



January 18, 2024

Lee County
Community Development
1500 Monroe St
Fort Myers, FL 33901

RE: Floor & Decor Lee County
DCI2023-00038 - Minor PD

We have received your comment letter dated January 9, 2024 and have revised the construction plans accordingly. In addition, we have provided the following responses to your comments.

Utilities Review:

*1. Insufficient comment: Provide a Lee County Utilities Letter of Availability.
Please contact Nathan C Beals at NBeals@leegov.com or by calling 239-533-8157 with any questions regarding the above review comments.*

RESPONSE: See attached Letters of Availability from Lee County and FGUA.

Legal Description Review:

Sec. 34-202(a). Submittal requirements for applications requiring public hearing.

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

- A metes and bounds legal description and sketch was not provided in the most recent submittal.

RESPONSE: The sketch and legal dated 11/16/23 was provided in the last submittal and the surveyor (KCI) confirmed that it meets the requirements of 34-202(a)(5).

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

- The survey must be tied to the state plane coordinate system for the Florida West Zone (the most current adjustment is required) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner. The survey must be based upon the title certification submitted in accord with section 34-201(a)(7).

- The survey provided does not include state plane coordinates at the POB and opposing corner and still references a title commitment. The text for the metes and bounds description is on top of other text and difficult to read. When a title certification in accordance with LDC §34-202(a)(7) the survey should state that document as the bases for depicted information.

RESPONSE: See attached revised boundary survey in accordance with this comment.

- 3.(7) Please provide a title certification in accordance with the requirements of Lee County LDC §34-202(a)(7).
- The document provided is titled a Property Information Report which is not one of the forms accepted per the LDC.

Please contact Richard R Burris at RBurris@leegov.com or by calling 239-533-8516 with any questions regarding the above review comments.

RESPONSE: See attached Title Certification in accordance with the above comment.

Environmental Review:

1. The environmental consultant stated that there was exotics onsite. Please add Exotic-values (E1 (1-25%), E2 (26%-50%), E3 (51%-75%), E4 (76%-100%)) to each FLUCCS code to determine if the vegetation is considered indigenous per LDC 10-701.

RESPONSE: **RESPONSE:** See attached revised Protected Species Survey Report. The exotic vegetation found within FLUCCS codes 414E1 and 617E1 is Brazilian pepper.

Once FLUCCS codes with the associated E-values are provided, staff may have additional comments regarding the preservation area per 10-415(b).

RESPONSE: Acknowledged.

2. The environmental consultant listed the acreage of the site at 8.45 acres, while the MCP depicts 7.99 acres. Please revise for consistency.

RESPONSE: The correct project area is 7.99 acres. The revised Protected Species Survey Report reflects the correct area.

3. The MCP does not clearly depict the preservation area. Please hatch the preserve area that will be used meeting the indigenous definition per 10-1 of the LDC.

RESPONSE: The preservation area has been hatched and noted on the plans as preservation area.

4. Please label the public open space area on the MCP per LDC 34-373 and LDC 33-1572.

RESPONSE: Public Open space has been noted directly onto the MCP. Calculation added to the site data table for 10% requirement and hatch added to legend to clarify location.

5. The applicant responded to staff stating that a 20-foot buffer is being provided to the east. The MCP does not depict a 20-foot buffer on the east or the west. Please note LDC 33-1581 requires a 20-foot buffer along all right-of-ways when a parcel is located in the commercial corridor.

RESPONSE: The 20 foot buffer label was corrected on the east and west side of the property. The previous plan had the buffer dimension correctly shown but the label was

incorrect. See revised MCP.

6.If the applicant has obtained a formal wetland jurisdictional determination, staff recommends submittal of the documents to meet policies 4.1.4 and 124.1.1.

RESPONSE: A wetland jurisdictional determination will be furnished upon completion, as applicable.

7.The cross section provided indicates a 4:1 slope adjacent to the conservation area. Please provide an analysis on how the applicant intends to protect the upland and wetland conservation area. Please indicate how the applicant intends to reinforce the slope area.

RESPONSE: Notes have been added to the plan to note that any disturbed area along the sloped area will be sodded and staked. Additionally, any disturbed area will be sodded if adjacent to the wetland or preservation area. There will be silt fence at the top and bottom of the slope during construction. See added note on MCP.

A slope of 4:1 is a stable slope, and the use of sod and stakes will further stabilize the slope. The use of sod over the use of seed ensures that the stabilization is expedited as sod is already grown and takes root in approximately two weeks and becomes stable. The staking of the sod will secure it to the slope and any remaining potential for soil runoff will be captured using silt fence at the top and bottom of the slope, keeping it from impacting the wetlands and preservation area.

8.Staff notes that the applicant is proposing fill on the site. Please note that buffer planting material must be measured at the finished grade of the parking area.

RESPONSE: Acknowledged. Will be noted on the Site Development submittal package on the site plan and full landscape plans. This note has also been added to the MCP under Lee County Notes.

DOT Review:

1.Kindly provide the distances between the proposed project's entrances and adjacent streets/driveways on Barrett Rd as per LDC §10-285 in the Site Plan.

RESPONSE: Dimensions have been added to the MCP plan. Note Barrett Road is labeled as Major Collector with space requirement of 245 feet at posted speed of 30 mph. Between F&D driveways we have 290 feet and 353 feet from the north driveway to Pine Island Rd.

TIS Review:

1.The Schedule of Uses (SOU) must be provided. Determining trip generation for the proposed development is expected to be conducted by referencing the Institute of Transportation Engineer's



(ITE) Trip Generation Report (latest edition), emphasizing the worst-case scenario outlined in the SOU.

RESPONSE: The use of the site will be for a Floor & Décor (SIC Code 1752). In addition to the TIS report previously provided, in accordance with Sec. 34-373(a)(8) the Master Concept Plan contains: (a) the type of use for the entire site (Retail/Commercial – specifically a Floor & Décor); (b) the total floor area (75,149 sf); (c) the proposed percentage of open space (51.9%); and (d) the maximum height (35 feet).

Natural Resources Review:

1. Cross section Y did not depict the proposed slope. Please label the proposed slope on the cross section.

RESPONSE: Slope has been added to cross section Y, additionally the driveway location and curb was reconfigured to avoid filling in preservation rea. The south driveway for Floor & Décor is 6 feet from the preservation area and will slope down at 4:1 max slope.

2. The Response Letter stated that all trees in the Conservation Uplands FLU would not be disturbed but the concurrent Development Order application depicts the removal of trees within the Conservation Uplands FLU. Please address this inconsistency. Staff does not support the removal of native vegetation within the Conservation Lands FLU as it is inconsistent with Lee Plan policy 1.4.6.

RESPONSE: No trees are to be removed move the preservation area. The driveway and curb were adjusted to avoid impact to any tree in the preservation area.

We appreciate your consideration and if you have any questions or need additional information, please do not hesitate to contact us at 813-379-4100.

Sincerely,

THOMAS ENGINEERING GROUP

A handwritten signature in blue ink, appearing to read "Edward McDonald", is written over a horizontal line.

Edward McDonald, PE
Principal

**SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA**

DESCRIPTION: FLOOR & DECOR PARCEL (PREPARED BY SURVEYOR)

A PARCEL OF LAND LOCATED IN SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA AND BEING PREMISES DESCRIBED IN DEED TO DANIEL RENOLLETT, RECORDED IN OFFICIAL RECORD INSTRUMENT NUMBER 2011000222648, ALL REFERENCES HEREIN ARE TO PUBLIC RECORDS OF LEE COUNTY, FLORIDA, PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST; THENCE WITH THE EAST LINE OF SAID NORTHWEST 1/4, SOUTH 04°33'12" EAST, A DISTANCE OF 584.25 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 78 (NE PINE ISLAND ROAD) PER FDOT RIGHT-OF-WAY MAP SECTION #12060-2519; THENCE WITH SAID SOUTH LINE SOUTH 61°58'00" WEST, A DISTANCE OF 65.32 FEET TO THE INTERSECTION OF SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 78 AND WEST RIGHT-OF-WAY LINE OF BARRETT ROAD AND THE POINT OF BEGINNING; THENCE WITH SAID WEST LINE SOUTH 04°32'48" EAST, A DISTANCE OF 737.18 FEET TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SECTION 4; THENCE WITH SAID SOUTH LINE SOUTH 89°58'30" WEST, A DISTANCE OF 597.19 FEET TO THE EAST LINE OF PREMISES RECORD IN INSTRUMENT NUMBER 2019000114584; THENCE WITH SAID EAST LINE NORTH 04°41'25" WEST, A DISTANCE OF 430.94 TO THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 78; THENCE WITH SAID SOUTH LINE NORTH 61°58'00" EAST, A DISTANCE OF 650.28 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 7.999 ACRES (348,040 SQUARE FEET) OF LAND, MORE OR LESS.

SURVEYOR'S NOTES:

- 1) THIS IS NOT A FIELD SURVEY. THIS SKETCH AND DESCRIPTION WAS PREPARED IN ACCORDANCE WITH STANDARDS OF PRACTICE FOR SURVEYORS AND MAPPERS AS SET FORTH IN ADMINISTRATIVE RULE 5J-17, FLORIDA ADMINISTRATIVE CODE. THIS IS NOT A BOUNDARY SURVEY.
- 2) THE BASIS OF BEARINGS FOR THIS SURVEY IS GRID NORTH STATE PLANE COORDINATE SYSTEM, FLORIDA WEST (NGS ZONE 902). THE WEST RIGHT-OF-WAY LINE OF BARRETT ROAD BEARS SOUTH 04°32'48" EAST.
- 3) ADDITIONS AND/OR DELETIONS TO THIS SKETCH OF DESCRIPTION, BY ANYONE OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
- 4) PRINTED COPIES OF THIS SKETCH AND DESCRIPTION ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. DIGITAL COPIES OF THIS SKETCH AND DESCRIPTION ARE NOT CONSIDERED VALID WITHOUT THE ELECTRONIC SIGNATURE AS SET FORTH IN ADMINISTRATIVE RULE 5J-17, FLORIDA ADMINISTRATIVE CODE.

KCI # 512302600.00		
REV#	REVISION	DATE
0	ISSUED	11/16/23



MATTHEW BOONE
FLORIDA PROFESSIONAL SURVEYOR
& MAPPER NO. 7414

Digitally signed
by Matthew C
Boone

Date: 2023.11.16
16:10:37 -05'00'



KCI TECHNOLOGIES
LICENSED BUSINESS # 6901
3915 N US HIGHWAY 301
TAMPA, FL 33619
PHONE: (813) 740-2300

****THIS SKETCH & DESCRIPTION IS NOT VALID UNLESS
SHEETS 1-2 ARE INCLUDED****

**SKETCH & DESCRIPTION OF
FLOOR & DECOR PARCEL
2800 NE PINE ISLAND ROAD
FOR
THOMAS ENGINEERING GROUP**

DATE: NOV 16, 2023	SCALE: NTS	SHEET: 1 OF 2
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SECTION 4, TOWNSHIP 44 SOUTH,
RANGE 24 EAST
LEE COUNTY, FLORIDA

POINT OF COMMENCEMENT
NORTHEAST CORNER OF
THE NORTHWEST 1/4 OF SECTION 4
EAST LINE OF THE
NORTHWEST 1/4 OF SECTION 4

ADJACENT PROPERTY TABLE	
(A) OWNER: ROTTINGHAUS, THOMAS G PARCEL #04-44-24-00-00022.0100 INSTRUMENT #2016000101661	
(B) OWNER: CAMPBELL, DUDLEY M & GILDA PARCEL #04-44-24-00-00022.0080 OR BOOK 2401, PAGE 158	
(C) OWNER: MCCracken, ROBERT PARCEL #04-44-24-00-00022.0050 INSTRUMENT #2019000267608	
(D) OWNER: MCCracken, ROBERT PARCEL #04-44-24-00-00022.0000 INSTRUMENT #2019000180242	
(F) OWNER: DD PINE ISLANDS LLC PARCEL #04-44-24-00-00023.0000 INSTRUMENT #2023000057451	

STATE ROAD 78
(NE PINE ISLAND ROAD)
PUBLIC RIGHT-OF-WAY WIDTH VARIES
(FDOT RIGHT-OF-WAY MAP SECTION 12060-2519)

650.28'
N61°58'00"E
SOUTHERLY RIGHT-OF-WAY
LINE OF STATE ROAD 78

POINT OF BEGINNING
INTERSECTION OF SOUTHERLY
RIGHT-OF-WAY LINE OF STATE ROAD 78 & THE
WEST RIGHT-OF-WAY LINE OF BARRETT ROAD

GRID NORTH

OWNER: MEDERIOS JOANN
PARCEL #04-44-24-00-00023.0040
(PER INSTRUMENT #2019000114584)

EAST LINE OF PREMISES RECORDED IN
INSTRUMENT #2019000114584

OWNER: RENOLLETT, DANIEL
PARCEL #04-44-24-00-00014.0000 &
PARCEL #04-44-24-00-00015.0000
INSTRUMENT #2011000222648

LINE DATA

NO.	BEARING	DISTANCE
L1	S04°33'12"E	584.25'
L2	S61°58'00"W	65.32'

SOUTH LINE OF THE NORTHWEST 1/4
OF SECTION 4, T44S, R24E

S89°58'30"W 597.19'

OWNER: ROTTINGHAUS, THOMAS G
PARCEL #04-44-24-00-00022.0040
INSTRUMENT #2016000101608

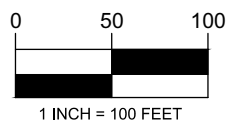
SEE (F) OF THE
ADJACENT
PROPERTY TABLE

SEE (A) OF THE
ADJACENT
PROPERTY TABLE

SEE (B) OF THE
ADJACENT
PROPERTY TABLE

SEE (C) OF THE
ADJACENT
PROPERTY TABLE

SEE (D) OF THE
ADJACENT
PROPERTY TABLE



LEGEND

R/W = RIGHT-OF-WAY LINE

**THIS SKETCH & DESCRIPTION IS NOT VALID UNLESS
SHEETS 1-2 ARE INCLUDED**



KCI TECHNOLOGIES
LICENSED BUSINESS # 6901
3915 N US HIGHWAY 301
TAMPA, FL 33619
PHONE: (813) 740-2300

SKETCH & DESCRIPTION OF
FLOOR & DECOR PARCEL
2800 NE PINE ISLAND ROAD
FOR
THOMAS ENGINEERING GROUP

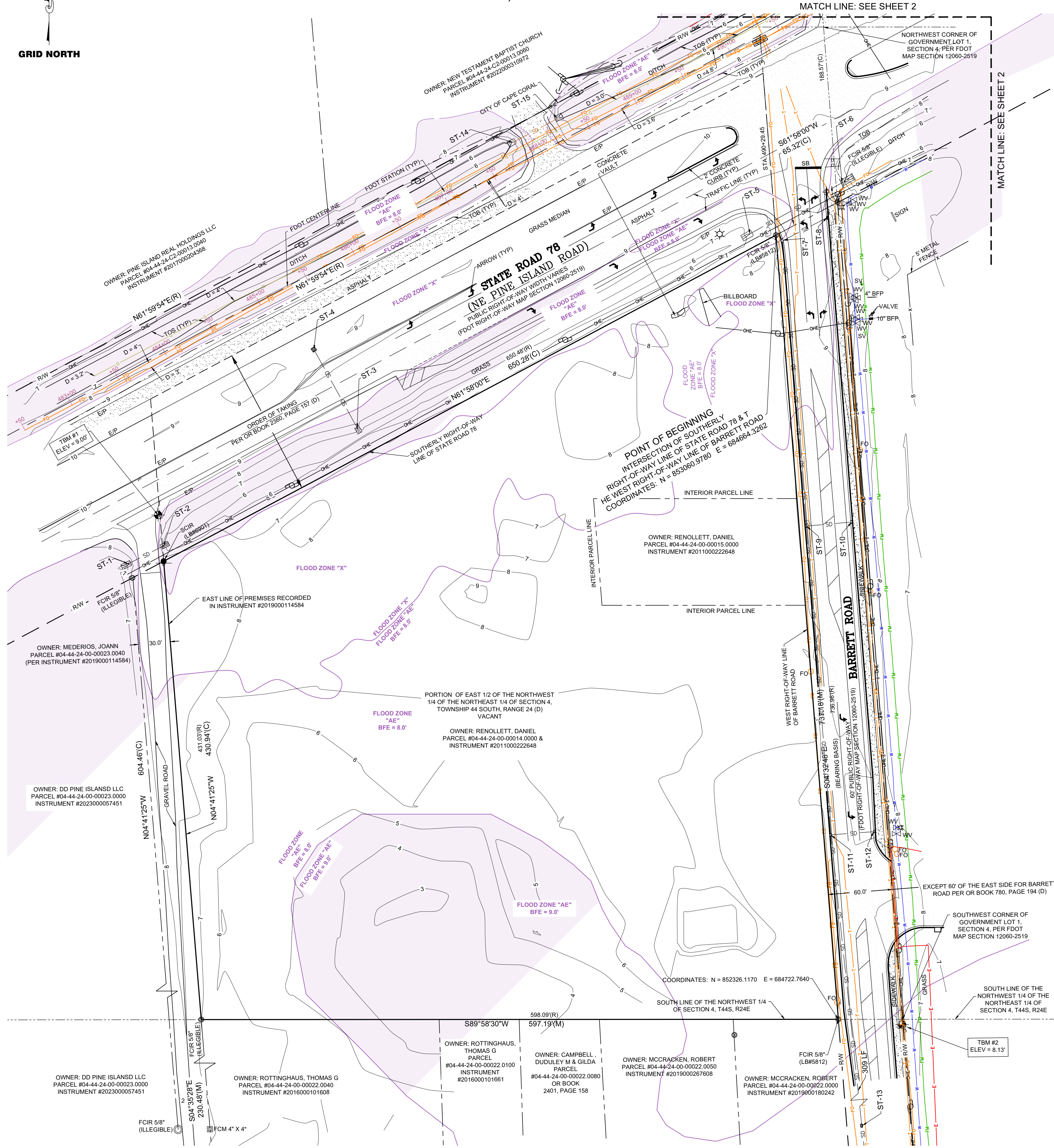
DATE:
NOV 16, 2023

SCALE:
1" = 100'

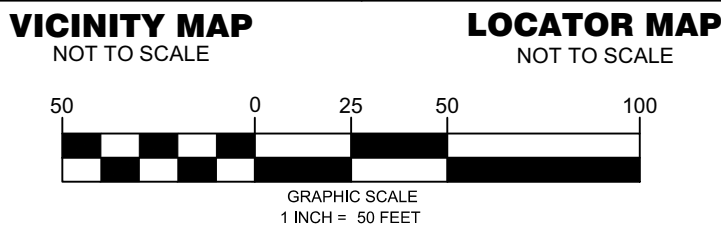
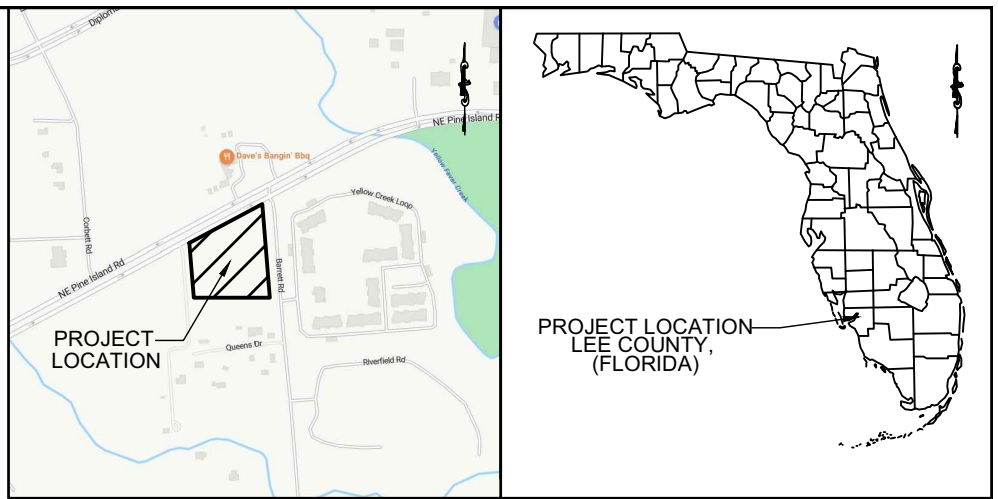
SHEET:
2 OF 2

ALTA/NSPS LAND TITLE SURVEY & BOUNDARY/TOPOGRAPHIC SURVEY
SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

GRID NORTH



- SURVEYOR'S NOTES:**
- THIS ALTA/NSPS LAND TITLE SURVEY & BOUNDARY/TOPOGRAPHIC SURVEY WAS PREPARED IN ACCORDANCE WITH STANDARDS OF PRACTICE FOR SURVEYORS AND MAPPERS AS SET FORTH IN ADMINISTRATIVE RULE 5J-17, FLORIDA ADMINISTRATIVE CODE AND IN ACCORDANCE WITH MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS (EFFECTIVE 2/23/2021).
 - ADDITIONS OR DELETIONS BY ANYONE OTHER THAN THE SIGNING SURVEYOR AND MAPPER IS PROHIBITED WITHOUT WRITTEN CONSENT FROM KCI TECHNOLOGIES, INC.
 - COORDINATES SHOWN HEREON ARE RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, TRANSVERSE MERCATOR PROJECTION, NORTH AMERICAN DATUM OF 1983 WITH A 2011 ADJUSTMENT (NAD 83(2011)), AND ESTABLISHED BY GLOBAL POSITIONING SYSTEM (GPS) - REAL TIME KINEMATIC (RTK) METHODS, USING THE TRIMBLE VIRTUAL REFERENCE STATION (VRS).
 - ELEVATIONS SHOWN ON THIS SURVEY ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) BASED ON THE GPS OBSERVATIONS USING THE TRIMBLE VRS NETWORK AT THE TIME OF THE SURVEY. TEMPORARY BENCHMARKS (TBM) SHOWN ON THE SURVEY ARE DESCRIBED AS FOLLOWS:
TBM #1: SET IRON ROD, LB#6901. ELEVATION = 9.00'.
TBM #2: SET IRON ROD, LB#6901. ELEVATION = 8.13'.
 - THE BASIS OF BEARINGS FOR THIS SURVEY IS GRID NORTH STATE PLANE COORDINATE SYSTEM, FLORIDA WEST (NGS ZONE 902), THE WEST RIGHT-OF-WAY LINE OF BARRETT ROAD BEARS SOUTH 04°32'48" EAST.
 - THE ADDRESS OF THE SURVEYED PROPERTY IS 2800 NE PINE ISLAND ROAD, FORT MYERS FLORIDA.
 - THE SUBJECT PROPERTY CONTAINS 7.999 ACRES (348,040 SQUARE FEET) OF LAND, MORE OR LESS, AS SURVEYED.
 - SURVEYED DESCRIPTION PREPARED BY SURVEYOR DESCRIBES THE SAME REAL ESTATE AS THE RECORD DESCRIPTION.
 - THE CLOSURE PRECISION OF THE LEGAL DESCRIPTION PROVIDED IN EXHIBIT 'A' OF THE TITLE COMMITMENT REFERENCED BELOW AND AS SHOWN HEREON CANNOT BE CALCULATED AS WRITTEN THE BOUNDARY OF THE SURVEYED PREMISES FORMS A MATHEMATICALLY CLOSED FIGURE.
 - THE SURVEYED PROPERTY SHOWN HEREON IS THE SAME AS THE PROPERTY DESCRIBED IN FIDELITY NATIONAL TITLE INSURANCE COMPANY COMMITMENT FILE NO. #FL252303023JC/230545ATL.
 - THE SUBJECT PROPERTY ABUTS BARRETT ROAD AND STATE ROAD 78 (NE PINE ISLAND ROAD) WITH NO GAPS OR GORES.
 - ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), FLOOD INSURANCE RATE MAP (F.I.R.M.) PANEL NO. 12071C 0366 G WITH AN EFFECTIVE DATE OF 9/11/2022, A PORTION OF THE PROPERTY SHOWN ON THIS SURVEY LIES WITHIN ZONE 'X' (AREA OF MINIMAL FLOOD HAZARD) AND A PORTION IN ZONE 'AE' (BASE FLOOD ELEVATION 8.0' AND 9.0'). THE FLOOD ZONE SHOWN ON THE SURVEY IS TAKEN FROM GIS INFORMATION AVAILABLE ON THE FEMA WEB PAGE AND IS NOT SURVEYED LINE.
 - THERE WAS NO OBSERVED EVIDENCE OF THE USE OF THE PROPERTY AS A CEMETERY OR BURIAL GROUND.
 - THE FIELD WORK FOR THIS SURVEY WAS COMPLETE ON APRIL 24, 2023 UPDATED MAY 17, 2023.
 - A ZONING REPORT WAS NOT PROVIDED PRIOR TO START OF SURVEY.
 - THE SURVEYOR WAS NOT MADE AWARE OF ANY PROPOSED WIDENING OF EXISTING STREET RIGHTS-OF-WAY ADJACENT TO THE SUBJECT PROPERTY.
 - THERE WAS EVIDENCE OF RECENT ANTHROPIC MOVING WORK, BUILDING CONSTRUCTION, OR BUILDING ADDITIONS OBSERVED AT THE TIME OF THE SURVEY. IT APPEARS THAT DIRT WAS BEING TAKEN FROM THE STOCK PILE SHOWN ON THE SURVEY.
 - THE UNDERGROUND UTILITIES SHOWN ON THIS SURVEY ARE BASED ON LOCATION OF SURFACE MARKINGS MADE BY KCI TECHNOLOGIES, INC. AT THE TIME OF SURVEY.
 - PRINTED COPIES OF THIS SURVEY ARE NOT CONSIDERED VALID WITHOUT THE ORIGINAL SIGNATURE AND REISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. DIGITAL COPIES OF THIS SURVEY ARE NOT VALID WITHOUT AN ELECTRONIC SIGNATURE AS SET FORTH IN ADMINISTRATIVE RULE 5J-17, FLORIDA ADMINISTRATIVE CODE.
 - THE EXPECTED HORIZONTAL ACCURACY OF THE FEATURES SHOWN HEREON IS ±0.2' FOR THE LIMITS OF HARD SURFACES, SUCH AS ASPHALT, CONCRETE, CURBING, BUILDINGS, ETC. AND IS ±0.3' FOR GROUND SURFACE FEATURES, SUCH AS SURFACE FEATURES OF UTILITIES, ETC. AND IS ±0.4' FOR FEATURES PROTRUDING OUT OF THE GROUND, SUCH AS UTILITY POLES, FENCES, TREES, ETC.
 - THE EXPECTED VERTICAL ACCURACY OF THE FEATURES SHOWN HEREON IS ±0.2' FOR HARD SURFACES, SUCH AS ASPHALT, CONCRETE, ETC. AND ±0.5' FOR SOFT SURFACES, SUCH AS GRASS, DIRT, MUD, ETC.
 - FOR USE IN PREPARING THIS SURVEY, KCI WAS PROVIDED ALTA COMMITMENT FILE NO. #FL252303023JC/230545ATL WITH A COMMITMENT DATE OF JANUARY 9, 2024 AT 08:00 AM. PREPARED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY. EXCEPTIONS LISTED IN SCHEDULE B OF THE COMMITMENT ARE NOTED ALONG WITH OPINION BY SURVEYOR IN BOLD AS FOLLOWS:
- ITEM #7 - LEE COUNTY ORDINANCE NO. 88-14 RECORDED NOVEMBER 30, 1990 IN OFFICIAL RECORDS BOOK 2189, PAGE 3281, WHICH ESTABLISHES MANDATORY GARBAGE AND SOLID WASTE COLLECTION AND ASSESSMENTS, AS AMENDED BY LEE COUNTY ORDINANCE NO. 88-38 RECORDED NOVEMBER 30, 1990 IN OFFICIAL RECORDS BOOK 2189, PAGE 3334, ALL OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA. AFFECTS THE SUBJECT PROPERTY IS BLANKET IN NATURE AND AS SUCH CANNOT BE SHOWN GRAPHICALLY ON THE SURVEY.



DESCRIPTION: (PER FIDELITY NATIONAL TITLE INSURANCE COMPANY, COMMITMENT #FL252303023JC/230545ATL):

THAT PORTION OF THE EAST ONE-HALF (E 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LYING SOUTH OF PINE ISLAND ROAD, EXCEPT 60 FEET OFF THE EAST SIDE FOR BARRETT ROAD, AS SHOWN IN OFFICIAL RECORDS BOOK 780, PAGE 194, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LESS AND EXCEPT THAT PORTION OF THE PREMISES TAKEN BY ORDER OF LEE COUNTY, FLORIDA, IN OFFICIAL RECORDS BOOK 2360, PAGE 157, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

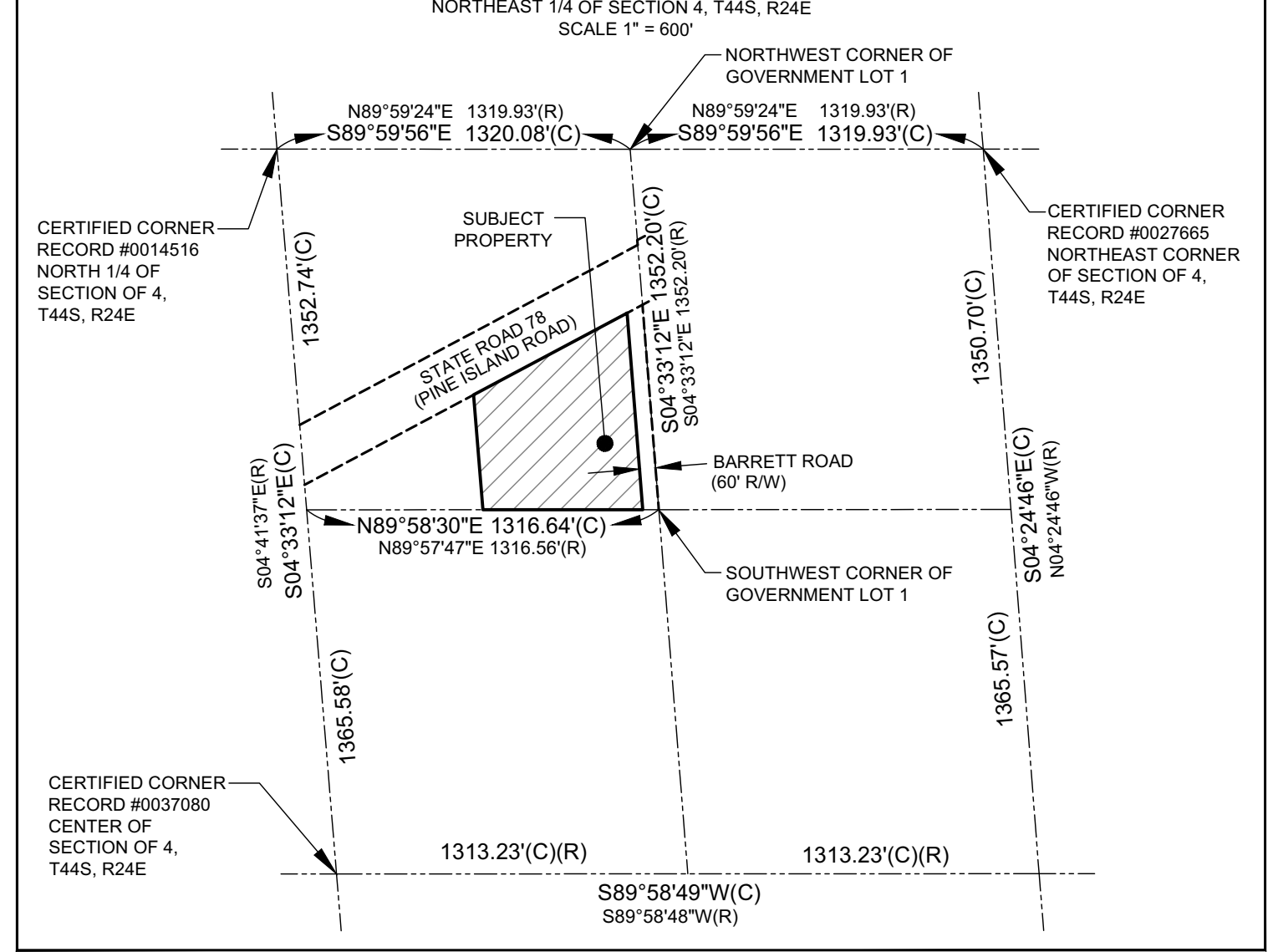
DESCRIPTION: FLOOR & DECOR PARCEL (PREPARED BY SURVEYOR)

A PARCEL OF LAND LOCATED IN SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA AND BEING PREMISES DESCRIBED IN DEED TO DANIEL RENOLLETT, RECORDED IN OFFICIAL RECORD INSTRUMENT NUMBER 20100022648, ALL REFERENCES HEREIN ARE TO PUBLIC RECORDS OF LEE COUNTY, FLORIDA, PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST; THENCE WITH THE EAST LINE OF SAID NORTHWEST 1/4, SOUTH 04°33'12" EAST, A DISTANCE OF 584.25 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 78 (NE PINE ISLAND ROAD) PER FOOT RIGHT-OF-WAY MAP SECTION #12060-2519; THENCE WITH SAID SOUTH LINE SOUTH 61°58'00" WEST, A DISTANCE OF 65.32 FEET TO THE INTERSECTION OF SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 78 AND WEST RIGHT-OF-WAY LINE OF BARRETT ROAD AND THE POINT OF BEGINNING; THENCE WITH SAID WEST LINE SOUTH 04°32'48" EAST, A DISTANCE OF 737.18 FEET TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SECTION 4; THENCE WITH SAID SOUTH LINE SOUTH 89°58'30" WEST, A DISTANCE OF 597.19 FEET TO THE EAST LINE OF PREMISES RECORDED IN INSTRUMENT NUMBER 2019000114584; THENCE WITH SAID EAST LINE NORTH 04°41'25" WEST, A DISTANCE OF 430.94 TO THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 78; THENCE WITH SAID SOUTH LINE NORTH 61°58'00" EAST, A DISTANCE OF 650.28 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 7.999 ACRES (348,040 SQUARE FEET) OF LAND, MORE OR LESS.

SECTION DETAIL:



LEGEND

- | | | | |
|---|--|---|--|
| FND
FIR
FCIR
SCIR
SND
(C)
(D)
(M)
(R)
BFE
D= DEPTH
FDOT
ELEV
EIP
LB
MES
NO.
OR
PT
PVC
R/W
RCP
SB
STA
SV
TBM
TOB
TOS
(TYP) | FOUND NAIL AND DISK
FOUND IRON ROD
FOUND CAPPED IRON ROD
SET CAPPED IRON ROD LB 6901
SET NAIL AND DISK
CALCULATED
DEED
MEASURED
RECORD
BASE FLOOD ELEVATION
DEPTH
FLORIDA DEPARTMENT OF
OF TRANSPORTATION
ELEVATION
EDGE OF PAVEMENT
LICENSED BUSINESS
MITERED END SECTION
NUMBER
OFFICIAL RECORD
POINT OF CURVATURE
POINT OF TANGENT
POLYVINYL CHLORIDE PIPE
RIGHT-OF-WAY LINE
REINFORCED CONCRETE PIPE
STOP BAR
STATION
SEWER VALVE
TEMPORARY BENCHMARK
TELEPHONE PEDESTAL
TOP OF BANK
TOP OF SLOPE
(TYP) | STREET LIGHT
FIRE HYDRANT
SIGN
UTILITY POLE
WATER METER
WATER VALVE
FIBER OPTIC MARKER
OAK TREE (SIZE NOTED)
PALM TREE (SIZE NOTED)
MISC. TREE (SIZE NOTED)
PINE TREE (SIZE NOTED)
MAPLE TREE (SIZE NOTED)
WILLOW TREE (SIZE NOTED)
MONITORING WELL
WATER DOUBLE DETECTOR
GUYED ANCHOR | STORM LINE
OVERHEAD UTILITY LINE
BURIED WATER LINE
BURIED ELECTRIC LINE
BURIED TELEPHONE LINE
BURIED FIBER OPTIC LINE
UNKNOWN UTILITY LINE
SANITARY SEWER FORCE MAIN
BURIED GAS LINE |
|---|--|---|--|

CERTIFICATION:
FIDELITY NATIONAL TITLE INSURANCE COMPANY; FLOOR AND DECOR OUTLETS OF AMERICA INC. A DELAWARE CORPORATION AND DANIEL RENOLLETT

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6B, 7A, 7B, 8, 9, 11B, 13, 16, 17, 18, AND 19 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON APRIL 24, 2023.

DATE OF PLAT OR MAP: NOVEMBER 17, 2023.

Digitally signed by
Newton Jose Mendonca Neto
Date: 2024.01.15
16:00:25-05'00'

NEWTON J MENDONCA NETO
FLORIDA PROFESSIONAL SURVEYOR
AND MAPPER NO. 7490

REV#	REVISION	DATE
1	ADDED EXPANDED	5/24/23
2	ADDED PARCEL	5/30/23
3	ADDED SPOT SHOTS	6/2/23
4	CLIENT COMMENTS	10/26/23
5	ADDED SURVEYORS	11/16/23
6	ADDED PARCEL	11/17/23
7	CLIENT COMMENTS	11/17/23
8	TITLE COMMITMENT	11/15/24



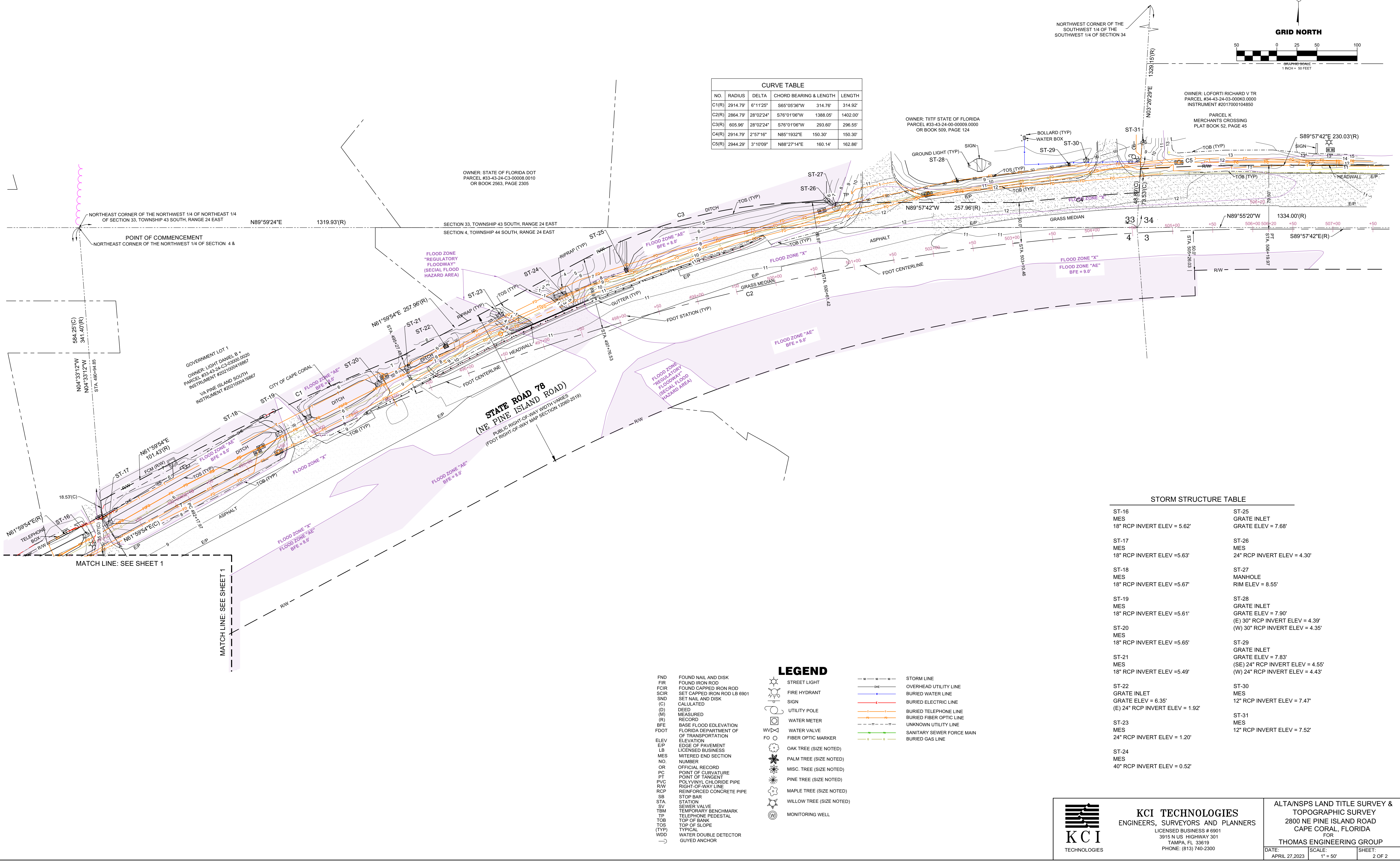
KCI TECHNOLOGIES
ENGINEERS, SURVEYORS AND PLANNERS
LICENSED BUSINESS # 6901
3915 N US HIGHWAY 301
TAMPA, FL 33619
PHONE: (813) 740-2300

ALTA/NSPS LAND TITLE SURVEY & TOPOGRAPHIC SURVEY
2800 NE PINE ISLAND ROAD
CAPE CORAL, FLORIDA

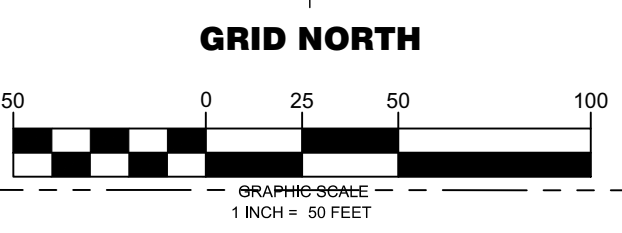
THOMAS ENGINEERING GROUP

DATE: APRIL 27, 2023
SCALE: 1" = 50'
SHEET: 1 OF 2

ALTA/NSPS LAND TITLE SURVEY & TOPOGRAPHIC SURVEY
SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA



CURVE TABLE				
NO.	RADIUS	DELTA	CHORD BEARING & LENGTH	LENGTH
C1(R)	2914.79'	6°11'25"	S85°05'36"W 314.76'	314.92'
C2(R)	2864.79'	28°02'24"	S76°01'06"W 1388.05'	1402.00'
C3(R)	605.96'	28°02'24"	S76°01'06"W 293.60'	296.55'
C4(R)	2914.79'	2°57'16"	N85°19'32"E 150.30'	150.30'
C5(R)	2944.29'	3°10'09"	N88°27'14"E 160.14'	162.86'



STORM STRUCTURE TABLE	
ST-16 MES 18" RCP INVERT ELEV = 5.62'	ST-25 GRATE INLET GRATE ELEV = 7.68'
ST-17 MES 18" RCP INVERT ELEV = 5.63'	ST-26 MES 24" RCP INVERT ELEV = 4.30'
ST-18 MES 18" RCP INVERT ELEV = 5.67'	ST-27 MANHOLE RIM ELEV = 8.55'
ST-19 MES 18" RCP INVERT ELEV = 5.61'	ST-28 GRATE INLET GRATE ELEV = 7.90' (E) 30" RCP INVERT ELEV = 4.39' (W) 30" RCP INVERT ELEV = 4.35'
ST-20 MES 18" RCP INVERT ELEV = 5.65'	ST-29 GRATE INLET GRATE ELEV = 7.83' (SE) 24" RCP INVERT ELEV = 4.55' (W) 24" RCP INVERT ELEV = 4.43'
ST-21 MES 18" RCP INVERT ELEV = 5.49'	ST-30 MES 12" RCP INVERT ELEV = 7.47'
ST-22 GRATE INLET GRATE ELEV = 6.35' (E) 24" RCP INVERT ELEV = 1.92'	ST-31 MES 12" RCP INVERT ELEV = 7.52'
ST-23 MES 24" RCP INVERT ELEV = 1.20'	
ST-24 MES 40" RCP INVERT ELEV = 0.52'	

- LEGEND**

 - FND FOUND NAIL AND DISK
 - FIR FOUND IRON ROD
 - FCIR FOUND CAPPED IRON ROD
 - SCIR SET CAPPED IRON ROD LB 6901
 - SND SET NAIL AND DISK
 - (C) CALCULATED
 - (D) DEED
 - (M) MEASURED
 - (R) RECORD
 - BFE BASE FLOOD ELEVATION
 - FDOT FLORIDA DEPARTMENT OF TRANSPORTATION
 - ELEV ELEVATION
 - E/P EDGE OF PAVEMENT
 - LB LICENSED BUSINESS
 - MES MITERED END SECTION
 - NO. NUMBER
 - OR OFFICIAL RECORD
 - PC POINT OF CURVATURE
 - PT POINT OF TANGENT
 - PVC POLYVINYL CHLORIDE PIPE
 - RAW RIGHT-OF-WAY LINE
 - RCP REINFORCED CONCRETE PIPE
 - SB STOP BAR
 - STA. STATION
 - SV SEWER VALVE
 - TBM TEMPORARY BENCHMARK
 - TP TELEPHONE PEDESTAL
 - TOB TOP OF BANK
 - TOS TOP OF SLOPE
 - (TYP) TYPICAL
 - WDD WATER DOUBLE DETECTOR
 - (—) GUYED ANCHOR
- STREET LIGHT
 - FIRE HYDRANT
 - SIGN
 - UTILITY POLE
 - WATER METER
 - WATER VALVE
 - FIBER OPTIC MARKER
 - OAK TREE (SIZE NOTED)
 - PALM TREE (SIZE NOTED)
 - MISC. TREE (SIZE NOTED)
 - PINE TREE (SIZE NOTED)
 - MAPLE TREE (SIZE NOTED)
 - WILLOW TREE (SIZE NOTED)
 - MONITORING WELL
- STORM LINE
 - OVERHEAD UTILITY LINE
 - BURIED WATER LINE
 - BURIED ELECTRIC LINE
 - BURIED TELEPHONE LINE
 - BURIED FIBER OPTIC LINE
 - UNKNOWN UTILITY LINE
 - SANITARY SEWER FORCE MAIN
 - BURIED GAS LINE

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2800 NE PINE ISLAND ROAD
CAPE CORAL, FLORIDA

THOMAS ENGINEERING GROUP

DATE: APRIL 27, 2023	SCALE: 1" = 50'	SHEET: 2 OF 2
-------------------------	--------------------	------------------



JOHN D. RUFFIER

john.ruffier@lowndes-law.com

215 North Eola Drive, Orlando, Florida 32801-2028

T: 407-418-6414 | F: 407-843-4444

MAIN NUMBER: 407-843-4600



January 11, 2024

Richard R. Burris
Department of Community Development
Lee County, Florida
1500 Monroe St.
Fort Myers, FL.33901

Dustin Stevens, Esq.
Floor & Décor
2500 Windy Ridge Parkway, SE
Atlanta, GA 30339

Re: Certification of Title – Lee County, FL Property

Dear Richard and Dustin:

This opinion of title was prepared by Lowndes, Drosdick, Doster, Kantor & Reed, P.A. for that certain real property situate, lying and being in the County of Lee, State of Florida, to wit:

That portion of the East one half (E ½) of the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of Section 4, Township 44 South, Range 24 East, lying South of Pine Island Road, except 60 feet off the East side for Barrett Road recorded in Official Records Book 780, Page 194, of the Public Records of Lee County, Florida, LESS AND EXCEPT that portion of the Premises taken by Order of Taking recorded in Official Records Book 2360, Page 157, of the Public Records of Lee County, Florida.

This opinion is based solely upon that certain ALTA Commitment for Title Insurance prepared by First Title, LLC, covering the period to and including January 9, 2024 at 08:00 AM.

From our examination of the above-referenced title report and our personal knowledge, we find fee simple title of record, as of the date hereof to be vested in Daniel Renollett.

1. Unsatisfied mortgages or liens encumbering said property are as follows: NONE
2. Underlying rights of way, easements or plats affecting said property are as follows: NONE
3. 2023 Ad valorem taxes on said property are paid for Tax Parcel I. D. Number 04-44-24-00-00014.0000.

The property is subject to Lee County Ordinance No. 86-14, recorded November 30, 1990 in Official Records Book 2189, Page 3281, which establishes mandatory garbage and solid waste collection



Richard R. Burris
Dustin Stevens, Esq.
January 11, 2024
Page 2

and assessments, as amended by Lee County Ordinance No. 86-38 recorded November 30, 1990 in Official Records Book 2189, Page 3334, all of the Public Records of Lee County, Florida.

If there are any questions in connection with the above information, please do not hesitate to contact the undersigned.

Yours very truly,



John D. Ruffier

c: Tara Tedrow, Esq.
Logan Opsahl, Esq.

ALTA COMMITMENT FOR TITLE INSURANCE

issued by:

**Fidelity National Title**
Insurance Company

Commitment Number:

FL252303023JC/230545A
TL**NOTICE**

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and the Commitment Conditions, Fidelity National Title Insurance Company, a Florida corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I-Requirements have not been met within one hundred eighty (180) days after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Fidelity National Title Insurance Company

By:

Michael J. Nolan, President

Attest:

Marjorie Nemzura, Secretary

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Fidelity National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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FIDELITY NATIONAL TITLE INSURANCE COMPANY**COMMITMENT NO.
FL252303023JC/230545ATL**

Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

ISSUING OFFICE:	FOR SETTLEMENT INQUIRIES, CONTACT:
First Title, LLC, a Fidelity National Financial, Inc. company 3301 Windy Ridge Parkway, Suite 300 Atlanta, GA 30339 Main Phone: 888-497-9904	FNTG Atlanta NCS 3301 Windy Ridge Parkway , Suite 300 Atlanta, GA 30339 Phone: (770)850-9600 Email: William.Tedford@fntg.com

Order Number: FL252303023JC

Property Address: 2800 NE Pine Island Rd and 1481 Barrett Rd, North Fort Myers, FL 33903

SCHEDULE A

1. Commitment Date: January 9, 2024 at 08:00 AM
2. Policy to be issued:
 - (a) ALTA Owner's Policy 2021 w-FL Mod
Proposed Insured: Floor and Decor Outlets of America Inc., a Delaware corporation
Proposed Amount of Insurance: \$100,000.00
The estate or interest to be insured: Fee Simple
3. The estate or interest in the Land at the Commitment Date is:
Fee Simple
4. The Title is, at the Commitment Date, vested in:
Daniel Renollett, by virtue of Certificate of Title recorded October 13, 2011 in Official Records Instrument [2011000222648](#), of the Public Records of Lee County, Florida.
5. The Land is described as follows:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Countersigned By:



Jeff Yearwood
Authorized Officer or Agent

END OF SCHEDULE A

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EXHIBIT "A"

Legal Description

That portion of the East one-half (E 1/2) of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 4, Township 44 South, Range 24 East, lying South of Pine Island Road, except 60 feet off the East side for Barrett Road recorded in Official Records [Book 780, Page 194](#), of the Public Records of Lee County, Florida, LESS AND EXCEPT that portion of the premises taken by Order of Taking recorded in Official Records [Book 2360, Page 157](#), of the Public Records of Lee County, Florida.

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FIDELITY NATIONAL TITLE INSURANCE COMPANY**COMMITMENT NO.
FL252303023JC/230545ATL****SCHEDULE B, PART I - Requirements**

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
 - a. Warranty Deed executed by Daniel Renollett, joined by spouse, if married or containing proper non-homestead language, conveying subject property to Floor and Decor Outlets of America Inc., a Delaware corporation.
5. The Company will require the following as to Floor and Decor Outlets of America Inc., a Delaware corporation:

Evidence of current legal existence and good standing from its State of Incorporation.
6. A current survey of the subject Land, in compliance with the Florida minimum technical standards, prepared by a duly registered and licensed surveyor, certified to the insured and/or the Company, must be submitted for examination.

The Company reserves the right to add additional items/exceptions or make further requirements after review of the requested documentation.
7. Please be advised that the Title Search did not disclose any open mortgages of record. The Closing Agent should verify with the record owner of the land, confirming that the subject property is free and clear of any mortgage lien.
8. An Affidavit in form acceptable to Fidelity National Title Insurance Company ("Company") and executed by or on behalf of the current record owner(s) of the subject property stating that: (A) there are no parties in possession of the subject property other than said current record owner(s); (B) there are no encumbrances upon the subject property other than as may be set forth in this Commitment; (C) there are no unrecorded assessments which are due and payable and; (D) there have been no improvements made to or upon the subject property within the last ninety (90) day period for which there remain any outstanding and unpaid bills for labor, materials or supplies for which a lien or liens may be claimed must be furnished to the Company, or, in lieu thereof, an exception to those matters set forth in said Affidavit which are inconsistent with or deviate from the foregoing requirements will appear in the policy or policies to be issued pursuant to this Commitment.
9. Submit proof that any outstanding municipal and/or county Special Assessments or Liens which are due, have been paid.
10. Submit proof of payment of county and/or municipal service charges for water, sewer, natural gas and waste, if any.

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FIDELITY NATIONAL TITLE INSURANCE COMPANY**COMMITMENT NO.**
FL252303023JC/230545ATL**SCHEDULE B, PART I - Requirements**
(continued)

11. The Proposed Policy Amount(s) must be increased to the full value of the estate or interest being insured, and any additional premium must be paid at that time. An Owner's policy should reflect the purchase price or full value of the Land. A Loan Policy should reflect the loan amount or value of the property as collateral. Proposed Policy Amount(s) will be revised and premiums charged consistent therewith when the final amounts are approved.
12. Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of a Company agent, an authorized employee of the insured lender, or under the supervision of attorneys actively licensed in the state where the document signings take place, or by using Bancserv or other Company-approved third-party service. If you are not able to meet this requirement, please call the Company at the number provided in this report.

Notice: Please be aware that due to the conflict between federal and state laws concerning the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving Land that is associated with these activities.

NOTE: The Company requires a title update between the effective date of this report and three (3) business days prior to closing to verify that no adverse matters or defects appear in the gap between this effective date and date of closing.

NOTE: The Company reserves the right to add additional exceptions or make further requirements prior to closing.

END OF SCHEDULE B, PART I

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FIDELITY NATIONAL TITLE INSURANCE COMPANY**COMMITMENT NO.
FL252303023JC/230545ATL****SCHEDULE B, PART II - Exceptions**

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.
2. Taxes and assessments for the year 2024 and subsequent years, which are not yet due and payable.
3. Any lien, or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law, and not shown by the public records.
4. Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the land and not shown by the Public Records.
5. Rights or claims of parties in possession not shown by the public records.
6. Unpaid charges for public utilities furnished by any county, municipality, or public service corporation, which may be or may become a lien upon the land insured hereby under any provision of the Florida Statutes, including Section 159.17, and/or any county, municipal, or special taxing district assessment, including those levied under the provisions of Chapter 190, Florida Statutes.
7. Lee County Ordinance No. 86-14 recorded November 30, 1990 in Official Records [Book 2189, page 3281](#), which establishes mandatory garbage and solid waste collection and assessments, as amended by Lee County Ordinance No. 86-38 recorded November 30, 1990 in Official Records [Book 2189, Page 3334](#), all of the Public Records of Lee County, Florida.

Note: The following is given for informational purposes only without assurance or guarantee:

The 2023 real estate taxes were assessed under [Account Number 04-44-24-00-00014.0000](#) in the Gross Amount of \$2,058.30 and were paid in full on November 14, 2023 in the amount of \$1,975.97.

The 2023 real estate taxes were assessed under [Account Number 04-44-24-00-00015.0000](#) in the Gross Amount of \$197.87 and were paid in full on November 14, 2023 in the amount of \$189.96.

END OF SCHEDULE B, PART II

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FIDELITY NATIONAL TITLE INSURANCE COMPANY**COMMITMENT NO.
FL252303023JC/230545ATL****COMMITMENT CONDITIONS****1. DEFINITIONS**

- a. "Discriminatory Covenant": Any covenant, condition, restriction, or limitation that under applicable law illegally discriminates against a class of individuals based on personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or other legally protected class.
- b. "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.
- c. "Land": The land described in Item 5 of Schedule A and improvements located on that land that by State law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- d. "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.
- e. "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- f. "Proposed Amount of Insurance": Each dollar amount specified in Schedule A as the Proposed Amount of Insurance of each Policy to be issued pursuant to this Commitment.
- g. "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- h. "Public Records": The recording or filing system established under State statutes in effect at the Commitment Date under which a document must be recorded or filed to impart constructive notice of matters relating to the Title to a purchaser for value without Knowledge. The term "Public Records" does not include any other recording or filing system, including any pertaining to environmental remediation or protection, planning, permitting, zoning, licensing, building, health, public safety, or national security matters.
- i. "State": The state or commonwealth of the United States within whose exterior boundaries the Land is located. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Guam.
- j. "Title": The estate or interest in the Land identified in Item 3 of Schedule A.

2. If all of the Schedule B, Part I-Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- a. the Notice;
- b. the Commitment to Issue Policy;
- c. the Commitment Conditions;
- d. Schedule A;
- e. Schedule B, Part I-Requirements;
- f. Schedule B, Part II-Exceptions; and
- g. a counter-signature by the Company or its issuing agent that may be in electronic form.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company is not liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- a. The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - i. comply with the Schedule B, Part I-Requirements;
 - ii. eliminate, with the Company's written consent, any Schedule B, Part II-Exceptions; or
 - iii. acquire the Title or create the Mortgage covered by this Commitment.
- b. The Company is not liable under Commitment Condition 5.a. if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- c. The Company is only liable under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- d. The Company's liability does not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Condition 5.a. or the Proposed Amount of Insurance.

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FIDELITY NATIONAL TITLE INSURANCE COMPANY**COMMITMENT NO.
FL252303023JC/230545ATL**

(continued)

- e. The Company is not liable for the content of the Transaction Identification Data, if any.
- f. The Company is not obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I-Requirements have been met to the satisfaction of the Company.
- g. The Company's liability is further limited by the terms and provisions of the Policy to be issued to the Proposed Insured.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT; CHOICE OF LAW AND CHOICE OF FORUM

- a. Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- b. Any claim must be based in contract under the State law of the State where the Land is located and is restricted to the terms and provisions of this Commitment. Any litigation or other proceeding brought by the Proposed Insured against the Company must be filed only in a State or federal court having jurisdiction.
- c. This Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- d. The deletion or modification of any Schedule B, Part II-Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- e. Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- f. When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT IS ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for closing, settlement, escrow, or any other purpose.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. CLAIMS PROCEDURES

This Commitment incorporates by reference all Conditions for making a claim in the Policy to be issued to the Proposed Insured. Commitment Condition 9 does not modify the limitations of liability in Commitment Conditions 5 and 6.

10. ARBITRATION

The Policy contains an arbitration clause as follows:

- a. All claims and disputes arising out of or relating to this policy, including any service or other matter in connection with issuing this policy, any breach of a policy provision, or any other claim or dispute arising out of or relating to the transaction giving rise to this policy, may be submitted to binding arbitration only when agreed to by both the Company and the Insured. Arbitration must be conducted pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("ALTA Rules"). The ALTA Rules are available online at www.alta.org/arbitration. The ALTA Rules incorporate, as appropriate to a particular dispute, the Consumer Arbitration Rules and Commercial Arbitration Rules of the American Arbitration Association ("AAA Rules"). The AAA Rules are available online at www.adr.org.
- b. *If there is a final judicial determination that a request for particular relief cannot be arbitrated in accordance with this Condition 18 (Condition 17 of the Loan Policy), then only that request for particular relief may be brought in court. All other requests for relief remain subject to this Condition 18 (Condition 17 of the Loan Policy).*
- c. Fees will be allocated in accordance with the applicable AAA Rules. The results of arbitration will be binding upon the parties. The arbitrator may consider, but is not bound by, rulings in prior arbitrations involving different parties. The arbitrator is bound by rulings in prior arbitrations involving the same parties to the extent required by law. The arbitrator must issue a written decision sufficient to explain the findings and conclusions on which the award is based. Judgment upon the award rendered by the arbitrator may be entered in any State or federal court having jurisdiction.

END OF CONDITIONS

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Fidelity National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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PROTECTED SPECIES SURVEY REPORT

PROPOSED FLOOR & DÉCOR

2800 Northeast Pine Island Drive
North Fort Myers, Lee County, Florida

PREPARED FOR

Mr. Johnathan Eversberg
Development Manager II
Centerpoint Integrated Solutions
1626 Cole Boulevard, Suite 125
Lakewood, CO 80401

PREPARED BY

PACSCON GeoEnvironmental, Inc.
4517 George Road, Suite 220
Tampa, FL 33634

REV January 5, 2024
December 4, 2023
PACSCON No. 2023-1841

*Protected Species Survey
Proposed Floor & Décor, North Ft. Myers, FL*

*December 4, 2023, REV January 5, 2024
PACSCON No. 2023-1841*

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APPENDIX A	Photographic Documentation
APPENDIX B	FNAI Biodiversity Matrix Quarry Results
APPENDIX C	U.S. Fish and Wildlife Service (FWS) Environmental Conservation Online System (IPaC) results



1.0 INTRODUCTION

The Floor & Décor project site lies within unincorporated Lee County in North Fort Myers, Florida. It is located approximately 0.70 mile west of US 41 on the south side of Pine Island Road. The 7.99-acre project is located within Section 04, Township 44 South, and Range 24 East. More specifically, the Lee County Property Appraiser identifies that the project consists of STRAP numbers 04-44-24-00-00015.0000 (± 1.0 acre) and 04-44-24-00-00014.0000 (7.45 acres).

Figures within this submittal include a site location map (**Figure 1**), a wetland limits aerial (**Figure 2**), a Florida Land Use and Cover Classification System (FLUCFCS) and Protected Species Survey map (**Figure 3**), and a Soils Map (**Figure 4**). Photographs of the project area are included as **Appendix A**. The Florida Natural Areas Inventory (FNAI) Biodiversity Matrix Query Results and U.S. Fish and Wildlife Service (FWS) Environmental Conservation Online System (IPaC) results are included as **Appendix B and C**, respectively. The proposed project is composed of a Floor & Décor retail center and associated parking and infrastructure.

2.0 EXISTING CONDITIONS

This site is a vacant wooded parcel in an urban area of North Fort Myers, Florida. There are three different FLUCFCS areas. Vegetation within each area is detailed below.

FLUCFCS 411: Pine Flatwood

Upland vegetative cover within this portion of the site consists primarily of *Pinus elliottii* (slash pine) and dense *Serenoa repens* (saw palmetto).

FLUCFCS 414E1: Pine – Mesic Oak (1-25% Exotics)

Upland vegetative cover within this portion of the site consists primarily of the mesic oak species *Quercus virginiana* (live oak) and *Quercus laurifolia* (laurel oak). Additional vegetation found within this habitat includes *Sabal palmetto* (cabbage palm), slash pine, *Vitis rotundifolia* (muscadine) vines, saw palmetto, and *Schinus terebinthifolius* (Brazilian pepper tree).

FLUCFCS 617E1: Mixed Wetland Hardwoods (1-25% Exotics) (Wetland A)

Wetland A is a state jurisdictional wetland. It is isolated and therefore is not federally jurisdictional. Vegetative cover within the wetland consists of laurel oak, *Acer rubrum* (red maple), *Woodwardia* spp (chainfern), *Salix caroliniana* (Carolina willow), *Cephalanthus occidentalis*



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(buttonbush), and *Persicaria* spp. (smartweed). The wetland also contained some nuisance vegetation consisting of Brazilian pepper tree.

TABLE 2-1 VEGETATION ASSOCIATIONS AND ACREAGES			
FLUCFCS Code	Description	Acreage	Jurisdictional Status
411	Pine Flatwoods	2.95 AC	N
414E1	Pine – Mesic Oak (1-25% Exotics)	4.10 AC	N
617E1	Mixed Wetland Hardwoods (1-25% Exotics)	0.94 AC	S WL
TOTAL		7.99 AC	

Legend:

N = non-jurisdictional

S WL = State jurisdictional wetland

The soils within the majority of the project site have been mapped as Immokalee sand, 0 to 2 percent slopes (28), Immokalee sand-Urban land complex, 0 to 2 percent slopes (36), Cypress Lake fine sand-Urban land complex, 0 to 2 percent slopes (102), and Oldsmar sand-Urban land, 0 to 2 percent slopes (125). A soils maps is attached as Figure 4.

3.0 SURVEY METHODS

The Protected Species Survey (PSS) was conducted in accordance with the Lee County Land Development Code, Chapter 10, Article 3, Division 8 (Protection of Habitat). The PSS included field surveys and a literature review. The field survey was conducted on June 7, 2023, utilizing pedestrian transects which were performed in all vegetation associations (FLUCFCS). The FLUCFCS and Protected Species Survey Map in Figure 3 depicts the approximate survey transect locations. The distances between the transects were established to cover a minimum of 80% of each habitat within the project area and were approximately 15-30 feet apart.

4.0 WILDLIFE UTILIZATION

A desktop analysis using the U.S. Fish and Wildlife Service (FWS) Environmental Conservation Online System (IPaC) indicated twelve listed threatened and endangered species that could potentially be found within the project area including the *Laterallus jamaicensis* ssp. *jamaicensis* (eastern black rail), *Mycteria americana* (wood stork), *Drymarchon corais couperi* (Eastern indigo snake), *Eumops floridanus* (Florida Bonneted bat), *Puma* (=Felis) *concolor coryi* (Florida panther), *Puma* (=Felis) *concolor* (puma), *Polyborus plancus audubonii* (crested caracara), *Calidris canutus*



rufa (red knot), *Picoides borealis* (red cockaded woodpecker), *Alligator mississippiensis* (American alligator), *Crocodylus acutus* (American crocodile), and *Gopherus polyphemus* (gopher tortoise).

A desktop review of the Florida Natural Areas Inventory (FNAI) Florida Biodiversity Matrix Map indicated an additional four terrestrial threatened species, species of special concern, or species otherwise protected by the federal government and/or the state of Florida. These species include *Athene cunicularia floridana* (Florida burrowing owl), *Grus canadensis pratensis* (Florida sandhill crane), *Aphelocoma coerulescens* (Florida scrub jay), and *Rostrhamus sociabilis* (snail kite).

PACSCON completed a reconnaissance visit to the subject property on June 7, 2023. The gopher tortoise and Florida burrowing owl utilize burrows; however, neither type of burrow was observed within the site. The Florida burrowing owl utilizes large areas of low-lying grassy pasture areas which this project does not contain. There is no low-lying scrub oak habitat onsite which is utilized by the Florida scrub jay. The crested caracara utilizes wet prairies with cabbage palms which this project does not contain. Additionally, there is no marsh habitat for the wood stork, red knot, eastern black rail, or snail kite to utilize. The onsite wetland is a freshwater forested wetland with minimal open area.

The red cockaded woodpecker utilizes mature pine forest habitat which is found within approximately three acres of the project area. The Florida bonneted bat also utilizes forested areas. The FWS consultation key for the Florida bonneted bat keys out a limited roost survey is needed for this project. No bonneted bat or red-cockaded woodpecker surveys have been performed. Species specific surveys will be completed if required by Lee County.

Although the bald eagle is not protected under the United States Endangered Species Act, it is protected under the federal Migratory Bird Act and Bald and Golden Eagle Act. According to the Florida Fish and Wildlife Conservation Commission (FWC) eagle nest locator, the nearest bald eagle nest is approximately 0.95 miles to the southeast of the site. Similarly, the FWS identifies the nearest active wood stork colony over five miles to the east of the subject property. These bald eagle nest and wood stork colony distances from the subject property are well outside of regulatory buffer requirements.

Table 4-1 is a summary of visibility, number and total length of transects performed, and percentage of each habitat covered. Based on the literature review, a compilation of federal and



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state protected species was developed. Table 4-2 lists the potential state and federally protected species that could utilize the site.

TABLE 4-1 SUMMARY OF HABITAT SURVEY COVERAGE

FLUCFCS Code	Total Area	Number of Transects	Transect Length	Average visibility	Percent Covered
411	2.95 AC	11	330-480 feet	20 feet	80
414E1	4.10 AC	8	620-717 feet	20 feet	80
617E1	0.94 AC	28	50 feet	20 feet	80
TOTAL	7.99 AC				

TABLE 4-2 POTENTIAL LEE COUNTY PROTECTED SPECIES

FLUCFCS Code	Description	Potential Protected Species
411	Pine Flatwoods	<i>Drymarchon corais couperi</i> (Eastern indigo snake), <i>Eumops floridanus</i> (Florida Bonneted bat), <i>Puma</i> (=Felis) <i>concolor coryi</i> (Florida panther), <i>Puma</i> (=Felis) <i>concolor</i> (puma), <i>Polyborus plancus audubonii</i> (crested caracara), <i>Picoides borealis</i> (red cockaded woodpecker), <i>Athene cunicularia floridana</i> (Florida burrowing owl), <i>Grus canadensis pratensis</i> (Florida sandhill crane), <i>Aphelocoma coerulescens</i> (Florida scrub jay) <i>Gopherus polyphemus</i> (gopher tortoise), <i>Calopogon multiflorus</i> (many-flowered grass-pink), <i>Centrosema Arenicola</i> (sand butterfly pea), <i>Deeringothamnus pulchellus</i> (beautiful pawpaw), <i>Linum carteri</i> var. <i>smallii</i> (Carter's flax), <i>Pteroglossaspis ecristata</i> (giant orchid), and <i>Schizachyrium niveum</i> (scrub bluestem).
414E1	Pine – Mesic Oak (1-25% Exotics)	<i>Drymarchon corais couperi</i> (Eastern indigo snake), <i>Eumops floridanus</i> (Florida Bonneted bat), <i>Puma</i> (=Felis) <i>concolor coryi</i> (Florida panther), <i>Puma</i> (=Felis) <i>concolor</i> (puma), <i>Polyborus plancus audubonii</i> (crested caracara), <i>Picoides borealis</i> (red cockaded woodpecker), <i>Athene cunicularia floridana</i> (Florida burrowing owl), <i>Grus canadensis pratensis</i> (Florida sandhill crane), <i>Aphelocoma coerulescens</i> (Florida scrub jay), <i>Gopherus polyphemus</i> (gopher tortoise) <i>Centrosema Arenicola</i> (sand butterfly pea), and <i>Schizachyrium niveum</i> (scrub bluestem).
617E1	Mixed Wetland Hardwoods (1-25% Exotics)	<i>Grus canadensis pratensis</i> (Florida sandhill crane), <i>Laterallus jamaicensis</i> ssp. <i>Jamaicensis</i> (Eastern black rail), <i>Mycteria americana</i> (wood stork), <i>Alligator mississippiensis</i> (American alligator), <i>Crocodylus acutus</i> (American crocodile), <i>Rostrhamus sociabilis</i> (snail kite)



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5.0 RESULTS

No listed species were observed within the project limits. Wildlife that was observed includes the *Cardinalis cardinalis* (northern cardinal) and various lizards.

TABLE 4-3 SURVEY RESULTS				
Protected Species	FLUCFCS Area	Present	Absent	Density
Animals				
Eastern indigo snake	411 and 414 E1		X	0%
Florida bonneted bat	411 and 414 E1		X	0%
Florida panther	411 and 414 E1		X	0%
Crested caracara	411 and 414 E1		X	0%
Red cockaded woodpecker	411 and 414 E1		X	0%
Florida burrowing owl	411 and 414 E1		X	0%
Florida sandhill crane	411, 414 E1, and 617 E1		X	0%
Florida scrub jay	411 and 414 E1		X	0%
Gopher tortoise	411 and 414 E1		X	0%
Eastern black rail	617 E1		X	0%
Wood stork	617 E1		X	0%
American alligator (due to resemblance to American crocodile)	617 E1		X	0%
American crocodile	617 E1		X	0%
Snail kite	411, 414 E1, and 617 E1		X	0%
Plants				
many-flowered grass-pink	411		X	0%
Sand butterfly pea	411, 414 E1		X	0%
Beautiful pawpaw	411		X	0%
Carter's flax	411		X	0%
Giant orchid	411		X	0%
Scrub bluestem	411, 414 E1		X	0%



6.0 REFERENCES

Audubon Florida's Eaglewatch. <https://cbop.audubon.org/conservation/about-eaglewatch-program>.

Florida Department of Transportation. 2001. Florida Land Use, Cover and Forms Classification System (FLUCFCS).

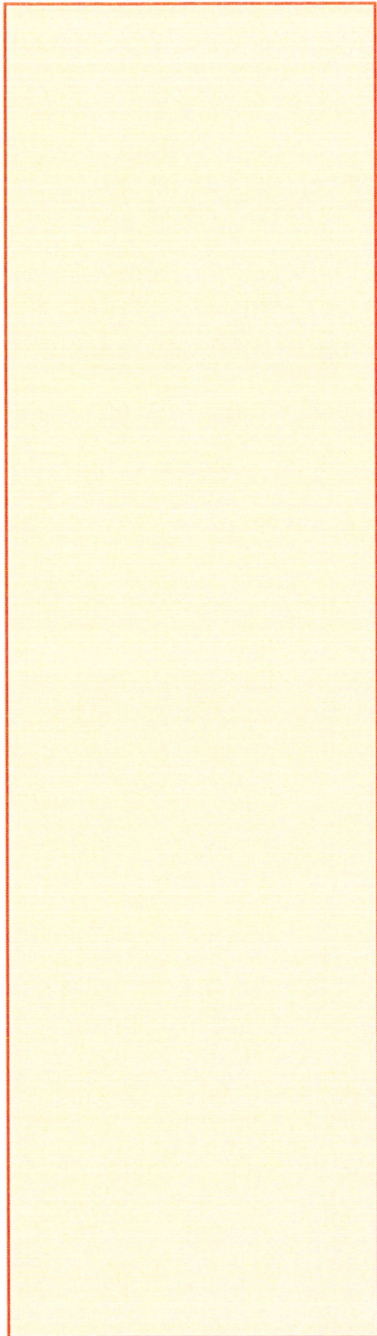
Florida Fish and Wildlife Conservation Commission, US Fish and Wildlife Service, Florida Natural Areas Inventory. Florida Wildlife Conservation Guide. Tallahassee; Version November 2011 (annual update). Florida Natural Areas Inventory (FNAI) Biodiversity Matrix. <https://www.fnai.org/BiodiversityMatrix/index.html>

U.S. Fish and Wildlife Service. Information for Planning and Consultation (iPac). <https://ipac.ecosphere.fws.gov/>.

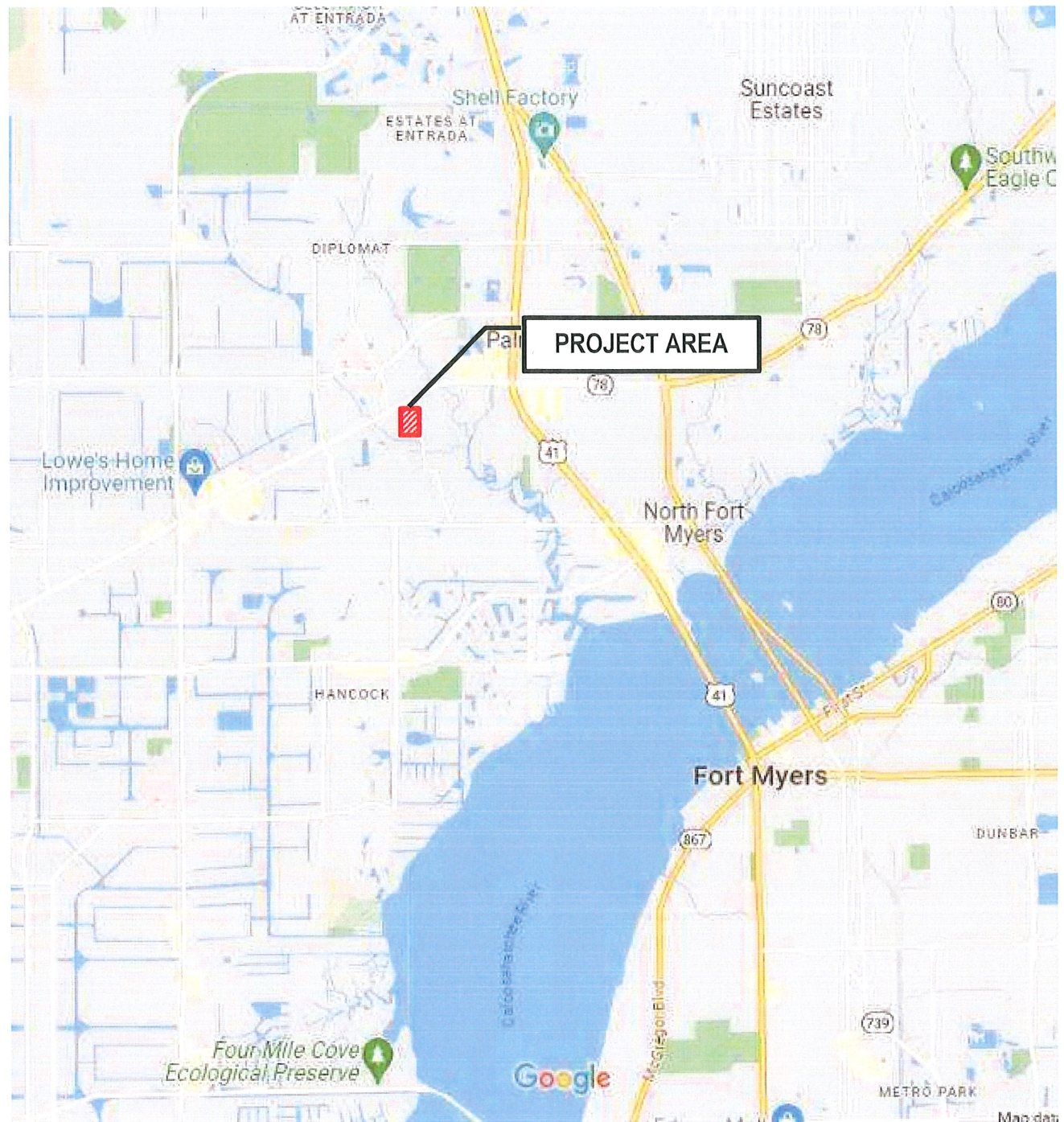
U. S. Department of Agriculture, Natural Resources Conservation Service (NRCS). 1989. Soil Survey for Pasco County, Florida.

Florida Fish and Wildlife Conservation Commission. April 2008 (Revised July 2020). Gopher Tortoise Permitting Guidelines. Tallahassee, FL.





FIGURES



SITE LOCATION MAP
SOURCE: Google.com/maps



Floor & Decor
North Fort Myers, Florida
PACSCON Project No. 2023-1841



C:\Users\leigh\Dropbox\Projects\Floor_and_Decor_F\Myers\Wetland limits.dwg (8.5 x 11) Leigh Jan 05, 2024 - 11:46am



WETLAND LIMITS FLOOR AND DECOR

SEC TWP RGE	JOB NUMBER	DRAWN BY	DATE	SHEET
04-44S-24E		LAA	01.05.2024	



LEGEND

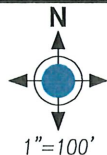
- 411 - MESIC FLATWOODS
- 414E1 - PINE-MESIC OAK (1-25% EXOTICS)
- 617E1 - MIXED WETLAND HARDWOOD (1-25% EXOTICS)

411

414E1

617E1

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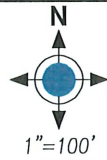


**FLUCFCS AND PROTECTED SPECIES SURVEY MAP
FLOOR AND DECOR**

SEC TWP RGE	JOB NUMBER	DRAWN BY	DATE	SHEET
04-44S-24E		LAA	01.05.2024	

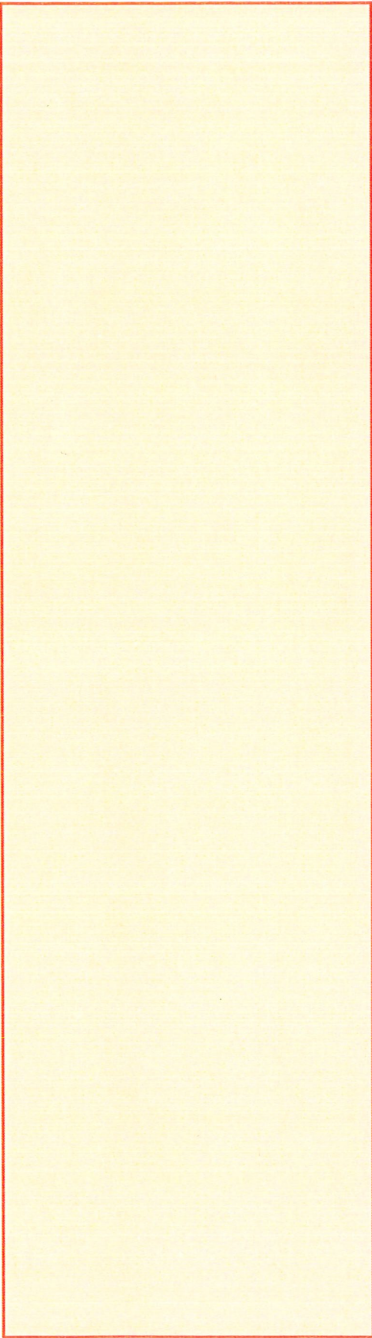


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SOILS MAP FLOOR AND DECOR

SEC TWP RGE	JOB NUMBER	DRAWN BY	DATE	SHEET
04-44S-24E		LAA	09.22.2023	



APPENDIX A

PHOTOGRAPHIC DOCUMENTATION



1. General view of western side of site



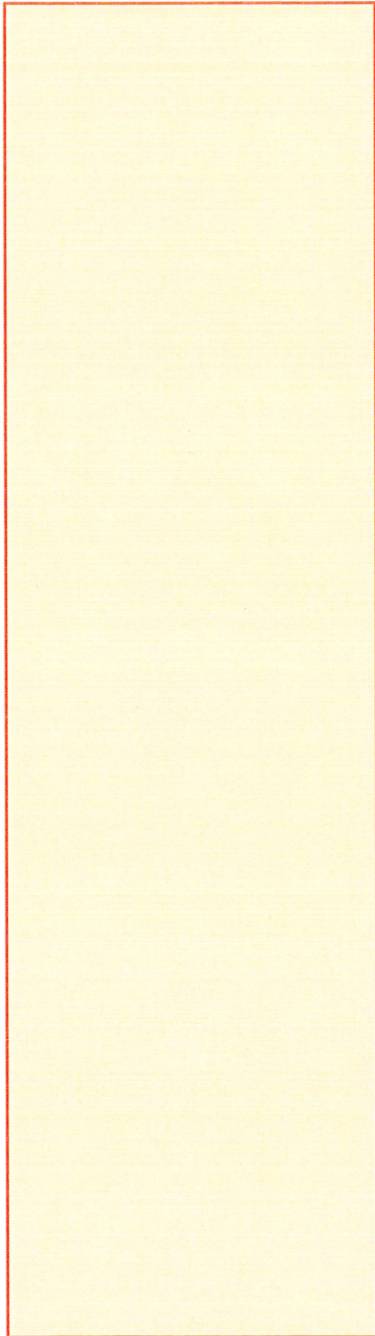
2. General view of eastern side of site



3. View of Wetland A



4. View of outer edge of Wetland A

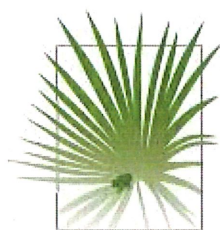


APPENDIX B

FNAI BIODIVERSITY MATRIX QUERY RESULTS

9/26/23, 2:07 PM

FNAI Biodiversity Matrix



FLORIDA
Natural Areas
INVENTORY

1018 Thomasville Road
Suite 200-C
Tallahassee, FL 32303
850-224-8207
850-681-9364 fax
www.fnai.org

Florida Natural Areas Inventory

Biodiversity Matrix Query Results

UNOFFICIAL REPORT

Created 9/26/2023

(Contact the FNAI Data Services Coordinator at 850.224.8207 or
kbrinegar@fnai.fsu.edu for information on an official Standard Data Report)

NOTE: The Biodiversity Matrix includes only rare species and natural communities tracked by FNAI.

Report for 1 Matrix Unit: 35925

Descriptions

DOCUMENTED - There is a documented occurrence in the FNAI database of the species or community within this Matrix Unit.

DOCUMENTED-HISTORIC - There is a documented occurrence in the FNAI database of the species or community within this Matrix Unit; however the occurrence has not been observed/reported within the last twenty years.

LIKELY - The species or community is *known* to occur in this vicinity, and is considered likely within this Matrix Unit because:

1. documented occurrence overlaps this and adjacent Matrix Units, but the documentation isn't precise enough to indicate which of those Units the species or community is actually located in; *or*
2. there is a documented occurrence in the vicinity and there is suitable habitat for that species or community within this Matrix Unit.

POTENTIAL - This Matrix Unit lies within the known or predicted range of the species or community based on expert knowledge and environmental variables such as climate, soils, topography, and landcover.

Matrix Unit ID: 35925

0 **Documented** Elements Found

0 **Documented-Historic** Elements Found

4 **Likely** Elements Found

Scientific and Common Names	Global Rank	State Rank	Federal Status	State Listing
<i>Drymarchon couperi</i> Eastern Indigo Snake	G3	S2?	T	FT
<i>Eumops floridanus</i> Florida bonneted bat	G1	S1	E	FE
<i>Mesic flatwoods</i>	G4	S4	N	N
<i>Mycteria americana</i> Wood Stork	G4	S2	T	FT

9/26/23, 2:07 PM

FNAI Biodiversity Matrix

Matrix Unit ID: 3592525 **Potential** Elements for Matrix Unit 35925

Scientific and Common Names	Global Rank	State Rank	Federal Status	State Listing
<i>Acipenser oxyrinchus desotoi</i> Gulf Sturgeon	G3T2T3	S2?	T	FT
<i>Antigone canadensis pratensis</i> Florida Sandhill Crane	G5T2	S2	N	ST
<i>Aphelocoma coerulescens</i> Florida Scrub-Jay	G2?	S1S2	T	FT
<i>Athene cunicularia floridana</i> Florida Burrowing Owl	G4T3	S3	N	ST
<i>Calopogon multiflorus</i> many-flowered grass-pink	G2G3	S2S3	N	T
<i>Centrosema arenicola</i> sand butterfly pea	G2Q	S2	N	E
<i>Deeringothamnus pulchellus</i> beautiful pawpaw	G1	S1	E	E
<i>Eretmochelys imbricata</i> Hawksbill Sea Turtle	G3	S1	E	FE
<i>Gopherus polyphemus</i> Gopher Tortoise	G3	S3	C	ST
<i>Lechea cernua</i> nodding pinweed	G3	S3	N	T
<i>Linum carteri</i> var. <i>smallii</i> Small's flax	G2T2	S2	N	E
<i>Mustela frenata peninsulæ</i> Florida Long-tailed Weasel	G5T3?	S3?	N	N
<i>Nemastylis floridana</i> celestial lily	G2	S2	N	E
<i>Neofiber alleni</i> Round-tailed Muskrat	G2	S2	N	N
<i>Nolina atopocarpa</i> Florida beargrass	G3	S3	N	T
<i>Peucaea aestivalis</i> Bachman's Sparrow	G3	S3	N	N
<i>Pteroglossaspis ecristata</i> giant orchid	G2G3	S2	N	T
<i>Rallus longirostris scottii</i> Florida Clapper Rail	G5T3?	S3?	N	N
<i>Rivulus marmoratus</i> Mangrove Rivulus	G4G5	S3	SC	N
<i>Rostrhamus sociabilis</i> Snail Kite	G4G5	S2	E	FE
<i>Schizachyrium niveum</i> scrub bluestem	G1G2	S1S2	N	E
<i>Sciurus niger niger</i> Southeastern Fox Squirrel	G5T5	S3	N	N
<i>Setophaga discolor paludicola</i> Florida Prairie Warbler	G5T3	S3	N	N
<i>Trichechus manatus latirostris</i> Florida Manatee	G2G3T2	S2S3	T	N
<i>Ursus americanus floridanus</i> Florida Black Bear	G5T4	S4	N	N

Disclaimer

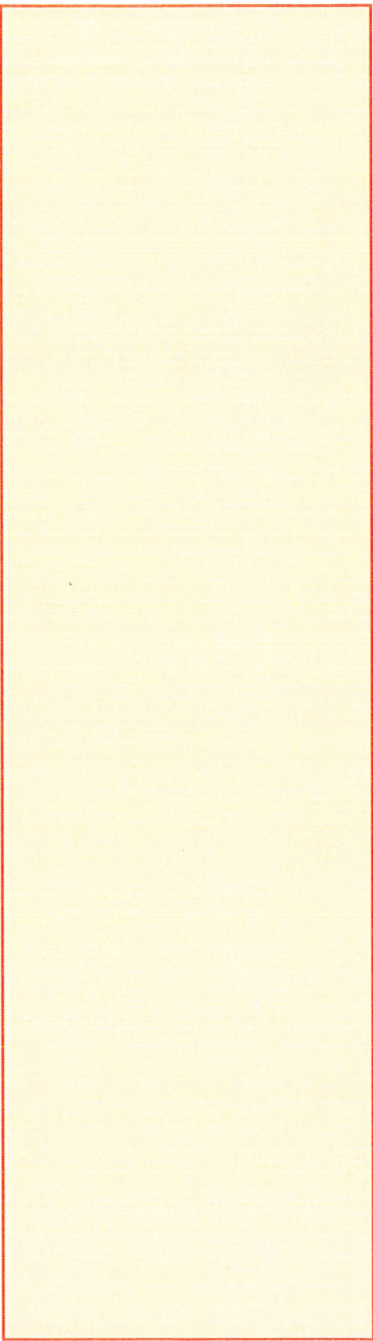
The data maintained by the Florida Natural Areas Inventory represent the single most comprehensive source of information available on the locations of rare species and other significant ecological resources statewide. However, the data are not always based on comprehensive or site-specific field surveys. Therefore, this information should not be regarded as a final statement on the biological resources of the site being considered, nor should it be substituted for on-site surveys. FNAI shall not be held liable for the accuracy and completeness of these data, or opinions or conclusions drawn from these data. FNAI is not inviting reliance on these data. Inventory data are designed for the purposes of conservation planning and scientific research and are not intended for use as the primary criteria for regulatory decisions.

9/26/23, 2:07 PM

FNAI Biodiversity Matrix

Unofficial Report

These results are considered unofficial. FNAI offers a [Standard Data Request](#) option for those needing certifiable data.



APPENDIX C

*U.S. Fish and Wildlife Service (FWS) Environmental
Conservation Online System (IPaC) results*

12/4/23, 2:01 PM

IPaC: Explore Location resources

IPaC**U.S. Fish & Wildlife Service**

IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Lee County, Florida



Local office

Florida Ecological Services Field Office

☎ (772) 562-3909

📠 (772) 562-4288

✉ fw4flesregs@fws.gov

12/4/23, 2:01 PM

IPaC: Explore Location resources

1339 20th Street

Vero Beach, FL 32960-3559

<https://www.fws.gov/office/florida-ecological-services>

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species¹ and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries²).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the Endangered Species Act are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information. IPaC only shows species that are regulated by USFWS (see FAQ).

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2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

NAME	STATUS
Florida Bonneted Bat <i>Eumops floridanus</i> Wherever found There is proposed critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/8630	Endangered
Florida Panther <i>Puma (=Felis) concolor coryi</i> Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/1763	Endangered
Puma (=mountain Lion) <i>Puma (=Felis) concolor</i> (all subsp. except <i>coryi</i>) No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/6049	SAT
West Indian Manatee <i>Trichechus manatus</i> Wherever found There is final critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/4469	Threatened Marine mammal

Birds

NAME	STATUS
Crested Caracara (audubon"s) [fl Dps] <i>Polyborus plancus audubonii</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/8250	Threatened
Eastern Black Rail <i>Laterallus jamaicensis</i> ssp. <i>jamaicensis</i> Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/10477	Threatened

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Everglade Snail Kite *Rostrhamus sociabilis plumbeus* Endangered

Wherever found

There is **final** critical habitat for this species. Your location does not overlap the critical habitat.

<https://ecos.fws.gov/ecp/species/7713>

Red-cockaded Woodpecker *Picoides borealis* Endangered

Wherever found

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/7614>

Rufa Red Knot *Calidris canutus rufa* Threatened

Wherever found

There is **proposed** critical habitat for this species.

<https://ecos.fws.gov/ecp/species/1864>

Wood Stork *Mycteria americana* Threatened

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/8477>

Reptiles

NAME

STATUS

American Alligator *Alligator mississippiensis* SAT

Wherever found

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/776>

American Crocodile *Crocodylus acutus* Threatened

There is **final** critical habitat for this species. Your location does not overlap the critical habitat.

<https://ecos.fws.gov/ecp/species/6604>

Eastern Indigo Snake *Drymarchon couperi* Threatened

Wherever found

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/646>

Green Sea Turtle *Chelonia mydas* Threatened

There is **final** critical habitat for this species. Your location does not overlap the critical habitat.

<https://ecos.fws.gov/ecp/species/6199>

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Kemp's Ridley Sea Turtle *Lepidochelys kempii* Endangered
Wherever found
There is **proposed** critical habitat for this species.
<https://ecos.fws.gov/ecp/species/5523>

Loggerhead Sea Turtle *Caretta caretta* Threatened
There is **final** critical habitat for this species. Your location does not overlap the critical habitat.
<https://ecos.fws.gov/ecp/species/1110>

Fishes

NAME	STATUS
Gulf Sturgeon <i>Acipenser oxyrinchus (=oxyrhynchus) desotoi</i> Wherever found There is final critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/651	Threatened

Insects

NAME	STATUS
Miami Blue Butterfly <i>Cyclargus (=Hemiargus) thomasi bethunebakeri</i> Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/3797	Endangered
Monarch Butterfly <i>Danaus plexippus</i> Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/9743	Candidate

Flowering Plants

NAME	STATUS
Aboriginal Prickly-apple <i>Harrisia (=Cereus) aboriginum (=gracilis)</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/2833	Endangered

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Beautiful Pawpaw *Deeringothamnus pulchellus*

Endangered

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/4069>

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

There are no critical habitats at this location.

You are still required to determine if your project(s) may have effects on all above listed species.

Bald & Golden Eagles

Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act¹ and the Migratory Bird Treaty Act².

Any person or organization who plans or conducts activities that may result in impacts to bald or golden eagles, or their habitats³, should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds
<https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>
- Nationwide conservation measures for birds
<https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC
<https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

There are bald and/or golden eagles in your project area.

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For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON

Bald Eagle *Haliaeetus leucocephalus*

Breeds Sep 1 to Jul 31

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

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To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

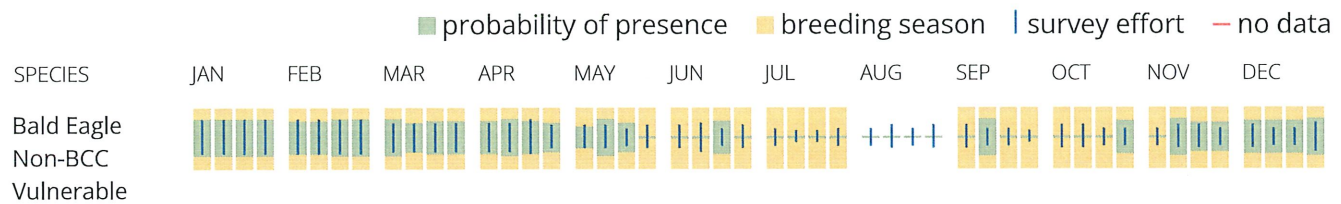
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

No Data (—)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



What does IPaC use to generate the potential presence of bald and golden eagles in my specified location?

The potential for eagle presence is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply). To see a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What does IPaC use to generate the probability of presence graphs of bald and golden eagles in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid

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cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to obtain a permit to avoid violating the [Eagle Act](#) should such impacts occur. Please contact your local Fish and Wildlife Service Field Office if you have questions.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats³ should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds
<https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC
<https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date

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range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON

American Kestrel *Falco sparverius paulus*

Breeds Apr 1 to Aug 31

This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

<https://ecos.fws.gov/ecp/species/9587>

Bachman's Sparrow *Aimophila aestivalis*

Breeds May 1 to Sep 30

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/6177>

Bald Eagle *Haliaeetus leucocephalus*

Breeds Sep 1 to Jul 31

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

Chimney Swift *Chaetura pelagica*

Breeds Mar 15 to Aug 25

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Great Blue Heron *Ardea herodias occidentalis*

Breeds Jan 1 to Dec 31

This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

Magnificent Frigatebird *Fregata magnificens*

Breeds Oct 1 to Apr 30

This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

Prairie Warbler *Dendroica discolor*

Breeds May 1 to Jul 31

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

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Red-headed Woodpecker *Melanerpes erythrocephalus*
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds May 10 to Sep 10

Reddish Egret *Egretta rufescens*
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/7617>

Breeds Mar 1 to Sep 15

Swallow-tailed Kite *Elanoides forficatus*
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
<https://ecos.fws.gov/ecp/species/8938>

Breeds Mar 10 to Jun 30

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.

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3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

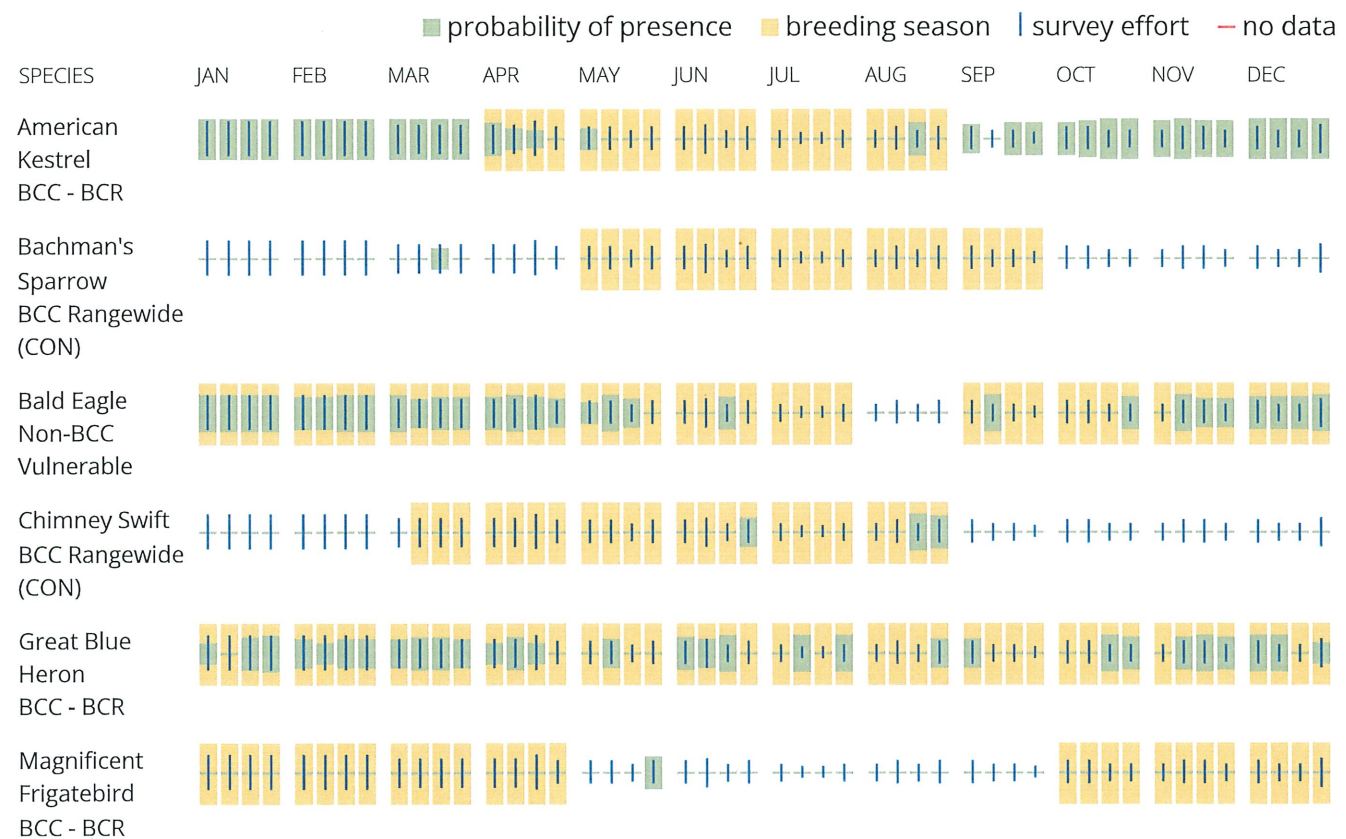
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

No Data (—)

A week is marked as having no data if there were no survey events for that week.

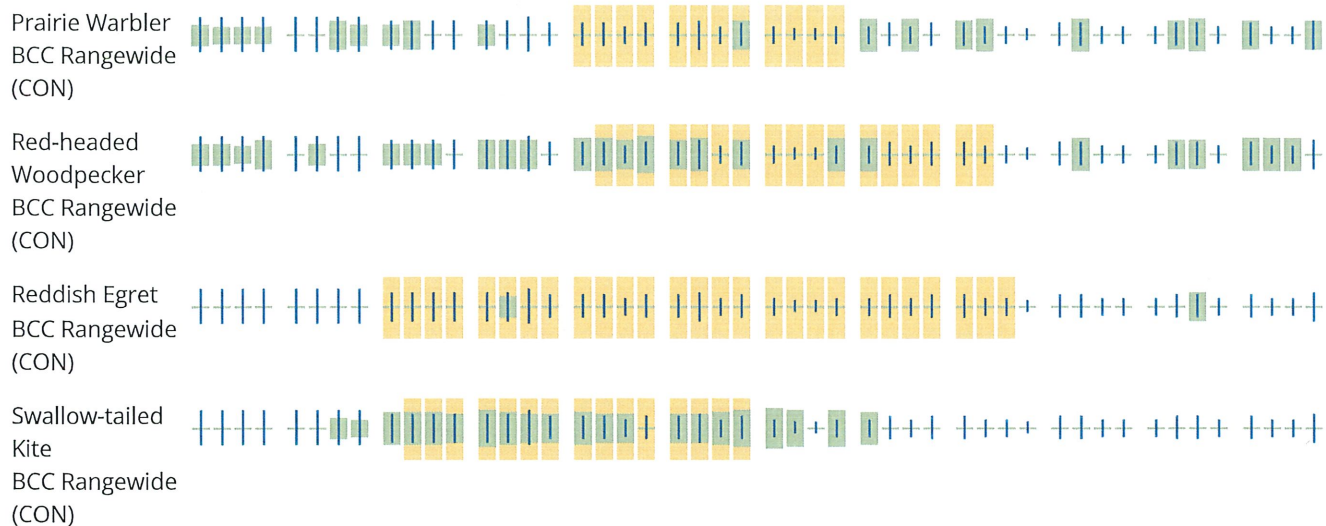
Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



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Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

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Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may query your location using the [RAIL Tool](#) and look at the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

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Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Marine mammals

Marine mammals are protected under the [Marine Mammal Protection Act](#). Some are also protected under the Endangered Species Act¹ and the Convention on International Trade in Endangered Species of Wild Fauna and Flora².

The responsibilities for the protection, conservation, and management of marine mammals are shared by the U.S. Fish and Wildlife Service [responsible for otters, walruses, polar bears, manatees, and dugongs] and NOAA Fisheries³ [responsible for seals, sea lions, whales, dolphins, and porpoises]. Marine mammals under the responsibility of NOAA Fisheries are **not** shown on this list; for additional information on those species please visit the [Marine Mammals](#) page of the NOAA Fisheries website.

The Marine Mammal Protection Act prohibits the take (to harass, hunt, capture, kill, or attempt to harass, hunt, capture or kill) of marine mammals and further coordination may be necessary for project evaluation. Please contact the U.S. Fish and Wildlife Service Field Office shown.

1. The [Endangered Species Act](#) (ESA) of 1973.
2. The [Convention on International Trade in Endangered Species of Wild Fauna and Flora](#) (CITES) is a treaty to ensure that international trade in plants and animals does not threaten their survival in the wild.
3. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following marine mammals under the responsibility of the U.S. Fish and Wildlife Service are potentially affected by activities in this location:

NAME

West Indian Manatee *Trichechus manatus*

<https://ecos.fws.gov/ecp/species/4469>

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Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

There are no refuge lands at this location.

Fish hatcheries

There are no fish hatcheries at this location.

Wetlands in the National Wetlands Inventory (NWI)

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

This location overlaps the following wetlands:

FRESHWATER FORESTED/SHRUB WETLAND

[PFO3/1C](#)

RIVERINE

[R5UBFx](#)

[R5UBH](#)

12/4/23, 2:01 PM

IPaC: Explore Location resources

A full description for each wetland code can be found at the [National Wetlands Inventory website](#)

NOTE: This initial screening does **not** replace an on-site delineation to determine whether wetlands occur. Additional information on the NWI data is provided below.

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

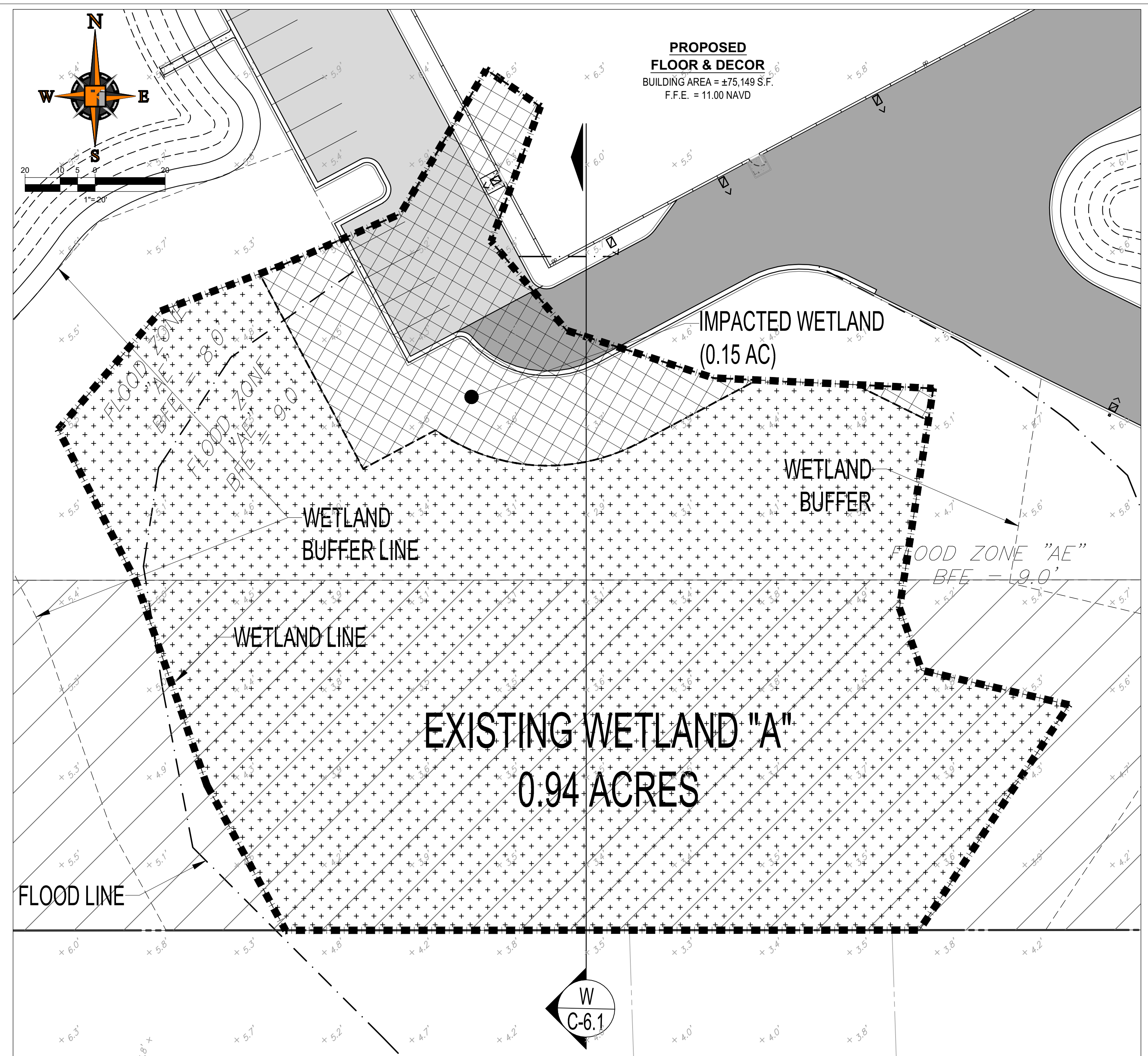
Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate Federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.



- 1 CONTRACTOR TO SOD AND STAKE SLOPE AND ALL DISTURBED AREAS ADJACENT TO WETLAND AND PRESERVATION AREA.
- 2 BUFFER PLANTING MATERIAL MUST BE MEASURED AT THE FINISHED GRADE OF THE PARKING AREA.
- 3 TOP AND BOTTOM OF STABILIZED SLOPE TO HAVE SILT FENCE PROTECTION ADJACENT TO WETLAND AND PRESERVATION AREAS.

PROPERTY LINE

PROPOSED BUILDING

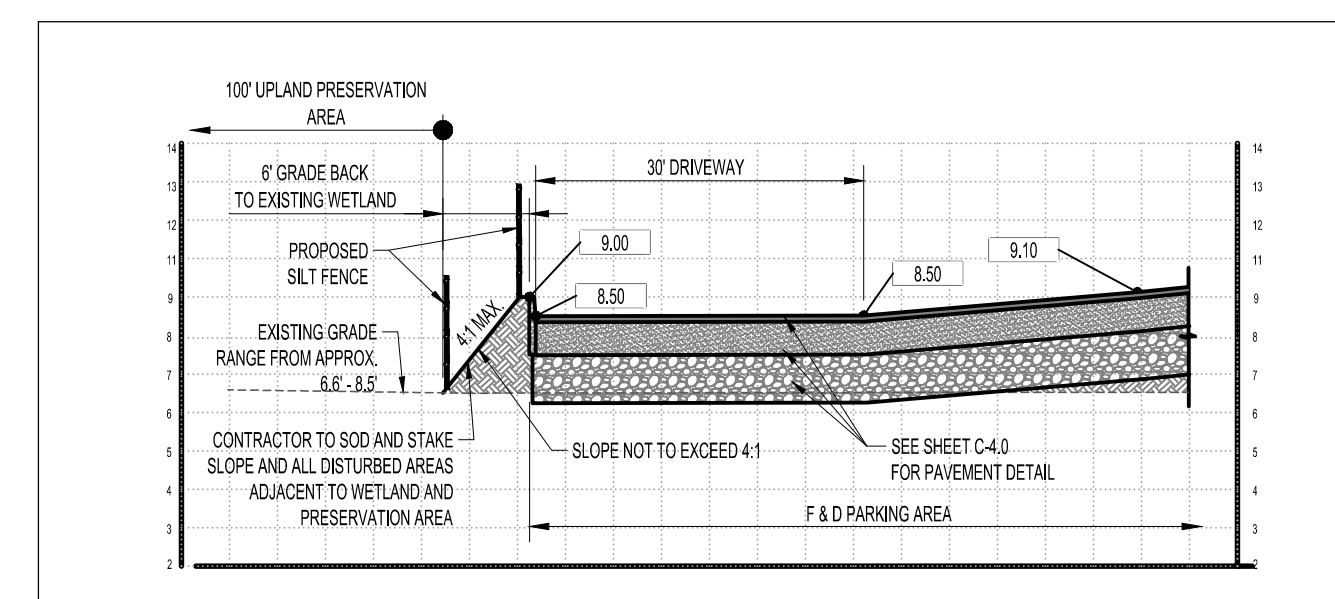
WETLAND AREA

IMPACTED WETLAND AREA

WETLAND LINE

PRESERVATION AREA

WETLAND IMPACTED : 0.15 AC



SECTION Y
SCALE: H. 1" = 20' - V. 1" = 2'

Digitally signed by
Edward M McDonald
DN: c=US,
o=THOMAS
ENGINEERING
GROUP LLC,
dnQualifier=01410
0000178AC0E81
00007568,
cn=Edward M
McDonald, P.E.
January 12, 2024
FLORIDA LICENSE NO. 17818
FLORIDA BUSINESS REGISTRATION NO. 2752

C-6.1

**FGUA Operations Office**

Government Services Group, Inc.
280 Wekiva Springs Rd., Ste 2070
Longwood, FL 32779-6026

(877) 552-3482 Toll Free
(407) 629-6900 Tel
(407) 629-6963 Fax

October 23, 2023

Ashanti Shahriyar
Lee County Utilities
1500 Monroe Street,
Fort Myers, FL 33901
lcudcap@leegov.com

RE: Wastewater and Reclaim Water Availability – LOA ID#: 24-002 NFMD
Parcel ID No.: 04-44-24-00-00014.0000 & 04-44-24-00-00015.0000
2800 NE Pine Island Rd, North Fort Myers, Florida, 33903
Floor & Decor - Pine Island

Dear Mr. Shahriyar:

The FGUA has received your Application for Service Availability, and upon review, it has been determined that wastewater disposal service is generally available to the address provided. The attached site map indicates the approximate size and location of the existing mains in the area. Please be advised that main extensions, connection to the reclaimed water system, and other system enhancements funded by the project sponsor may be required.

The application indicated that the proposed project consists of 80,000 sf retail building with an estimated wastewater disposal demand of 5,980 GPD. Currently, FGUA facilities are able to accommodate this demand. During the design process, if existing conditions warrant, a hydraulic analysis may need to be performed by the project engineer to evaluate the impacts the proposed project may have on the existing wastewater system.

This letter should not be construed as a commitment to serve, but only as a statement of the availability of service and is effective for twelve (12) months from the date of issue. The FGUA commitment to serve will be made once a Utility Infrastructure Conveyance and Service Agreement (CSA) is fully executed. To move this project forward, contact Development Services via email at devservices@fgua.com to receive a plan submittal package and schedule the pre-application meeting if required.

FGUA Board of Directors

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Letter of Availability
Page 2 of 3

Sincerely,

FLORIDA GOVERNMENTAL UTILITY AUTHORITY



Digitally signed by Douglas W Black
Date: 2023.10.26 12:09:29 -04'00'

Douglas W. Black, PSM, PLS
Property & Development Manager

CC: Mike Currier, South Region Area Manager

Encl.

1. Pre-Development Meeting Information
2. Utility Locates
3. Fee Statement/Receipt

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Development Services Division

Pre-Application Meeting Information

Purpose:

The pre-application meeting is designed to be an informative discussion, specifically geared toward assisting the applicant (owner/developer/engineer) understand the FGUA's policies and development process. The pre-application meeting may be required prior to the formal submission and review of any utility construction plans by the Development Division.

It is our goal to assist you through the FGUA development process as smoothly as possible, and for your development to be a success. This pre-application meeting, if required, will provide you with the details you need to make this a successful and stress-free process.

What to Expect:

If the meeting is required, you will be provided with a variety of both general and specific information regarding the FGUA's development process. This will include, but not be limited to staff contact information, plan review guidelines, current fees, conveyance, and closeout procedures.

Who Should Attend:

It is encouraged that a representative from the property owner, developer, and engineer, at a minimum, attend this meeting. Representatives of the FGUA's Development Division, including the Development Technician, Development Coordinator, Real Property Coordinator and utility system Area Manager will also be in attendance as required.

In an effort to accommodate the potential long-distance commute between the FGUA's Operations Office in Longwood, Florida and the FGUA system areas, these meetings will take place via Microsoft Teams.

Meeting Requests:

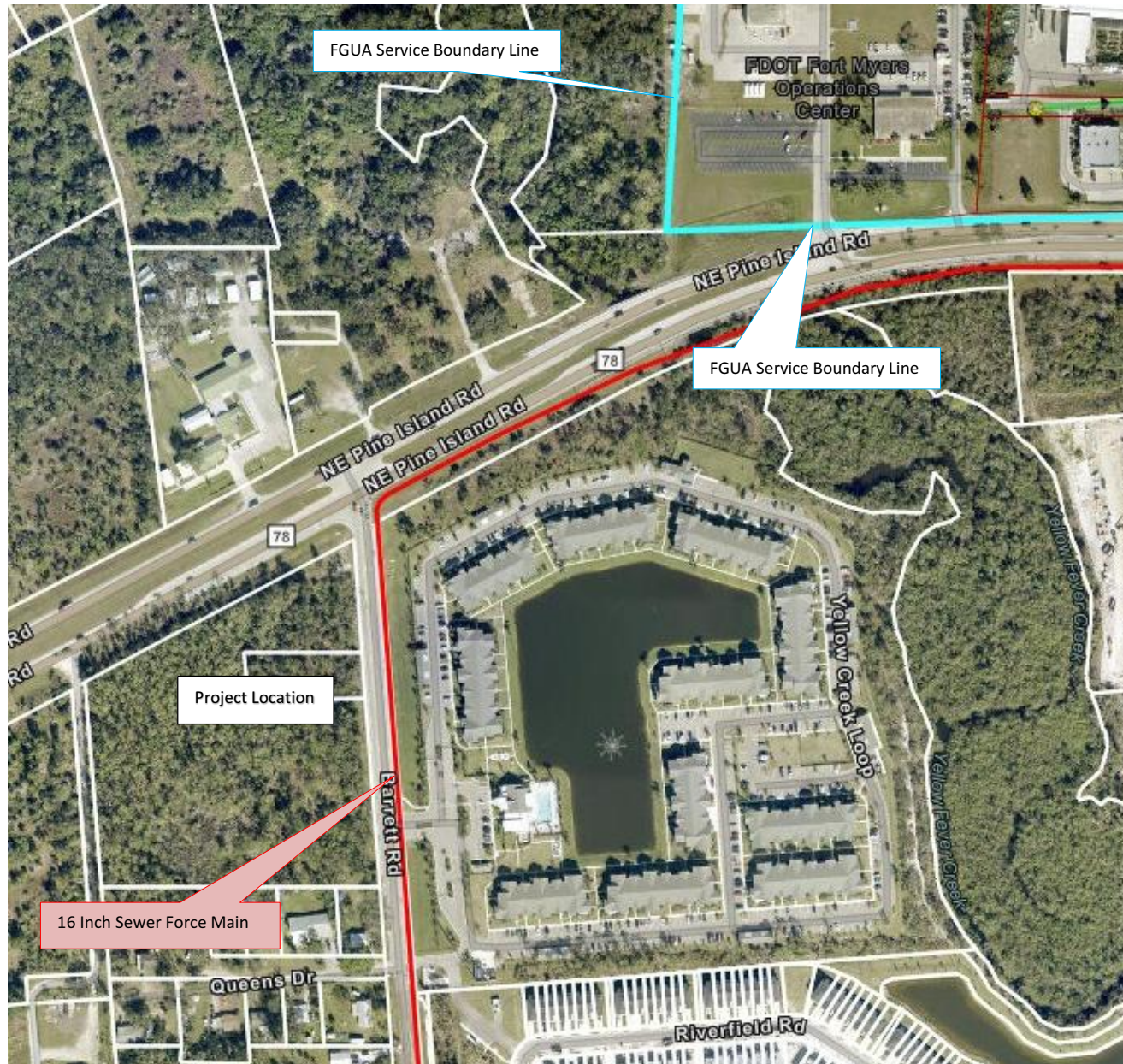
Please e-mail Development Services to request a meeting at devservices@fgua.com.

Please have your FGUA Letter of Availability (LOA) Number (included on the first page of your previously issued Letter of Availability) ready when you email to schedule this meeting.

You will also be required to provide a preliminary site utility plan for staff review before the meeting is scheduled.

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ALL UTILITY LOCATIONS SHOWN HERE ARE APPROXIMATE. THE DEVELOPER IS SOLELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS VIA POTHOLING OR OTHER ACCEPTABLE MEANS.

**BOARD OF COUNTY COMMISSIONERS**

Kevin Ruane
District One

May 17, 2023

Via E-Mail

Cecil L Pendergrass
District Two

Edward M McDonald

Raymond Sandelli
District Three

Thomas Engineering Group, LLC
1502 W. Fletcher Avenue, Suite 10
Tampa, FL 33612

Brian Hamman
District Four

Michael Greenwell
District Five

Roger Desjarlais
County Manager

**RE: Potable Water and Wastewater Availability
Floor & Décor – Pine Island 2800 NE Pine Island Road
STRAP # 04-44-24-00-00014.0000 & 04-44-24-00-00015.0000**

Richard Wm Wesch
County Attorney

Donna Marie Collins
*County Chief
Hearing Examiner*

To whom this may concern:

The subject property is located within Lee County Utilities Future Service Area as depicted on Map 4B of the Lee County Comprehensive Land Use Plan. Potable water and sanitary sewer lines are in operation adjacent to the property mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of one commercial unit with an estimated flow demand of approximately 5,980 gallons per day. Lee County Utilities presently has sufficient capacity to provide sanitary sewer service as estimated above.

Availability of potable water and sanitary sewer service is contingent upon final acceptance of the infrastructure to be constructed by the developer. Upon completion and final acceptance of this project, potable water service will be provided through our North Lee County Water Treatment Plant.

Sanitary sewer service will be provided by our Del Prado Water Reclamation Facility. The Lee County Utilities' Design Manual requires the project engineer to perform hydraulic computations to determine what impact this project will have on our existing system.

There are no reuse mains in the vicinity of these parcels.

Prior to beginning design work on this project, please meet with LCU Staff to determine the best point of connection and discuss requirements for construction.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate

Floor & Decor - Pine Island - Thomas Eng - Letter-Revised.Docx

May 17, 2023

Page 2

connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of potable water and sanitary sewer service is to be utilized for Development Review and SFWMD only. Individual letters of availability will be required for the purpose of obtaining building permits.

Sincerely,

LEE COUNTY UTILITIES

Ashanti Shahriyar

Ashanti Shahriyar

Plan Reviewer

239-533-8531

UTILITIES ENGINEERING