

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by the property owner, Black Spider Land Company, LLC c/o Chris King, to rezone a 34.8± acre parcel from Agriculture (AG-2) and Residential Single-Family (RS-1) to Residential Planned Development (RPD) in reference to Bayshore 31 RPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Donna Marie Collins, was advertised to be held on March 28, 2024. On March 28, 2024, prior to commencing the case presentation, at the request of the Applicant, the Hearing Examiner continued the hearing until June 13, 2024. On June 13, 2024, the public hearing was held; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case # DCI2022-00037 and recommended APPROVAL of the request with conditions; and

WHEREAS, a second public hearing was advertised and held on August 7, 2024 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 34.8± acre parcel from AG-2 and RS-1 to RPD, to allow 180 multiple-family residential units.

The property is located in the Suburban and Wetlands Future Land Use Categories and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Master Concept Plan and Approved Development Parameters

Master Concept Plan (MCP). Development must be consistent with the one-page MCP entitled "Bayshore 31 RPD" dated June 13, 2024, except as modified by conditions below.

Compliance with Lee Plan and LDC. Development must comply with the Lee Plan and LDC except where deviations have been approved in this resolution. Changes to the MCP or conditions of approval may require further development approvals.

Approved Development Parameters. The RPD is approved to develop up to 180 multiple family dwelling units.

2. Permitted Uses and Site Development Regulations

a. Schedule of Uses

Accessory Uses and Structures

Administrative Offices

Dwelling Units:

Multiple-Family, limited to 180 dwelling units

Entrance Gates and Gatehouses

Essential Services

Essential Service Facilities, Group I

Excavation, Water Retention

Fences and Walls

Models:

Model Unit

Parking Lot, Accessory

Real Estate Sales Office

Recreational Facilities

Personal

Private-On-Site

Residential Accessory Uses

Signs

Temporary Uses, limited to construction trailers and storage during development

b. Site Development Regulations

Minimum Lot Area and Dimensions:

Area: 10,000 square feet

Width: 100 feet

Depth: 100 feet

Minimum Building Setbacks:

Development Perimeter: 15 feet

Street: 25 feet

Side: 0 feet

Rear: 0 feet

Waterbody: 25 feet

Building Separation: 10 feet

Maximum Lot Coverage: 50%

Maximum Building Height: 35 feet

3. Model Unit and Real Estate Sales

- a. Number of Model Units. The project may include up to nine active model units at one time.

- b. Location. Development order plans must identify the location of model units.
- c. Floor Plans. Each model unit must exhibit a unique floor plan.
- 4. Natural Resources

Development order submittals must include a draft drainage and access easement in favor of Lee County. The easement must permit County access to the onsite flow way and allow the right, but not the obligation, to maintain the flow way in accordance with LDC criteria. Applicant/developer must execute a drainage and access easement prior to county issuance of a certificate of completion for the project.
- 5. Wetland Impacts

Development order submittals must include either a.) the receipt for wetland mitigation payments or b.) wetland mitigation plans for impacted wetlands.
- 6. Coastal High Hazard Area

Development order submittals must include calculations that quantify the flood storage volume provided by wetlands within the Coastal High Hazard Area and demonstrate equal compensatory flood storage volume within the proposed development on the engineer plans.
- 7. State and Federal Permits
 - a. Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.
 - b. State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

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

SECTION C. DEVIATIONS

- 1. Street Design and Construction Standards. Deviation (1) seeks relief from the LDC § 10-296(k), which requires dead-end streets to be closed at one end by a circular turnaround, to instead to allow a hammerhead design for dead-end streets that are a maximum of 150 feet in length. This deviation is APPROVED.

2. Excavations. Deviation (2) seeks relief from the LDC § 10-329(d)(1)a.3, which requires excavation setbacks of 50 feet from property lines under separate ownership, to allow a 30-foot excavation setback from a Florida Department of Transportation (FDOT) detention pond. This deviation is APPROVED SUBJECT TO the following condition:

Development order landscape plans must depict an enhanced Type-A landscape buffer abutting the FDOT detention pond along the northeast property line. The Type-A buffer must include four trees per 100 linear feet and a single hedge row. Landscape vegetation must comply with LDC Plant Material Standards.

3. Required Street Access. Deviation (3) seeks relief from the LDC § 10-291(3), which requires developments greater than five acres to provide more than one means of ingress or egress, to allow one primary access to Bayshore Road and one “emergency only” stabilized access to Hartwig Lane. This deviation is APPROVED.
4. Landscape Standards. Deviation (4) seeks relief from the LDC § 10-416(d)(9), which requires a 50-foot-wide natural waterway buffer, to allow an existing FDOT drainage easement to encroach within the waterway buffer. This deviation is APPROVED.
5. Plant Installation and Maintenance Standards. Deviation (5) seeks relief from the LDC § 10-421(a)(2), which requires buffer trees and shrubs to be planted in a minimum width area equal to one-half the required width of the buffer, to allow a planting width of between 17 and 26 feet. This deviation is APPROVED SUBJECT TO the following condition:

Development order plans must depict a minimum 17-foot to 25-foot-wide planting area outside the 70-foot FDOT drainage easement and 20-foot Lee County maintenance easement.

SECTION D. EXHIBITS

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS

Based upon its review, the Board of County Commissioners adopts the recommendation of the Hearing Examiner, including the following findings and conclusions:

1. The requested Bayshore 31 RPD is consistent with the Lee Plan. Lee Plan Goals 2, 4, 5, 30, 60, 61, 77, 95, 123, 125, 135, 158; Objectives 1.5, 2.1, 2.2, 4.1, 5.1, 6.1, 77.1, 77.3, 95.1.3, 123.2, 123.4, 126.2, 135.1, 158.1, and Policies 1.1.5, 1.5.1, 1.6.5, 2.1.2, 2.2.1, 2.2.2, 5.1.1, 5.1.5, 5.1.7, 5.1.10, 5.2.4, 123.2.4, 124.1.1, 135.1.9, 135.9.6, 158.1.7; Lee Plan Maps 1-A, 1-B, 3-D, 4-A, 4-B, 4-E, and Table 1(a).
2. As conditioned, the RPD zoning designation:
 - a. Is consistent with the LDC or qualifies for deviations. LDC Chapters 2, 10, 33, and 34.

- b. Is compatible with existing or planned uses in the surrounding area. Lee Plan Objectives 2.1, 158.1, and Policies 5.1.2, 5.1.3, 5.1.5, 5.2.4, 135.1.9, 135.9.5, 135.9.6, 158.1.7; LDC §§ 34-411, 34-413.
 - c. Provides sufficient road access to support proposed development intensity. Lee Plan Policies 39.2.1, 39.2.2.
 - d. Expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. Lee Plan Objective 39.1, Policies 37.3.3, 38.1.1, 38.1.5, 39.1.1, 39.1.3; LDC §§ 2-261 *et seq.*, 34-411(d) and (e).
 - e. Will not adversely affect environmentally sensitive areas or natural resources. Lee Plan Goals 60, 61, 77, 123, 125, Objectives 60.4, 61.2, 123.1, 123.2, 123.4, 123.8, 124.1, 126.2, Policies 5.1.6, 30.5.3, 60.1.2, 60.4.1, 60.4.2, 60.4.3, 61.3.4, 61.3.6, 61.3.8, 61.3.11, 77.3.1, 77.3.5, 77.3.7, 123.2.4, 123.2.13, 123.8.1, 125.1.2, 125.1.4, 126.1.4, 126.2.1, 158.1.7, and Standard 4.1.4.
 - f. Public services and infrastructure will be available to serve the development. Goals 2, 4, 95, Objectives 2.1, 2.2, 4.1, Policies 2.2.1, 95.1.3, Standards 4.1.1, 4.1.2.
3. The proposed uses are appropriate at the subject location. Lee Plan Goals 2, 5, 6, 30; Objectives 2.1, 2.2, Policies 2.1.1, 2.1.2, 5.1.2, 5.1.3, 5.1.5, 5.2.4, 124.1.1, 135.9.5, 135.9.6.
 4. The County regulations and recommended conditions provide sufficient safeguards to protect the public interest and relate to impacts expected from the proposed development. Lee Plan Policies 5.1.2, 5.1.5, 61.3.3, 61.3.8, 123.2.15, 123.2.9, 135.9.6, 158.1.7; LDC §§ 34-377(a)(3), 34-411 and 34-932(c).
 5. Deviations recommended for approval enhance the planned development and preserve public health, safety, and welfare. LDC §§ 34-373(a)(9), 34-377(a)(4).

SECTION F. SCRIVENER'S ERRORS

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or designee, without the need for a public hearing.

Commissioner Hamman made a motion to adopt the foregoing resolution, seconded by Commissioner Sandelli. The vote was as follows:

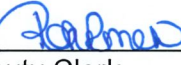
Adopted by unanimous consent.

Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DULY PASSED AND ADOPTED this 7th day of August 2024.

ATTEST:
KEVIN C. KARNES
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Deputy Clerk

BY: 
Mike Greenwell, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


Joseph A. Adams
Assistant County Attorney
County Attorney's Office

Exhibit A

LEGAL DESCRIPTION

SECTION 29, TOWNSHIP 43 SOUTH, RANGE 25 EAST
NORTH FORT MYERS, FLORIDA

DESCRIPTION:

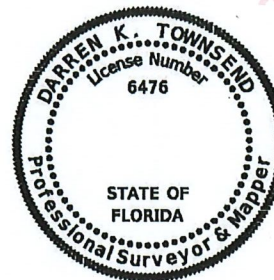
ALL OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2905, PAGE 2913 LYING EAST OF STATE ROAD 78 (BAYSHORE ROAD) AND ALL LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2905, PAGE 2915, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; LESS THAT PORTION OF LAND DESCRIBED IN ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 3852, PAGE 2525, OF SAID PUBLIC RECORDS; SAID LANDS LYING IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 29, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 29; THENCE N 00°14'26" W, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER (NW 1/4), FOR 1012.23 FEET; THENCE N 89°59'37" EAST, ALONG THE SOUTH LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2905, PAGE 2913, FOR 440.41 FEET TO THE EASTERLY BOUNDARY OF SAID ORDER OF TAKING, SAID EASTERLY BOUNDARY ALSO BEING THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 78 (BAYSHORE ROAD), AND THE **POINT OF BEGINNING**; THENCE ALONG SAID EASTERLY BOUNDARY THE FOLLOWING SEVEN (7) COURSES: 1) N 42°40'02" E, FOR 587.21 FEET; 2) S 47°19'58" E, FOR 5.00 FEET; 3) N 42°40'02" E, FOR 332.86 FEET; 4) N 89°35'54" E, FOR 313.06 FEET; 5) S 00°24'13" E, FOR 58.18 FEET; 6) N 89°35'54" E, FOR 771.92 FEET TO THE MOST EASTERLY LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3852, PAGE 2525, OF SAID PUBLIC RECORDS; 7) N 00°24'08" W, ALONG SAID MOST EASTERLY LINE, FOR 182.19 FEET TO THE SOUTH LINE OF THE NORTH 160.00 FEET OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2905, PAGE 2915, SAID SOUTH LINE ALSO BEING THE SOUTH LINE OF A 160.00 FOOT WIDE POWERLINE UTILITY EASEMENT DESCRIBED IN DEED BOOK 234, PAGE 45, OF SAID PUBLIC RECORDS; THENCE ALONG SAID SOUTH LINES, S 89°41'37" W, FOR 974.39 FEET TO SAID EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 78 (BAYSHORE ROAD) PER ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 3852, PAGE 2525; THENCE N 42°40'02" E, ALONG SAID EASTERLY RIGHT OF WAY LINE, FOR 218.68 FEET TO THE NORTH LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2905, PAGE 2915, SAID LINE ALSO BEING THE NORTH LINE OF SAID POWERLINE UTILITY EASEMENT; THENCE ALONG SAID NORTH LINES, N 89°41'37" E, FOR 1310.98 FEET TO THE EAST LINE OF SAID NORTHWEST QUARTER (NW 1/4); THENCE S 00°24'06" E, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER (NW 1/4), FOR 967.12 FEET; THENCE S 89°59'37" W, ALONG THE SOUTH LINE OF SAID LANDS, FOR 2202.90 FEET TO THE **POINT OF BEGINNING**.

SAID LANDS CONTAINING 34.80 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST LINE OF BAYSHORE ROAD AS BEING N 42°40'02" E.

REVIEWED
DCI2022-00037
Rick Burris, Principal
Planner
Lee County DCD/Planning
2/13/2024



Digitally signed
by Darren
Townsend
Date:
2023.11.03
11:48:25 -04'00'

DARREN TOWNSEND
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6476

THIS IS NOT A SURVEY

NOT VALID WITHOUT THE ATTACHED SKETCH OF DESCRIPTION.

NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



AIM Engineering & Surveying, Inc.
2161 FOWLER STREET, SUITE 100
FORT MYERS, FLORIDA 33901
www.aimengr.com
PHONE (239) 332-4569
TOLL FREE (800) 226-4569
LICENSED BUSINESS No. 3114

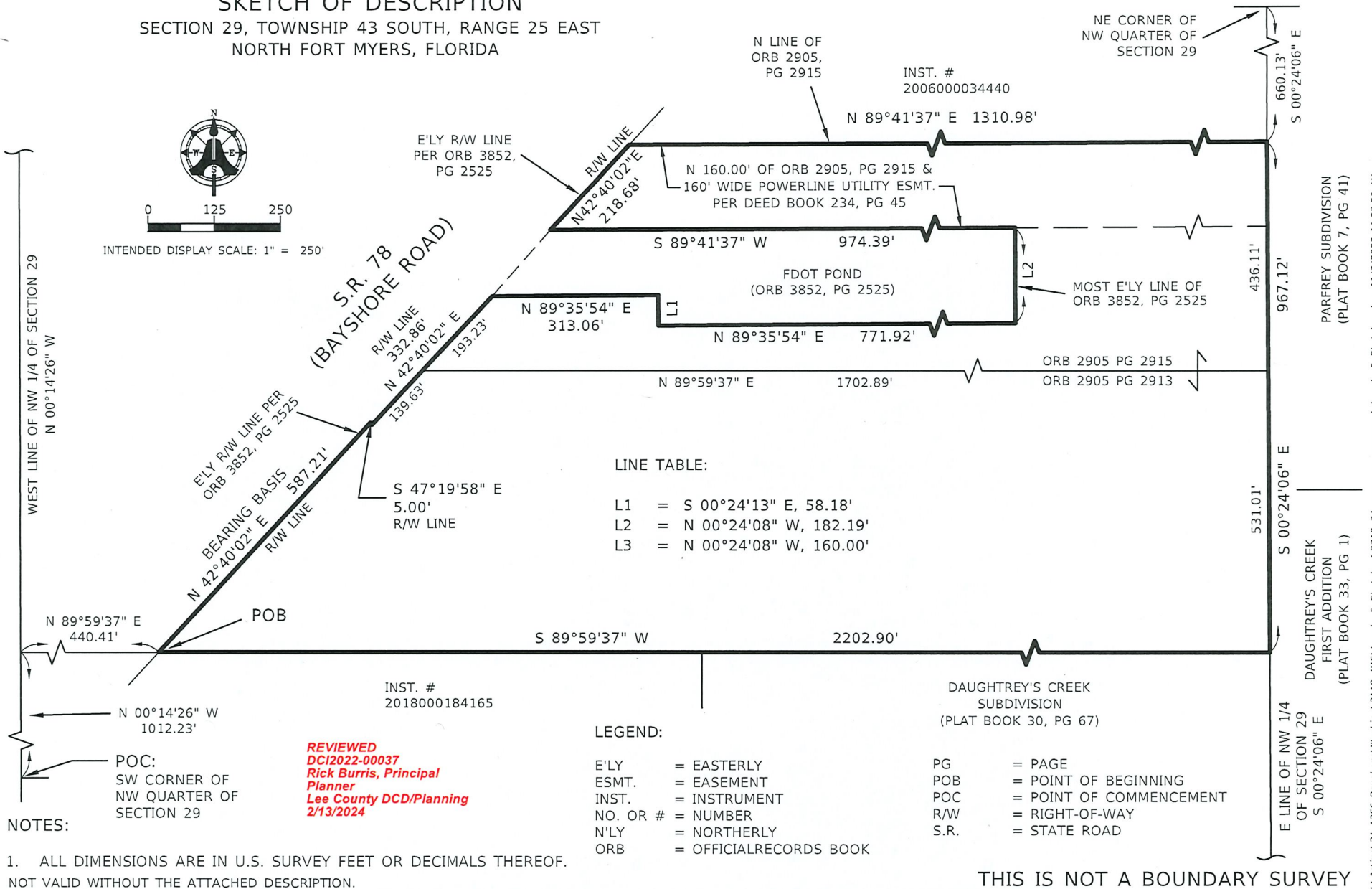
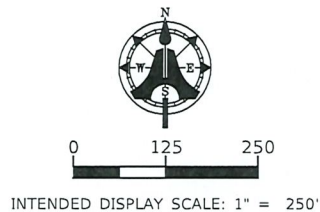
LEGAL DESCRIPTION & SKETCH 34-ACRE PARCEL

DRAWN: JS 10-31-2023		CHECKED: DT 11-01-2023		CLIENT: LAND AMERICA, LLC		
PROJECT NO.: 21-1256	SECTION: 29	TOWNSHIP: 43 S	RANGE: 25 E	COUNTY: LEE	SHEET 1 OF 2	

SKETCH OF DESCRIPTION

SECTION 29, TOWNSHIP 43 SOUTH, RANGE 25 EAST

NORTH FORT MYERS, FLORIDA



NOTES:

- ALL DIMENSIONS ARE IN U.S. SURVEY FEET OR DECIMALS THEREOF.
NOT VALID WITHOUT THE ATTACHED DESCRIPTION.

THIS IS NOT A BOUNDARY SURVEY



AIM Engineering & Surveying, Inc.
2161 FOWLER STREET, SUITE 100
FORT MYERS, FLORIDA 33901
www.aimengr.com
PHONE (239) 332-4569
TOLL FREE (800) 226-4569
LICENSED BUSINESS No. 3114

SEE SHEET 1
DARREN TOWNSEND
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6476
NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

LEGAL DESCRIPTION & SKETCH							
34-ACRE PARCEL							
DRAWN:		CHECKED:		CLIENT:			
RH 10-31-2023		DT 11-01-2023		LAND AMERICA, LLC			
PROJECT NO.:	SECTION:	TOWNSHIP:	RANGE:	COUNTY:	SHEET 2 OF 2		
21-1256	29	43 S	25 E	LEE			

REVIEWED
DCI2022-00037
Rick Burris, Principal
Planner
Lee County DCD/Planning
2/13/2024

LEGEND:

E'LY = EASTERLY
ESMT. = EASEMENT
INST. = INSTRUMENT
NO. OR # = NUMBER
N'LY = NORTHERLY
ORB = OFFICIAL RECORDS BOOK

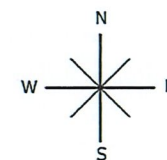
PG = PAGE
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
R/W = RIGHT-OF-WAY
S.R. = STATE ROAD

J:\Active\21-1256 Bayshore\Working\2110 JMS\Legals & Sketches\2310_34-acres_as-surveyed_Legals & Sketches.dwg 11/13/2023 11:28:29 AM

DCI2022-00037

Zoning

 Subject Property



0 300 600 900 1,200
Feet

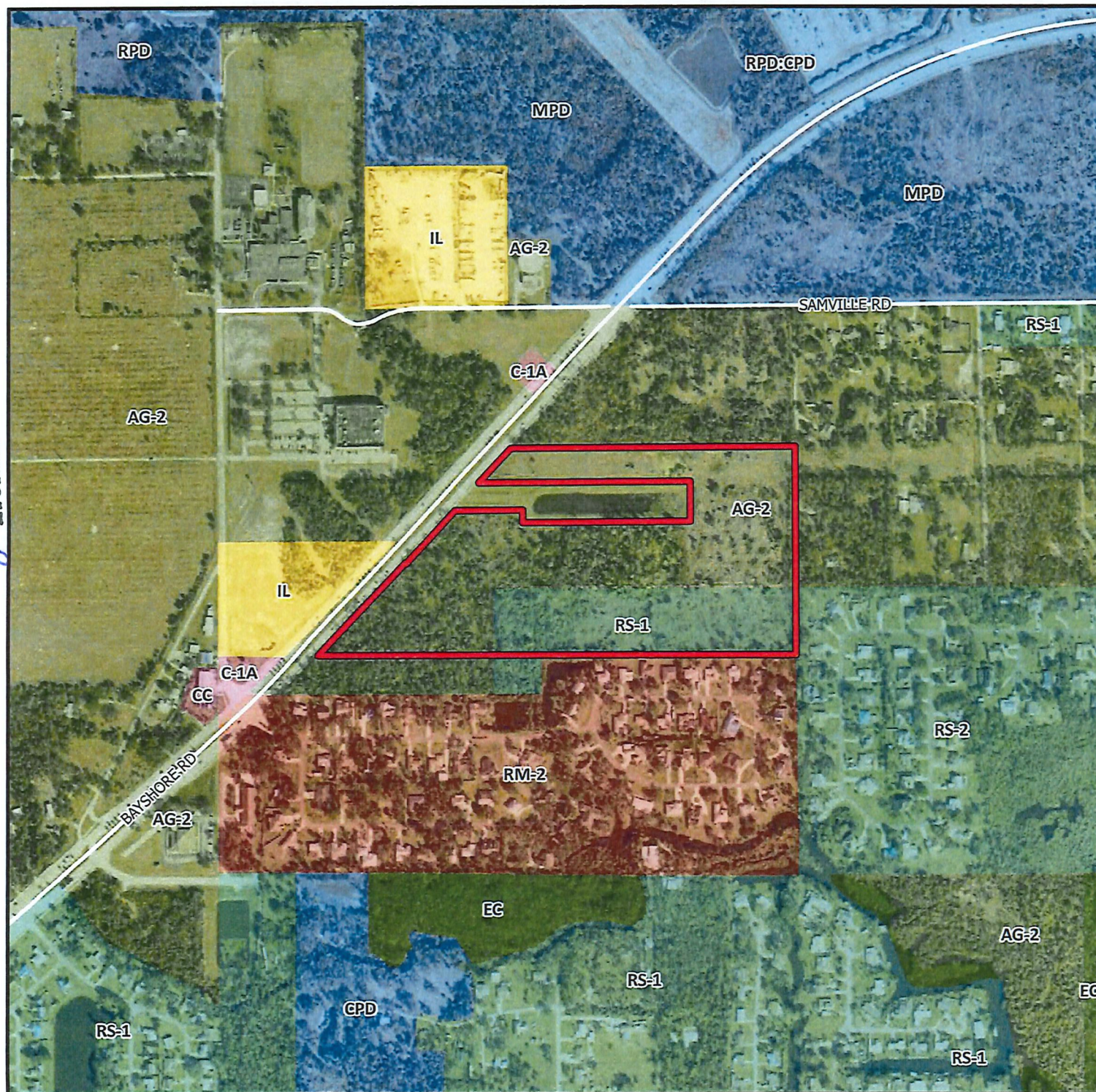


EXHIBIT B

OPEN SPACE CALCULATION

REQUIRED	
34.8 AC X 40% =	13.92 AC
PROVIDED	
LAKE	3.48 AC
(MAX LAKE = 3.48 AC)	
PRESERVE	6.96 AC
BUFFERS / OTHER OPEN	3.48 AC
OPEN SPACE PROVIDED =	13.92 AC

INDIGENOUS CALCULATION

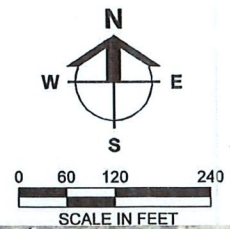
REQUIRED	
13.92 AC X 50% =	6.96 AC
PROVIDED	
UPLAND	2.58 AC
WETLAND	4.38 AC
INDIGENOUS PROVIDED =	6.96 AC

LAND USE SUMMARY

PRESERVE	6.96 AC
LAKE	0.86 AC
DEVELOPMENT AREA	10.28 AC
AMENITY/SERVICE AREA/LEASING	0.24 AC
PARKING / ACCESSWAYS	4.48 AC
DETENTION / OPEN SPACE	11.98 AC
PROJECT TOTAL:	34.8 AC

DCI2022-00037

Approved as Exhibit C
MCP Page 1 of 1
Resolution # Z-24-009



Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
www.barraco.net
2271 MCGREGOR BLVD., SUITE 100
POST OFFICE DRAWER 2800
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

**BLACK SPIDER
LAND
COMPANY, LLC**

101 PUGLIESE WAY SUITE 200
DELRAY BEACH, FLORIDA, 33444

PROJECT DESCRIPTION

**BAYSHORE
31 RPD**

PART OF SECTION 29,
TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

DRAWING NOT VALID WITHOUT SEAL, SIGNATURE AND DATE
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FILE NAME J:\24085\24085-NEW.DWG

LOCATION J:\24085\24085\ZONING\

PLOT DATE WED, 6-12-2024 - 11:00 AM

PLOT BY WES KAYNE

CROSS REFERENCED DRAWINGS

BASEPLAN = 24085200-NEW.DWG

PLAN REVISIONS

6/13/2024 HEX HEARING

PLAN STATUS

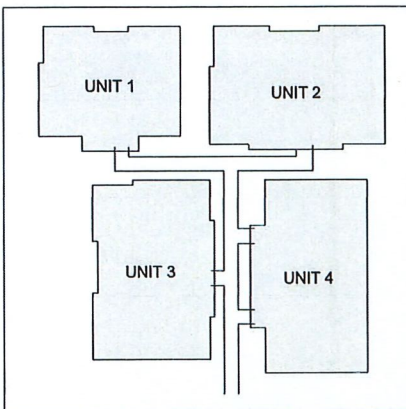
**MASTER
CONCEPT
PLAN**

PROJECT / FILE NO. SHEET NUMBER

24085 1

LEGEND

- UPLAND INDIGENOUS PRESERVE
- WETLAND INDIGENOUS PRESERVE
- WATER MANAGEMENT LAKE
- EMERGENCY-ONLY STABILIZED ACCESS
- PARKING / ACCESSWAY
- STORMWATER (OTHER SURFACE WATER)
- RES
- # DEVIATION
- * OPTIONAL AMENITY / SERVICE AREA



TYPICAL UNIT DETAIL

NATURAL WATERWAY BUFFER DETAIL

