1, et. seq.; or 2. Imposes any requirement on the design, construction or location of signage advertising the retail price of gasoline in accordance with the requirements of ss. 526.111 and 526.121 which prevents the signage from being clearly visible and legible to drivers of approaching motor vehicles from a vantage point on any lane of traffic in either direction on a roadway abutting the gas station premises and meets height, width, and spacing standards for Series C, D, or E signs, as applicable, published in the latest edition of Standard Alphabets for Highway Signs published by the United States Department of Commerce, Bureau of Public Roads, Office of Highway Safety. (b) This subsection does not affect any requirement for design and construction in the Florida Building Code. (c) All such ordinances and requirements are hereby preempted and superseded by general law. This subsection shall apply retroactively. (d) This subsection does not apply to property located in a designated historic district.*

The applicant is unable to deviate from the specific design requirements of the franchise operation. The proposed design doesn't meet the definition of Florida Vernacular; however, the façade treatments vary in articulation, the roof heights vary, there are roof overhangs, and a variety of building materials, textures, and colors. Please see the attached architectural renderings of a similar facility to be built on Alico Road.

Lee Plan Policy 21.1.2 states that any deviation from architectural requirements may not be granted unless the request meets the approval criteria for variances set forth in the LDC Section 34-145(b)(3).

- A. The property has inherent exceptional conditions that cause the application of the regulation to create a hardship on the property owner.

**The only condition is that the property is located in the Caloosahatchee Shores Planning Community, which places an undue burden on franchise operations.**

- B. The exceptional conditions are not the result of actions of the property owner taken subsequent to the adoption of the ordinance.

**The architectural requirements are a requirement within the entire Caloosahatchee Shores Planning Community, which would prohibit the applicant from developing his franchise operation within the planning community boundaries.**

- C. The variance granted is the minimum variance that will relieve the unreasonable burden caused by the application of the regulation to the property.

**House Bill 1021 (2017) prohibits political subdivisions from imposing requirements regarding building aesthetics that conflict with or impairs corporate trademarks, image standards or other features of corporate branding. Yes, this is the minimum**

## Schedule of Deviations

Page 3 of 3

**variance/deviation required to relieve the unreasonable burden caused by the application of the regulation to the property.**

- D. The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare.

**The granting of this deviation will not be injurious to the neighborhood or detrimental to the public welfare.**

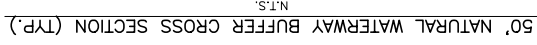
- E. The variance is consistent with the Lee Plan.

This deviation is consistent with the intent of the Lee Plan.

Granting this deviation enhances the achievement of the objectives of the planned development and preserves and promotes the general intent of the LDC to protect the public health, safety and welfare.

**DEVIATION #5: WITHDRAWN**

Seeks relief from the LDC §10-416(c)(2)d requirement that no more than an average of ten parking spaces must occur in an uninterrupted row with a maximum of 13 parking spaces between landscape areas when ten-foot wide landscape islands are used. Request to not provide landscape islands for the vacuum stall spaces.



SOURCE: TDM, 08/23



**TDM**  
CONSULTING, INC.  
CIVIL ENGINEERING

# PROTECTED SPECIES SURVEY

Site Address:

14700, 14800, 14780 Palm Beach Blvd.  
Fort Myers, FL 33905

## Commercial Development

STRAP # 28-43-26-00-00001.0050

Unincorporated Lee County

Prepared For:

**TDM C T , C.**

43 Barkley Circle, Suite 200  
Fort Myers, FL 33907

Prepared by:



18197 Sandy Pines Circle  
North Fort Myers, FL 33917  
(239) 246-8706

## Introduction

An environmental scientist from Landesco, pllc conducted a field investigation on a 3.65 ± acre parcel on June 8, 2022. The project site is located in portions of Section 28, Township 43, Range 26E, in Fort Myers, Florida, North of Palm Beach Boulevard, East of I-75. See attached project location map (Exhibit A).

The purpose of this survey was to inspect the property for potential listed species that could inhabit the site. These listed (endangered, threatened, etc.) species are regulated by the United States Fish & Wildlife Service (USFWS) and the Florida Fish & Wildlife Conservation Commission (FWC).

This report is for the exclusive use of TDM Consulting Inc., and their consultants. No other person or agency may rely upon the information, analysis, or conclusions contained herein without their consent.

## Survey Method

The field investigation of the property was performed on June 8, 2022. Table 1 below shows date, time and weather conditions during the survey. A series of North/South and East/West pedestrian transects were completed across the parcel in compliance with Lee County and Florida Fish and Wildlife Conservation Commission (FWC) guidelines. Transects were spaced approximately 20-30 feet apart. In addition, periodic “stop-look-listen” and quiet stalking methods were also conducted. Any evidence of protected species were obtained through direct observation, and signs such as tracks, nests, and scat were noted. Table 3 shows listed species that could potentially occur on-site.

The location of listed species nests and/or burrows were recorded with a handheld GPS unit with an estimated accuracy of five to ten feet. The Protected Species Survey Map (Exhibit E) depicts the approximate location of the survey transects and the results of the survey.

**Table 1. Field time & conditions**

| Date         | Weather Conditions | Time of Day         |
|--------------|--------------------|---------------------|
| June 8, 2022 | Sunny, & 88 °F     | Early morning hours |

### Existing Site Conditions

*Site Description* - The boundary is approximate and is based on Lee County Property Appraiser information. The undeveloped project site is assumed to be roughly 3.65 ± acres. In general, the majority of the undisturbed wooded land with a creek running along side the western property line. Please refer to the enclosed FLUCFCS map (Exhibit C).

*Soil Type* - Soils on this property have been mapped by the National Resources Conservation Service, United States Department of Agriculture. These mappings are general in nature, but can provide a certain level of information about the site as to the possible extent of a wetland area. According to these mappings, the parcel is underlain by (13) Cypress Lake fine sand, hydric; (45) Copeland fine sand loam, hydric. Please see attached NRCS Soil Map (Exhibit D).

*Vegetative Classifications* - Predominant vegetation association was determined during a site inspection on June 8, 2022. Vegetation is one parameter utilized in determining the presence of potential wetlands. These mappings are general in nature, but could reflect whether an area would be considered as wetlands by the regulatory agencies. Wetland communities generally include the presence of wetland hydrology, wetland vegetation, and hydric soils. Vegetation association was identified using the Florida Land Use, Cover and Forms Classification System (FLUCFCS) Florida Department of Transportation (FDOT 1999). The following descriptions of the FLUCFCS association are provided below, and correspond with the attached FLUCFCS Map (Exhibit C).

**Table 1. FLUCFCS Community Table**

| FLUCFCS Code | Community Description                   | Acres             |
|--------------|-----------------------------------------|-------------------|
| 414 E2       | Pine Mesic Oak (Exotics 25-49%)         | 2.30 ± Ac.        |
| 617 E1       | Mixed Wetland Hardwoods (Exotics 1-24%) | 1.35 ± Ac.        |
|              | <b>Total</b>                            | <b>3.65 ± Ac.</b> |

FLUCFCS Code 414 E2, Pine Mesic Oak (Exotics 25-49%) (2.30 ± acres)

The canopy consists of primarily of Slash Pine (*Pinus elliottii*), Bald Cypress (*Taxodium distichum*), Sabal Palm (*Sabal palmetto*), Melaleuca (*Melaleuca quinquenervia*). Sub-canopy scattered Brazilian Pepper (*Schinus terebinthifolia*), Wax Myrtle (*Myrica*). Ground cover consists of scattered Saw Palmetto (*Serenoa repens*), Creeping-oxeye (*Sphagneticola*), Panicgrasses (*Panicum oligosanthos*) and other various opportunistic weedy species.

FLUCFCS Code 617 E1, Mixed Wetland Hardwoods (Exotics 1-24%) (1.35 ± acres)

The canopy consists of primarily of Bald Cypress, Slash Pine (*Pinus elliottii*), Ear Leaf Acacia (*Acacia auriculiformis*), Sabal Palm, Brazilian Pepper (*Schinus terebinthifolia*). Sub-canopy colonists of Wild Coffee (*Psychotria nervosa*), Red Maple (*Acer rubrum*), Melaleuca (*Melaleuca quinquenervia*), Wax Myrtle (*Myrica*), Laurel Oak (*Quercus laurifolia*). Ground cover consists of scattered, Leather Fern (*Acrostichum aureum*) Boston Fern (*Nephrolepis exaltata*), Creeping-oxeye (*Sphagneticola*), and other various opportunistic weedy species.

**Potential Listed Species**

The protected species survey was conducted by an environmental scientist from Landesco, pllc on June 8, 2022. Locations of any trees containing cavities, discovered on-site, were added to the Protected Species Survey Map (Exhibit E). Table 3 below shows the potential listed species that could occur on-site.

**Table 3. Listed Species That Could Potentially Occur On-site**

| FLUCFCS CODE | Species Names        | Scientific Name                    | Present | Absent | Percent Survey Coverage |
|--------------|----------------------|------------------------------------|---------|--------|-------------------------|
| 414          | Eastern Indigo Snake | <i>Drymarchon corais couperi</i>   | -       | X      | 85                      |
|              | Florida Panther      | <i>Felis concolor coryi</i>        | -       | X      | 85                      |
|              | Florida Black Bear   | <i>Ursus americanus floridanus</i> | -       | X      | 85                      |
| 617          | Limpkin              | <i>Aramus guarauna</i>             | -       | X      | 85                      |
|              | Florida Panther      | <i>Felis concolor coryi</i>        | -       | X      | 85                      |
|              | Florida Black Bear   | <i>Ursus americanus floridanus</i> | -       | X      | 85                      |

### Bald Eagle (*Haliaeetus leucocephalus*)

The U.S. Fish and Wildlife Service (USFWS) and the Florida Fish and Wildlife Conservation Commission no longer list the bald eagle as a threatened or endangered species. However, the bald eagle is still protected by the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act.

The USFWS regulates construction activities with 660' of a Bald Eagle nest. After reviewing the Florida Fish and Wildlife Conservation Commission (FWC) website, there is not any recorded Bald Eagle nest located with 660' of the subject property. The closest Bald Eagle Nest (LE-039) to the project site is approximately 1.63 miles to the Northwest. This nest was active for 2021 nesting season, not all eagle nests in Florida have been documented by FWC.

### Florida Bonneted Bat (*Eumops floridanus*)

The Florida Bonneted Bat (also know as the Florida Mastiff Bat) is the largest species of bat in Florida. The Florida Bonneted Bat is protected as an Endangered Species by the Federal Endangered Species Act and as a Federally-designated Endangered species. This bat species can reach a length of 6.5 inches with a wingspan of 20 inches. The pelage (hair) color can vary from black to brown to a grayish or cinnamon brown.

### **Survey Results**

The site is considered to be undisturbed land. There is a creek that runs along the western property line. There is also another creek/stream that comes in along the Northeastern property corner. No protected species were found on-site during time of inspection. No burrows, cavities, nests or nest-like structures were found during inspection.

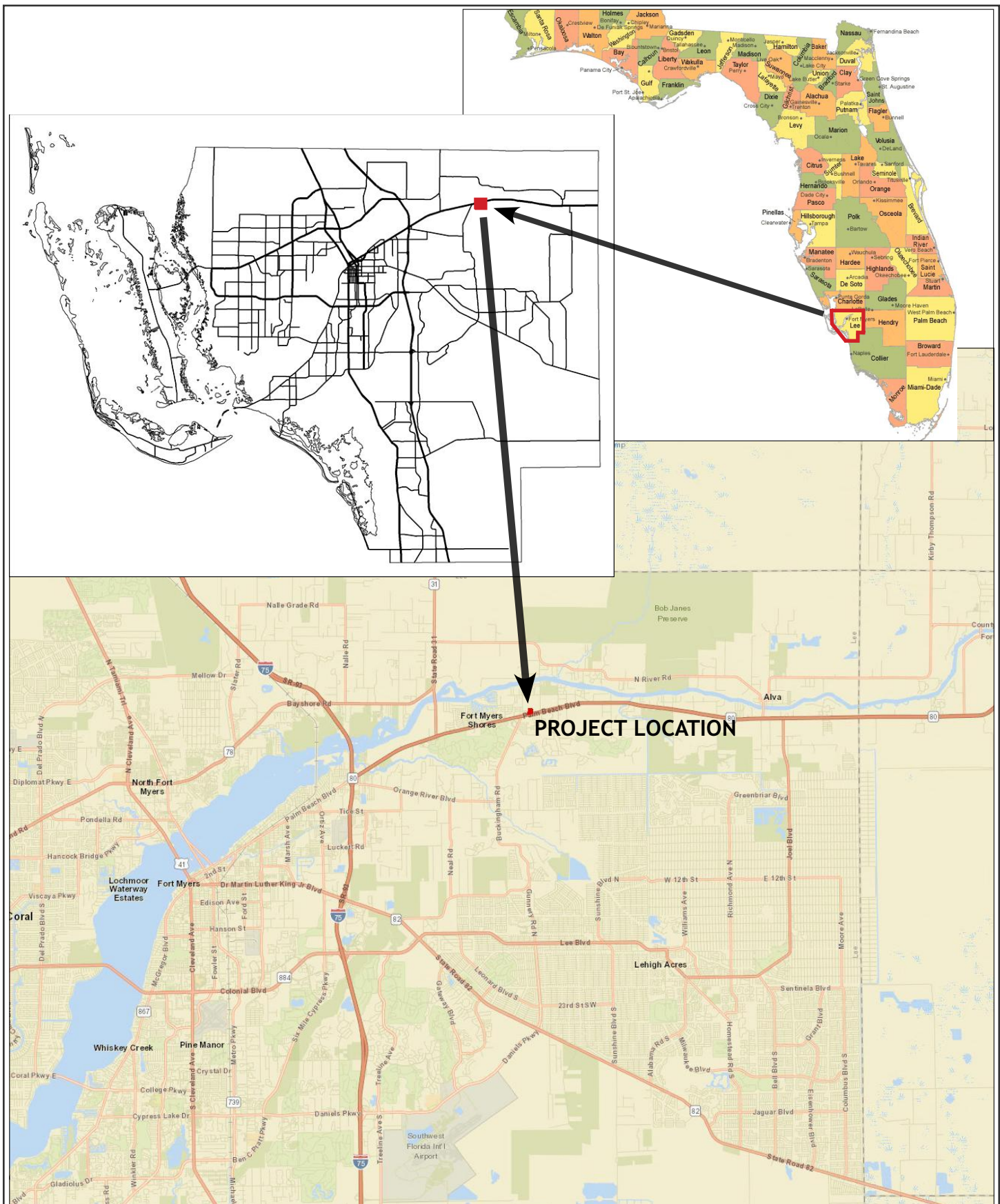
Wetland indicators were discovered throughout the site. These areas could be considered Jurisdictional Wetlands and may require permitting with the Florida Department of Environmental Protection (FDEP), verification will be needed with South Florida Water Management District (SFWMD). Approximately 1.35 acres of wetland were found on-site, there is potential for the area of wetland to increase after on-site meetings with SFWMD and/or FDEP.

14700, 14800, 14780 Palm Beach Blvd.  
Protected Species Survey



# **Exhibit A**

## **Project Location Map**



DRAWN BY:  
CEK

DATE:  
06/13/2022

S/T/R  
28/43/26E

COUNTY:  
LEE

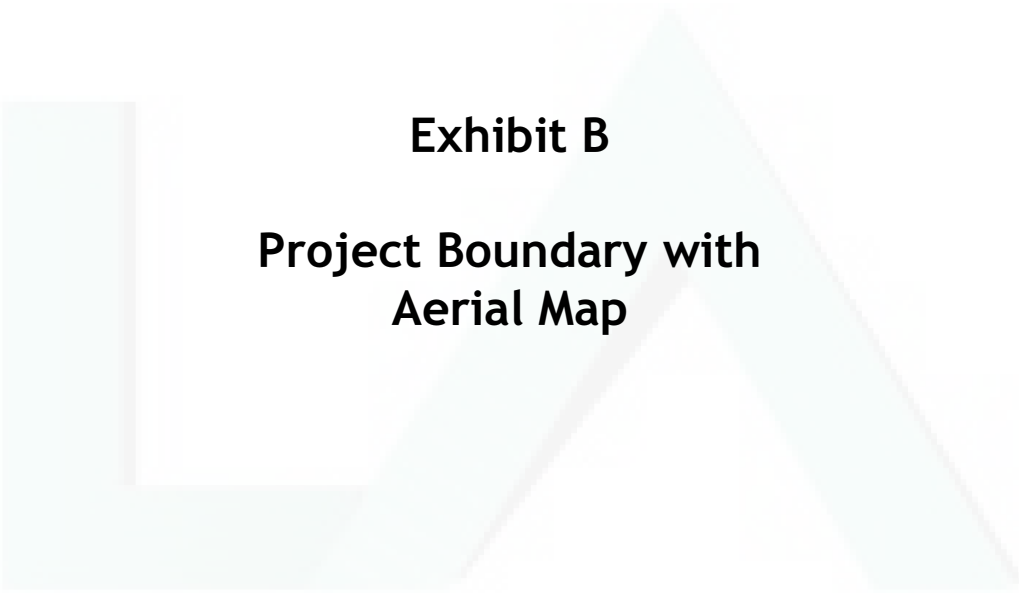
## PROJECT LOCATION MAP



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5

EXHIBIT  
A

14700, 14800, 14780 Palm Beach Blvd.  
Protected Species Survey



## **Exhibit B**

### **Project Boundary with Aerial Map**



DRAWN BY:  
CEK

DATE:  
06/13/2022

S/T/R  
28/43/26E

COUNTY:  
LEE

### PROJECT BOUNDARY WITH AERIAL MAP

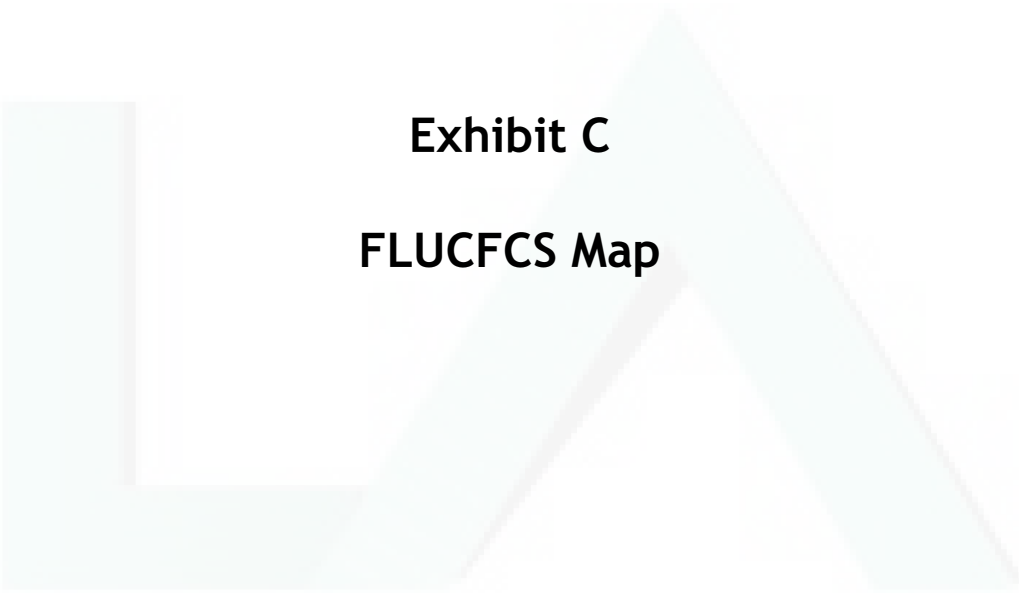


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EXHIBIT  
B

PERMIT USE ONLY, NOT FOR CONSTRUCTION

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Protected Species Survey



# **Exhibit C**

## **FLUCFCS Map**





## **Exhibit D**

### **NRCS Soils Map**



Scale: 1" = 200'



PALM BEACH BLVD.

IOZZI CT.

## NRCS Soils Legend

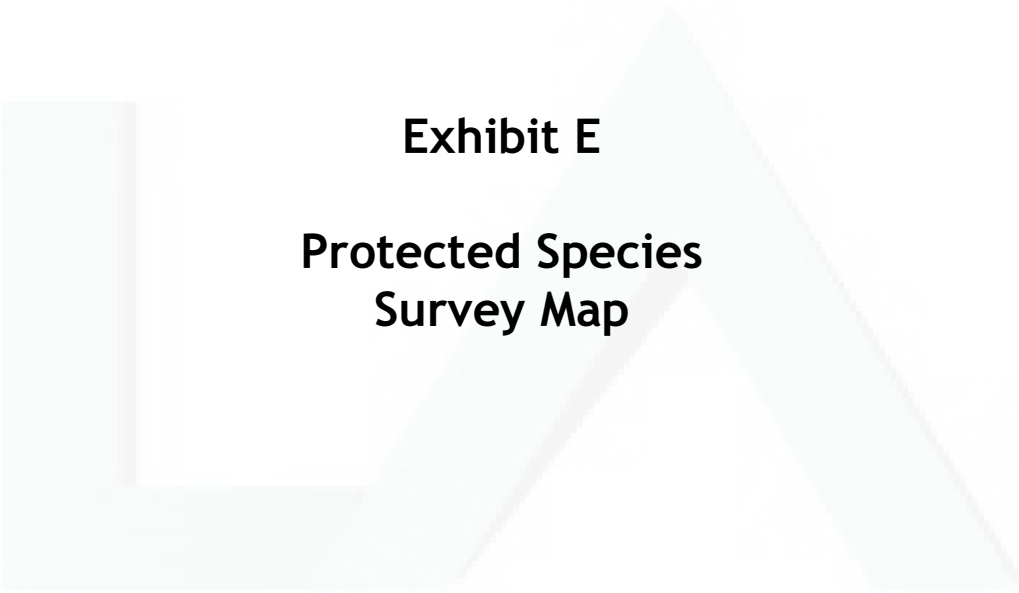
| Soil No. | Description             | Acres      | Status |
|----------|-------------------------|------------|--------|
| 13       | Cypress Lake fine sand  | 3.39 ±     | Hydric |
| 45       | Copeland fine sand loam | 0.56 ±     | Hydric |
| Total    |                         | 3.95 ± Ac. |        |

DRAWN BY:  
CEKDATE:  
06/13/2022S/T/R  
28/43/26ECOUNTY:  
LEE

## NRCS SOILS MAP

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11EXHIBIT  
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Protected Species Survey



# **Exhibit E**

## **Protected Species Survey Map**

