



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

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(941) 479-8585

Writer's Direct Dial Number: _____

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September 12, 2001

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County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

Ray Eubank, Community Program Administrator
Florida Department of Community Affairs
Division of Community Planning
Bureau of Local Planning
2555 Shumard Oak Boulevard
Tallahassee, FL. 32399-2100

Re: Amendments to the Lee Plan
Transmittal Submission Package for the 2000/2001 Regular Amendment Cycle

Dear Mr. Eubank:

In accordance with the provisions of F.S. Chapter 163.3184 and of 9J-11.006, this submission package constitutes the transmittal of the proposed 2000/2001 Regular Amendment Cycle to the Lee Plan. The Local Planning Agency held public hearings for these plan amendments on the following dates: January 22, 2001; February 26, 2001; March 26, 2001; April 23, 2001; June 4, 2001, June 25, 2001 and, July 23, 2001. The Board of County Commissioners transmittal hearing for the plan amendments was held on August 29, 2001. Per 9J-11.006(1)(a)(3), Lee County is requesting that the Department review the proposed amendments and provide an Objections, Recommendations, and Comments (ORC) Report. The proposed amendments are not applicable to an area of critical state concern. The Board of County Commissioners has stated its intent to hold an adoption hearing upon receipt of the ORC Report.

A summary of the plan amendment content and effect is attached to this letter. The name, title, address, telephone number, facsimile number, and email address of the person for the local government who is most familiar with the proposed amendments is as follows:

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, Florida 33902-0398
(941)479-8585
Fax (941)479-8319
Email: oonnops@leegov.com

Included with this package, per 9J-11.006, are six copies of the adopted amendment, and supporting data and analysis. By copy of this letter and its attachments I certify that these amendments have been sent to the Regional Planning Council, the Florida Department of Transportation (FDOT),

P.O. Box 398, Fort Myers, Florida 33902-0398 (941) 335-2111
Internet address <http://www.lee-county.com>

AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER

the Department of Environmental Protection, Florida Department of State, Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, Division of Forestry, and the South Florida Water Management District.

Sincerely,
DEPT. OF COMMUNITY DEVELOPMENT
Division of Planning



Paul O'Connor, AICP
Director

All documents and reports attendant to this transmittal are also being sent, by copy of this cover, to:

Wayne Daltry
Executive Director
Southwest Florida Regional Planning Council

Mike Rippe, District Director
FDOT District One

Executive Director
South Florida Water Management District

Plan Review Section
Department of Environmental Protection

Florida Department of State

Florida Fish and Wildlife Conservation Commission

The Department of Agriculture and Consumer Services, Division of Forestry

2000/2001 LEE PLAN AMENDMENT CYCLE

SUMMARY OF PLAN AMENDMENT CONTENT AND EFFECT

- PAM 98-06** Amends the Future Land Use Map series for a portion of a specified parcel of land located in Section 20, Township 46 South, Range 25 East to change the classification shown on Map 1, the Future Land Use Map, from "Rural" to "Outlying Suburban." Also, amends Lee Plan Policy 1.1.6 and Table 1(a), Note 6.
- PAT 99-14** Amends the Community Facilities and Services Element by modifying Policy 39.1.4 to reflect the current status of Lee County Division of Natural Resources in completing the identified basin studies and providing technical floodplain information and analysis. Given that the identified basin studies have been completed, the amendment proposes that the references to the basin studies be removed from Policy 39.1.4. Policy 39.1.4 has been amended to contain references to the appropriate government agencies that will be assisting Lee County in the development of new floodplain information.
- PAT 99-20** Reevaluates the allocations of Table 1(b), Planning Community Year 2020 Allocations, for consistency with existing and approved developments.
- Amends Map 16, Planning Communities, of the Future Land Use Map series to revise the Planning Community boundaries to reflect the incorporation of Bonita Springs and on going "grass roots" planning efforts.
1. CPA2000-04 Amends the Planning Community Year 2020 Allocation Table, Table 1(b), to provide sufficient allocations to accommodate the proposed residential component of the Orange River property. This request was included in PAT 99-20, as part of the analysis for the Fort Myers Planning Community. The specific request of this privately initiated amendment were not transmitted.
 2. CPA2001-01 Amends the Planning Community Year 2020 Allocation Table, Table 1(b), to provide sufficient allocations to accommodate the proposed residential component of the Bonita Beach Road Residential Planned Development. This request was included in PAT 99-20, as part of the analysis for the Bonita Springs Planning Community. The specific request of this privately initiated amendment were not transmitted.
- CPA2000-02** Amends Map 12 of the Future Land Use Map Series to delete the Boca Grande Pass Marina from the Water Dependent Overlay (WDO) zone, and,

amends Goal 15 of the Lee Plan by adding the following Objective and Policy:

Objective 15.5: Port Facility. The Water Dependent Overlay for South Boca Grande is limited to the Port Facility south of Belcher Road.

Policy 15.5.1: The commercial and industrial uses permitted in the Port District (excluding those specific uses approved pursuant to resolutions Z-86-166, Z-93-009, and Z-99-054) are not permitted within that portion of the boundaries of the Boca Bay Community with the zoning designation of Port District.

CPA2000-03

Amends the Future Land Use Map series, Map 1, the Future Land Use Map, to change the Future Land Use designation from Mixed Use Interchange and General Interchange to Outlying Suburban for approximately 152.37 +/- acres of land generally located in the northwest quadrant of the interchange of I-75 and Daniels Parkway. The amendment also deletes Policy 1.3.6, the Mixed Use Interchange descriptor policy, and reclassifies approximately 2 +/- acres that would remain in the Mixed Use Interchange category as General Interchange. Also, amends the Planning Communities Acreage Allocation Table 1(b), for the Daniels Parkway Planning Community, to remove 68 residential acres from the Mixed Use Interchange category and add 68 residential acres to the Outlying Suburban category.

CPA2000-06

Amends Map 1 of the Future Land Use Map series for land near Eagle Road, Section 24, Township 43S, Range 23E, from Open Lands to Rural. In addition, the amendment adds a Footnote to Table 1 (a) clarifying an exception to the Rural category for the area limiting the density in this area to 1 du/2.25 acres. Staff believes that the Rural category is a more suitable designation for the site than the Open Lands category given the existing density of residential uses and the character of the area. The area will remain designated as a non-urban area without increases in the allowable commercial and industrial intensities and the request will have a minimal impact on public service providers.

CPA2000-07

Amends the Future Land Use Map Series by adding a map delineating an area in Sections 13 and 24, Township 44 South, Range 24 East and Sections 17, 18, 19, and 20 Township 44 South, Range 25 East as an urban infill area. In addition, amends Objective 1.7, Special Treatment Areas, of the Future Land Use Element by adding a new policy describing urban infill areas of the County.

The state of Florida may have money available, for both planning and implementation, for Urban Infill and Redevelopment Grants. The City of Fort Myers Planning staff have identified an area along Martin Luther King Boulevard that has already qualified for a planning grant. The area contains both incorporated and unincorporated properties. The proposed plan

amendment, identifying the area for the planning study, is required in order to qualify for and receive the grant funding. At this time the grant application has been submitted and the City has been approved for the planning grant funding. The Board of County Commissioners, when they co-signed the grant application, committed to a plan amendment that would identify the subject property as an Urban Infill area.

CPA2000-08

Amends the Future Land Use Map (FLUM) series, Map 1, to more closely reflect the Town of Fort Myers Beach adopted Future Land Use Map. The categories used in the Fort Myers Beach Future Land Use Map are intended for different purposes than the Lee County Future Land Use categories. The Town's categories are targeted specifically for conditions on Estero Island, whereas the County categories were created for use in the entire County and have to address a broader range of conditions. As such, there are no exact matches between the two. Some Fort Myers Beach Categories such as Boulevard and Pedestrian Commercial have only approximate matches with Lee County FLUM categories.

CPA2000-09

Amends the Future Land Use Series, Map 1, by updating the Conservation Lands land use categories to include lands purchased by Lee County with the Conservation 2020 program and one property bought by the State of Florida (TIITF). New language was added to Policy 1.4.6 which states, "2020 lands designated as conservation are also subject to more stringent use provisions of 2020 Program or the 2020 ordinances." The Conservation Lands designation will give the County a competitive edge in obtaining grants, such as the Florida Community Trust, Greenways and Trails grant programs, through demonstrating Lee County's commitment to preserving natural areas as large parcels. The Conservation 2020 Program objective is to put into the public domain private lands that will sustain native plant and animal populations, help protect people and property from flooding, help replenish our underground drinking water supply, it will also help to improve or sustain the water quality of our coastal bays, inlets, and sounds, provide eco-tourism opportunities, and provide local environmentally-oriented recreational and educational opportunities.

CPA2000-10

Amends the Future Land Use Element by adding Research and Development as a permitted use under Policy 1.2.2, the Airport Commerce descriptor policy. The Research and Development land use is consistent with the uses that are already permitted in the Airport Commerce land use category. Providing for this use in Airport Commerce allows the County to better use the airport to attract new business in order to promote economic growth and diversification. Research and Development uses would benefit from a location proximate to the airport, the University, and I-75.

CPA2000-11

Amends the Future Land Use Element by modifying Policy 6.1.2.6 to clarify that extension of the interstate interchange use is not by right, but is permissive and subject to County review and approval.

Policy 6.1.2.6 states that “any contiguous property under one ownership **may** be developed as part of the interstate interchange...” This language does not guarantee that the interchange uses will be extended, nor does it state that the expansion of interchange uses is a choice made solely by the developer. The policy provides that certain criteria must be met in order to qualify for the expansion of the interchange, and once those criteria have been met, then the County has the ability to decide whether or not to allow it. The decision of whether or not to allow an interchange to be expanded should be made at the full discretion of the Board of County Commissioners given the potential impacts to the surrounding existing and future land uses. The existing language of Policy 6.1.2.6 does not make it clear enough that the County has full discretion over the expansion of the interchange uses. Staff has proposed amended language to the policy to help clarify this issue.

CPA2000-13

Amends the future Land Use Element by adding a policy to Goal 16, Private Recreational Facilities in the DR/GR, specifying minimum indigenous preserve area requirements. The purpose of the 200 acre indigenous preservation requirement for golf courses within the DR/GR is to protect water recharge, stormwater storage, and wildlife habitat. The criteria for achieving the indigenous preservation within these DR/GR developments should be stricter than areas within other Land Use Categories due to the sensitivity and importance of these lands to the general public. Policy 16.8 does not currently contain all the pertinent information for establishing minimum indigenous preservation criteria. It is important to amend Policy 16.8.12(2) of the Lee Plan to include minimum standards for indigenous preservation areas to insure the intent of the design criteria under Goal 16 is achieved.

CPA2000-14

Amends the Future Land Use Element by modifying Policy 16.3.9 to clarify the maintenance area intensity limitations. Policy 16.3.9 is ambiguous in its limitation on golf course maintenance areas. The 25,000 square feet per 18 hole regulation was intended to apply to the area of the maintenance building. Staff’s examination of the regulation, however, reveals that the limitation needs to be expanded to also include an acreage limitation that can accommodate other maintenance functions that may fall outside the primary maintenance building. The combination of the two limitations would prevent future confusion over the intent of the policy.

CPA2000-15

Amends the Future Land Use Element by modifying Policy 16.3.8.3 to clarify the setbacks from adjacent existing and planned residential uses. The LDC clearly states that the setback from golf course maintenance facilities to residential uses is measured from the edge of the “development area” to the residential property line. The proposed amendment to Lee Plan policy 16.3.8.3 is a reflection of the existing LDC regulation.

Certain vacant parcels in the DR/GR may be considered potential residential properties based on the property’s size, use, the zoning of surrounding

properties, the size of surrounding properties, and the ownership patterns in the area.

Golf course maintenance facilities present a negative visual appearance to the public when located immediately adjacent to public rights-of-way. The visual appearance along public roadways is a legitimate public interest. Additional standards for golf course maintenance areas are needed so that the public is not subjected to the negative visual impact that is brought about by these facilities. This impact should be kept internal to the development.

CPA2000-17

Amends the Future Land Use Element by removing Goal 13, Bonita Springs, and relocates policies which should continue to apply to the remaining unincorporated areas of Bonita Springs. The amendment evaluates the affect of the incorporation of the City of Bonita Springs and the provisions of Lee Plan Goal 13. The amendment proposes to delete from the Lee Plan those provisions in Goal 13 that will be responsibility of the City of Bonita Springs. The provisions of Goal 13 that do apply to the areas in south Lee County outside of the city limits are proposed to be retained and relocated. The amendment also adds a map, Map 13, depicting an irrigation well overlay to the Future Land Use Map series.

CPA2000-19

Amends the Lee Plan, text and Future Land Use Map series, to incorporate the recommendations of the Estero Community Planning Effort, establishing a Goal and subsequent Objectives and Policies specific to the Estero Community. The proposed goals, objectives, and policies are the result of a year long planning process. They directly reflect the vision that the Estero Community has for its future growth and development. Staff believes that this amendment should be viewed as a first step in a continuous process that addresses planning needs in Estero. Many issues have been addressed through this amendment, but there are others, such as those policies (or portions thereof) that staff has recommended for deletion, that will require more consideration in the future. The initial establishment of Goal 19 of the Lee Plan is the important first step that will open the door to address other land use planning issues in Estero as they arise. The Community identified a desire to maintain a "small town" feel and avoid high-rise residential uses while protecting existing neighborhoods from encroachment of potentially incompatible uses. The community has a desire to limit "tourist oriented uses," certain "detrimental uses," and high intensity uses along specific corridors. At the same time, the community expressed a desire for small-scale neighborhood commercial development.

CPA2000-21

This is a general update of the transportation element. The changes include a modification of Policy 22.1.4 to update the references to particular versions of the Highway Capacity Manual and the FDOT Level of Service Manual, a modification of Policy 26.1.3 to distinguish between traffic control devices and plans, an expansion of Goal 27 to include operations and maintenance among the aspects of transportation improvements that require coordination

with other governmental entities, addition of the new City of Bonita Springs to the list of cities in which the County declares a position of interest on land use decisions in Policy 27.1.3, and update of Policy 21.1.1 and the transportation map series to reflect the most recent MPO 2020 highway and transit plans.

CPA2000-22

Amends the Conservation and Coastal Management Element by adding a policy under Goal 78, Policy 78.1.6, stating that Lee County encourages the efforts of the South Florida Water Management District in establishing a Caloosahatchee Water Management Plan for the Caloosahatchee River. The South Florida Water Management District, the delegating entity over Southwest Florida's waterways, is establishing a Caloosahatchee Water Management Plan for the Caloosahatchee River through the participation of several studies and plans. Natural Resource staff and Planning staff recommend adding the proposed Policy to the Conservation and Coastal Management element of the Lee Plan supporting the effort.

CPA2000-23

Amends the Conservation and Coastal Management Element by adding a Policy under Goal 78, Policy 78.2.2, stating the County will review the Comprehensive Conservation and Management Plan for the Greater Charlotte Harbor Watershed by the year 2002. The Charlotte Harbor National Estuary Program has issued a draft Comprehensive Conservation and Management Plan for the Greater Charlotte Harbor Watershed. Natural Resource staff and Planning staff recommend adding the proposed Policy to the Conservation and Coastal Management element of the Lee Plan stating the County will review the plan in order to identify goals, objectives and policies relating to the recommendations of the drafted plan.

CPA2000-25

Amends the Parks, Recreation and Open Space Element by adding a new Objective and/or policies to Goal 52, Development Requirements, clarifying the purpose of open space in non-residential projects. The purpose of open space in a development is to provide pervious land area to achieve appropriate buffering, visual relief, landscaping, surface water treatment, and preservation of existing native trees and plant communities. Open space in non-residential developments serves these functions as it does in residential developments. Goal 52 of the Lee Plan currently does not treat all types of open space equally, addressing only residential open space. In addition, a new objective is proposed to require innovative open space design at the time of zoning review. This is consistent with other provisions of the Lee Plan and with the LDC. The purpose of the open space design is to assess the natural features of the site early in the development process, thereby incorporating the existing native vegetation in a manner that provides visual relief and buffers adjacent uses. Goal 52 of the Lee Plan should be modified to recognize the importance of open space and innovative design that incorporates natural features within developments.

- CPA2000-26** Prior changes to the Transportation Element of the Lee Plan eliminated references to "backlogged" roads because they had all been addressed in one fashion or another, and clarified some references related to "constrained" roads. These changes were not reflected in the Capital Improvements Element, where Policy 70.1.3 still includes "backlogged" and "constrained" roads references that are now inconsistent with language in the Transportation Element. The amendment eliminates the "backlogged" roads reference and updates the "constrained" roads reference in Policy 70.1.3.
- CPA2000-27** Amends the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program. Lee Plan Policy 70.1.1 requires a Capital Improvements Program to be prepared and adopted on an annual basis. Florida Statute 163.3177(3)(b) requires that the Capital Improvements Element of the comprehensive plan be amended annually to reflect the modifications of the adopted Capital Improvement Program (CIP). This amendment incorporates the most recently adopted CIP in the Capital Improvements Element.
- CPA2000-29** Adds a definition for the term "Natural Resource Extraction" to the Lee Plan Glossary. In addition, amends the Future Land Use Element by adding the term "Natural Resource Extraction" to Goal 10 and its Objectives and Policies, where applicable, clarifying that natural resources other than minerals are subject to Goal 10 requirements. Principal resources sought in Lee County are sand, gravel, limestone, oil and gas which include both organic and inorganic materials. It should be ensured that all mined materials, organic and inorganic, are included under the language of Goal 10. The improved term, "Natural Resource Extraction," should be placed in the Lee Plan Glossary to support the new term.
- CPA2000-31** Amends Policy 1.7.1, Airport Noise Zones, of the Future Land Use Element by removing language pertaining to the dedication of noise and aviation easements to Lee County within noise zones 2 and 3. Also amends the Lee Plan by deleting Policy 32.2.6. pertaining to the Aviation Easements Program. In addition, amends the Lee Plan Glossary by removing the definition of the term aviation easement as it will no longer apply in the Lee Plan. The proposed amendment has no effect on existing or future land uses.

**CPA 2000-31
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

DCA Transmittal Document

**Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585**

August 29, 2001

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2000-31**

☒

Text Amendment

☐

Map Amendment

	This document contains the following reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board Of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: June 18, 2001

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING AND THE LEE
COUNTY ATTORNEYS OFFICE

2. REQUEST:

Amend Policy 1.7.1, Airport Noise Zones, of the Future Land Use Element by removing language pertaining to the dedication of noise and aviation easements to Lee County within noise zones 2 and 3. Also amend the Lee Plan by deleting Policy 32.2.6. pertaining to the Aviation Easements Program. In addition, amend the Lee Plan Glossary by removing the definition of the term aviation easement as it will no longer apply in the Lee Plan.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends that the Board of County Commissioners transmit the proposed policy as amended:

Policy 1.7.1: The Airport Noise Zones cover areas subject to varying levels of airport-related noise. In addition to meeting the requirements of the underlying Future Land Use Map categories, Airport noise Zone 2 does not permit mobile homes; and Airport Noise Zone 3 does not permit any residential units, churches, libraries, schools, hospitals, correctional institutions, or nursing homes. ~~Prior to the issuance of all building permits and development orders in both zones, noise and avigation easements must be dedicated to Lee County.~~

~~**Policy 32.2.6:** The County and Port Authority will implement the avigation easements program for property located in close proximity to the Southwest Florida International Airport subject to overflights and potential noise exposure, consistent with the approved Airport Master Plan and state and federal guidelines. (Amended by Ordinance No. 99-15)~~

Staff also recommends amending the Lee Plan by deleting the definition of the term "avigation easement" from the glossary:

~~AVIGATION EASEMENT - The transference by grant of a property owner's legal property pertaining to the airspace above his property, and the waiving of any possible claims for damages resulting from the operation of aircraft above the surface of the Grantor's property; to include, but not be limited to: noise, vibrations, fumes, dust, fuel particles, and any other effects that may be caused due to present and future aircraft flights over the Grantor's property.~~

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The proposed amendment does not change any Airport Noise Zones, zoning categories, or Future Land Use categories.
- Inappropriate land uses near the airport are already addressed by existing land use regulations.
- The term "avigation easement" appears only in Lee Plan Policies 1.7.1, 32.2.6, and the Lee Plan Glossary.

C. BACKGROUND INFORMATION

The proposed amendment was initiated at the request of the Lee County Attorneys Office because concerns about inappropriate land uses in the Airport Noise Zones are already addressed by existing land use regulations.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

INTRODUCTION

Currently, Lee Plan Policy 1.7.1 requires all development in Airport Noise Zones 2 and 3 to sign a document dedicating an avigation easement on the property to Lee County. This easement grants Lee County property rights pertaining to the airspace above the owners property and waives possible claims for damages resulting from the operation of aircraft over the subject property. The easement must be granted prior to the issuance of any building permits or development orders.

Lee Plan Policy 32.2.6 implements the avigation easement program referred to in policy 1.7.1.

In a memorandum dated May 30, 2001, the Lee County Attorney's Office requested that Lee Plan Policy 1.7.1 be deleted (Attachment 1). The Attorney's Office also requested that the term "Avigation Easement" be deleted from the Lee Plan Glossary. The County Attorney's office also requested the deletion of Policy 32.2.6.

TRANSPORTATION ISSUES

Removing the avigation easement requirement neither increases nor decreases the traffic trip generation in the Airport Noise Zones. Therefore, it has no effect on traffic volumes or the transportation infrastructure.

PUBLIC SAFETY ISSUES

EMS and Fire Protection Services

The proposed amendment does not create or remove any residential units in the Airport Noise Zones. Consequently, it does not increase or decrease the demand on EMS or Fire Protection Services.

Hurricane Evacuation

As the removal of the avigation easement requirement would not add or subtract any residents to the Airport Noise Zones, the proposed amendment has no effect on hurricane evacuation times. It also has no effect on the number of evacuating people and vehicles or the amount of needed hurricane shelter space.

UTILITIES

The proposed amendment does not create any additional demand for either potable water or sanitary sewer service. Consequently, it has no effect on utility providers.

ENVIRONMENTAL ISSUES

The proposed amendment creates no environmental concerns.

DEVELOPMENT ISSUES

The proposed amendment does not increase or limit the permitted number of residential units or commercial space within the Airport Noise Zones. Therefore, it has no effect on either development intensity or residential density in the Airport Noise Zones.

POPULATION ACCOMMODATION

The proposed amendment does not change the population accommodation of the Airport Noise Zones.

HISTORIC PRESERVATION ISSUES

The proposed amendment creates no historic preservation concerns.

B. CONCLUSIONS

The proposed amendment has no effect on existing or future land uses.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit the proposed policy as amended:

Policy 1.7.1: The Airport Noise Zones cover areas subject to varying levels of airport-related noise. In addition to meeting the requirements of the underlying Future Land Use Map categories, Airport noise Zone 2 does not permit mobile homes; and Airport Noise Zone 3 does not permit any residential units, churches, libraries, schools, hospitals, correctional institutions, or nursing homes. ~~Prior to the issuance of all building permits and development orders in both zones, noise and aviation easements must be dedicated to Lee County.~~

~~**Policy 32.2.6:** The County and Port Authority will implement the aviation easements program for property located in close proximity to the Southwest Florida International Airport subject to overflights and potential noise exposure, consistent with the approved Airport Master Plan and state and federal guidelines. (Amended by Ordinance No. 99-15)~~

Staff also recommends amending the Lee Plan by deleting the definition of the term "aviation easement" from the glossary:

~~**AVIGATION EASEMENT** - The transference by grant of a property owner's legal property pertaining to the airspace above his property, and the waiving of any possible claims for damages resulting from the operation of aircraft above the surface of the Grantor's property; to include, but not be limited to: noise, vibrations, fumes, dust, fuel particles, and any other effects that may be caused due to present and future aircraft flights over the Grantor's property.~~

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC LPA HEARING: June 25, 2001

A. LOCAL PLANNING AGENCY REVIEW

There was no discussion by the LPA.

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT
SUMMARY**

1. RECOMMENDATION:

The LPA recommended the Board of County Commissioners transmit this amendment that modifies Policy 1.7.1, Airport Noise Zones, of the Future Land Use Element by removing language pertaining to the dedication of noise and avigation easements, amends the Lee Plan by deleting Policy 32.2.6. pertaining to the Avigation Easements Program and amends the Lee Plan Glossary by removing the definition of the term "avigation easement."

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA accepted the findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	<u>Aye</u>
SUSAN BROOKMAN	<u>Aye</u>
BARRY ERNST	<u>Aye</u>
RONALD INGE	<u>Absent</u>
GORDON REIGELMAN	<u>Aye</u>
VIRGINIA SPLITT	<u>Absent</u>
GREG STUART	<u>Aye</u>

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: August 29, 2001

A. BOARD REVIEW: One commissioner asked if this amendment was necessary. The commissioner said that he felt that the aviation easement purchases provided the legal protection that the county needed from noise lawsuits. The County Attorneys stated that the proposal was recommended by the litigation department due to litigation that could have large impacts on the county. The attorney's office also said that the Airport Noise Zones will limit the types of development that would be negatively affected by airport noise. The attorney's office also stated that sellers of property in the Noise Zones should be required to inform potential buyers of the pertinent regulations.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. VOTE:

JOHN ALBION	<u>AYE</u>
ANDREW COY	<u>AYE</u>
BOB JANES	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
DOUG ST. CERNY	<u>AYE</u>

PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

DATE OF ORC REPORT: _____

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:**
- B. STAFF RESPONSE**

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

RAY JUDAH

BOB JANES

DOUG ST. CERNY

LEE COUNTY
RECEIVED

01 MAY 31 AM 10:10


COMM. DEV.
PUB. WORKS. CNTR.
SECOND FLOOR

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: May 30 2001

To: Paul O'Connor
Director, Planning Division

FROM:


Donna Marie Collins
Assistant County Attorney

**RE: Bluesheet requested to include Amendment to Glossary and
Lee Plan Policy 1.7.1. into Current Round of Plan Amendments**

Pursuant to the attached memorandum from John Renner of the Litigation Division of the County Attorney's Office, we wish to amend the Lee Plan Policy 1.7.1. to delete the requirement that property owners dedicate an avigation easement in areas adjacent to the airport. We should also amend the Glossary to delete the definition of avigation easement.

John Renner has rendered an opinion that there could potentially be a rational nexus problem in some instances since there is no provision for a variance from the requirement of the dedication prior to the issuance of a building permit. In addition, he has opined that since the concerns regarding inappropriate uses of land near the airport are already addressed by existing land use regulations, the mandatory dedication requirement appears unnecessary. Tim has requested that I follow up on John Renner's request that the Land Development Code and Lee Plan be revised to delete the dedication requirements. Accordingly, we request that the Planning Division prepare a bluesheet requesting the Board to include such an amendment to the Plan as part of the current round of Lee Plan Amendments.

By copy of this memorandum, I request that John Fredyma and Bob Gurnham note that Land Development Code Sections 34-1006(b)(2)a. and (b)(3) specifically require the dedication of an aviation easement as a condition of subdivision approval or the issuance of a building permit. Land Development Code Section 34-1003 (Definitions) includes the definition of aviation easement. These sections should be revised consistent with this memorandum. Kindly ensure that amendments to these sections are included in the Fall package of Land Development Code amendments.

If I may be of any assistance with regard to the above, do not hesitate to contact me.

DMC/amp

Attachment: John Renner's memorandum dated May 8, 2001

Paul O'Connor
May 30, 2001
Page 2

Re: Bluesheet requested to include Amendment to Glossary and
Lee Plan Policy 1.7.1. into Current Round of Plan Amendments

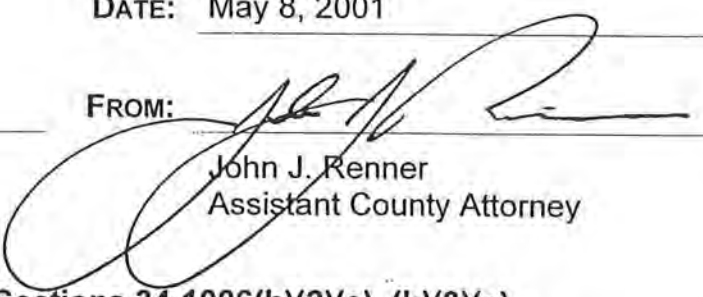
cc: Timothy Jones, Assistant County Attorney
John Renner, Assistant County Attorney
John Fredyma, Assistant County Attorney
Mary Gibbs, Director, Department of Community Development
Robert Gumham, Principal Planner, Development Services Division
Matt Noble, Planner, Planning Division

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: May 8, 2001

TO: TIM JONES
Assistant County Attorney

FROM:

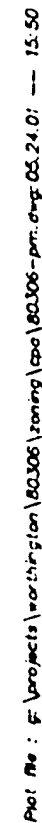

John J. Renner
Assistant County Attorney

RE: Lee County Development Code Sections 34-1006(b)(2)(a), (b)(3)(a)

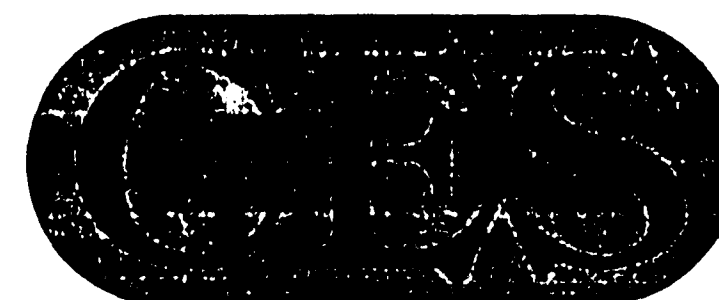
Sections 34-1006(b)(2)(a) and (b)(3)(a) require the dedication of avigation easements as a condition to subdivision approval or the issuance of a building permit. There is no provision for a variance from this requirement should an applicant wish to question the rational nexus between the dedication and the permit or approval. Moreover, since the concern over inappropriate uses of land close to the airport can, and are, addressed by existing land use regulations, the mandatory dedication requirement appears unnecessary.

I would request the Board amend the Land Development Code to delete the mandatory dedication requirements.

JJR:bg



date 022801
drawn RHH
file name: PARCELMAP
job CPA

[illegible]

COMMUNITY ENGINEERING SERVICES, INC.
Civil Engineering • Surveying • Project Management

9200 Bonita Beach Road Suite 213
Bonita Springs, Florida 33923
Telephone (941) 495-0009 Fax (941) 495-7934

WORTHINGTON OF RENAISSANCE, LLC.
 PARCEL MAP

LEE COUNTY, FLORIDA

scale: $1'' = 300'$

SHEET

1 OF 1

date__

Boylan Environmental Consultants, Inc.

Wetland & Wildlife Surveys, Environmental Permitting,
Impact Assessments
11000 Metro Pkwy., Suite 4, Ft. Myers, Florida 33912

South Florida Water Management District
Wetland Jurisdictional Determination

Project: The Renaissance

Craig D. Schmittler 8-25-2000
Craig Schmittler Date

WETLANDS		APPROX. ACREAGE
FLUCCS		
211H	WET PASTURE	29.80
411H	FLATWOOD WETLANDS	3.46
424H	MELALEUCA WETLANDS	62.29
500	DITCHES - OPEN WATER	27.86
621	CYPRESS	30.09
621/424	CYPRESS - MELALEUCA	3.17
624	PINE - CYPRESS	4.70
624/424	PINE - CYPRESS - MELALEUCA	16.20
645	WET PRAIRIE	1.15
740H	DISTURBED WETLANDS	2.35
	TOTAL	143.61

UPLANDS		APPROX. ACREAGE
FLUCCS		
100	RESIDENTIAL	1.77
211	IMPROVED PASTURE	253.20
320	WAX MYRTLE	10.79
321	PALMETTO	12.14
411	PINE FLATWOODS	26.33
424	MELALEUCA	1.45
432	MIXED HARDWOODS	1.62
437	AUSTRALIAN PINE	0.40
740	DISTURBED	0.98
743	SOIL	0.09
800	ROADS	14.68
	TOTAL	335.45

TOTAL UPLANDS = +/- 335.45 ACRES
TOTAL ACOE & SFWMD WETLANDS = +/- 143.61 ACRES
OPEN WATER = +/- 27.86 ACRES

JD Conducted
2-99

Wetland
OSW, Swales

NOV 6 2000

File: \\Bac\Bac\Bac\The Renaissance\2000\16152130



Boylan
Environmental
Consultants, Inc.

Wetland & Wildlife Survey / Environmental Permitting
Impact Assessment

11000 Metro Pkwy., Suite 4, Ft. Myers, Florida 33912

South Florida Water Management District
Wetland Jurisdictional Determination

Project: The Renaissance

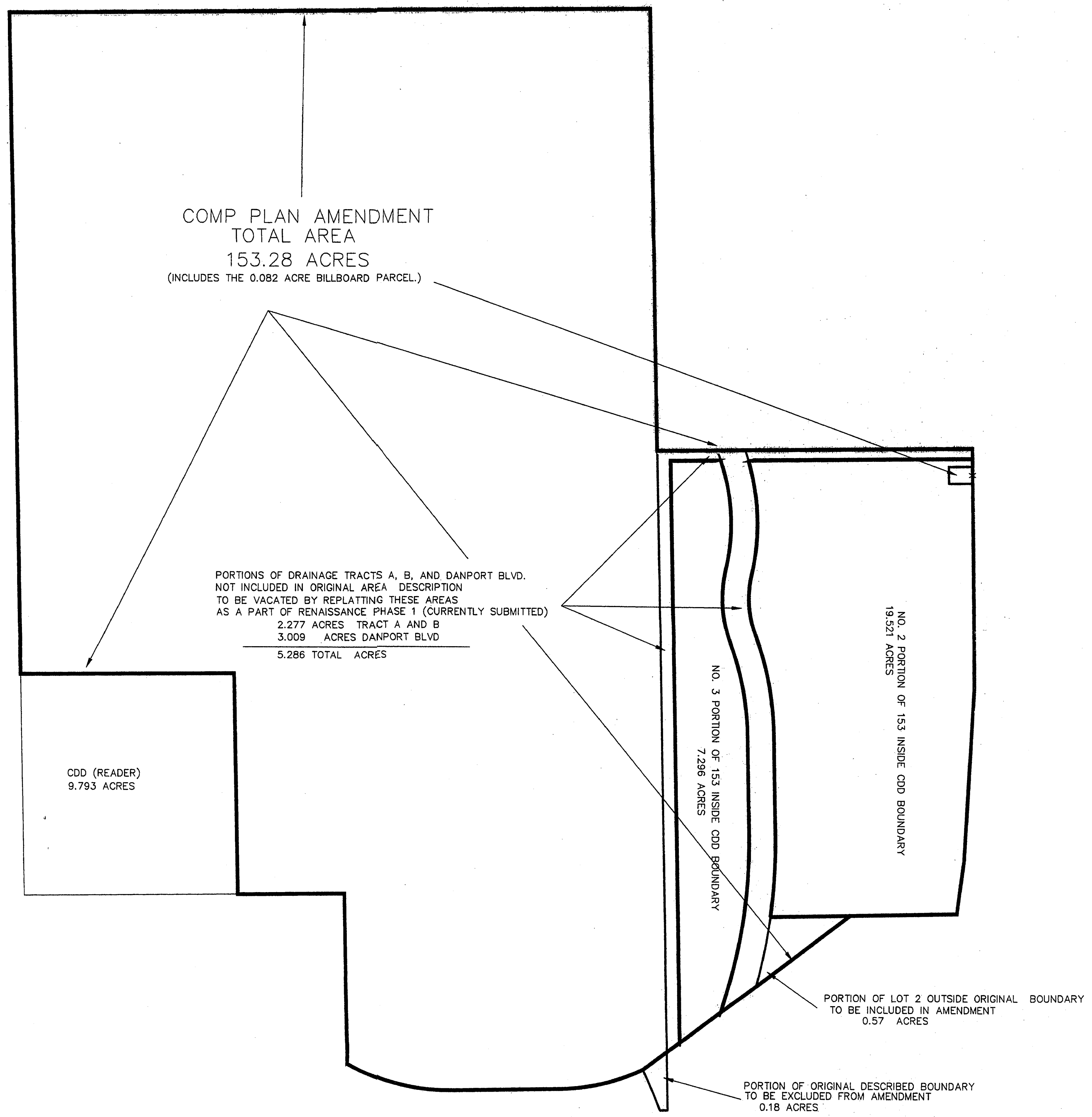
Craig D. Schmittler Pres 3-25-2008
 Date

WETLANDS		APPROX ACREAGE
FLUCCS		
2211H	WET PASTURE	23.60
4111H	FLATWOOD WETLANDS	3.48
424H	MELALEUCA WETLANDS	52.29
600	DITCHES / OPEN WATER	5.95
621	CYPRESS	30.09
621/424	CYPRESS - MELALEUCA	3.17
624	PINE - CYPRESS	24.70
624/424	PINE - CYPRESS - MELALEUCA	16.20
643	WET PRAIRIE	1.15
740H	DISTURBED WETLANDS	2.35
	TOTAL	143.81

UPLANDS		
FLUCC	ACRE	APPROX ACREAGE
100	RESIDENTIAL	2.77
211	IMPROVED PASTURE	233.20
320	WAX MYRTLE	10.79
321	PALMETTO	32.14
314	PINE-FLATWOODS	26.33
421	MELALEUCA	1.45
431	MIXED HARDWOODS	5.62
437	AUSTRALIAN PINE	0.40
740	DISTURBED	0.98
743	SPOIL	8.08
800	ROADS	14.88
	TOTAL	335.45

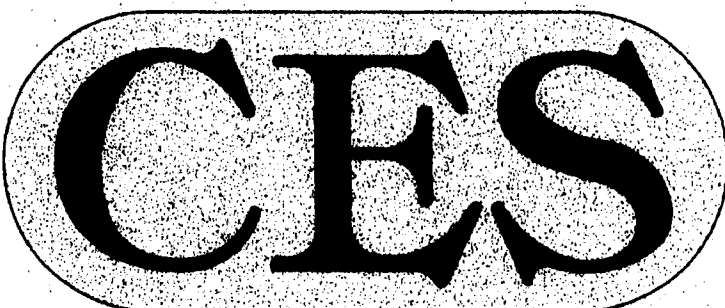
TOTAL UPLANDS = +/- 335.45 ACRES
TOTAL ACOE & SFWMD WETLANDS = +/- 143.61 ACRES
OPEN WATER = +/- 27.86 ACRES

511.728 ACRES



PLEASE NOTE THAT THE AREAS AS SHOWN ARE BASED ON ACTUAL SURVEY DATA AND MAY VARY FROM THOSE AREAS AS INDICATED ON PARCEL INFORMATION ON RECORD IN OFFICES OF LEE COUNTY FLORIDA.

date 032901	No.	Date	Revisions
drawn			
file name: AMEND_KEY			
job_CDD/153			

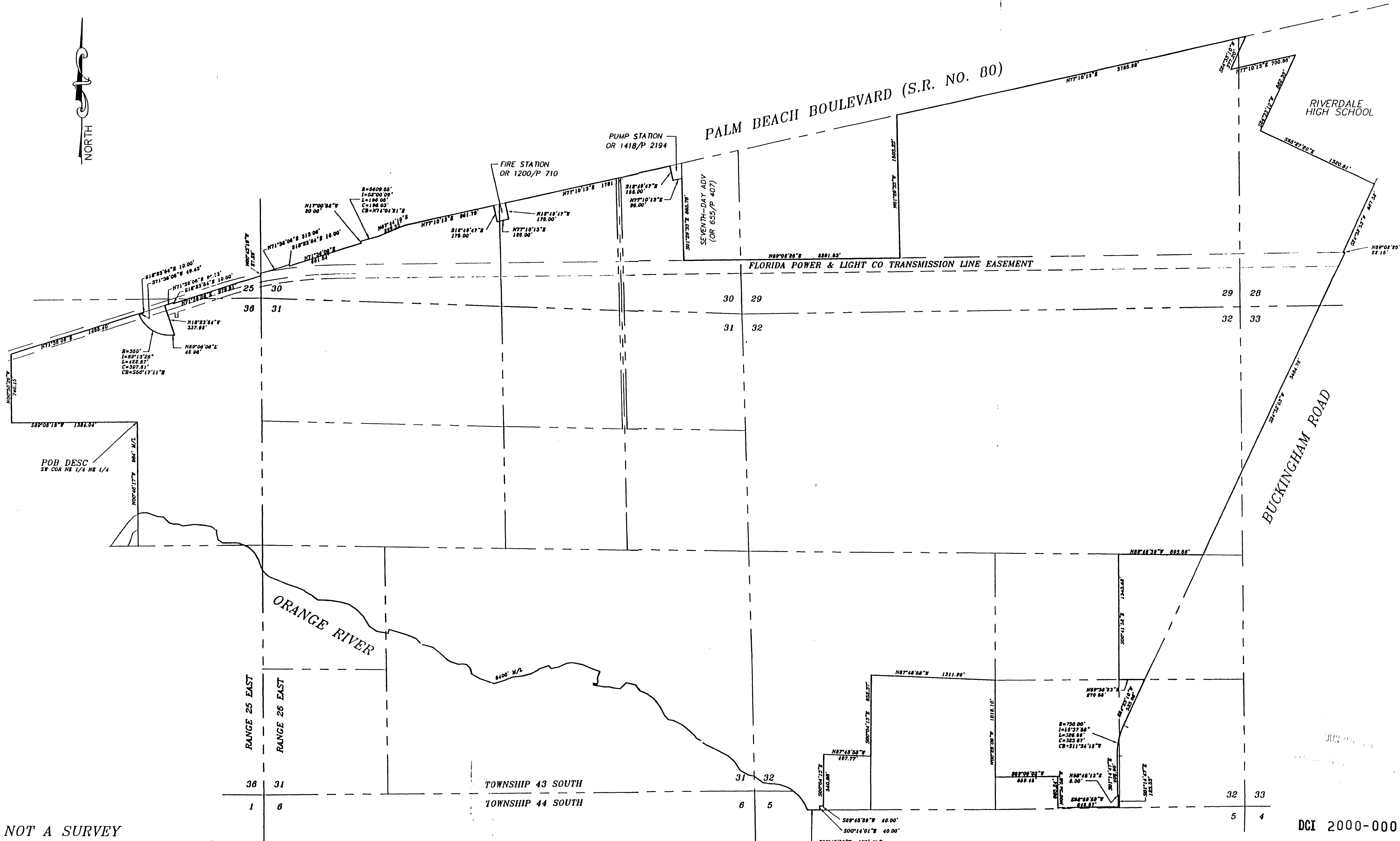


COMMUNITY ENGINEERING SERVICES, INC.
Civil Engineering • Surveying • Project Management
9200 Bonita Beach Road Suite 213
Bonita Springs, Florida 33923
Telephone (941) 495-0009 Fax (941) 495-7934

COMP PLAN AMENDMENT AREAS

PARCEL KEY MAP

scale: 1"=200' 1"=10'	date
SHEET	
1 of 1	



THIS IS NOT A SURVEY

W. Britt Pomeroy, Jr.
W. BRITT POMEROY, JR. (FOR THE FIRM - LB#642)
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. 4448

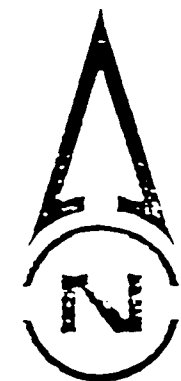
DATE SIGNED: 9-19-00

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

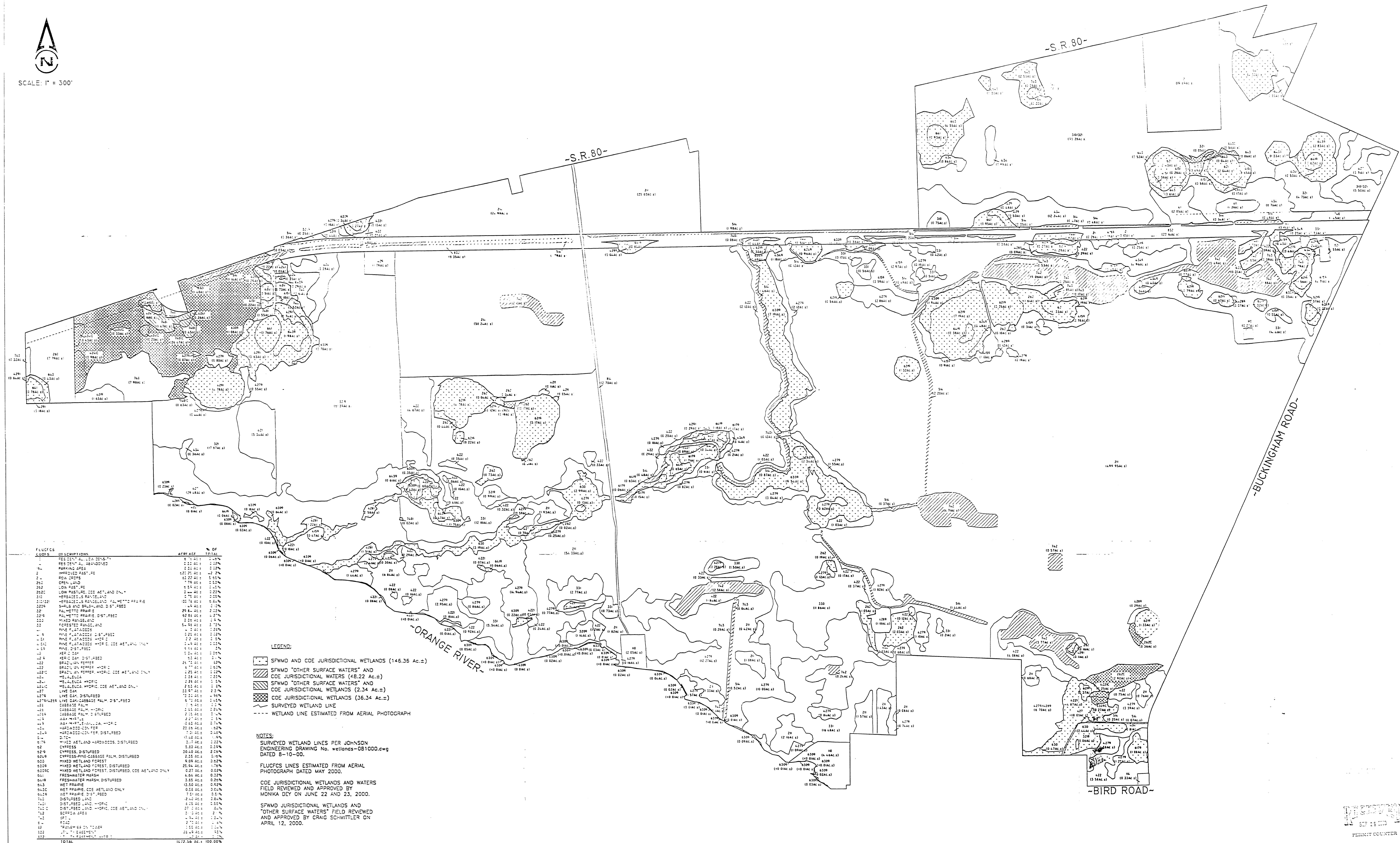
DCI 2000-00069

SKETCH TO ACCOMPANY DESCRIPTION
PARCEL IN
SECTIONS 25 & 36, T. 43 S., R. 25 E.
SECTIONS 28, 29, 30, 31, 32 & 33, T. 43 S., R. 26 E.
LEE COUNTY, FLORIDA

JOHNSON ENGINEERING, INC.				
ENGINEERS, SURVEYORS AND ECOLOGISTS				
2158 JOHNSON STREET, P.O. BOX 1550, FORT MYERS, FLORIDA 33902-1550, PHONE (941) 334-0046				
DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
Sept., 2000	991536	25-43-25	1" = 500'	1 OF 1



SCALE: 1" = 300'



LEGEND:

- SPWMD AND COE JURISDICTIONAL WETLANDS (146.35 AC.±)
- SPWMD "OTHER SURFACE WATERS" AND COE JURISDICTIONAL WATERS (48.22 AC.±)
- SPWMD "OTHER SURFACE WATERS" AND COE JURISDICTIONAL WETLANDS (2.34 AC.±)
- COE JURISDICTIONAL WETLANDS (36.34 AC.±)
- SURVEYED WETLAND LINE
- WETLAND LINE ESTIMATED FROM AERIAL PHOTOGRAPH

NOTES:

SURVEYED WETLAND LINES PER JOHNSON ENGINEERING DRAWING No. wetlands-081000.dwg DATED 8-10-00.

FLUCFCS LINES ESTIMATED FROM AERIAL PHOTOGRAPH DATED MAY 2000.

COE JURISDICTIONAL WETLANDS AND WATERS FIELD REVIEWED AND APPROVED BY MONIKA DEY ON JUNE 22 AND 23, 2000.

SPWMD JURISDICTIONAL WETLANDS AND "OTHER SURFACE WATERS" FIELD REVIEWED AND APPROVED BY CRAIG SCHMITTLER ON APRIL 12, 2000.

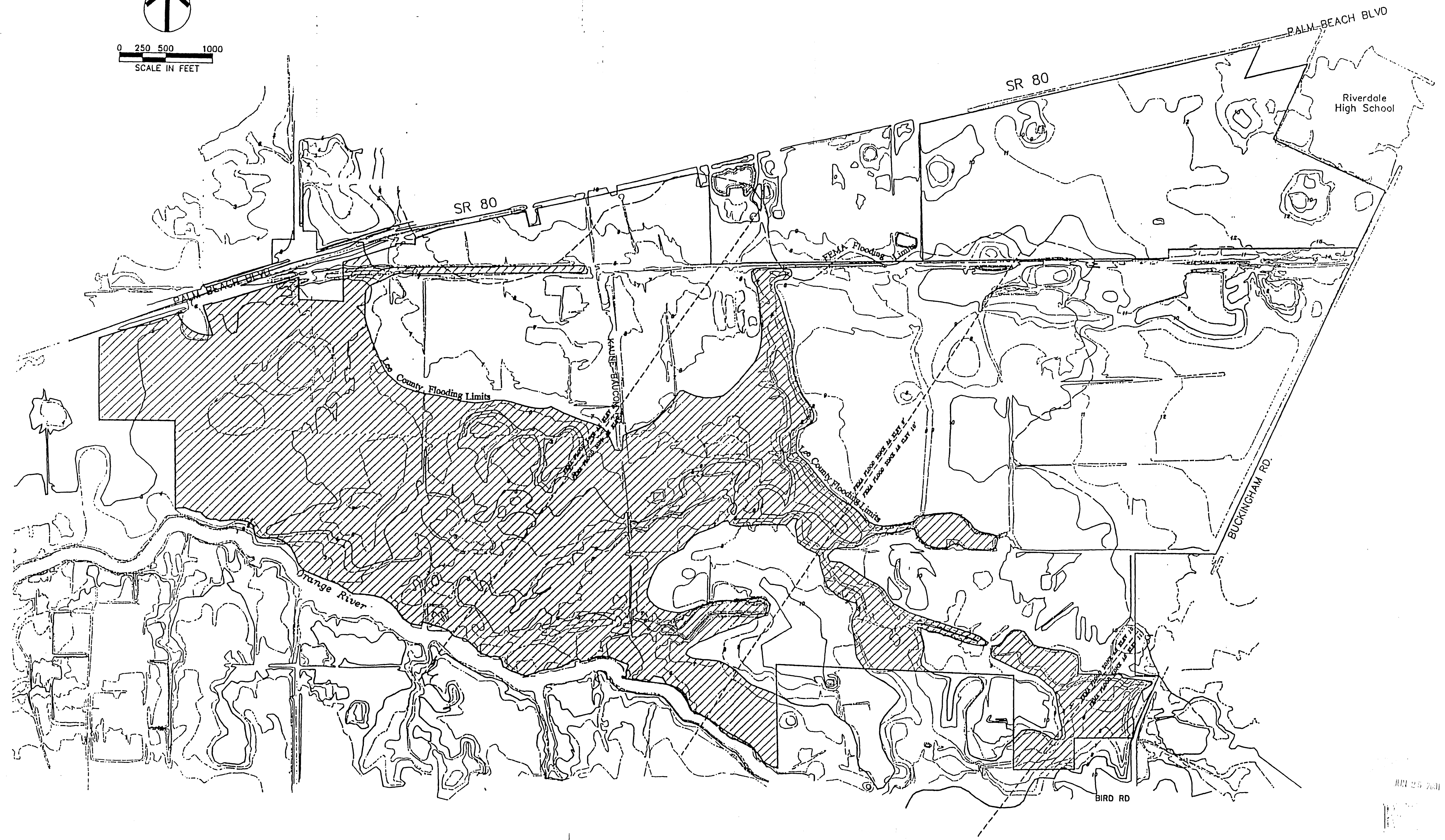
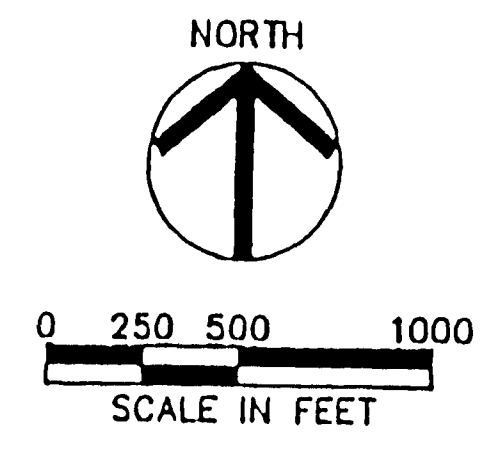
REVISIONS	DESIGNED BY	DATE	HORIZONTAL SCALE
REVISED WETLANDS 11 AND 14	A.W.	9/14/00	1"=300'
REVISED BOUNDARY ALONG RIVER	K.C.P.	9/14/00	VERTICAL SCALE
	P.A.F.	9/14/00	N/A

DATE	SEC./TWP./RNG.
9/14/00	25.36/43S/25E
	29.30.31.32/43S/26E

PASSARELLA and ASSOCIATES, INC.
Consulting Ecologists
4575 Via Royale Suite 201 Ft. Myers, FL 33919

BAUCOM PROPERTY
FLUCFCS AND WETLANDS MAP

EXHIBIT C.1
DRAWING No.: 99BBP402FW-1
SHEET No.: 1



1' CONTOUR BASED ON LEE COUNTY AERIAL DATA OF VARIOUS DATES.

EXHIBIT C.3 OCT 2000-00069

Lee County, Florida

Topographic Map
and Flooding Limits

JOHNSON ENGINEERING, INC.
ENGINEERS, SURVEYORS AND ECOLOGISTS
2158 JOHNSON STREET, P.O. BOX 1350, FORT MYERS, FLORIDA 33902-1350, PHONE (813) 334-0048

DATE	PROJECT NO.	FILE NO.	SCALE
09/23/99	19991536	28-44-26	1" = 500'