

**LEE COUNTY, FLORIDA
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT**

CASE NUMBER: DCI2023-00011

CASE NAME: SOUTHEAST ADVANCED WATER RECLAMATION FACILITY (SEAWRF)

COMMUNITY FACILITIES PLANNED DEVELOPMENT (CFPD)

TYPE OF CASE: MAJOR PLANNED DEVELOPMENT

HEARING EXAMINER DATE: OCTOBER 19, 2023

SUFFICIENCY DATE: AUGUST 1, 2023

REQUEST:

An application has been submitted by Alexis Crespo, AICP, of RVI Planning + Landscape Architecture, on behalf of Lee County Utilities, to rezone a 112.21-acre parcel from Agricultural (AG-2) to Community Facilities Planned Development (CFPD) to allow an Essential Services Facilities, Group II (Wastewater Treatment Plant, referenced as Water Reclamation Facility hereafter). Maximum development considered for this development includes up to 25,000 square feet of office, maintenance, and administration buildings as well as infrastructure necessary for the treatment of up to 10 million gallons of wastewater per day (MGD).

The subject property is located at 18940 Green Meadow Road, Southeast Lee County Planning Community, Lee County, FL. (District #2), STRAP Numbers 04-46-26-00-00001.1010, 04-46-26-00-00001.0010, and 09-46-26-00-00001.0170.

SUMMARY:

Staff recommends APPROVAL of the applicant's request, with recommended Conditions found in Attachment C.

HISTORY OF PARCEL AND CHARACTER OF THE AREA:

The subject property is currently vacant and was previously used as agricultural land. There is an existing Special Exception approved by SEZ2008-00013 which allows a 149-foot communication tower (Attachment F). The tower has been constructed and is in the eastern portion of the property, along the boundary of the flow way the runs north-south along the eastern edge of the property.

The subject property was previously considered for a rezoning through DCI2018-10023 and a Comprehensive Plan amendment through CPA2018-00007. The zoning case considered a Community Facilities Planned Development (CFPD) with a Solid Waste Transfer Facility and Water Reclamation Facility on the same property. During the hearing process, the Hearing Examiner remanded the case back to staff to address concerns from the public, explore other alternatives, enhance community outreach, and to address potential inconsistencies with the Comprehensive Plan. This application has since been withdrawn.

The southern 31+/- acres of the subject property has been set aside for the Alico Road Extension project by Lee County DOT (Attachment G). This extension project will connect Alico Road to Green Meadow Road and then continue in a northeast direction until it connects to State Road 82. Currently, the property fronts both Alico Road and Green Meadow Road, but at the conclusion of the extension project, the tract that is set aside will extend Alico Road along the entire frontage of the property.

Land uses surrounding the property include a mix of preserved Conservation 20/20 land, low density residential/agricultural uses, planned residential communities, and mining operations. The following are the surrounding future land use designations, zoning districts, and existing land uses:

North

Property to the north is zoned Agricultural (AG-2), is in the Density Reduction/Groundwater Resource future land use category, and is predominantly disturbed agricultural land owned by Lee County. This property is now under a conservation easement for restoration and will not be subject to future development.

East

Property to the east is zoned Agricultural (AG-2), is in the Density Reduction/Groundwater Resource and Wetlands future land use categories, and is undeveloped. Immediately to this north of this property an Industrial Planned Development/Community Facilities Planned Development/Agricultural (IPD/CFPD/AG-2) approved by Resolution Z-12-003 (Attachment H). The properties adjacent to the subject property are part of a mining operation, but are under a conservation easement, and will not be subject for future development.

South

Property to the south is separated by Green Meadow Road and is zoned Agricultural (AG-2) and is in the Density Reduction/Groundwater Resource future land use category. To the south there are a mix of residential and agricultural uses on large lots.

West

Property to the west is zoned Agricultural (AG-2), is in the Density Reduction/Groundwater Resource future land use category, and is predominantly disturbed agricultural land owned by Lee County. This property is now subject to restoration activity and will not be subject to future development.

The subject property designated as Public Facilities, Density Reduction/Groundwater Resource and Wetlands within the Lee County Future Land Use Map. The proposed development will take place in the Public Facilities portion the property and will not disturb the wetland areas. Additionally, the property is within the Southeast Lee County Planning Community.

ANALYSIS:

This request is to rezone an approximately 112.21-acre parcel from Agricultural (AG-2) to Community Facilities Planned Development (CFPD) to allow a Water Reclamation Facility (Essential Service Facility, Group II). The maximum intensity proposed by the request includes up to 25,000 square feet of office, maintenance, and administration buildings, as well as the infrastructure necessary for the treatment of up to 10 million gallons per day (MGD).

While the previous application considered both a sewage treatment plant and a solid waste transfer facility, the demands for utilities within the Southeast Lee County area have increased, and the site is no longer considered for a solid waste transfer facility. Specifically, there are two development projects that were approved through the settlement agreements that significantly increase the need for water and wastewater treatment capacity in Southeast Lee County including FFD, which approved 5,208 dwelling units and 100,000 square feet of commercial uses (Attachment I), and Kingston, which approved 10,000 dwelling units and 700,000 square feet of commercial uses (Attachment J).

With the current and anticipated future demand the treatment capacity of the proposed facility has been increase from a maximum of 6 MGD to a maximum of 10 MGD.

Rezoning Criteria:

Section 34-612 of the Lee County Land Development Code describes the intent of the utilization of the Planned Development zoning district. The purpose of planned development zoning is to further implement the goals, objectives, and policies of the Lee Plan, while providing some degree of flexibility in the planning and design of proposed developments.

LDC Section 34-145(d) establishes the review criteria for all rezoning requests. Before recommending approval of a rezoning request, the Hearing Examiner must find the request:

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

For Planned Development rezoning requests, the Hearing Examiner must also find:

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

The applicant's request statement that addresses the decision-making criteria for a Planned Development Rezoning (Attachment D).

Master Concept Plan:

The applicant has provided a one-page master concept plan entitled "Southeast Advanced Water Reclamation Facility" dated February 2023 (Attachment S). The Master Concept Plan details three tracts: Tract A is the largest portion of the property and contains the development footprint of the Water Reclamation Facility; Tract B is the southern portion of the property that is set aside as the future right-of-way for the Alico Road Extension; and Tract C is the Wetland preserve area to the east of the proposed development. The Water Reclamation Facility proposes access from the Alico Road Extension, approximately 1,158 feet east of the current intersection of Alico Road and Green Meadow Road. The development is oriented in a manner where structures are set back a minimum of 100 feet from all property lines and 200 feet from the Alico Road Extension Right-of-Way. The plan references a three-phase design plan with phase 1 proposing an initial 6 MGD plant with future phases

expanding capacity to 10 MGD. The plan currently shows a maximum of three reject tanks, five bioreactors, two reclaimed water tanks, and 2-story operations building. There are also several other mechanical buildings/structures throughout the site that are necessary for the operation of the water reclamation facility. The entire water reclamation facility will be bordered with an 8-foot fence that will be constructed interior to the required landscape buffers.

The Master Concept Plan also shows water detention areas throughout the site, the most notable of which is the largest detention area along the southwest boundary of the property, which has been located to provide additional separation between nearby residential uses to the south and the operation of the proposed water reclamation facility. Along the southern and western boundaries, a Type D is proposed to be provided on buffer in Tract A, while Tract C will be separated by a 50-foot Right-of-Way Tree preservation buffer along the southern boundary along the Alico Road Extension.

Concurrent Comprehensive Plan Amendment:

CPA2023-00003 is being reviewed concurrently with this rezoning request for consideration of a Map Amendment to change the future land use category of the 36+/- acres of the 112-acre property from Density Reduction/Groundwater Resource to Public Facilities (Attachment K). This amendment is limited to upland areas on the property that previously have been disturbed and are not already designated as Public Facilities. The portions of the property that are being preserved will remain in the Density Reduction/Groundwater Resource and Wetlands future land use categories. This amendment was heard by the Local Planning Agency (LPA) on September 25, 2023, and the LPA recommended that the BoCC adopt the proposed map amendment.

Review of this application assumes the proposed Comprehensive Plan Amendment will be adopted by the Board of County Commissioners prior to the consideration of this rezoning request by the Hearing Examiner.

Development Pattern Considerations:

Policy 1.1.8 of the Lee Plan address areas designated as Public Facilities within the County. Despite the mix of future land use categories within subject property, the water reclamation facility is proposed to be located solely within this category. The proposed use is considered a public facility; therefore, staff finds this request consistent with Policy 1.1.8. Additionally, Policy 2.1.3 states public utilities and resource recovery facilities are permitted in all land use categories, which further expands the consistency with this category.

Objective 1.5 describes the Wetlands future land use category. These areas are limited to low density residential uses and recreational areas that will not adversely affect the ecological functions of wetlands. Staff notes that much of this property is designated as Wetlands on the Future Land Use Map, and these areas are not intended to be developed, but rather preserved in perpetuity. Any activities in the wetland areas must also be consistent with Objective 1.5 and Goal 124 of the Lee Plan. For the review of this application, staff finds the request consistent with Objective 1.5.

Objectives 2.1 and 2.2 encourage new growth in future urban areas where adequate facilities exist or are assured and where compact and contiguous development patterns can be created. Policy 2.2.1 encourages development within Lee County where sufficient infrastructure exists. The applicant has provided sufficient documentation to demonstrate that the available infrastructure would support the development intensity that is proposed (see Attachments L, O, and P). Staff notes that this project is also intended to address the utility needs for approved projects within the Southeast Lee County

Community Plan Area. Staff finds this request consistent with Objective 2.1, Objective 2.2, and Policy 2.2.1.

Policy 5.1.5 of the Lee Plan aims to protect uses that are potentially destructive to the character and integrity of residential environment. The nearest residential structure is 350 feet to the southeast of the proposed development. Residential uses that are in proximity of the property are to the southeast and southwest. The applicant has provided a site plan that pushes structures as far northward as possible to minimize visual impacts to the community. As noted in the previous sections of the report, the stormwater detention areas provide additional separation, and there is also an enhanced Type D buffer proposed along the southern boundary of the water reclamation facility tract (Tract A). The applicant has also proposed a height limitation of 35 feet for buildings and a maximum of 60 feet for structures that are generally exempt from height limitations per LDC Section 34-2173(a)(2). The applicant also states in their analysis that best management practices will be used to limit odor for nearby residential uses. Staff finds the request consistent with Policy 5.1.5.

The subject property is in the Southeast Lee County Community Plan Area. Goal 33 of the Lee Plan states that the intent of the Southeast Lee County Community Plan Area is to designate this area as a groundwater resource area that allows limited commercial and residential uses, along with resource extraction and agricultural uses. Objective 33.2 states that the Southeast Lee County Planning Community is critical to the restoration of historic surface and groundwater levels. Policy 33.2.7 states that impacts of proposed land disturbances on surface water and ground water models will be analyzed using site specific data to assess the potential adverse impacts on water resources and natural systems within Southeast Lee County. The subject matter of these policies is further discussed in the natural resources section of this report, which demonstrate that surface and ground water models have been provided and show that the proposed development minimizes impacts to groundwater levels and does not impact the historic flow ways that have been preserved in the development. Staff finds that the request is consistent with Goal 33, Objective 33.2, and Policy 33.2.7.

Goal 56 of the Lee Plan outlines the need to provide sanitary sewer service and wastewater treatment and disposal throughout Lee County. Policy 56.1.3 encourages all utility providers to construct sufficient treatment facilities and collection systems that meet or exceed the minimum acceptable service standards required by Florida Department of Environmental Protection, the Florida Department of Health, the US Environmental Protection Agency, and applicable local ordinances. The proposed water reclamation facility is needed to meet the wastewater demands of the County and will supplement the Three Oaks Water Reclamation Facility, which is not suited to fully meet the demands of the area. Staff finds the request consistent with Goal 56 and Policy 56.1.3.

Policies 60.1.1 and 60.1.2 seeks to incorporate, utilize, and where possible, to restore natural surface water flowways and associated habitats. This is expanded by Policy 123.2.3, which prohibits water management and development projects from disrupting the natural functions of natural systems. Policy 126.1.1 states that natural water system features which are essential to detention, purification, runoff, recharge, and maintenance of stream flows must be identified, protected, and managed. The development will preserve on-site wetlands which incorporate historic flowways and associated habitat. The project design will also comply with State requirements for water quality and quantity. Staff finds the request consistent with Policies 60.1.1, 60.1.2, 123.2.3, and 126.1.1.

Goal 125 of the Lee Plan establishes objectives and policies to ensure that water quality is maintained or improved for the environment and people of Lee County. Objective 125.1 states that development

must maintain high water quality, meeting or exceeding state and federal water quality standards. Policies 125.1.2 and 125.1.3 require new development to not degrade surface and ground water quality and require the design of drainage systems that minimize nutrient loading and pollution in off-site charges. The applicant provided a Stormwater Narrative that describes the method by which the request is consistent with these policies (Attachment N). Staff finds the request consistent with Goal 115, Objective 125.1, and Policies 125.1.2 and 125.1.3.

Natural Resources:

Natural Resources staff provided analysis of the integrated surface and groundwater model submitted as part of the application and finds that the proposed development will maintain surface and groundwater levels to their historic levels. The model demonstrates that the development will not impact properties upstream, downstream, or adjacent to the development. In the staff analysis, the stormwater narrative is described and is shown to meet relevant Lee Plan Policies. To ensure that the project remains consistent with the Lee Plan, Natural Resources staff recommends the following condition:

Prior to local development order approval, the Water Quality Monitoring Plan for Southeast Advanced Water Reclamation Facility (dated August 2023) must be provided for review and approval by Lee County Division of Natural Resources.

Environmental Considerations:

The applicant notes that the development area of the Master Concept Plan is limited to upland disturbed areas, and there are no proposed impacts to the wetland/preserve areas to the east and west, along with the Conservation 20/20 property to the north. The applicant states that preserve areas are proposed to be connected to Conservation 20/20 lands to the north and west as well as conservation lands to the east. Staff notes that the Alico Road Extension proposes a wildlife crossing connecting the subject property to the Wild Blue MPD conservation area. Staff proposes a condition to ensure that this connection is provided.

Environmental Staff has also provided a report for the proposed development and provided findings regarding protected species, indigenous habitat, open space, and buffer requirements (Attachment M). There is a minor discrepancy in the open space calculations in the applicant's submittal items and therefore staff recommends the following condition of approval:

Prior to the issuance of the first development order, the development order plans must depict 60.3 percent (48.82 acres) open space over the entirety of the CFPD.

Environmental staff also notes that the proposed open space preservation areas will comply with LDC and Lee Plan Requirements. Staff does note that restoration will take place in the preserve areas and that a restoration plan will be provided at the time of development order. Staff offers the following conditions to address the restoration plan:

Prior to the issuance of the first development order, the development order plans must depict 31.39 acres of indigenous open space.

No development in wetlands regulated by the State of Florida may be commenced without the appropriate state agency permit or authorization. Development orders and development permits authorizing development within wetlands or lands located within the Wetlands future land use

category may be issued subject to a condition that construction may not commence until issuance of the required state permits.

Prior to the issuance of the first development order, the applicant must provide a restoration plan, consistent with LDC Section 10-474, over the entirety of the preservation area, including supplemental plantings and removal of exotics. Development services staff must approve all plans prior to the issuance of the first development order.

Prior to the issuance of the first development order, the development order plans must include a map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas and native vegetation must be protected by tree barricades.

Prior to the issuance of the first development order, the management plan must demonstrate hand removal/treatment within saturated areas of the proposed preserve to avoid grade change.

The applicant must submit a vegetation removal permit with a survey point map depicting the preservation and restoration areas and mechanical clearing limits.

Prior to the issuance of the first development order, an indigenous management plan must be provided and approved by Development Services Staff.

The applicant must submit an indigenous monitoring plan for ten years after the initial time zero report.

Prior to the issuance of a Certificate of Compliance, if the proposed restoration plantings fail, the developer must provide temporary irrigation approved by Lee County Development Services Staff.

Prior to the issuance of the first development order, development order plans must demonstrate exotic removal and restoration of indigenous habitat to begin concurrently with improvements to land.

Prior to the issuance of the first development order, development order plans must demonstrate a schedule for the indigenous preservation and restoration to be completed within the first five years.

Prior to the issuance of the first development order, landscape plans must depict native species for the required supplemental plantings.

Environmental staff also prepared an analysis of the required and proposed buffer areas along each side of the development. To ensure compliance with the LDC, staff proposes the following conditions of approval:

Prior to the issuance of the first development order, the development order plans must depict a 30-foot Type D right-of-way buffer along the south property line.

Prior to the issuance of the first development order, the development order plans must depict a 30-foot Type F buffer along the southern portion of the west property line. The north property line

must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48 inches tall and maintained at 72 inches tall.

Prior to the issuance of the first development order, the development order plans must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48 inches tall and maintained at 72 inches tall along the northern property line.

Transportation Considerations:

As previously stated, the Master Concept Plan proposes access to the Alico Road Extension, which will be designed to adequately provide access to the subject property. The applicant has provided a Traffic Impact Statement for the Community Facilities Planned Development (Attachment O). Lee County Infrastructure Planning staff has provided analysis regarding the TIS provided in support of the proposed Community Facilities Planned Development (CFPD) (Attachment P). The proposed use is anticipated to generate an additional 166 daily trips on the roadway system which will not have a detrimental impact on the roadway.

Bicycle and Pedestrian Facilities:

The proposed development is adjacent to the Alico Road Extension, which is designated for bicycle/pedestrian facilities on Lee Plan Map 3-D. There are existing bike lanes on Alico Road on the northern and southern portions of the roadway, and at the time of Development Order approval, the applicant will be required to extend these facilities along the frontage of the proposed development, as required by the Land Development Code. Additional coordination will be required to ensure that the timing of bicycle/pedestrian facilities does not interfere with the construction of Alico Road extension.

Urban Services:

The nearest Fire and EMS Substation is 6.7 miles southwest, and a Sheriff's substation is approximately 8.06 miles northwest of the development. There are other available urban services available for this development, but the nature of the request does not merit further review. Water and Wastewater will be provided to this site per the Utility Availability Letter provided by the applicant (Attachment L).

Land Development Code Compliance:

LDC Section 10-351 establishes standards for public sewage systems, that reflect the intent of the Goals, Objectives, and Policies of the Lee Plan. This section requires demonstration that the treatment plant must be designed: to not adversely affect water quality of any stream, lake, or underground aquifer (10-351(b)); to minimize odor or other impacts to the health, safety, and welfare of the public (10-351(d)(1)); to provide a minimum setback of 100 feet from all property lines (10-351(d)(2)); and to comply with all local, state and federal regulations. The applicant's integrated surface and groundwater model demonstrates that no adverse impacts will occur to lakes, streams, and aquifers. The applicant's narrative describes that the project will be designed to minimize odor and other impacts to the public health safety and welfare. During review of the Master Concept Plan and other application materials, staff reviewed for compliance with all portions of the Land Development Code including the requirements of Chapter 10 and 34. This includes a minimum structural setback as described above. Staff has reviewed the overall request and notes that except for the proposed deviations, the request meets the requirements of the Land Development Code. At the time of

Development Order Approval, the applicant will need to demonstrate compliance with appropriate state and federal permitting.

Deviation Requests:

The applicant has requested four deviations in conjunction with this rezoning. An analysis and justification for the requested deviations is attached (Attachment D). Staff's analysis of each deviation and a recommendation for each request is as follows:

1. Deviation 1 seeks relief from LDC Section 10-416(d)(3), which requires a 30-foot Type F Buffer for wastewater treatment plants when abutting public preserve lands for conservation and/or passive recreation, to allow a 30-foot Type F buffer with an 8-foot tall fence extending from the southwest corner of Tract A northward for approximately 300 feet and a 20-foot buffer with an 8-foot tall fence and a 5-foot double hedge row to be planted at 48 inches tall and maintained at 60 inches tall along the remaining west and north boundary of Tract A.

Environmental Staff provided analysis on this request (Attachment M) and notes that the proposed continuous hedge row will serve to screen and limit the impact to the conservation lands and wildlife from the associated facility. The applicant states that an enhanced 30-foot Type D buffer is proposed along the Alico Road Extension to ensure that the project is not impactful to the arterial roadway viewshed and compatible with surrounding development patterns. Staff notes that the height of buffer plantings in the northern portion of the west boundary buffer and the north boundary buffer should be increased to ensure compatibility. Staff recommends APPROVAL of this deviation with the following condition:

Prior to the issuance of the first development order, the development order plans must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48 inches tall and maintained at 72 inches tall along the northern property line.

2. Deviation 2 seeks relief from LDC Section 10-329 (d)(4) which requires a 6:1 lake bank slope to allow for a 4:1 lake bank slope with enhanced slope protection measures for retention/detention areas within the project.

Environmental Staff provided analysis on this request (Attachment M) and notes site constraints from the limited development area, as well as the reduction in land area from the dedication of the right-of-way tract for the Alico Road extension. The applicant seeks the deviation to reduce the footprint of the detention areas to allow for the development plan considered on the MCP. Staff recommends APPROVAL of this deviation with the following condition:

Prior to the approval of a development order, a cross-section demonstrating the reinforcement or turf mats must be submitted and signed/sealed by a licensed engineer. The cross-section must be approved by Development Services Staff.

3. Deviation 3 seeks relief from LDC Section 10-418(2)(c), which requires a 20-foot-wide planted littoral shelf extending waterward of the control elevation at a depth no greater than 2 feet below the control elevation, to allow no planted littoral shelf.

Environmental Staff provided analysis on this request (Attachment M) and notes that like Deviation 2, the site is constrained by preserve areas and Right-of-way dedication. Staff recommends APPROVAL of this deviation with the following condition:

Prior to the approval of a development order, the applicant must demonstrate compliance to Florida Statute's surface water quality standards.

4. Deviation 4 seeks relief from LDC Section 10-291(3), which requires commercial or industrial development of more than ten acres to provide more than one means of ingress or egress for the development, to allow for only one means of ingress or egress from the facility.

Development Services provided analysis of this deviation and notes that the request addresses operational concerns with both the Water Reclamation Facility and the construction of the Alico Road extension. The applicant has also received letters of no objection from the San Carlos Fire Chief, Lee County Public Safety, and Lee County Sheriff's to support the request. Staff recommends APPROVAL of this deviation, subject to the following condition:

The developer must record a notice to all future property owners, in the public record, prior to issuance of a local development order allowing construction of the access to the development. The notice must detail the emergency access plan and provide information as to where a copy of this plan may be obtained from the developer or developer's successor.

CONCLUSION:

Based on the analysis provided above, staff offers the following review of the decision-making criteria for the planned development rezoning request. Staff finds that the proposed request:

- a) Complies with the Lee Plan;

Based on the analysis above, staff finds that the request is consistent with the Lee Plan. The proposed uses are compatible with existing and proposed uses and meet or exceed the objectives and policies above.

- b) Meets this Code and other applicable County regulations or qualifies for deviations;

The applicant seeks four deviations, and staff recommends approval of these deviations with conditions where appropriate. Staff finds that the request meets or exceeds County regulations.

- c) Is compatible with existing and planned uses in the surrounding area;

The mix of uses surrounding the subject property includes a mix of agricultural land, residential uses, mining activity, and preserved land. The request, as conditioned, is compatible with surrounding existing and planned uses.

- d) Will provide access sufficient to support the proposed development intensity;

Access is proposed from Alico Road. Staff finds that there will be sufficient access to support the development.

- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;

Staff has reviewed the anticipated transportation impacts and finds that, as conditioned, impacts to the roadway system are adequately addressed.

- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and

Staff has reviewed the potential environmental impacts and has determined that the request, as conditioned, meets the requirements of the Land Development Code and Lee Plan and sufficiently protects existing environmentally critical areas and natural resources.

- g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

As indicated in the Lee Plan analysis above, the property is served by requisite Urban Services despite being in the Density Reduction/Groundwater Resource future land use category.

Additionally, staff has concluded:

- a) The proposed use or mix of uses is appropriate at the proposed location;

The proposed use is appropriate for the location based on site configuration and enhancements to ensure compatibility with the nearby residential uses.

- b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and

Staff finds the recommended conditions of approval appropriate to sufficiently address the public's interest with respect to the proposed development.

- c) That each requested deviation enhances the achievement of the objectives of the planned development and reserves and promotes the general intent of the Land Development Code to protect the public health, safety, and welfare:

Staff recommends approval of four deviations and finds that the deviations enhance the achievement of the objectives of the planned development and protect the public health, safety, and welfare.

ATTACHMENTS:

- A. Expert Witness Information
- B. Maps: surrounding zoning, future land use and aerial photograph
- C. Recommended Conditions and Deviations
- D. Request Statement/Deviation Request Language
- E. Legal Description
- F. SEZ2008-00013
- G. Alico Road Extension Project
- H. Resolution Z-12-003
- I. FFD Settlement Agreement
- J. Kingston Settlement Agreement
- K. CPA2023-00003 Staff Report
- L. Water/Wastewater Letter of Availability
- M. Environmental Staff Report
- N. Natural Resources Staff Report
- O. Traffic Impact Statement
- P. Infrastructure Planning Memorandum
- Q. Development Services Memorandum
- R. Letters of No Objection
- S. Master Concept Plan

ATTACHMENT A

LEE COUNTY STAFF EXPERT WITNESS INFORMATION
PROVIDED PURSUANT TO AC-2-6, SECTION 2.2.b(5)(f)3.

Dirk Danley, AICP, Principal Planner, Zoning, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee County Land Development Code, Lee Plan, zoning, and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Elizabeth Workman, Principal Planner, Zoning, 1500 Monroe Street, Fort Myers, FL 33901

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Marcus Evans P.E., Senior Engineer, Development Services, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in Traffic Engineering and Transportation Planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Brandon Dunn, Planning Manager, Planning, 1500 Monroe Street, Fort Myers, FL 33901

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Rebecca Sweigert, Senior Manager, DCD, 1500 Monroe Street, Fort Myers, FL 33901

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Nicholas DeFilippo, Senior Environmental Planner, Planning, 1500 Monroe Street, Fort Myers, FL 33901

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Phil Gillogly, P.E., Surface Water Manager, Natural Resources, 1500 Monroe Street, Fort Myers, FL 33901

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Lee Werst, Natural Resources Supervisor, Natural Resources, 1500 Monroe Street, Fort Myers, FL 33901

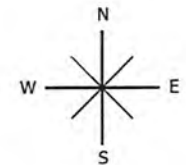
- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee Plan and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

DCI2023-00011

Aerial

ATTACHMENT B

 Subject Property

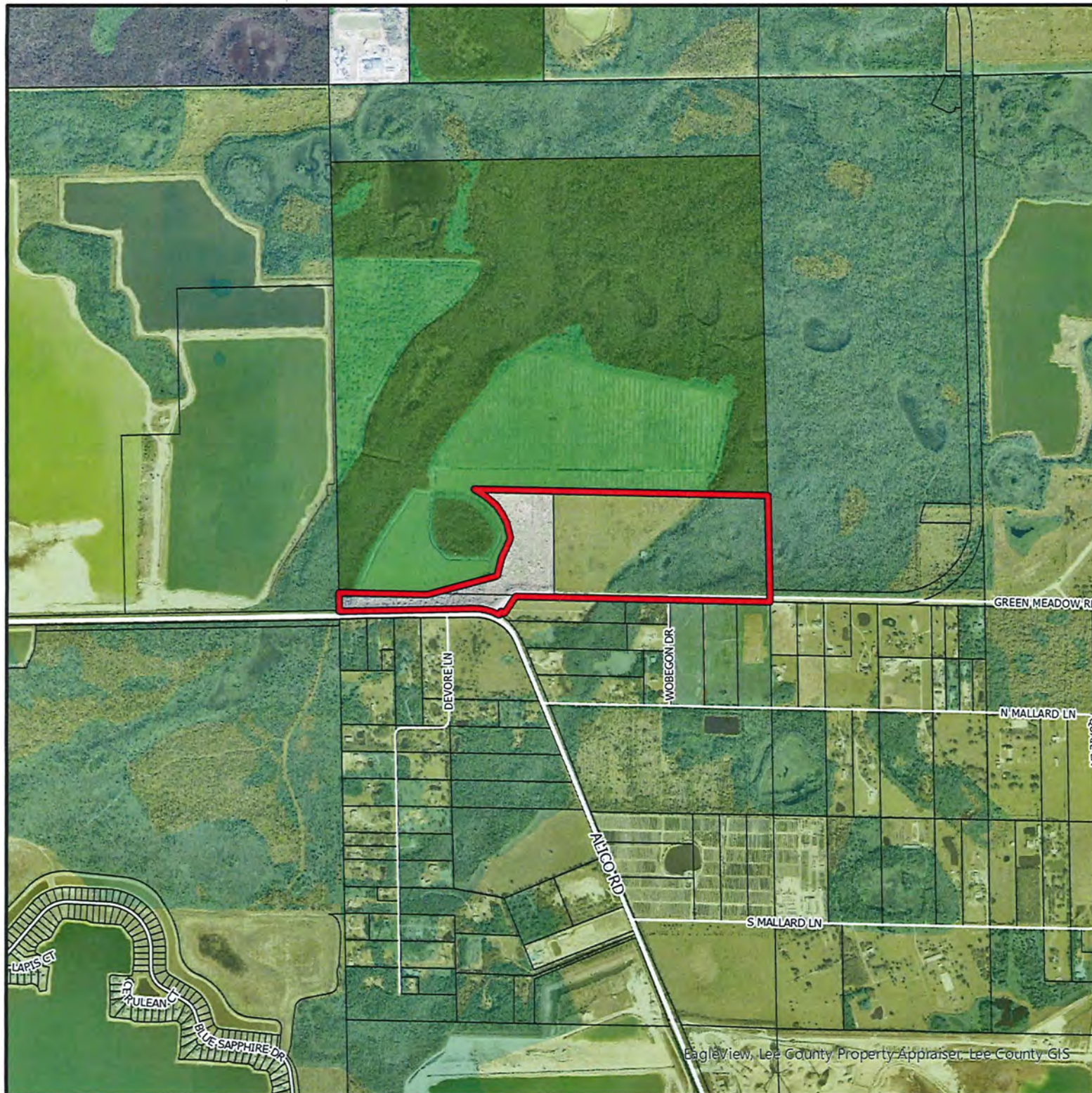


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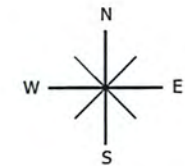


DCI2023-00011

Future Land Use



- Subject Property
- Public Facilities
- Airport
- Density Reduction/Groundwater Resource
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland



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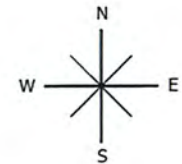




DCI2023-00011

Zoning

 Subject Property



0 1,000 2,000 3,000
Feet



ATTACHMENT C

A. Conditions:

1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the one-page Master Concept Plan entitled "Southeast Advanced Water Reclamation Facility" stamped February 2023, except as modified by the conditions below. Development must comply with all the requirements of the LDC at the time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent amendments to the Master Concept Plan or the conditions or deviations attached thereto are subject to the planned development amendment process established by the Land Development Code.

Project intensity is limited to a maximum intensity of 25,000 square feet of office, maintenance, and administration buildings, and the infrastructure necessary for up to 10 million gallons of wastewater per day.

2. Uses and Site Development Regulations

The following limits apply to the project and uses:

a. Schedule of Uses

Accessory Uses and Structures
Administrative Offices
Communication Facility, Wireless (in Accordance with LDC Sec. 34-1441 et. Sec.),
See Condition 3
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities: Groups I and II (Excluding Solid Waste Transfer Facilities)
Excavation: Water Retention Only
Fences, Walls
Government Agencies, Offices Only
Maintenance Facility (Government)
Parking Lot, accessory
Signs
Storage, Indoor
Water Retention/ Detention

b. Site Development Regulations

Minimum lot area and dimensions:

Lot area: 39,500 Square Feet

Lot width: 100 feet

Lot Depth: 130 feet

Setbacks:

Wastewater Treatment Plant:

In accordance with LDC Sec. 10-351

Street:	200 feet (Alico Road ROW) 100 feet (All other Perimeter Boundaries)
Water body, other:	25 feet
Maximum height:	45 feet except for structures referenced in LDC Section 34-2173 are limited to 60 feet
Minimum Open Space:	30%
Maximum lot coverage:	35%

3. Wireless Communication Facility

The Wireless Communication Facility approved as conditioned in the Hearing Examiner's Decision under Case Number SEZ2008-00013 remains in full force and effect.

4. Water Quality Monitoring

Prior to local development order approval, the Water Quality Monitoring Plan for Southeast Advanced Water Reclamation Facility (dated August 2023) must be provided for review and approval by the Lee County Division of Natural Resources.

5. Open Space

Prior to the issuance of the first development order, the development order plans must depict 60.3 percent (48.82 acres) open space.

6. Environmental Conditions

a. Prior to the issuance of the first development order, the development order plans must depict 31.39 acres of indigenous open space.

b. No development in wetlands regulated by the State of Florida may be commenced without the appropriate state agency permit or authorization. Development orders and development permits authorizing development within wetlands or lands located within the Wetlands future land use category may be issued subject to a condition that construction may not commence until issuance of the required state permits.

c. Prior to the issuance of the first development order, the applicant must provide a restoration plan, consistent with LDC Section 10-474, over the entirety of the preservation area, including supplemental plantings and removal of exotics. Development services staff must approve all plans prior to the issuance of the first development order.

d. Prior to the issuance of the first development order, the development order plans must include a map depicting where mechanical and hand-removal methods of exotic

vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas and native vegetation must be protected by tree barricades.

- e. Prior to the issuance of the first development order, the management plan must demonstrate hand removal/treatment within saturated areas of the proposed preserve to avoid grade change.*
 - f. The applicant must submit a vegetation removal permit with a survey point map depicting the preservation and restoration areas and mechanical clearing limits.*
 - g. Prior to the issuance of the first development order, an indigenous management plan must be provided and approved by Development Services Staff.*
 - h. The applicant must submit an indigenous monitoring plan for ten years after the initial time zero report.*
 - i. Prior to the issuance of a Certificate of Compliance, if the proposed restoration plantings fail, the developer must provide temporary irrigation approved by Lee County Development Services Staff.*
 - j. Prior to the issuance of the first development order, development order plans must demonstrate exotic removal and restoration of indigenous habitat to begin concurrently with improvements to land.*
 - k. Prior to the issuance of the first development order, development order plans must demonstrate a schedule for the indigenous preservation and restoration to be completed within the first five years.*
 - l. Prior to the issuance of the first development order, landscape plans must depict native species for the required supplemental plantings.*
7. Buffer Conditions
- a. Prior to the issuance of the first development order, the development order plans must depict a 30-foot Type D right-of-way buffer along the south property line.*
 - b. Prior to the issuance of the first development order, the development order plans must depict a 30-foot Type F buffer along the southern portion of the west property line. The north property line must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48 inches tall and maintained at 72 inches tall.*
 - c. Prior to the issuance of the first development order, the development order plans must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48 inches tall and maintained at 72 inches tall along the northern property line.*

B. Deviations

1. Deviation 1 seeks relief from LDC Section 10-416(d)(3), which requires a 30-foot Type F Buffer for wastewater treatment plants when abutting public preserve lands for conservation and/or passive recreation, to allow a 30-foot Type F buffer with an 8-foot tall fence extending from the southwest corner of Tract A northward for approximately 300 feet and a 20-foot buffer with an 8-foot tall fence and a 5-foot double hedge row to be planted at 48 inches tall and maintained at 60 inches tall along the remaining west and north boundary of Tract A.

This deviation is APPROVED subject to the following condition:

- a. Prior to the issuance of the first development order, the development order plans must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48 inches tall and maintained at 72 inches tall along the northern property line.
2. Deviation 2 seeks relief from LDC Section 10-329 (d)(4) which requires a 6:1 lake bank slope to allow for a 4:1 lake bank slope with enhanced slope protection measures for retention/detention areas within the project.

This deviation is APPROVED subject to the following condition:

- a. Prior to the approval of a development order, a cross-section demonstrating the reinforcement or turf mats must be submitted and signed/sealed by a licensed engineer. The cross-section must be approved by Development Services Staff.
3. Deviation 3 seeks relief from LDC Section 10-418(2)(c), which requires a 20-foot-wide planted littoral shelf extending waterward of the control elevation at a depth no greater than 2 feet below the control elevation, to allow no planted littoral shelf.

This deviation is APPROVED subject to the following condition:

- a. *Prior to the approval of a development order, the applicant must demonstrate compliance to Florida Statute's surface water quality standards.*
4. Deviation 4 seeks relief from LDC Section 10-291(3), which requires commercial or industrial development of more than ten acres to provide more than one means of ingress or egress for the development, to allow for only one means of ingress or egress from the facility.

This deviation is APPROVED subject to the following condition:

- a. The developer must record a notice to all future property owners, in the public record, prior to issuance of a local development order allowing construction of the access to the development. The notice must detail the emergency access plan and provide information as to where a copy of this plan may be obtained from the developer or developer's successor.



ATTACHMENT D

Southeast Advanced Water Reclamation Facility Community Facilities Planned Development

Request Statement & Lee Plan Compliance Narrative

I. Summary

Lee County Utilities ("Applicant"), upon authorization by the Board of County Commissioners, is requesting approval to rezone 112 +/- acres ("Property") from Agricultural (AG-2) to Community Facilities Planned Development (CFPD), to allow for the development of a public wastewater treatment facility, referred to herein as the Southeast Advanced Water Reclamation Facility (SEAWRF). The Property is located within the Southeast Lee Planning Community, and currently consists of following three future lands use (FLU) categories Public Facilities, Density Reduction/Groundwater Resource (DR/GR) and Wetlands.

Approximately 36+/- acres of the site is within the DR/GR FLU and is subject to a companion Small-Scale Comprehensive Plan Amendment (CPA) to change the Future Land Use Map (Map 1-A) to the "Public Facilities" future land use category. The remaining lands in the 112-acre property that are not subject to this request are appropriately designated as DR/GR, Public Facilities and Wetlands.

III. Surrounding Land Use Pattern

The Property is within the Southeast Lee County Planning Community, which includes transitional mix of agricultural, industrial/mining, residential and mixed-use developments, both existing and planned, as described below.

The surrounding land use pattern consists of public rights-of-way and reserved public right-of-way for the Alico Road extension, a future 4-lane arterial roadway with the capacity to expand to a 6-lane roadway in the future should it become warranted will serve as a north/south reliever roadway for I-75, which is reaching capacity. Construction for Phase I of the roadway along the subject property's frontage is planned to commence by mid-year 2024.

Active and large-scale commercial mines have been operating in the area for several decades including CEMEX to the west, Argos to the east and Youngquist Brothers Rock to the south.

In contrast to the high intensity mining operations in the area, large-scale master planned communities lie to the south of Alico along the Corkscrew Road corridor, including WildBlue (1,096 DUs), The Place at Corkscrew (1,325 DUs) and Verdana (2,400 DUs). The Board of County Commissioners also recently approved settlement agreements for a project known as "FFD" allowing for 4,197 DUs. Additionally, 10,000 DUs were approved by the Board in 2022, within a project known as "Kingston", which extends from Corkscrew Road to State Road 82.

Intermingled with mining operations and emerging master-planned communities are low-density single-family residential lots that range between four to twelve acres in size, conservation lands and various agriculture and mining operations.

The approved, permitted, and planned growth of Southeast Lee County clearly identifies a shift from the current development pattern to suburban levels of development that require additional public services and infrastructure to serve the increased population within this area.

Located diagonal to the Property along the southwest corner is a conservation easement that is part of the 2,096 +/- acre Wild Blue Mixed Use Development. As part of the Alico Road expansion a wildlife crossing is proposed connecting the Wild Blue MPD conservation area to the conservation area to the west of the Property, as described in further detail in Johnson Engineering's Environmental Report.

The site contains jurisdictional wetlands, all of which will remain as a preserve. These lands will provide 30+/- acres of indigenous native preserve internal to the site, which will maintain connectivity with the historic wetland slough's southwest water flow conditions.

II. Project Background/Property History

- **Project Context**

The Property is located along the north side of Alico Road and Green Meadow Road and is comprised of three (3) parcels STRAP Numbers 04-46-26-00-00001.1010, 04-46-26-00-00001.0010, and 09-46-26-00-00001.0170 consisting of 112 +/- acres. The Property is currently zoned AG-2 and currently vacant except for an active wireless communication tower. The communication tower was approved via a Special Exception SEZ2008-00013 which allowed for a 149-foot wireless communication tower to be located on the eastern portion of the property to the west of the onsite jurisdictional wetlands. The existing conditions associated with approval of SEZ2008-00013 will remain in as part of this development, if approved.

- **Historic Uses**

Historically, the use of the Property, particularly the 51 +/- acres identified for development on the proposed Master Concept Plan (MCP), have been predominantly agricultural in usage. Prior to the late 1960's, the Property was cleared for the active agricultural production of row crops. Between 2002 and 2005 the Property transitioned to cattle pasture. The Property is characterized as an open rangeland and bounded cypress forest, marshes, and wet prairie to the east.

- **Conservation 20/20 "Land Swap"**

The subject property was selected for the SEAWRF by Lee County following a significant amount of site location analysis via the Corkscrew Overlay Area Wastewater Master Planning Report which applied sound planning principals, environmental analysis and prioritization, and fiscal responsibility when evaluating possible site locations.

The County's site selection process for the SEAWRF included several criteria that must be met. The first criteria was to locate the facility proximate to the area where new demand is being generated, to support fiscal and environmental responsibility by reducing the amount of infrastructure and distance untreated water would need to travel to service the area.

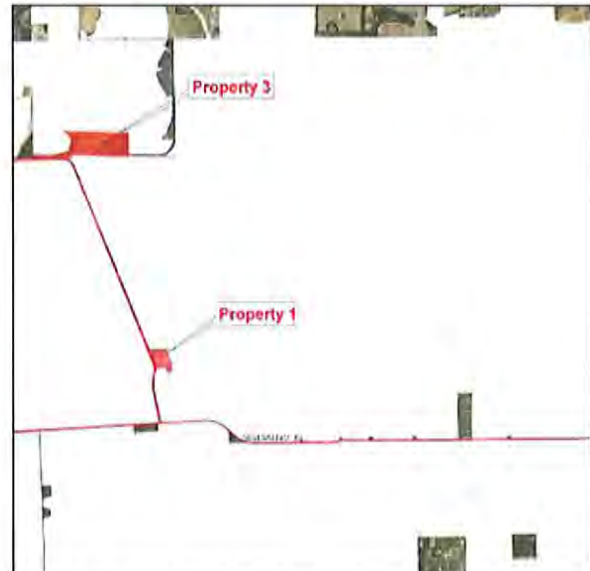
Other limiting criteria included:

- Properties with 40 acres or greater of developable lands to accommodate the scale of facility needed;
- Properties that have limited conservation easements, environmentally sensitive lands, or wetlands;
- Properties that are proximate or had access to major arterial or collector road including I-75;
- Properties that would be able to maintain a buffer to adjacent developed or properties with the potential for future development; and
- Properties where owners were willing to sell.

Map 1: Potential Properties 1 & 2



Map 2: Potential Properties 1 & 3



In 2016, the report narrowed down the new facility to two (2) possible properties identified in Map 1, above. "Property 1" was the Corkscrew Water Treatment Plant (WTP) location. "Property 2" contained 44.5 +/- acres and was located at 18501 Corkscrew Road and within Tier 1 (highest priority) areas in the Lee Plan's Priority Restoration Strategy Overlay in Map 1-D - Special Treatment Areas. Objective 33.1 of the Lee Plan identifies properties within Tier 1 as most critical in providing significant restoration of historic surface and groundwater levels and connecting existing wildlife corridors and conservation areas. Thus, Property 2 was less desirable than the subject property for development due to environmental factors. Additionally, the site would result in additional infrastructure needs and a less efficient design.

In 2017, Conservation 20/20 staff met with Lee County Utilities and identified a possible third property through the discussion of a 31 +/- acre disturbed lands site owned by conservation 20/20 along Alico Road and now part of the subject Property. These disturbed lands were removed from Site 90 of the Wild Turkey Strand Preserve in 2009 and were used for hurricane debris storage and considered scrap lands. These disturbed lands had been identified in the Wild Turkey Strand Preserve Land Stewardship Plan 2010 Second Edition as lands to be potentially swap.

Lee County Utilities and Conservation 20/20 recognized that the perpetual conservation of the Property 2 which would help create an approximately four (4) mile uninterrupted preserve corridor provided a higher value to maintaining the integrity and restoration of the large-scale ecosystem in Southeast Lee County when compared to the property located along Alico Road which would be more appropriate for an active use. Furthermore, this land swap would be consistent with the intent of the Southeast Lee County Goal 33 and subsequent Objectives, and Policies to protect natural resources through public acquisition and restoration efforts. In May of 2017, an addendum to the Corkscrew Overlay Area Wastewater Master Planning Report added the subject Property to the list as a third potential site ("Property 3"), which was owned by Conservation 20/20.

In October of 2017, the Lee County Board of County Commissioners authorized the land swap of the LCU property along Corkscrew Road and the 31 +/- acre scrap land along Alico Road to provide a greater environmental benefit due to connectivity and vegetation quality.

In September of 2018, a due diligence siting analysis for the future Southeast Wastewater Treatment was done between the Corkscrew WTP location and the currently proposed location.

Property 3 was selected as it provides a larger developable area due historical agricultural activity, and also provides more opportunities to maintain a buffer and separation from adjacent existing and future developable properties due to larger area available for development.

- **Previous Comprehensive Plan Amendment (CPA2018-00007) & Zoning Action (DCI2018-10023)**

Following the land swap, the property was part of a previous zoning action request in 2018 to allow for a co-located wastewater treatment plant (WWTP) and a solid waste facility. The WWTP at that time was proposed to have a maximum final operation capacity of 6 MGD. The solid waste facility was comprised of approximately 120,000 SF and was of concern to surrounding property owners due to the potential for traffic, environmental impacts and other compatibility issues. The Hearing Examiner remanded the case back to the staff level to address items such as pursuit of comprehensive amendment, analysis of alternatives, enhanced community outreach, compatibility with surrounding land uses, and environmental protection.

Also of note, the western 31 +/- acre portion of the site consists of the Public Facilities FLU category, which was redesignated in 2018 from Conservation Lands Uplands and Conservation Lands Wetlands to Public Facilities and Wetlands via Ordinance No. 18-25/CPA2018-00007.

- **Changed Conditions**

As detailed below, a key change with the current CPA and rezoning request is elimination of the formerly proposed 120,000 SF solid waste facility component of the project. The site is now solely proposed for the public WWTP facility and accessory uses, which eliminates many of the project's external impacts and increases compatibility with the surrounding residential land uses.

Another key change that has occurred since the 2018 application was filed is significant increased projected demand for sanitary sewer facilities in the Southeast Lee County Planning Community, particularly for those master-planned communities along the Corkscrew corridor outlined above.

This increased projected demand has led to the anticipation of the need to further expand the final operation capacity of the SEAWRF from 6 MGD to 10 MGD.

The facility has been sited to be able to service flows within the Southeast Lee County Community of areas currently serviced by the Three Oaks Water Reclamation Facility, or those areas currently not serviced at all. Included in this service area are two (2) large projects approve in recent years by the Board of County Commissioners: FFD approved for 4,197 DUs, and “Kingston” approved for 10,000 DUs.

II. Proposed CFPD Development Program

The proposed SEAWRF is requested via the CFPD zoning district as required for “Group II, Essential Facilities” pursuant to LDC Section 34-622(c)(13).

The SEAWRF as identified in the submitted Master Concept Plan (MCP) will consist of three development phases that will allow additional capacity to come online as demand increases in the future. The phasing will consist of Phase 1 (a 6 Million Gallons per Day (MGD) facility), then a Phase 2 (up to 8 MGD facility capacity), followed by Phase 3 to allow expansion up to a 10 MGD plant capacity. Additionally, a maximum of 25,000 SF of Utilities Office/Administration/Maintenance Buildings are proposed.

The site will have a single access point along Green Meadow Road/Future Alico Road extension, and the development will contain an access point to the adjacent Conservation 20/20 property to allow for maintenance of the area.

As shown on the enclosed MCP, the CFPD will be made up of three (3) development tracts:

- Tract A consists of 50.57 +/- acres for the development of the Water Reclamation Facility (WRF) and is proposed to contain the following uses: WRF/WWTP, storage tanks, pump station, injection well, maintenance and administration buildings, and supporting wastewater treatment facilities;
- Tract B will serve as a portion of Phase 1 of the Alico Road Extension, a 4-lane arterial roadway that will serve as a north/south reliever roadway for I-75, which is reaching capacity. Construction for Phase I of the roadway along the subject property's frontage is planned to commence mid-year 2026.
- Tracts C consists of 30.43 +/- acres of onsite wetland preserve and 25-foot wetland buffer and will remain unimpacted by any proposed development and connect to adjacent conservation lands to the north, west and east of the site.

Per Sec. 10-351, enhanced setbacks are provided for public WWTP, including 100-foot perimeter setbacks for above ground structures. In recognition of the future approximate 250-foot Alico Road ROW the measurement of this 100-foot perimeter setback is being measured starting from the northern edge of the reserved Alico Road ROW, or Tract A's southern boundary.

To ensure the facility is not impactful to the arterial roadway viewshed and compatible with surrounding development patterns, an enhanced 30-foot Type D buffer is proposed along the future Alico Road frontage (except where on-site preserve abuts the future roadway). This is a significant enhancement when compared to the required right-of-way buffer of 15 feet.

Stormwater ponds have been placed along the southern and western perimeter of the development to allow for a greater separation from the adjacent properties.

The property will have one access along Alico Road and one access point along the western property boundary that will be limited to use for maintenance of the Wild Turkey Strand Preserve Only. To assure best use of taxpayer dollar Applicant has been coordinating with Lee County DOT to assure best use of taxpayer dollars and the proposed projects integration with the Alico Road extension. As part of this coordination Lee County DOT has identified operational concerns with the proposed site providing a secondary access point. The Applicant therefore is requesting a deviation from LDC Section 10-291(3) which requires more than one means of ingress or egress. The Applicant's justification for the request is further elaborated on within the Deviations Justification Narrative and has provided letters of no objection from EMS, Fire and the Sheriff's Office as part of this submittal.

The Applicant is proposing a maximum building/structure height of 45 feet from minimum flood elevation and 60 feet for those structures exempt from for minimum height restrictions per the LDC. The existing wetland preserve vegetation, denoted as Tract C on the MCP, shall serve to further provide natural visual screening for the traveling public and adjacent property owners. A deviation to omit the 30-foot Type F buffer is requested where the proposed development abuts Conservation 20/20 lands to the north and northwest the Applicant instead proposes a 20-foot-wide buffer with 5 foot tall hedge and 5 foot planting width to provide visual screening and sound buffering to the adjacent conservation lands and wildlife.

To ensure security of the facility and protection of wildlife, the Water Reclamation Facility Tract will have an 8-foot perimeter security fence surrounding the development. Along the western property line, the development will provide for an interconnection to allow the ingress and egress to the Conservation 20/20 lands to the west for the maintenance of these conservation lands.

In terms of environmental protection and open space, the development will provide 48.82+/- acres of open space, which exceeds the minimum requirements of the LDC at 24.3 acres. This calculation excludes lands to be dedicated for future Alico Road right-of-way. Of the 48.82 acres of open space, 30 acres will be in the form of wetland preservation.

The Applicant is requesting two (2) deviations from the following LDC Sections 10-329(d)(4) and 10-418(2)(c). The ability to reduce the area and size of wet detention areas allows for greater flexibility in where the water reclamation facility structures are located and the ability of future expansion of the facility as identified in the Master Concept Plan.. The Applicant's justification for the requests is further elaborated on within the Deviations Justification Narrative provided as part of this submittal.

The project is located within the Southeast Lee County Planning Community; therefore, no planning community- specific design requirements apply to this rezoning request.

III. Public Infrastructure

As outlined in the enclosed application and companion CPA, potable water services are available to the Property by Lee County Utilities. Sanitary waste will be serviced onsite by the proposed SEAWR. There are adequate public facilities and services in the immediate vicinity of the project to serve the proposed development in terms of Fire, EMS and Sheriff's protection. The nearest Fire and EMS Substation is 6.7 miles southwest, and a Sheriff's

substation is approximately 8.06 miles northwest of the development. The companion CPA further provides letter of availability of service from these agencies for the proposed development.

The project's location is adjacent to the proposed Alico Road expansion which is intended to connect to SR 82 to the north at the Sunshine Boulevard intersection. The Transportation Impact Statement (TIS) prepared by Johnson Engineering concludes that the Level of Service of the surrounding roadway network and Alico Road will not be degraded by the proposed development. These roads will continue to operate at an acceptable level of service. It is understood the developer will provide a transportation analysis and a transportation mitigation plan in accordance with Chapter 10 of the Land Development Code as part of the development order application.

VI. Decision-Making Compliance

In accordance with LDC Section 34-145, the data and analysis provided in the enclosed application demonstrate the following:

- a. The request for the development of a 10 MGD WWTP facility including a maximum of 25,000 SF Utilities Office/Administration/Maintenance Buildings is consistent with the uses and intensities set forth for the proposed Public Facilities FLU category and the existing Wetlands FLU category, upon adoption of the companion CPA. Policy 2.1.3 of the Lee Plan states that all land use categories and Planning Districts permit the consideration of public utilities and resource recovery facilities. The proposed rezone will allow for a public utilities facility to service the existing and future wastewater treatment demands of Southeast Lee County. Development's footprint is limited to 51+/- acres with no development proposed within 30 +/- acres of indigenous native vegetation that will remain as preserve area, 31 +/- acres have been preserved for future Alico Road ROW. The developments consistency with Lee Plan's Goals, Objectives and Policies is further outlined below in the Lee Plan Consistency section of this narrative.
- b. The request will meet or exceed all performance and locational standards set forth for the proposed CFPD except where a deviation has been approved. Additionally, the request will meet all performance and locational standards set forth in LDC Section 10-351 for utilities and water treatment facilities.
- c. The request will be compatible with surrounding land uses. Any future development will be oriented to the north of the Property and away from single-family homes to the south. This design is ideal as the site is surrounded to the north, east and west by county-owned lands and properties containing conservation easements which preclude any future development. The Conservation 20/20 property which is adjacent to the CFPD boundary is predominantly disturbed by historical heavy agricultural use. The SEAWRF will be separated to any development to the south by the 250-foot Alico Road ROW that has already been reserved. Buffering in the form of a 30-foot Type D buffer is also being provided as part of the CFPD design standards and the 30 +/- acre forested preserve area to the east will also serve to provide additional buffering from the development. The developmental footprint of the facility has been condensed as far north as possible to assure 100+ feet of additional setback from the future right-of-way. Stormwater detention lakes have been placed along the southern boundary to assure further separation of the WWTP uses from the perimeter of the project with

public view. The SEAWRF will be operated in a neighborhood-friendly manner implementing best management practices to provide protection from noise, odor, and light impacts to surrounding properties similar to the Three Oaks WRF. The development would also have to adhere to LDC Sec. 34-625 outdoor lighting standards.

- d. The submitted MCP identifies one access point will be provided from Green Meadow Road (2-lane, local road). Green Meadow Road intersects with Alico Road, a 2-lane arterial roadway, to the west which provides access to I-75 located 4 miles to the west of the Property. Green Meadow Road is set to be updated to a 4-lane major arterial roadway as part of Phase 1 & Phase 2 of the Alico Road Extension which will connect to the north to SR-82 at the intersection with Sunshine Boulevard as outlined in the Lee County Long Range Transportation Plan and Cost Feasible Roadway Project Map 3-A (Ordinance No.22-21/CPA2022-00004). Therefore, the project will have direct access to Lee County's arterial roadway system.
- e. Approval of the request will not have a significant impact upon the surrounding roadway network. As identified in the TIS by Johnson Engineering, Inc. with or without the addition of the proposed development Alico Road is shown as operating at Level of Service (LOS) "E" for the segment of Road from Ben Hill Griffin Boulevard to Green Meadow Drive and LOS of "B" for the segment of Road from Green Meadow Drive to Corkscrew Road for the 2028 horizon year. The project will require development order approvals prior to site development activities and project's impacts will also be evaluated at that time in accordance with the LDC.
- f. This request will not adversely affect environmentally critical areas and natural resources. The MCP provides a 30+/- acre on-site wetland preserve area within Tract A located on the eastern portion of the Property. This preserve area is protected from development impacts by a 25-foot wetland buffer running along the entirety of the eastern Water Reclamation Facility Tract boundary. No wetland impacts are proposed through development of the Water Reclamation Facility. The Protected Species Assessment prepared by Johnson Engineering, Inc identifies no direct signs of listed species were observed on the Property. Additionally, the on-site preserve area will be connected to the Conservation 20/20 lands to the north and west of the site as well as the conservation easement lands to the east. The Alico Road Extension proposes a wildlife crossing connecting to the southern Wild Blue MPUD conservation area which would provide a connection from the developments proposed preservation area through the Conservation 20/20 properties surrounding the site.
- g. As demonstrated by this application and the companion CPA the site will be serviced by urban services in terms of supporting transportation infrastructure, Fire, EMS, Law Enforcement, Solid Waste and Lee County Utilities.

The property does not have Lee Tran service and the nearest bus route is located at the intersection of Ben Hill Griffin and Alico Road. There is no plan to extend service in the area of the subject property as identified in the 2045 LRTP or Map 3-C 2045 Financially Feasible Transit Network. However, there will be a very limited number of employees at this location and transit service is not necessary for the general use.

VII. Lee Plan Compliance

The following is an analysis of the CFPD's consistency with goals, objectives and policies of the Lee County Comprehensive Plan (Lee Plan).

VISION STATEMENT: The Lee Plan is designed to depict Lee County as it will appear in the year 2045 when the population is projected to be 1,056,600 permanent residents with an additional 18% seasonal residents. In order to balance the County's projected growth with evolving planning priorities, the following trends are expected to continue through the year 2045 planning horizon:

The County's public facilities will be maintained at adequate levels of service, partly by the construction of new facilities and partly by the use of new methods to conserve the capacity of existing facilities.

Lee County must strategically plan and prepare for 1 million permanent residents by the year 2040 per the medium population projections from the Bureau of Economic and Business Research (BEBR). The CFPD rezone will allow for construction of the SEAWRF that is already critically needed to be developed to maintain an adequate level of service to keep up with the wastewater treatment demands of existing and the future projected population in the Southeast Lee County community.

POLICY 1.1.8: The Public Facilities areas include the publicly owned lands within the County such as public schools, parks, airports, public transportation, and other governmental facilities. The allowable uses within these areas are determined by the entity owning each such parcel and the local government having zoning and permitting jurisdiction.

The companion CPA requests the redesignation of 38 +/- acres to be redesignated to Public Facilities from DR/GR. The site already contains 31 +/- acres designated as Public Facilities. Therefore, the entirety of the CFPD development area will be in the appropriate Public Facilities future land use category. The proposed CFPD rezoning will allow for the development of a governmental facility that will service the wastewater needs of the public. The intensity of the proposed land uses will be consistent with the maximum intensity permitted by the Public Facilities future land use category which is determined by entity owning the parcel and the local government and is in direct compliance with the above policy.

POLICY 1.5.1: Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 124. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII.

POLICY 1.5.2: When the exact location of Wetlands boundaries is in question, Chapter XIII provides an administrative process to precisely define the boundary.

In direct compliance with the above policy the SEAWRF development will remain outside of the portion of the property located within Wetlands FLU category as delineated by the jurisdictional determination. The proposed development will obtain an Environmental Resource Permit and be in compliance with all permit regulations and conditions including a 25-foot wetland buffer mitigating upland development impacts on the wetland areas as identified in the submitted MCP.

POLICY 1.6.5: The Planning Districts Map and Acreage Allocation Table (Map 1-B and Table 1(b)) depict the proposed distribution, extent, and location of generalized land uses through the Plan's horizon. Acreage totals are provided for land in each Planning District in unincorporated Lee County. No development orders or extensions to development orders will be issued or approved by Lee County that would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded.

The CFPD Rezone and companion CPA are consistent with the above policy and do not exceed acreage allocations provided for in Table 1(b) Year 2045 Allocation of the Lee County Comprehensive Plan which provides for 3,704 remaining acres for Public land uses within the Southeast Lee County. The remaining allocated acreage within Southeast Lee County after the 112 +/- acre development are removed would be 3,592 acres

POLICY 2.1.3: All land use categories and Planning Districts permit the consideration of churches and schools (except in Wetlands and Airport Noise Zones A and B), public uses and buildings, public utilities and resource recovery facilities, public recreational uses (including franchised quasicommercial uses in conjunction with a public use), and sites for compatible public facilities when consistent with the goals, objectives, policies, and standards in this plan and applicable zoning and development regulations.

The SEAWRF is a public utilities facility that is permitted for consideration in all land use categories and Planning Districts. The CFPD limits development of the facility to outside of the Wetlands FLU category as delineated by the jurisdictional determination of the on-site wetlands.

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

- 1. Whether a given proposal would further burden already overwhelmed existing and committed public facilities such that the approval should be delayed until the facilities can be constructed; and***

The proposed SEAWRF will help to address the overburdened Three Oaks WRF. As identified in the companion CPA; the proposed development will be adequately serviced by public facilities such as Solid Waste, Fire, EMS, Law Enforcement and potable and sanitary sewer. Sanitary waste will be serviced onsite by the proposed SEAWRF.

- 2. Whether a given proposal is for land so far beyond existing development or adequate public facilities that approval should be delayed in an effort to encourage compact and efficient growth patterns; and***

The development of this public facility is critical to Lee County Utilities' effort to maintain a Level of Service of wastewater treatment for its residents and visitors. The projected population growth for Southeast Lee County makes the development of this

facility sufficiently needed to service surrounding developments already online or coming online along the Alico Road and the Corkscrew Road corridor.

3. *Whether a given proposal would result in unreasonable development expectations that may not be achievable because of acreage limitations contained in the Acreage Allocation Table (see Table 1(b)).*

As previously mentioned in relation to consistency with Policy 1.6.5 the CFPD Rezone will not result in an unreasonable development and is achievable by the acreage allocations provided for in Table 1(b) Year 2045 Allocation of the Lee County Comprehensive Plan. The table provides for a remaining allocated acreage within Southeast Lee County of 3,704 acres after the 112 +/- acre from the development is removed would be 3,592 acres remaining.

STANDARD 4.1.4: ENVIRONMENTAL FACTORS.

1. *In any case where there exists or there is the probability of environmentally sensitive areas (as identified by Lee County, the Corps of Engineers, Department of Environmental Protection, South Florida Water Management District (SFWMD), or other applicable regulatory agency), the developer/applicant must prepare an environmental assessment that examines the existing conditions, addresses existing or anticipated environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources.*

2. *Ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site.*

3. *Ensure development minimizes the need for expansion and construction of street and utility improvements.*

Johnson Engineering ecologists conducted an assessment on the property to examine the existing condition, inclusive of limits of potential jurisdictional wetlands and listed species utilization. Based on the proposed limits of wetland jurisdiction, which will be verified/permitted through the South Florida Water Management District (SFWMD) and Florida Department of Environmental Protection (FDEP) through the State Environmental Resource Permit (ERP) and State 404 permitting program, respectively, the site plan will avoid direct impact to the wetland slough located on the eastern side of the property. The eastern slough is proposed for preservation and will be enhanced through the removal and maintenance of invasive exotic vegetation. Potential impacts to listed species habitat is also minimized through the preservation of the slough system. Site development is proposed on that portion of the land was previously converted to agricultural uses.

POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments.

The closest existing residential structure is located 350 south east from the proposed development and any potential for future residential development is limited to only south of Green Meadow Road and Alico Road right of ways. The lands to the east, west and north are all conservation lands either through conservation easements or as part of Lee County 20/20 holdings. The proposed SEAWRF, similar to the Three Oaks WRF, will be operated in a neighborhood-friendly manner implementing best management practices to provide protection from noise, odor, and light impacts to surrounding properties.

To reduce visual and noise impacts to surrounding residential uses the development will provide a 30-foot-wide type D buffer along the southern property boundary adjacent to the Alico Road right-of-way. To assure further protection from the southwest or southeast viewsheds is the on-site 30 acre vegetated preserve area located to the east of the site and a 30-foot Type F Buffer along 300 feet of the southern portion of the western property boundary. The design site conditions such as the placement of SEAWRF structures as far north on the property as possible, including a 200-foot setback from Alico Road ROW to the south, the LDC requires for all above ground structures to maintain a 100-foot perimeter setback from all PD boundaries, however as identified on the MCP no building or structure is located less than 200 feet from the Alico Road ROW. The placement of stormwater management areas along the southern perimeter of the development serves to provide further separation from any existing or future residential development areas to the south.

To limit the visual impacts to residential areas from the associated buildings and structures of the SEAWRF, overall heights of all structures have been limited to 60 feet. Structures in excess of 35 feet in height have been limited near the northern boundary and all structures and buildings in proximity to the southern boundary shall be less than 35 feet in height with the exception of the existing communication tower.

The SEAWRF will contain odor abatement technology such as scrubbers and activated carbon filters and use best management practices to limit odor. The headworks channels, screens, grit basins, and splitter box will be covered for odor control. As previously mentioned, the site will provide expansive setbacks of structures from property lines.

The development would also have to adhere to LDC Sec. 34-625 Outdoor lighting standards.

GOAL 33: SOUTHEAST LEE COUNTY. Protect Southeast Lee County's natural resources through public and private acquisition and restoration efforts. Development incentives will be utilized as a mechanism to preserve, enhance, and protect natural resources, such as regional flow-ways and natural habitat corridors in the development of privately owned land. Allowable land uses will include conservation, agriculture, public facilities, low density or clustered residential, natural resource extraction operations, and private recreation facilities; allowable land uses must be compatible with protecting Southeast Lee County's environment.

The SEAWRF property is located within the Southeast Lee County Community. Goal 33 of the Lee Plan is specific to this area of Lee County and represents Lee County's goal to protect Southeast Lee County's natural resources most notably groundwater resources.

A WRF is a public facility that is a permitted use within the Southeast Lee County Planning Community. As previously mentioned, natural resource extraction was specifically not included as part of the schedule of uses for this CFPD. It is understood that though this is a permitted use within the DR/GR FLU category the use is of great impact to groundwater quality

and other natural resources in contrary to the intent of this Planning Community's Goals, Objectives and Policies.

OBJECTIVE 33.1: WATER, HABITAT, AND OTHER NATURAL RESOURCES. Protect and restore natural resources within Southeast Lee County including, but not limited to, surface and ground water, wetlands, and wildlife habitat.

The proposed facility will further protect and improve water quality through the responsible management of wastewater. The SEAWRF goes beyond the standard biological wastewater treatment facility as an Advanced Water Reclamation Facility (AWRF) by providing further nutrient removal and thereby producing a "higher quality" water output available for beneficial reuse and in turn reducing the demand placed on potable drinking water and water resources.

The CFPD also designated wetlands to the east where the historic flowway exists as an on-site wetland preserve impeding any development being done within these environmentally sensitive areas.

The designated preservation area within the CFPD will enhance ecological corridors as the preserve area will connect to the conservation easement to the east and the Conservation 20/20 site that surrounds the SEAWRF site to the north and west. The connection to these preservation areas further enhances the ecological corridor providing for habitat diversity particularly for far ranging species such as panthers and bears. Additionally, as part of the Alico Road expansion a wildlife crossing is proposed to connect the southwest portion of the 20/20 Conservation site with the conservation lands party of the Wildblue development southwest of the proposed amendment.

As identified in the Protected Species Survey by Johnson Engineering, Inc. no direct signs of listed species were observed on the Property. The water reclamation facility tract (Tract A) of the CFPD, consists of a majority of disturbed lands in the form of improved pastures and fallow crop land. No wetland impacts are proposed as part of the development of the SEAWRF.

POLICY 33.1.7: Impacts of proposed land disturbances on surface and groundwater resources will be analyzed using integrated surface and groundwater models that utilize site-specific data to assess potential adverse impacts on water resources and natural systems within Southeast Lee County. Lee County Division of Natural Resources will determine if the appropriate model or models are being utilized, and assess the design and outputs of the modeling to ensure protection of Lee County's natural resources.

As identified in the Surface Water and Groundwater Impacts/Benefits Analysis submitted with the companion CPA the development of the SEAWRF on the site will not have an impact to surface or groundwater systems. The Property is not significant with respect to recharge of the Surficial aquifer with an existing typical water budget of recharge depths of less than 3 inches annually. The proposed onsite stormwater management system for this development will be designed to retain at least 0.6 inches of runoff per storm event, therefore will recharge the surficial aquifer. The proposed stormwater management will limit the peak discharge from the site resulting from the 25-year 3-day storm event assuring the slow down of discharge rates of stormwater runoff to the area.

POLICY 33.1.8: The County supports a comprehensive and coordinated effort to manage water resources in a manner that includes the protection and restoration of natural systems within Southeast Lee County.

The SEAWRF will serve to manage water resources within Southeast Lee County by the treatment of water and production of a “higher quality” water output available for beneficial reuse helping to lessen the demand on water resources and in turn improving and protecting the County’s water quality. Furthermore, the CFPD designates wetland slough to be undeveloped allowing the historical flowway to remain to the east of the property.

POLICY 56.1.3: All utilities are encouraged to construct and install sufficient treatment facilities and collection systems that will meet or exceed the minimum acceptable service standards. These facilities will have capacity to service the demand so generated and will meet or exceed the minimum requirements of the Florida Department of Environmental Protection (DEP), Florida Department of Health, U.S. Environmental Protection Agency (USEPA), or local ordinances that exceed those requirements. All utilities will advise the County of system expansions or modification to ensure coordination.

There is a critical need for the SEAWRF to supplement the Three Oaks WRF capacity to service current and future water treatment demands as the County and Southeast Lee County population continues to grow has been heavily identified as part of this application.

GOAL 57: RESOURCE MANAGEMENT. To further the public health and protect environmental quality by using and encouraging conservation and resource management measures to reduce consumption of potable water and subsequent generation of wastewater.

OBJECTIVE 57.1: The County will continue its programs in education, technical advice, demonstration, rate revisions, and reuse to reduce per-capita water consumption and subsequent wastewater generation.

POLICY 57.1.3: Encourage the design of each new wastewater treatment plant or on-site sewer plant to dispose of effluent through reuse water systems.

The SEAWRF will go beyond the standard biological wastewater treatment facility by providing further nutrient removal and thereby producing a “higher quality” water output available for beneficial reuse reducing the demand for potable water and lessening the degradation of freshwater resources.

POLICY 60.1.1: Require design of surface water management systems to protect or enhance the groundwater.

The proposed on-site stormwater management system associated with the project will provide recharge and infiltration into the Surficial aquifer. The treatment of water provided by the facility for reuse will serve to further protect surface and ground water quality. The treatment of water provided by the facility for reuse will serve to further protect surface and ground water quality. Prior to future development activities on the Property, the Applicant will obtain the requisite Environmental Resource Permit (ERP) from the South Florida Water Management District or the Florida Department of Environmental Protection (FDEP), and all other applicable state agencies.

POLICY 60.1.2: Incorporate, utilize, and where practicable restore natural surface water flowways and associated habitats.

The development designates lands to the east as an on-site wetland preserve impeding any development being done on these environmentally sensitive areas, which incorporates and utilizes the existing historic flowway within this associated habitat.

Prior to future development activities on the Property, the Applicant will obtain the requisite Environmental Resource Permit (ERP) from the South Florida Water Management District or the Florida Department of Environmental Protection (FDEP), and all other applicable state agencies.

OBJECTIVE 60.3: CRITICAL AREAS. The Six Mile Cypress Basin (as defined in the LDC, Chapter 10) and the DR/GR land use category are both identified as “critical areas for surface water management.” The County will maintain existing regulations to protect the unique environmental and water resource values of these areas.

The development of the SEAWRF on the site will not have an impact to surface or groundwater systems as identified in the provided Integrated Surface and Groundwater Model and Surface Water and Groundwater Impacts/Benefits Analysis provided with the companion CPA application. The proposed on-site stormwater management system associated with the project will provide recharge and infiltration into the Surficial aquifer. The treatment of water provided by the facility for reuse will serve to further protect surface and ground water quality. The treatment of water provided by the facility for reuse will serve to further protect surface and ground water quality. Prior to future development activities on the Property, the Applicant will obtain the requisite Environmental Resource Permit (ERP) from the South Florida Water Management District or the Florida Department of Environmental Protection (FDEP), and all other applicable state agencies.

The development will preserve an the eastern slough that will be enhanced through removal and maintenance of exotic vegetation. Through the direct connection to the Site 90 Regional Mitigation Area, which was permitted by Lee County to provide enhanced habitat for wildlife, there is a wildlife crossing being constructed under Alico Road at the western slough crossing with Lee County's Alico Road widening project.

POLICY 123.2.3: Prevent water management and development projects from altering or disrupting the natural function of significant natural systems.

The proposed on-site stormwater management system associated with the project retains the existing wetland slough to the east as preserve area which will maintain connectivity with the historic wetland slough's southwest water flow conditions.

POLICY 123.2.4: Encourage the protection of viable tracts of sensitive or high-quality natural plant communities within developments.

The development protects high-quality plant communities to the east of the development designated as on-site preserve within the CFPD with no wetland impacts being proposed. All development within the CFPD is limited to previously disturbed agricultural upland areas. This

on-site preserve area is protected from development impacts by a 25-foot wetland buffer running along the entirety of the eastern Water Reclamation Facility Tract boundary.

POLICY 123.2.10: Require that development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas be designed to protect the natural character and public investment in these areas.

The development will be designed to protect the natural character of the adjacent Site 90 Regional Mitigation Area to the north and west of the development through the provision of a 5-foot-wide plantings in the form of a hedge that will be maintained at 5 feet in height and a 8 foot tall fence providing protection from noise and light from the proposed water reclamation facility. Furthermore, the development will adhere to LDC Sec. 34-625 Outdoor lighting standards.

POLICY 123.3.1: Encourage upland preservation in and around preserved wetlands to provide habitat diversity, enhance edge effect, and promote wildlife conservation.

The Protected Species Survey by Johnson Engineering, Inc. identified no direct signs of listed species observed on the subject Property. The SEAWRF development will help enhance an ecological corridor and diversity by assuring the jurisdictional wetland to the east of the site is maintained as a preservation area as part of the CFPD regulations. The 30 +/- acre preserve area will connect to the conservation easement to the east and the Conservation 20/20 site that surrounds the SEAWRF site to the north and west. The connection to these preservation areas further enhances the ecological corridor providing for habitat diversity particularly for far ranging species such as the panthers and bears. Additionally, as part of the Alico Road expansion a wildlife crossing is proposed to connect the southwest portion of the 20/20 Conservation site with the conservation lands party of the Wildblue development southwest of the proposed amendment.

OBJECTIVE 123.11: FLORIDA PANTHER. Develop strategies to protect the Florida panther.

POLICY 123.11.1: Coordinate with regulatory agencies to maintain data on sightings and habitat for the Florida panther.

POLICY 123.11.2: Encourage state land acquisition programs to include and restore known panther corridors of habitats beneficial to the Florida panther.

POLICY 123.11.3: Coordinate corridor projects with neighboring jurisdictions to encourage a regional approach to wildlife movement.

POLICY 123.11.4: Protect and expand upon the Corkscrew Regional Ecosystem Watershed Greenway, a regionally significant greenway with priority panther habitat, through continued participation in public land acquisition and restoration programs, and incentive programs to preserve and restore habitats.

POLICY 123.11.5: Include plant species that provide forage for prey of the Florida panther in restoration projects of land acquired for environmental sensitivity.

POLICY 123.11.6: Ensure panther habitat needs are incorporated in the planning of new roads and road expansion projects.

POLICY 123.11.7: Provide education and outreach to increase public understanding of Florida panthers and the need for panther conservation.

The site plan promotes connectivity for the Florida panther, as well as all wildlife, by preserving the slough system on the eastern side of the property, which has a direct connection to the Site 90 Regional Mitigation Area and other private and public conservation lands to the north. The habitat within the eastern slough will be enhanced through removal and maintenance of exotic vegetation. Through the direct connection to the Site 90 Regional Mitigation Area, which was permitted by Lee County to provide enhanced habitat for wildlife, there is a wildlife crossing being constructed under Alico Road at the western slough crossing with Lee County's Alico Road widening project. This crossing will provide for safer passage for the Florida panther, providing a direct connection through private preserves in Wild Blue, leading to additional wildlife crossings under Corkscrew Roads in to private and public preserve corridors within the Corkscrew Regional Ecosystem and Watershed. Fencing will be in place to promote wildlife usage in the preserve areas and preventing access into the actual development site. In addition to the County planning that has been done through a combination of projects to ensure panther habitat needs are incorporated into adjacent roadway projects (i.e., Alico Road widening and Corkscrew Road widening), coordination will occur with wildlife agencies through the permitting process to determine the potential need for additional mitigation for the loss of panther habitat that is currently provided by the agricultural areas proposed for development.

POLICY 123.12.1: Promote connectivity within and among Florida black bear sub-populations by maintaining, improving, or creating landscape connectivity as identified within the FWC Florida Black Bear Management Plan.

The site plan promotes connectivity for the Florida black bear, as well as all wildlife, by preserving the slough system on the eastern side of the property, which has a direct connection to the Site 90 Regional Mitigation Area and other private and public conservation lands to the north. Through the Site 90 Regional Mitigation Area, there is a wildlife crossing being constructed under Alico Road at the western slough crossing with Lee County's Alico Road widening project, which then provides direct connection through private preserves in Wild Blue, leading to additional wildlife crossings under Corkscrew Roads in to private and public preserve corridors within the Corkscrew Regional Ecosystem and Watershed. Fencing will be in place to promote wildlife usage in the preserve areas and preventing access into the actual development site.

POLICY 123.12.2: Encourage use of bearproof containers to secure waste and other attractants within and adjacent to known bear habitats.

Bearproof containers will be utilized within the proposed development site.

GOAL 124: WETLANDS. To maintain and enforce a regulatory program for development in wetlands that is cost-effective, complements federal and state permitting processes, and protects the fragile ecological characteristics of wetland systems.

POLICY 124.1.1: Ensure that development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII, and except that owners of wetlands adjacent to

Intensive Development, General Interchange, Central Urban, Urban Community, Suburban, New Community, Outlying Suburban, and Sub-Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership at the same underlying density as permitted for those uplands

Johnson Engineering ecologists conducted an assessment on the property to examine the existing condition, inclusive of limits of potential jurisdictional wetlands and listed species utilization. Based on the proposed limits of wetland jurisdiction, which will be verified/permitted through the South Florida Water Management District (SFWMD) and Florida Department of Environmental Protection (FDEP) through the State Environmental Resource Permit (ERP) and State 404 permitting program, respectively, the site plan will avoid direct impact to the wetland slough located on the eastern side of the property. The eastern slough is proposed for preservation and will be enhanced through the removal and maintenance of invasive exotic vegetation. Potential impacts to listed species habitat is also minimized through the preservation of the slough system. Site development is proposed on that portion of the land was previously converted to agricultural uses.

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

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

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

It should be noted that existing permitted land uses within the DR/GR designation such as mining and very low-density residential on well and septic would serve to degrade surface and ground water quality. The Hydrological Report submitted with the companion CPA has identified The Surface Water and Groundwater Impacts/Benefits Analysis by Johnson Engineering, Inc. identifies no impacts to surface and ground water quality from the proposed development. Furthermore, the proposed on-site stormwater management system associated with the project will provide recharge and infiltration into the Surficial aquifer. The treatment of water provided by the facility for reuse will serve to further protect surface and ground water quality. The treatment of water provided by the facility for reuse will serve to further protect surface and ground water quality. Prior to future development activities on the Property, the Applicant will obtain the requisite Environmental Resource Permit (ERP) from the South Florida Water Management District or the Florida Department of Environmental Protection (FDEP), and all other applicable state agencies.

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

The stormwater management system will provide on-site water detention system through a series of interconnected storm water pond systems. Runoff from the site will be collected through yard drains, swales, ditches, and catch basins with conveyance via pipes or swales to the stormwater ponds maximizing the quality and attenuation requirements by temporarily detaining stormwater runoff, and allowing opportunities for treatment processes to occur and minimizing nutrient loading and pollution, prior to slow controlled discharge of the treated water through a single control structure to the western slough, Site 90 – Wild Turkey Strand Conservation Area, via a spreader swale or multiple structures. The stormwater management

system will be consistent with the rules and regulations governing the SFWMD or FDEP Environmental Resource Permitting requirements.

POLICY 126.1.1: Natural water system features which are essential for retention, detention, purification, runoff, recharge, and maintenance of stream flows and groundwater levels shall be identified, protected, and managed.

As identified in the Surface Water and Groundwater Impacts/Benefits Analysis the upland areas of this site are not significant with respect to recharge, however, the natural water system feature of the existing wetland slough to the east has been identified and retained as a preserve area which will maintain connectivity with the historic wetland slough's southwest water flow conditions.

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

The development's proposed stormwater management system will serve to enhance the existing conditions as the upland areas of the site are existing disturbed agricultural lands that do not provide significant aquifer recharge. The stormwater management system resulting from this development will include a retention component to foster additional percolation and attenuation. Furthermore, the development will meet or exceed the requirements set forth in South Florida Water Management District or FDEP Environmental Resource Permit for the project in terms of discharge rates and water quality.

POLICY 127.1.1: Development must prevent significant emissions of air pollution.

The facility will be designed to prevent odorous air from going offsite being captured for treatment in a bio scrubber for treatment and the headworks channels, screens, grit basins, and splitter box will be covered for odor control. The facility will be designed to reduce the possibility of aerosol drift through the use of low-speed surface mechanical aerators within oxidation ditches where the greatest potential for aerosol generation exists. Other controls to assure the reduction of aerosol drift includes extended walls to contain aerosols from each aerator. The facility will use electric power to the extent possible aside from transportation vehicles and diesel-powered generators which will all have proper emission controls in place.

VIII. CONCLUSION

The proposed CFPD rezone request demonstrates the property location for the SEAWRF has been appropriately sited proximate to the area where new demand is being generated and supports fiscal and environmental responsibility by reducing the amount of infrastructure and distance untreated water would need to travel to service the area.

The request is consistent with the primary intent of Southeast Lee County Community to protect and restore natural resources via sensitive site design and performance standards outlined in this application.

By rezoning the property to CFPD, the Applicant is providing a planned development that requires a higher level of detail and site-specific design-driven criteria to ensure the

development in the already disturbed area of this site is both complementary to and compatible with the surrounding development pattern and ensures the reduction of any external impacts.

The Southeast Advanced Water Reclamation (SEAWRF) will be operated in a neighborhood-friendly manner implementing best management practices to provide protection from noise, odor, and light impacts to surrounding properties.

The proposed development will meet or exceed the standards set forth in the LDC and will serve to provide the critical infrastructure needed for the treatment of water and water reuse supply output for the current and future population in Southeast Lee County. For these reasons, the Applicant respectfully requests approval of this rezone as proposed.



Southeast Advanced Water Reclamation Facility CFPD Schedule of Deviations & Justification

Deviation 1 seeks relief from LDC Section 10-416(d)(3), which requires a 30-foot Type F Buffer for wastewater treatment plants when abutting public preserve lands for conservation and/or passive recreation, to allow a 30-foot Type F buffer 30-foot Buffer with a 8 foot tall fence extending from the northwest corner of Tract A south until the northward approximately 300 feet and followed by a 20 foot buffer with a 8 foot tall fence and a 5-foot double hedge row to be planted at 48" tall and maintained at 60" tall along the remaining western portion and northern portion of Tract A.

Justification: The intent of the 30-foot Type F buffer is to reduce development impacts of noncompatible uses promoting the health, safety and welfare of residents by the reduction of noise and glare through the use of vegetative visual and sound barriers that complement the natural environment. The applicant instead proposes to provide a 20 foot buffer with a 8 foot tall fence and a 5-foot double hedge row to be planted at 48" tall and maintained at 60" tall along the remaining western portion and northern portion of Tract A after the first 300 feet of 30-foot Type F buffer running along the western side of the development. The proposed hedge will serve to screen and limit the impact to the conservation lands and wildlife from the associated facility.

Additionally, the proposed Water Reclamation Facility itself will operate with odor abatement technology such as scrubbers and activated carbon filters, use best management practices and meet or exceed all regulatory standard per the LDC to protect from impacts of odor, noise, and glare to adjacent properties that may be generated by the facility. Stormwater ponds have been placed along the southern and western perimeter of the development to allow for a greater separation from the adjacent properties from the Water Reclamation Facility. As identified in the MCP the closest building to the northern property and western property line is setback at minimum of 100 feet. For the security of the facility and wildlife a panther security fence shall be installed around the perimeter of the facility including the northern and western property lines as identified on the MCP.

To ensure the facility is not impactful to the arterial roadway viewshed and compatible with surrounding development patterns, an enhanced 30-foot Type D buffer is proposed along the future Alico Road frontage (except where on-site preserve abuts the future roadway). This is a significant enhancement when compared to the required right-of-way buffer of 15 feet. Additionally, the Applicant proposes to meet code the code required 30-foot approximately 300 feet of a 30-Foot Type F buffer running north along the southwest corner of Tract A to provide natural visual screening in addition to the already proposed 30-foot Type D buffer along the Alico Road ROW. Access to Conservation 20/20 Lands to the west from the subject site is also being provided as part of the site design

identified on the MCP to allow for land management of upland and wetland conservation areas.

It should also be noted that there is a sizable fiscal impact associated with the installation and ongoing maintenance of approximately 640-linear feet of a 30-foot Type F buffer along the western boundary and approximately 1,400-feet of a 30-foot Type F buffer along the northern boundary as well as operational impacts for maintenance access that a 30-foot Type F buffer would create for this facility. The placement of additional buffers along the Alico Road viewshed is of much greater benefit and meets the intent of the LDC. Granting the approval of this deviation would prove to be more fiscally responsible while still upholding public health, safety, and welfare.

Deviation 2 seeks relief from LDC Section 10-329 (d)(4) which requires 6:1 lake bank slopes to allow for 4:1 lake bank slopes with enhanced slope protection measures.

Justification: The developable area of the 112.21 +/- acre site is constrained to 50.6 +/- acres or 45% of developable area. A total of 31.2 +/- acres will be dedicated to the future Alico Road right-of-way. In order to protect existing native vegetation and provide the greatest amount of open space to between the facility and adjacent properties the development further constraining the property. The development dedicates 48.82 +/- acres to open space consisting of more than 2 times the open space required by the LDC. Of those 48.82 acres of open space 31.39 +/- acres are dedicated to wetland preserve that will be enhanced and preserved and which is 2.5 times the on-site indigenous preserve required by the LDC. The 50.6 +/- acres of developable area is further constrained by an existing wireless communication facility that is to remain on the site.

The facility itself must also be able to assure sufficient room for additional facility expansions identified on the MCP in order to be able to service future residents of Southeast Lee County. The additional area needed to reach 6:1 bank slopes will further constrain the developable area on the site.

Lake bank slopes will be designed with enhanced protection measures, such as turf reinforcement measures, or other erosion mitigation techniques approved by the county. The specific design techniques to be used to mitigate erosion control and address water quality shall be provided at the time of development order, and the specific site conditions and development parameters will be explained in detail within the lake management plan. The granting of this deviation will uphold public health, safety, and welfare.

Deviation 3 seeks relief from LDC Section 10-418(2)(c) to omit the 20-foot-wide planted littoral shelf extending waterward of the control elevation at a depth no greater than 2 feet below the control elevation.

As previously mentioned, the site is heavily constrained to only 50.6 +/- acres of developable area with most of the site's area being dedicated to the future Alico Road right-of-way and wetland preserve. The developable area on the site is further constrained by an existing wireless communication facility that is to remain. The Facility must also have the ability to develop and expand as needed

to service Southeast Lee County needs through the provided 3 phase expansion identified on the MCP.

Furthermore, the use itself as a Water Reclamation Facility should seek to minimize the potential to attract birds and other wildlife. The Applicant is therefore requesting to reduce/eliminate vegetation that that would provide food, water, or shelter and/or a combination of these basic needs that attract birds or other wildlife that pose a risk to the facility operations and the wildlife.

The additional area needed to reach provide the 20-foot-wide planted littoral shelf will further constrain the developable area on the site. This deviation is requested in combination with Deviation 4, below which seeks the replacement of 100% of required littoral herbaceous plants with native trees.

Deviation 5 seeks relief from LDC Section 10-291(3) which requires for commercial or industrial development of more than ten acres to provide more than one means of ingress or egress for the development to allow for only one means of ingress or egress from the facility.

Justification: The proposed deviation will serve to address Lee County DOT's concerns with the operational concerns that would be created by secondary access to this site.

Within the Lee County DOT's letter of support it is identified that a secondary access will impact the planned surface water management filter marsh that serves as the primary treatment area for the section of the Alico Road Connector project along this development. This filter marsh area's secondary function is to interconnect the surface water management flows between the eastern and western sloughs that have been severed over the years creating drainage and flooding concerns for the neighboring residents. Operational concerns from the secondary access arise due to it being in the influence of the Green T intersection that is being built at the Alico Road/Green Meadow Road intersection to maximize eastbound traffic flow. Additionally, the Alico Connector Right of Way is being designed as such to provide enhanced landscaping along with the filter marsh area in an effort to provide a more concentrated visual screen of the SEAWRF site, so providing a second break in the screening even for an emergency only access could impact the visual buffering that has been designed.

The nature of the development is largely industrial and will have a limited number of staff on site so impact is expected to be negligible. The Applicant has also received letters of no objection from the San Carlos Fire Chief, the Lee County Public Safety Director and the Lee County Sheriff's Office and the granting of this deviation will uphold public health, safety, and welfare.

SKETCH AND DESCRIPTION SOUTHEAST ADVANCED WATER RECLAMATION FACILITY (SEAWRF)

A PARCEL OF LAND LYING IN
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA

VICINITY MAP
1"=5000'



REVIEWED
DCI2023-00011
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023

0 1250 2500 5000
(INTENDED DISPLAY SCALE: 1"=5000')

THIS IS NOT A SURVEY.

I HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THE LEGAL DESCRIPTION AND ATTACHED SKETCH WERE PREPARED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF CHAPTER 5J-17.05, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472, FLORIDA STATUTES.

NOTES:

1. THIS IS NOT A BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE.
2. HORIZONTAL DATA AND COORDINATES SHOWN HEREON ARE IN FEET AND ARE PROJECTED ONTO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983 (NAD83), 2011 ADJUSTMENT.
3. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTHERLY BOUNDARY OF THE SOUTHEAST 1/4 OF SECTION 4, WHEREIN SAID BOUNDARY BEARS N88°44'03"W.
4. PARCEL CONTAINS 112.21 ACRES, MORE OR LESS.
5. P.O.B. = POINT OF BEGINNING
6. ORB = OFFICIAL RECORDS BOOK
7. ORI = OFFICIAL RECORDS INSTRUMENT
8. PG = PAGE
9. ROW, R/W = RIGHT-OF-WAY
10. SQ. FT. = SQUARE FEET
11. N = NORTHING
12. E = EASTING
13. CL = CENTERLINE
14. DESCRIPTION ON SHEETS 4 AND 5.
15. NOT VALID WITHOUT SHEETS 1 THROUGH 5 OF 5.
16. DESCRIPTION PER A BOUNDARY SURVEY OF THE SUBJECT PARCEL BY BWLK ENGINEERS, DATED 10/19/2018, AS PROVIDED BY LEE COUNTY.



Digitally signed by
Richard G. Daniels
LS7229 State of
Florida

Date: 2023.02.06
13:55:15 -05'00'

THIS SKETCH HAS BEEN DIGITALLY SIGNED BY:
RICHARD G. DANIELS (FOR THE FIRM L.B. 642)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 7229
ON THE DATE ADJACENT TO THE SEAL.

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED, AND THE DIGITAL SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

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ENGINEERING

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2122 JOHNSON STREET
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PHONE: (239) 334-0046
E.B. #642 & L.B. #642

SKETCH AND DESCRIPTION
SEAWRF
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

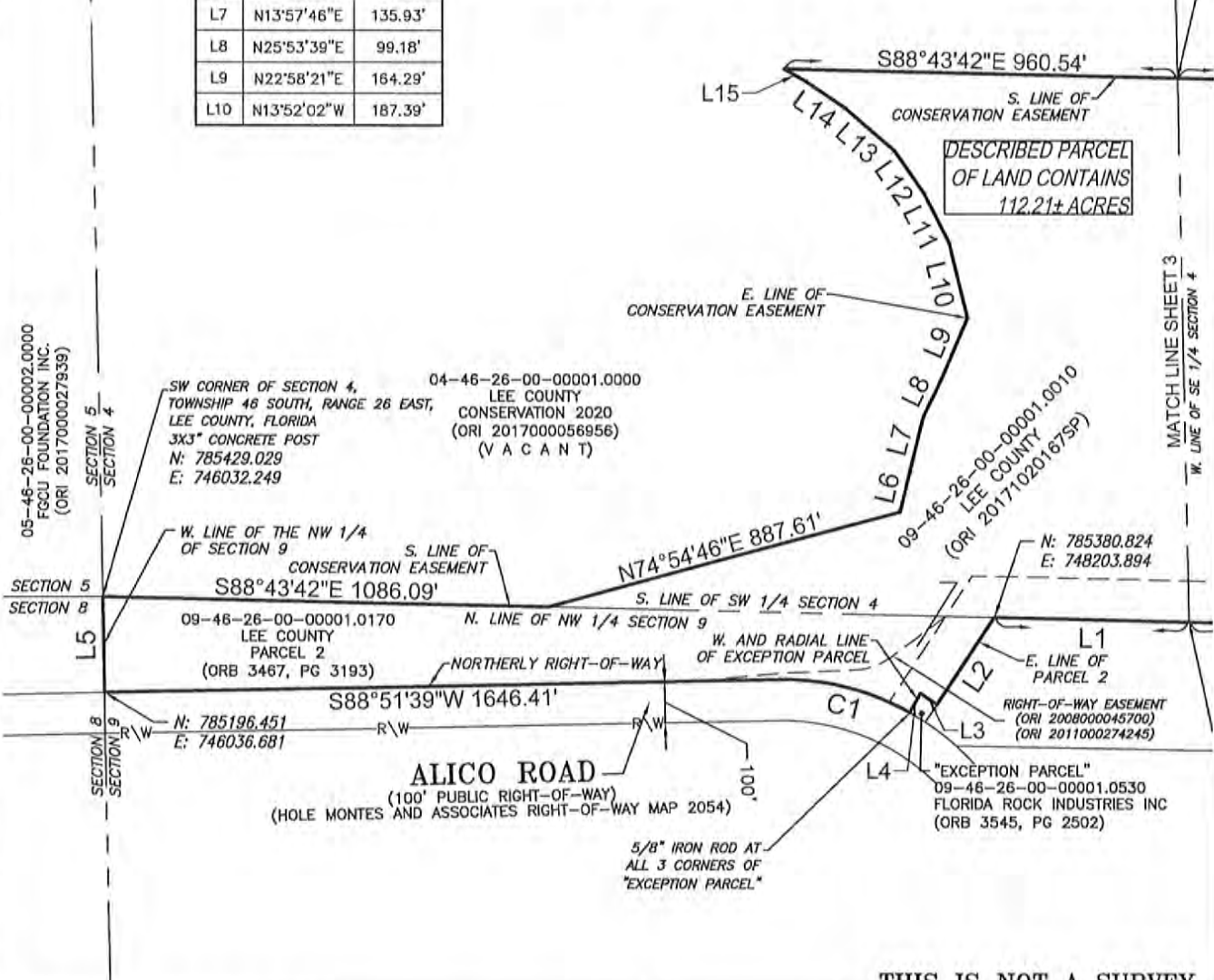
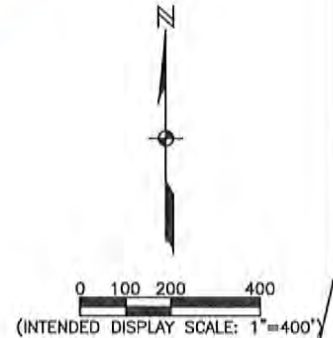
DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	1 OF 5

REVIEWED
DCI2023-00011
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023

CURVE TABLE					
CURVE	RADIUS	DELTA	CHORD BEARING	CHORD	LENGTH
C1	621.78'	30°23'54"	N75°56'24"W	326.03'	329.89'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N88°43'42"W	479.91'
L2	S33°20'29"W	252.32'
L3	N56°39'29"W	48.06'
L4	S29°15'33"W	53.27'
L5	N01°05'30"W	232.62'
L6	N13°37'39"E	102.68'
L7	N13°57'46"E	135.93'
L8	N25°53'39"E	99.18'
L9	N22°58'21"E	164.29'
L10	N13°52'02"W	187.39'

LINE TABLE		
LINE	BEARING	DISTANCE
L11	N26°44'22"W	133.22'
L12	N34°43'47"W	127.36'
L13	N49°07'04"W	159.47'
L14	N56°07'08"W	114.44'
L15	N59°55'40"W	59.60'



THIS IS NOT A SURVEY.

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E.B. #642 & L.B. #642

SKETCH AND DESCRIPTION
SEAWRF
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	2 OF 5

REVIEWED
DCI2023-00011
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023



0 100 200 400
(INTENDED DISPLAY SCALE: 1"=400')

NW CORNER OF 1319.318' OF SE 1/4
OF SECTION 4, TOWNSHIP 46 SOUTH,
RANGE 26 EAST,
LEE COUNTY, FLORIDA
N: 786690.442
E: 748655.241

SOUTH LINE OF
CONSERVATION EASEMENT

04-46-26-00-00001.0000
LEE COUNTY
CONSERVATION 2020
(ORI 2017000056956)

S88°44'03"E 2650.53'

NORTHERLY LINE OF SOUTH
1319.318' OF SE 1/4

N: 786631.892
E: 751305.120

DESCRIBED PARCEL
OF LAND CONTAINS
112.21± ACRES

04-46-26-00-00001.1010
LEE COUNTY
(ORI 2019000218750)

SOUTH 1319.318 FEET OF
THE SE 1/4 OF SECTION 4

75'x75' LEASE AREA
(ORI 2008000045700)
(ORI 2008000163408)
(ORI 2009000067153)
(ORI 2016000121155)
(ITEM 5.)

20' ACCESS EASEMENT
(ORI 2008000045700)
(ORI 2008000163408)
(ORI 2009000067153)
(ORI 2016000121155)

20'x30' LEASE AREA LAND SPACE
(ORI 2009000207699)

20' ACCESS EASEMENT
(ORI 2009000291211)

100' RIGHT-OF-WAY EASEMENT
(ORB 1265, PG 2133)
(ORB 1278, PG 928)
(ORB 1839, PG 2871)
(ORB 1860, PG 755)

34-45-26-L3-U3029.3279
LEE COUNTY
(ORI 2020000212962)

SOUTH BOUNDARY OF SECTION 4

09-46-26-00-00001.0100
HARPER PROPERTY
HOLDINGS 3 LLC
(ORI 2011000274245)

N88°44'03"W 2652.51'
(BASIS OF BEARINGS)
09-46-26-00-00001.0248
PETER J SPAHN
(ORB 1858, PG 4518)

09-46-26-00-00001.0250
MBW HOLDINGS LLC
(ORI 2017000121696)

09-46-26-00-00001.0390
MBW HOLDINGS LLC
(ORI 2017000121661)

09-46-26-00-00001.0270
MBW HOLDINGS LLC
(ORI 2017000121661)

SW CORNER SE 1/4 OF SECTION 4,
TOWNSHIP 46 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA
4X4" CONCRETE MONUMENT
STAMPED "LB642"

P.O.B.

SE CORNER OF SECTION 4,
TOWNSHIP 46 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA
4X4" CONCRETE MONUMENT
WITH "X" TOP
N: 785311.580
E: 751335.550

THIS IS NOT A SURVEY.

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E.B. #642 & L.B. #642

SKETCH AND DESCRIPTION
SEAWRF
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	3 OF 5

REVIEWED
DCI2023-00611
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023

DESCRIPTION

SOUTHEAST ADVANCED WATER RECLAMATION FACILITY (SEAWRF)
PARCEL LYING IN
SECTIONS 4 AND 9, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA
(AS PROVIDED BY LEE COUNTY)

A PARCEL OF LAND LYING IN SECTIONS 4 AND 9, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA. (OVERALL PARCEL—UTILITIES WASTEWATER TREATMENT PLANT AND SOLID WASTE TRANSFER STATION)

A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, BEING THE SOUTH 1319.318 FEET OF THE SOUTHEAST QUARTER (SE 1/4) AND THAT PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST LYING SOUTH AND EAST OF THE CONSERVATION EASEMENT PARCEL AS RECORDED IN INSTRUMENT NUMBER 2017000056956 AND ALSO PARCEL NUMBER 2 AS RECORDED IN OFFICIAL RECORD BOOK 3467 AT PAGE 3193, BEING A PARCEL OF LAND LYING NORTH OF ALICO ROAD IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 9, TOWNSHIP 46 SOUTH, RANGE 26 EAST, AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A 4" X 4" CONCRETE MONUMENT WITH "X" ON TOP MARKING THE SOUTHEAST CORNER OF SAID SECTION 4; THENCE N88°44'03"W ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 4 FOR 2652.51 FEET TO A 4" X 4" CONCRETE MONUMENT STAMPED "LB642" MARKING THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4; THENCE CONTINUE N88°43'42"W ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 4 FOR 479.91 FEET TO THE NORTHEAST CORNER OF SAID PARCEL NUMBER 2 AS RECORDED IN OFFICIAL RECORD BOOK 3467 AT PAGE 3193; THENCE S33°20'29"W ALONG THE EAST LINE OF SAID PARCEL NUMBER 2 FOR 252.32 FEET TO A 5/8" IRON ROD MARKING THE NORTHEAST CORNER OF AN EXCEPTION PARCEL AS DESCRIBED IN SAID OFFICIAL RECORD BOOK 3467 AT PAGE 3193 FOR PARCEL NUMBER 2; THENCE N56°39'29"W ALONG THE NORTH LINE OF SAID EXCEPTION PARCEL FOR 48.06 FEET TO A 5/8" IRON ROD MARKING THE NORTHWEST CORNER OF SAID EXCEPTION PARCEL; THENCE S29°15'33"W ALONG A RADIAL LINE AND ALONG THE WEST LINE OF SAID EXCEPTION PARCEL FOR 53.27 FEET TO A 5/8" IRON ROD MARKING AN INTERSECTION WITH A CURVE LYING ON THE NORTHERLY RIGHT-OF-WAY LINE OF ALICO ROAD CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 621.78 FEET AND TO WHICH POINT A RADIAL LINE BEARS N29°15'33"E; THENCE CONTINUE NORTHWESTERLY AND WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 30°23'54" (CHORD BEARING N75°56'24"W) FOR AN ARC DISTANCE OF 329.89 FEET TO A POINT OF TANGENCY; THENCE S88°51'39"W ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ALICO ROAD FOR 1646.41 FEET TO THE WEST LINE OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 9, BEING THE SOUTHWEST CORNER OF SAID PARCEL NUMBER 2 AS RECORDED IN OFFICIAL RECORD BOOK 3467 AT PAGE 3193; THENCE N01°05'30"W ALONG THE WEST LINE OF SAID NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 9 FOR 232.62 FEET TO A 3"X3" CONCRETE POST MARKING THE SOUTHWEST CORNER OF SAID SECTION 4, THE SAME BEING THE SOUTHWEST CORNER OF A CONSERVATION EASEMENT PARCEL AS RECORDED IN INSTRUMENT NO. 2017000056956; THENCE S88°43'42"E ALONG THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SAID SECTION 4 AND ALONG THE SOUTH LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 1086.09 FEET; THENCE N74°54'46"E ALONG THE SOUTH LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 887.61 FEET; THENCE N13°37'39"E ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 102.68 FEET; THENCE N13°57'46"E ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 135.93 FEET; THENCE N25°53'39"E ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 99.18 FEET; THENCE N22°58'21"E ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 164.29 FEET; THENCE N13°52'02"W ALONG THE EAST LINE OF SAID (CONTINUED ON SHEET 5)

THIS IS NOT A SURVEY.

JOHNSON
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FORT MYERS, FLORIDA 33902-1550
PHONE: (239) 334-0048
E.B. #642 & L.B. #642

SKETCH AND DESCRIPTION
SEAWRF
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	4 OF 5

\\FTMS01\Drawings\2018\20181232-001\Surveying\Sketches\SEAWRF\Overall.dwg (SE) RSD Feb 06, 2023 -- 1:24pm

DESCRIPTION

SOUTHEAST ADVANCED WATER RECLAMATION FACILITY (SEAWRF)
PARCEL LYING IN
SECTIONS 4 AND 9, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA
(AS PROVIDED BY LEE COUNTY)

(CONTINUED FROM SHEET 4)

CONSERVATION EASEMENT PARCEL FOR 187.39 FEET; THENCE N26°44'22"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 133.22 FEET; THENCE N34°43'47"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 127.36 FEET; THENCE N49°07'04"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 159.47 FEET; THENCE N56°07'08"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 114.44 FEET; THENCE N59°55'40"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 59.60 FEET TO AN INTERSECTION WITH A LINE BEARING N88°43'42"W (BEING PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST (SW 1/4) OF SAID SECTION 4) AND PASSING THROUGH THE NORTHWEST CORNER OF THE SOUTH 1319.318 FEET OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4; THENCE CONTINUE S88°43'42"E ALONG SAID PARALLEL LINE AND ALONG THE SOUTH LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 960.54 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1319.318 FEET OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4; THENCE CONTINUE S88°44'03"E ALONG THE NORTH LINE OF THE SOUTH 1319.318 FEET OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4 AND ALONG THE SOUTH LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 2650.53 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE S01°19'13"E ALONG THE EAST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4 FOR 1320.66 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 4 AND THE POINT OF BEGINNING.

CONTAINING 112.21 ACRES, MORE OR LESS.

BEARINGS ARE STATE PLANE GRID (FLORIDA WEST ZONE) WITH THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 4 AS BEARING N88°43'42"W

REVIEWED
DCI2023-00011
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023

THIS IS NOT A SURVEY.

JOHNSON
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E.B. #642 & L.B. #642

SKETCH AND DESCRIPTION
SEAWRF

SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	5 OF 5

ATTACHMENT F

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

SPECIAL EXCEPTION: SEZ2008-00013
APPLICANT: SUNSHINE TOWERS, in reference to ALICO EAST
HEARING DATE: SEPTEMBER 24, 2008
WRITTEN SUBMISSION: OCTOBER 10, 2008

I. APPLICATION:

Filed by SUNSHINE TOWERS, 224 Datura Street, Suite 1008, West Palm Beach, Florida 33401 (Applicant); CDS, INC., C/O JACKIE GWYNN, 3939 Arlington Street, Fort Myers, Florida 33901 (Agent); DANIEL R. HARPER, TRUSTEE & QUINTON B. MCNEW, TRUSTEE, c/o RONALD INGE, 5571 Halifax Avenue, Fort Myers, Florida (Owner).

Request is for a Special Exception in the Agriculture (AG-2) zoning district to allow a 149-foot-high stealth wireless communication facility in accordance with Article VII, Division 11 of Chapter 34 of the Lee County Land Development Code on 80 acres located on the north side of Green Meadow Road just after Allico Road curves south.

The subject property is located at I-75 to Allico Road travel E. approx. 4.5 miles Allico Road will turn S. continue straight on Green Meadow Road approx. 1 mile site located on the North side of the Road, Southeast Lee County Planning Community, in Section 4, Township 46 South, Range 26 East, Lee County, Florida (District # 5).

The Strap # as furnished by the Applicant is: 04-46-26-00-00001.1010

II. STAFF RECOMMENDATION: DENIAL

The Department of Community Development Staff Report was prepared by Nettie M. Richardson. The Staff Report is incorporated herein by this reference.

III. HEARING EXAMINER DECISION:

The undersigned Lee County Hearing Examiner **APPROVES** the Applicant's request for a Special Exception to allow a 149-foot -high stealth wireless communication facility for the real estate described in Section VIII. Legal Description WITH THE FOLLOWING CONDITIONS:

A. CONDITIONS:

1. The development must be in substantial compliance with the site plan titled Allico East, attached hereto as **Exhibit B**, and the Compound Detail & Tower Elevation Drawing, attached hereto as **Exhibit C**, both last revised on May 20, 2008, and stamped received by Community Development on May 22, 2008.

2. The overall height of the tower must not exceed 149 feet above ground level and must be a monopole tower with the antennas and cables hidden within the tower.

3. The monopole tower must be installed and maintained in a gray or neutral color in color.
4. A 10-foot-wide buffer must be installed along the perimeter of the proposed facility consisting of a double row hedge maintained at a height of eight feet and with Sabal palms planted 10 feet on-center, as per the Lee County Land Development Code Section 34-1447(c). A watering plan, acceptable to Lee County Environmental Sciences, must be submitted prior to Local Development Approval.
5. The placement of exterior antennas on the tower is not permitted as part of this approval.
6. Prior to local development order approval the development plans must depict the wetland line and may not demonstrate any impacts to the onsite wetlands.
7. Unless preempted by Federal Statute or regulations, prior to local development order approval, the Applicant must provide rookery area locations, flight patterns, and foraging areas of wood storks for the proposed project.
8. Unless preempted by Federal Statute or regulations, prior to local development order approval, the Developer must provide documentation clearly depicting how the project will meet the Service Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers requirements of guidelines 4, 8 and 10, (attachment H of the Staff Report) and provide an analysis of how the project is consistent with Lee County Comprehensive Plan Policies 107.10.2 and 107.10.5, as well as an analysis on how the project will not impact wood storks.
9. No portion of the 75-foot by 75-foot Proposed STI Leased Area shown on the attached Site Plan, referenced in Condition 1, may be located within 25 feet of designated wetlands soil or within the Wetlands Future Land Use Category. Notwithstanding the requirements of Condition 1 herein, at the time of local development order, the Proposed STI Leased Area may be shifted or relocated within the Parent Tract up to 50 feet from the location shown on the attached Site Plan, attached hereto as **Exhibit B**, and a revised Site Plan must be provided to the County.

IV. HEARING EXAMINER DISCUSSION:

This is a request for a Special Exception to allow the placement of a 149-foot stealth wireless communication facility (tower), as defined in Section 34-1442 of the Lee County Land Development Code,¹ with associated equipment, on a vacant, 80 acre Agricultural Zoning District (AG-2), on the north side of Green Meadow Road. Additional Agricultural Zoning Districts surround the subject parcel. This "community" consists of mining operations, agricultural uses, some public facilities and very large lot residential home sites. The site is in the Southeast Lee County Planning Community and within two areas described on the Lee

¹ Lee County Land Development Code Section 34-1442:

Stealth wireless communications facility means a wireless communications facility, ancillary appurtenance, or equipment enclosure that is not readily identifiable as such, and that is aesthetically compatible with nearby uses. A stealth facility must have, or appear to have, a separate function including, but not limited to, the following: church steeple, bell tower, spire, clock tower, cupola, light standard, flagpole with a flag, etc., and a stealth facility may be an approved secondary use of other structures concealing the stealth facility.

County Future Land Use Map that is the Density Reduction/Groundwater Resource Area and Wetlands Area.²

North of the subject site is a vacant 568-acre parcel owned by Lee County 2020 Conservation Lands, known as Florida Rock Western Slough. On the westside of the site is a 214- acre mining project. South of the site is Green Meadows Road, across from which are several parcels, ranging from four acres to 12 acres, some of which contain single family homes. Finally, east of the site is a vacant 396-acre parcel, and a 500-acre parcel zoned Community Facility Plan District (CFPD) and an Industrial Planned Development (IPD) for a mining operation.

The authority of the Hearing Examiner to grant Special Exceptions, and the required factual findings, are set forth in Lee County Land Development Code Section 34-145 (c)(3) and (4) (a.) & (b.).³

The Applicant's "Site Plan" is depicted in **Exhibit B** hereto. That document reflects a 5,625 -square-foot leased tower and compound area in the central area of the property. It will be accessed from a 20-foot easement from Green Meadow Road. The Applicant's Compound Detail and Tower Elevation Plan, attached as **Exhibit C** hereto, depicts the lease area as a 75-foot by 75-foot area. An 8-foot-high chain link fence will enclose the compound area.

² **Lee County Comprehensive Plan Policy 1.4.5:**

The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.

Lee County Comprehensive Plan Policy 1.5.1:

Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan.

³ **Lee County Land Development Code Section 34-145(c)(3)&(4):**

Section 31-145 (c)(3): Before granting any special exceptions, the hearing examiner must find that the applicant has proved entitlement to the special exception by demonstrating compliance with:

- a. The Lee Plan;
- b. This Chapter;
- c. Any other applicable county ordinances or codes; and
- d. In the case of wireless communication facilities the hearing examiner must also make findings required by section 34-144(b).

Section 34-145 (c)(4)(a.): The hearing examiner must grant the special exception unless he finds the request is contrary to the public interest and the health, safety, comfort, convenience and welfare of the citizens of the county, or that the request is in conflict with subsection (c)(3) of this section.

Section 34-145 (c)(4)(b.): In reaching his decision, the hearing examiner has the authority to attach conditions and requirements necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. The conditions and requirements must be reasonably related to the special exception requested.

Setbacks for the tower will be 773± feet from the north property line, 537± feet from the south property line, 1,111± feet from the west property line and 1,529± feet from the east property line. A 10-foot-wide landscape buffer is depicted along the exterior perimeter. The buffer will contain sabal palms planted 10 feet on center, and a double hedge row of native shrubs.

The Applicant requests a special exception to allow the construction of a 149-foot tall stealth wireless communication facility. The same is defined in Section 34-1442 of the Lee County Land Development Code.⁴ Staff argued that the subject tower is not a stealth tower, within that definition. This Hearing Examiner has consistently found to the contrary, and determined that similar flagpole towers are "stealth towers," within that definition. See *Verizon Wireless*, Case No: SEZ2005-00037, *Nextel Communications*, Case No: SEZ2005-00020, and *Verizon Wireless*, Case No: SEZ2005-00003. Further, the Hearing Examiner finds no basis to deviate, or expand on, his findings or reasoning in those cases.

A stealth wireless communication facility must be reviewed in accordance with Lee County Land Development Code Section 34-1447(c)(3).⁵ In this request, the antennas will be internally mounted and no ancillary equipment will not be identifiable as wireless communication equipment. The proposed height allows for the location of the communication facility to serve a greater area, reducing the proliferation of towers in Lee County. The proposed flagpole wireless communication facility will be compatible with the surrounding area. The proposed facility will not be in scale with the surrounding area. The structure will be a flat grey color, the least intrusive color available. The proposed 149-foot tall tower will

⁴ Lee County Land Development Code Section 34-1442:

Stealth wireless communications facility means a wireless communications facility, ancillary appurtenance, or equipment enclosure that is not readily identifiable as such, and that is aesthetically compatible with nearby uses. A stealth facility must have, or appear to have, a separate function including, but not limited to, the following: church steeple, bell tower, spire, clock tower, cupola, light standard, flagpole with a flag, etc., and a stealth facility may be an approved secondary use of other structures concealing the stealth facility.

⁵ Lee County Land Development Code Section 34-1447(c)(3):

Stealth facilities.

a. No stealth facility may have antennas or ancillary equipment that are readily identifiable as wireless communications equipment.

b. Stealth facilities must be designed so they are reasonably consistent with the surrounding built or natural environment. In order to determine compliance with this requirement, the county will consider the following criteria:

1. Overall height;
2. The compatibility of the proposed facility with surrounding built and natural features;
3. Scale;
4. Color
5. Extent to which the proposed facility blends with the surrounding environment;
6. Extent to which the proposed facility has been designed to reasonably replicate a non-wireless facility (e.g., a silo, flagpole, or tree); and
7. Extent to which the proposed facility is not readily identifiable as a wireless communications facility.

blend with the surrounding environment. The proposed tower is designed to reasonably replicate a flagpole. The request complies with Section 1447(c)(3) of the Lee County Land Development Code.

Approval of monopole antenna supporting structure must be reviewed for compliance with the requirements of Section 34-1445(b)(3).⁶ The applicant is not providing adequate coverage or adequate capacity in the geographic search area. It produced propagation maps showing the coverage they are currently providing to the area, which suggests a lack of coverage for this portion of Lee County. There are no existing wireless communication facilities found within the search ring to provide adequate collocation opportunities. An approved wireless communication facility, found approximately 1,000 feet north of the subject property, cannot serve this Applicant's needs in this location.

The Applicant has agreed to lease available space on the antenna-supporting structure, under the terms of a fair-market lease, and without discrimination to other wireless communication service providers. No historical resources are known to be located on the subject property. The proposed wireless communication facility will be located on a vacant portion of the subject property that is sparsely vegetated and will not reduce the quality or function of natural or man-made resource. The facility will be required to install a 10-foot wide landscape buffer, as outlined in Section 34-1447(c) of the Lee County Land Development Code. The applicant has agreed to implement all reasonable measures to mitigate the potential impacts of the proposed wireless communication facility.

The subject property is located in two land use categories that are Density Reduction/Groundwater Resource (DR/GR) and Wetlands. The application is consistent with Policies 1.4.5 and 1.5.1 of the Lee County Comprehensive Plan. (See Footnote 1 hereto)

Unless preempted by Federal Statute or regulations, prior to local development order approval, the Applicant must provide rookery area locations, flight patterns, and foraging areas of wood storks for the proposed project. In addition, unless preempted by Federal

⁶ **Lee County Land Development Code Section 34-1445(b)(3):**

a. Approval. For administrative approvals and in addition to the findings required by section 34-145 for special exceptions and variances, the County must make all of the following findings (or conclude that a finding is not applicable) before granting approval of an application:

1. The applicant is not already providing adequate coverage or adequate capacity in the geographic search area; and
2. The applicant is not able to use existing wireless communications facility sites either with or without repeaters to provide adequate coverage or adequate capacity in the geographic search area; and
3. The applicant has agreed to rent or lease available space on the antenna-supporting structure, under the terms of a fair-market lease, without discrimination to other wireless communications service providers; and
4. The proposed wireless communications facility or antenna-supporting structure will not be injurious to historical resources, obstruct scenic views, diminish residential property values, or reduce the quality and function of natural or man-made resources; and
5. The applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities; and
6. The proposal will comply with FCC Reg 96-326 regarding emissions of electromagnetic radiation.

Statute or regulations, prior to local development order approval the developer must provide documentation clearly depicting how the project will meet the Service Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers. This application is consistent with Lee County Comprehensive Plan Policies 107.10.2 and 107.10.5.⁷

The proposed location will not negatively impact the residential uses in the area. The subject tower is over 537± feet from these uses. The request is consistent with Lee County Comprehensive Plan Policy 5.1.5.⁸

The undersigned Hearing Examiner finds that the requested Special Exception meets the criteria necessary for approval, including consistency with the Lee County Comprehensive Plan and Lee County Land Development Code. The request is compatible with neighboring properties. Consequently, this Hearing Examiner recommends approves the request for a Special Exception in the Agricultural (AG-2) zoning district to allow a 149-foot-high stealth wireless communication facility, in accordance with Article VII, Division 11 of Chapter 34 of the Lee County Land Development Code on 80 acres located on the north side of Green Meadow Road, subject to the conditions set forth herein. In compliance with Section 3.1 of Lee County Administrative Code AC-2-6, the undersigned Hearing Examiner conducted a site visit to the subject real property prior to issuing this recommendation.

V. FINDINGS AND CONCLUSIONS:

Based upon the Staff Report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions, in accordance with the Lee County Land Development Code Section 34-145(c)(2):

A. The requested special exception, as conditioned:

- 1) is consistent with the goals, objectives, policies and intent of the Lee County Comprehensive Plan;
- 2) meets or exceeds all performance and locational standards set forth for the proposed use;
- 3) will be compatible with existing or planned uses;

⁷ Lee County Comprehensive Plan Policy 107.10.5:

The county will continue to permit communication towers in excess of 100 feet only by special exception. The impacts of such towers on woodstorks must be considered in review of these applications.

Lee County Comprehensive Plan Policy 107.10.2:

The county will continue to require management plans for existing woodstork feeding, roosting, and rooking areas to utilize "Habitat Management Guidelines for the Woodstork in the Southeast Region.

⁸ Lee County Comprehensive Plan Policy 5.1.5

is to protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment.

4) will not cause damage, hazard, nuisance or other detriment to persons or property; and

5) will be in compliance with all general zoning provisions and supplemental regulations pertaining to the uses set forth in the Lee County Land Development Code.

B. In compliance with Lee County Land Development Code Section 34-1445(b)(3) the Hearing Examiner finds:

1) The Applicant is not already providing adequate coverage or adequate capacity in the geographic search area; and

2) The Applicant is not able to use existing wireless communications facility sites either with or without repeaters to provide adequate coverage or adequate capacity in the geographic search area; and

3) The Applicant has agreed to rent or lease available space on the antenna-supporting structure, under the terms of a fair-market lease, without discrimination to other wireless communications service providers; and

4) The proposed wireless communications facility or antenna-supporting structure will not be injurious to historical resources, obstruct scenic views, diminish residential property values, or reduce the quality and function of natural or man-made resources; and

5) The Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities; and

6) The proposal will comply with FCC Reg 96-326 regarding emissions of electromagnetic radiation.

VI. LIST OF EXHIBITS:

STAFF'S EXHIBITS

1 Aerial photograph, prepared by Lee County DCD, mapped September 19, 2008 (color)(24"X36")

2 Memorandum from John Fredyma, dated October 9, 2008, re: new Condition 9 language (8.5" x 11") [post hearing submittal]

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

APPLICANT'S EXHIBITS

1 Site Plan of subject property, prepared by KCI Technologies, Inc., Dated May 20, 2008, two pages (24"X36")

2 Letter from United States Department of the Interior Fish and Wildlife Service, dated July 25, 2005, two pages (8.5"X11")

3 Florida Wood Stork Colonies Map, prepared by U. S. Fish and Wildlife Service, dated November 1, 2007 (color)(11"X17")

4 Florida's Waterbird Colony Search Results, from myfwc.com, dated September 22, 2008 (8.5"X11")

Résumés of Applicant's consultants are on file with the Hearing Examiner's Office and are incorporated herein.

VII. PRESENTATION SUMMARY:

The Hearing Examiner introduced himself, announced the case, and described the location of the subject property. Since there were no members of public present, the Assistant County Attorney, John Fredyma, did not make any opening comments or explain the public hearing process on the record.

The Hearing Examiner asked the hearing participants to introduce themselves for the record. John Fredyma, Assistant County Attorney, Nettie Richardson, with Community Development, Robert Pritt, with Roetzel & Andress Law Firm & representing the Applicant, David Felton, with Sunshine Towers, Inc., all introduced themselves and were placed under oath by the Hearing Examiner. The Hearing Examiner then asked the Applicant to proceed.

Robert Pritt began the Applicant's presentation by stating they agreed with nearly issue addressed in the Staff Report. The proposed request is for a Special Exception in the AG-2 zoning district to allow 149-foot-high stealth wireless communication facility.

The subject tower site is located on 80 acres located off Green Meadow Road, just after Alico Road curves south, in Fort Myers. He referred to a 2007 aerial photograph posted on the exhibit board and pointed out some fields, treeline, and approximate location of the communication tower. The Hearing Examiner accepted the aerial photograph into the record and labeled it Staff's Exhibit 1, and did the same with a 2-page Site Plan, which was labeled as Applicant's Exhibit 1.

At this time, David Felton, with Sunshine Towers, reintroduced himself and described the request as a Special Exception for approval of a 149-foot-high stealth wireless communication tower facility.

He pointed out the location of the subject property and the location of the proposed tower within that property on the exhibit board. The proposed facility will be built to accommodate up to six wireless communication carriers and associated radio equipment located at the base of the tower. They currently have a lease and a letter of interest from two different wireless carriers, as well as a potential third carrier who is looking at the site right now.

When they search for antenna locations, they go out to a geographic area with a service ring that is provided by the carriers, and they try to identify any existing structures within the area that they could possibly collocate their antennas on. Within the subject geographic area, there are no existing structures of any substantial height that could be used for collocation. So, in this case, they looked for raw land sites to build a new communication tower.

They have research several land sites within the surrounding area. Since the properties in the surrounding area are within the DR/GR land use area, which only allows a residential density one unit per 10 acres, the available properties for the proposed communication tower are limited.

The subject property is 80 acres and the proposed tower will meet all the setback requirements on this site. He believed the new communication tower will be a positive enhancement to the community and provide a much needed service to the area. It also has a potential for growth and expansion. He noted that the wireless communication provider also provides E911 service, which means when someone calls 911 from their cell phone, they don't have to tell the dispatcher where they are located because the dispatcher can electronically determine where the phone call was made from and dispatch the appropriate emergency personnel to the proper location even if the caller is unable to speak.

Mr. Felton stated they agree to most of the conditions outlined in the Staff Report and agree with Staff's overall recommendation. The conditions that they disagree with are Conditions 7 and Condition 8, regarding environmental issues (wood storks), because, even though they don't prevent them from obtaining the desired Special Exception approval, they believe the conditions are a little excessive in nature.

The review and evaluation process they utilize to develop a communication tower is based on several criteria, which includes flood plain, wetlands, endangered species, migratory birds, historic sites, Indian burial grounds, etcetera, to determine the tower will have no impact on those situations. County Staff raised an issue regarding a wood stork that they don't feel is appropriate because they contacted the US Fish & Wildlife department in 2005 and asked them to make a determination of whether the proposed tower would have any effect on endangered species or migratory birds.

Since the US Fish & Wildlife had received so many of these types of tower requests, they set criteria by which they felt these types of applications no longer needed to be reviewed by them as they would no be impacting any wildlife. He read the letter from US Fish & Wildlife into the hearing record and it was accepted and labeled as Applicant's Exhibit 2 by the Hearing Examiner. In summary, Mr. Felton insisted that the US Fish & Wildlife letter confirms that the proposed tower will not be a detriment to any species. He also noted that, their search for the tower location revealed that there are no colonies within a one mile radius of the proposed tower location.

It was Mr. Felton's understanding that Lee County Environmental Sciences determination found that the proposed tower would be built in a wood stork foraging area, and that determination was based solely on a State of Florida's website that identifies nesting areas of wood storks. They then draw a 7-mile+ circle around that area, which meant that almost all the lands within Lee County would be considered foraging areas for the wood storks. The Staff Report specifies that there should be no human intrusion into feeding areas (third page of Exhibit 1 of the Staff Report) when wood storks are present, and human activity should be no closer than 300 feet and 700 feet. Another section of that exhibit states, good feeding conditions usually occur where water is relatively calm, and uncluttered by dense thickets of aquatic vegetation. The proposed site is located very close to a wetland that will be more specifically discussed later. However, the site will be outside of that wetland, but the wetlands, as depicted on the aerial, are very dense thickets of aquatic vegetation. He did not believe their site should be considered a prime

feeding area for wood storks. Therefore, he specifically requested that those type of conditions (Condition 7 & 8) be removed from the approval.

At this time, Mr. Pritt asked that a letter from the US Fish & Wildlife department, dated July 25, 2005 be accepted into the hearing record. After hearing an objection from Staff, regarding the addressee of the letter, Mr. Felton explained that the letter was not site specific, and that it was a general letter that the US Fish & Wildlife issues to provide general guidelines for the development of these types of lands. Mr. Fredyma noted that Mr. Felton was not qualified as an expert in environmental issues regarding wood stork feeding or nesting habits. The Hearing Examiner accepted said letter, subject to the limitation and understanding that it is just a form letter that *does not* specifically apply to the subject property, and labeled it as Applicant's Exhibit 2.

Mr. Pritt also asked that the map labeled "Florida Wood Stork Colonies Core Foraging Areas," that Mr. Felton obtained from the internet also be accepted into the hearing record as an Applicant's Exhibit. In response to Mr. Fredyma's inquiry as to the purpose of the map, Mr. Felton explained that he obtained the information by the direction of Environmental Sciences Staff as what they use as a tool to determine whether a site has a potential impact to wood storks. Any where in Lee County, based on this map, the foraging areas for the wood storks would be considered a potential detriment to their ability to forage. However, at the same time, it is evident that the nesting areas are not close to the subject property. After hearing no objections from Staff, the Hearing Examiner accepted the map into the hearing record and labeled it as Applicant's Exhibit 3.

Lastly, Mr. Pritt submitted another document with a website address from US Fish & Wildlife that showed there were no nesting locations within a 1-mile radius of the proposed tower location. After hearing no objection from Staff, the Hearing Examiner accepted a document labeled "Florida Water Bird Colony Search Result, dated September 22, 2008," into the hearing record and labeled it as Applicant's Exhibit 4.

For clarification purposes, Mr. Pritt stated it did not take an expert to go to a website on the internet and print a copy of a document. He understood Mr. Fredyma's concern about Mr. Felton not being qualified as an expert in environmental issues, however, for the limited the purpose of the exhibits the Applicant has submitted, he did not believe an expert in environmental issues was needed. Staff had no further questions.

For housekeeping purposes, Mr. Pritt referred to a typographical error on Page 10 of 12 (bottom of page) that states, Lee County Land Development Code Section 34-1447(a) where a tower is allowed with an overall height of 75 feet, but it should read 149 feet. Staff had no objection to the change.

Nettie Richardson, with Community Development, reintroduced herself and referenced Mr. Felton's agreement with Staff's recommendation, but reminded him that Staff's approval was two-fold. Staff is recommending denial of a stealth wireless community facility, however, in the alternative, Staff has offered a set of conditions if the Hearing Examiner should choose to approve the request. Mr. Felton agreed with Staff's overall recommendation of approval of the site location, but he disagreed with Staff's interpretation of a monopole requirement. He believed the application they submitted for a stealth wireless communication facility meets the criteria for that type of facility.

Mr. Pritt also mentioned that they wanted to move the site about 25 feet because, as a result of their discussions, it appeared that the relocation may be beneficial to make sure it is not located within any wetland area. He was concerned that if he didn't mention it today, that someone may say it had to return through the public hearing process, once it reached the Limited Development Order (LDO) review process. If Staff and the Hearing Examiner agreed, they would submit a revised plan during the LDO process.

Mr. Fredyma asked if Mr. Pritt was talking about moving the tower itself or the boxed area where the tower would be located. Mr. Pritt deferred the question to Mr. Felton, to which he replied that it would be the leased area. Mr. Fredyma wanted clarification because the Special Exception application requires that the Applicant provide a legal description of the leased area. After discussing the matter with Staff, Mr. Fredyma suggested that it may be more appropriate for the Hearing Examiner to include a condition that requires the Applicant to submit a revised legal description at the time of LDO, should he decide to approve the request.

The Hearing Examiner agreed to leave the hearing record open for a revised legal description. However, he did not believe it should be for property located more than 25 to 50 feet from its original location.

In response to the Hearing Examiner inquiry, Mr. Fredyma did not believe there was any public hearing noticing problem with revising the legal description at this point in the review process. He believed, since it was a small area within a large parcel (80 acres), it would only be considered a minor adjustment. The Hearing Examiner agreed and noted that the public hearing notices would still have been sent out to the same people.

At this time, Ronald Inge introduced himself as the representative of the property Owner, Daniel R. Harper, Trust, as well as the Owner of the property adjacent to and south of the subject 80-acre parcel. He referred to the aerial photograph and pointed out the properties owned by his clients.

He began by stating the Owner has been working with the Applicant and had no objection to the tower on either parcel of land. He also agreed with, and had objection to, Mr. Pritt's suggestion of moving leased area slightly to accommodate the requirements necessary for wetland avoidance.

Nettie Richardson, with Community Development, began Staff's presentation by stating her resume was on file with the Hearing Examiner's Office. She asked to be accepted as an expert witness in planning, zoning, and land use matters, as she has been several times in the past. After hearing no objections from the Applicant's representatives, the Hearing Examiner accepted her as such.

Ms. Richardson described the proposed request as a Special Exception. It was not the issue of whether the subject property is a poor location for the proposed tower, because they found the location of the tower is appropriate and meets all the necessary criteria of the Lee County Land Development Code. The basis for denial is due to the type of tower that is placed on the property, which seems to be the same every time they process a tower case through the public hearing process. The Applicant asks for a stealth tower, and the Lee County Land Development Code specifically states that stealth towers are the number one type of tower that is preferred. However, the Applicant usually wants to do a flagpole stealth or a tree stealth, and there is nothing in the

surrounding area that will help it blend in. So, Staff recommends that, instead of the stealth, they suggest an alternative monopole antenna supporting structure, which means the Applicant has to place all their antennas inside the pole. Either way, you get the same result. However, in reviewing the Lee County Land Development Code, the tower has to meet the criteria for a "stealth" tower, which it does not meet.

She explained that the criterion for a stealth tower versus a monopole tower is very different. The stealth tower blends in with the surrounding neighborhood. An antenna supporting structure (monopole) criteria are based on the need for the facility and what kind of mitigating potential impacts it would have on the surrounding neighborhood. So, Staff believes a monopole tower is a better designed tower at this location, versus a stealth, because if there is a flag on a stealth tower, the flag is going to be huge and it will not blend in with the natural environment or the cows on the property.

Staff was also concerned because they were not provided an actual jurisdictional determination of where the actual wetland boundaries are located. The subject property is located within two different Lee County Comprehensive Plan land use categories (DR/GR & Wetlands). There is not an actual setback requirement from the wetlands, however, it seems that most jurisdictional areas usually maintain at least a 25-foot setback. One of the requirements in the Staff Report (Condition 6) is that the Applicant provide information depicting the jurisdictional line and proof that the tower site is not going to impact the wetlands, during the development order review process.

Ms. Richardson believed the unresolved issue was the design of the tower. Did the Hearing Examiner want to approve a tower with the antennas tucked inside or a flagpole with a big flag on it. Staff recommends a tower with the antennas tucked inside. Staff's decision was based on the Lee County Land Development Code and Lee County Comprehensive Plan Policy 107.10.2), which states the County will continue to permit communication towers in excess of 100 feet, only by Special Exception and the condition that the impact on the wood stork must be reviewed and considered in each application. Lee County Environmental Sciences has reviewed the proposed request and noted that this was the first tower case, in a long time, that is actually near a wetland. Most of the recent cases have been in urbanized area. The proposed tower will be constructed in a DR/GR, so Staff was concerned about potential impacts during their review.

Staff was not insinuating that the imposition of Conditions 6 or Condition 7 was due the tower not being a good location for the tower. They are just requesting that the Applicant demonstrate, at the time of development order, that there are not going to be any impacts to the wetlands. She was concerned about the US Fish & Wildlife letter the Applicant submitted because it was not site specific, and she believed a site specific letter from that agency would satisfy that concern.

The subject property is surrounded by undeveloped areas to the north and west (Conservation 2020 land). She contacted that department, but they didn't have any concerns. There are some single-family homes to the south that range in lot size between four and 12 acres. There are some IPD and CPD zoning and mining activities to the east.

In conclusion, Ms. Richardson stated Staff recommends approval of a monopole tower with the conditions outlined in the Staff Report, dated September 15, 2008. She also agreed to the addition of Condition 9 regarding the revised legal description of the leased

area if it is moved 25 to 50 feet from wetlands, and also wanted it be moved outside of the DR/GR area and at least 25 feet from the Wetlands future land use area. She submitted a copy of a print out of a GIS map that showed the area where Ms. Richardson would like the tower to be located in. The Hearing Examiner took judicial notice of the GIS map Ms. Richardson was referring to.

After a brief consultation between themselves and review of that GIS map, Mr. Pritt was concerned because he thought they had agreed to make sure the leased area was outside of any wetlands in the DR/GR area. Ms. Richardson said she didn't know if there were any wetlands in the DR/GR area.

Mr. Felton referred to Condition 6 and asked if Staff's reference to the "wetland line," meant where the physical wetlands begin and end, as opposed to the theoretical DR/GR land use designation. Ms. Richardson stated that was correct. Mr. Felton stated it was his understanding that they would only be subject to the physical "wet lands." He was concerned that the theoretical line, for land use purposes, that the Wetland land use designation may actually encompass some of the dry land that is out there right now, which would force them to move the leased area even further west. He hoped that the determination could be made by the professional consultants (surveyor) that provide a determination, as staked in the field, of the wetland location. Ms. Richardson agreed that was what they were trying to do. Staff wanted to make sure that the tower is located in an upland area.

It was Mr. Fredyma's understanding that Staff's recommendation of approval of the monopole tower was subject to it **NOT** being located within the Wetlands future land use category, and that it **NOT** be located within the wetlands (soil type conditions). Ms. Richardson agreed.

The Hearing Examiner asked Ms. Richardson if, in reviewing the revised legal description, she could determine exactly where the subject property was located, in relation to the wetland future land use. Ms. Richardson referenced another exhibit map and pointed out where she had scaled out the tower location (leased area) and setback requirements. The Applicant's map did not show the details of the leased area, even though she had requested it prior to the hearing. Mr. Fredyma suggested that the case be continued until the wetland detail information is provided by the Applicant. Mr. Pritt agreed with the conditions, and suggested that, since the Hearing Examiner was leaving the hearing record open for additional submittal information, they be allowed to provide the wetland detail information as well.

For clarification purposes, the Hearing Examiner agreed to leave the hearing record open for the Assistant County Attorney to provide the previously discussed condition language, or in the alternative, an agreed upon condition, by Staff and Applicant, regarding the placement of the tower. He believed that would open up the possibility of changing the tower location if they determine it will be located in the Wetlands future land use category or too close to the wet lands. Mr. Pritt agreed and had no objection to the Hearing Examiner's decision regarding those issues.

Mr. Fredyma referenced to the Staff Report's reference to Lee County Comprehensive Plan Goal 107.10.5 and stated it was his understanding that it was not a prohibition of towers. Ms. Richardson stated that was correct.

At this time, Doug Griffin, with Environmental Sciences, introduced himself and stated his resume was on file with the Hearing Examiner's Office. He asked to be accepted as an expert witness in environmental planning, as he had been in the past. After hearing no objections from the Applicant's representatives, the Hearing Examiner accepted him as such.

Mr. Griffin referred to Applicant's Exhibit 2 and read a sentence that stated "the tower must be located in urbanized or developed areas or other areas that do not provide potential habitat for listed species." He pointed out that DR/GR is a known wood stork foraging habitat area and was the primary reason Staff was asking for Condition 7.

Lee County Comprehensive Plan Policy 107.10.2 requires plans for existing wood stork feeding, roosting, and rooking areas, utilizing habitat measurement guidelines for the wood stork of the southeast region. Since the DR/GR area is a known foraging area of the wood stork, Staff was concerned with the foraging, versus the rookery to the south, and the flight path. In response to Mr. Fredyma's inquiry, Mr. Griffin stated there would probably be a prohibition if the tower was to be located within a known flight path of the wood stork. He agreed that a management plan would be an alternative to the tower being located in a flight plan.

Mr. Pritt asked Mr. Griffin how long he had been reviewing tower applications for migratory bird issues. Mr. Griffin stated approximately one year, since his employment with Lee County Environmental Sciences. Mr. Pritt asked Mr. Griffin if he was aware of the FCC's inquiry into the effect of telecommunication towers on the migratory bird, and if he was aware that the matter is under consideration by the FCC. Mr. Griffin stated he was aware of that. Mr. Pritt asked if he still had a direction by Lee County that they are going to be imposing themselves into the migratory board issue, and if that had been reviewed and considered by the Lee County Attorney's Office. Mr. Griffin did not know. Mr. Pritt asked if Staff had discussed whether their requirements were preempted by the FCC. Mr. Griffin did not know. Mr. Pritt believed the issue was preempted to the FCC and did not believe Lee County had the authority to impose conditions or deny the application.

The Hearing Examiner asked if the FCC created a preemption, and if so, what is the authority on that issue. Mr. Pritt had some legal cases related to the issue, not exactly regarding the preemption issue. As a matter of law, if an issue is being considered by the FCC, he believed it was a matter that was not for the local government. In response to the Hearing Examiner's inquiry, Mr. Pritt clarified that the FCC was considered the effect of towers on migratory birds, not the preemption issue.

The Hearing Examiner asked if Mr. Pritt had any documents that state the FCC has preempted the issue. Mr. Pritt didn't have anything, but he believed the FCC had exclusive jurisdiction over the issues that they are reviewing or considering.

Mr. Pritt stated that condition (Condition 7) seemed to have popped up recently, and as far as he could tell, only for the subject case. He wasn't going to make an issue of the requirement, but he just heard from Mr. Griffin's testimony that the tower could possibly be denied because of the wood stork issue. He felt he had a duty to bring it to the Hearing Examiner's attention. The Hearing Examiner understood his concern, but he didn't believe the condition stated what he thought it did. He read the condition into the record, and asked Staff if the development order would be denied if there was some type of adverse finding. Mr. Griffin stated if habitat exists in the tower location area, then the

request would have to go back to US Fish & Wildlife for review and approval. If habitat does not exist in the tower location, then there would be no issue.

In an attempt to resolve the matter at this level, Mr. Pritt suggested that the "preemption" language be added to Condition 7. The Hearing Examiner asked if Staff objected to the "preemption" language being added to the condition. Mr. Fredyma had no objection. Mr. Pritt explained that the issue has been pending before the FCC for some time. Some people in the environmental community have been concerned that it hasn't been decided on yet. The Court of Appeal for the Circuit, ordered the FCC to get going on it. So, the issue may be resolved by the time this case reaches the development order process.

The Hearing Examiner stated he would revise the condition to read,

Unless preempted by Federal Statute or regulations, prior to local development order approval, the Applicant must provide rookery area locations, flight patterns, and foraging areas of wood storks for the proposed project.

Staff and the Applicant's representative agreed to the change. Ms. Richardson clarified that this was the first tower case that Staff has had in a long time that is close to wetland areas. The Hearing Examiner understood.

In response to Mr. Griffin's inquiry, Mr. Pritt suggested that the same "preemption" language be added to Condition 8, as well. The Hearing Examiner agreed.

The Hearing Examiner left the hearing record opened for the County Attorney's Office to supply new language for Condition 9, and/or the Applicant and Staff to provide a new Condition 9 until Friday, October 10, 2008 at 5:00 p.m. He also stated he would conduct a site visit prior to rendering his decision in this case. The hearing was then closed.

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

ADDITIONAL COUNTY STAFF:

1. John Fredyma, Assistant County Attorney, P. O. Box 398, Ft. Myers, Florida 33902
2. Doug Griffin, Environmental Sciences, P. O. Box 398, Fort Myers, Florida 33902-0398

PUBLIC PARTICIPATION:

A. THE FOLLOWING PERSONS TESTIFIED OR SUBMITTED EVIDENCE FOR THE RECORD AT THE HEARING (SEE SECTION VI.):

For:

1. Ronald E. Inge, 5871 Halifax Avenue, Fort Myers, Florida 33912

Against: NONE

B. THE FOLLOWING PERSONS SUBMITTED A LETTER/COMMENT CARD, OR OTHERWISE REQUESTED A COPY OF THE HEARING EXAMINER DECISION:

For: NONE

Against: NONE

IX. LEGAL DESCRIPTION:

See Exhibit A (scanned legal description).

X. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation. . . . [Lee County Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the hearing examiner or any county commissioner [or their staff]. . . . [Lee County Land Development Code Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication . . . [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the hearing examiner action which is the subject of the unauthorized communication. [Lee County Land Development Code Section 34-52(b)(1)b.2.]; OR

A fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [Lee County Land Development Code Section 1-5(c)]

XI. APPEALS:

This Decision becomes final on the date rendered. A Hearing Examiner Decision may be appealed to the Circuit Court in Lee County. Appeals must be filed within thirty (30) days of the date the Hearing Examiner Decision is rendered. Appeal is by Petition for Writ of Certiorari in accordance with Lee County Land Development Code Section 34-146.

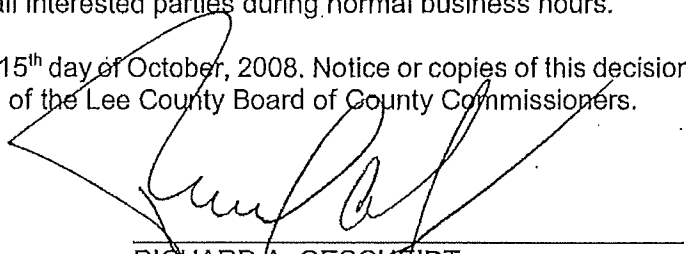
XII. COPIES OF TESTIMONY AND TRANSCRIPTS:

A. A complete verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's

Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Fort Myers, Florida.

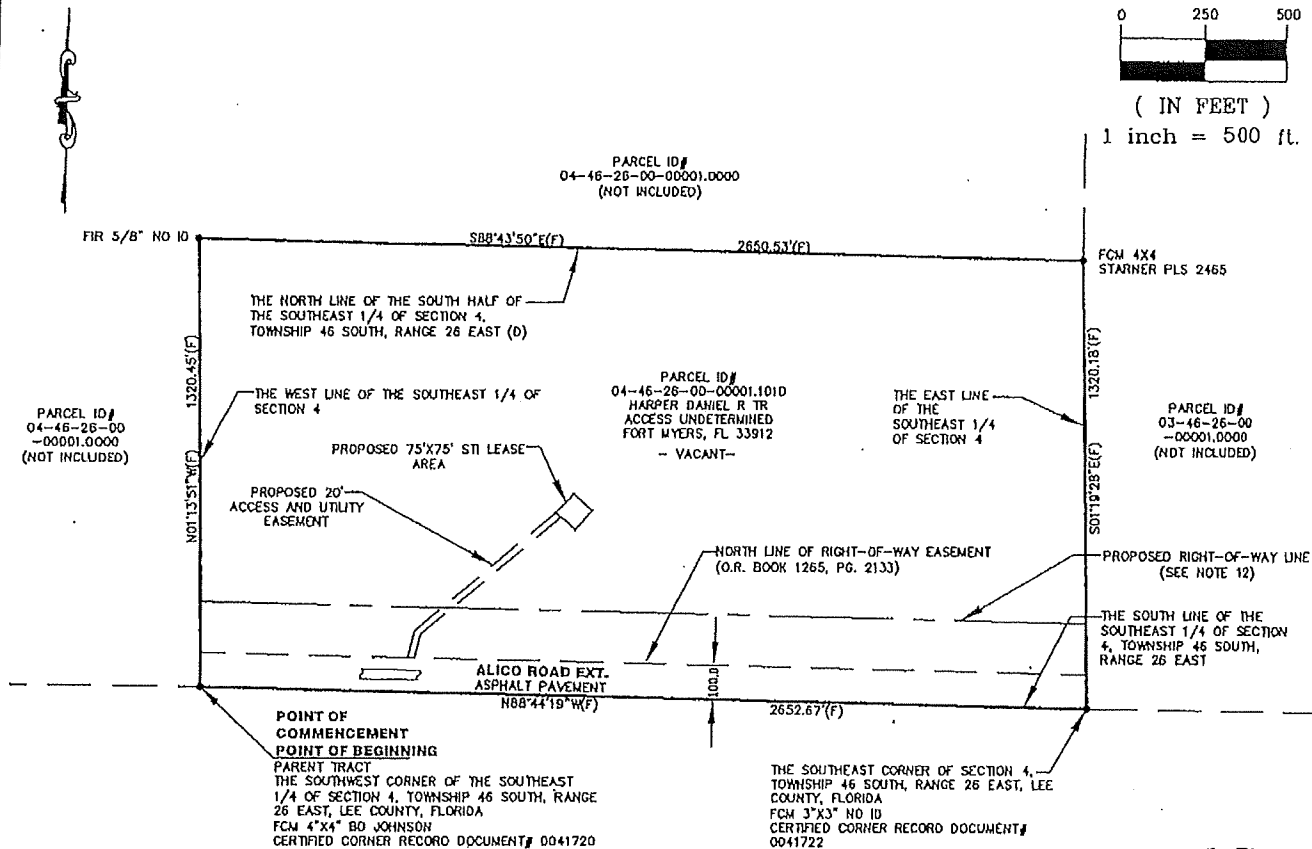
B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

This decision is rendered this 15th day of October, 2008. Notice or copies of this decision will be delivered to the offices of the Lee County Board of County Commissioners.



RICHARD A. GESCHEIDT
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 239/533-8100
Facsimile: 239/485-8406

EXHIBIT "A"
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA
SKETCH OF DESCRIPTION OF PARENT TRACT (NOT A SURVEY)



SEZ 2008-00013
RECEIVED
 JUL 18 2008

COMMUNITY DEVELOPMENT

LEGEND

F.D.O.T. = FLORIDA DEPARTMENT
 OF TRANSPORTATION
 T = TOWNSHIP
 R = RANGE
 (D) = DEED
 (C) = CALCULATED
 (F) = FIELD

PLS = PROFESSIONAL LAND SURVEYOR
 O.R. = OFFICIAL RECORDS
 ID = IDENTIFICATION
 NO. = NUMBER
 FCM = FOUND CONCRETE MONUMENT
 FIR = FOUND IRON ROD

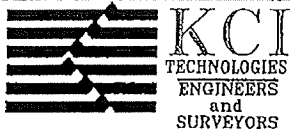
Applicant's Legal Checked

by *[Signature]* 7/21/08 PAGE 1 OF 2

*NOT VALID IF PAGE 1 AND 2 ARE NOT BOUND TOGETHER
 ** PAGE 2 CONTAINS SURVEYOR NOTES AND DESCRIPTION

THIS SKETCH WAS MADE UNDER MY DIRECTION
 AND MEETS THE MINIMUM TECHNICAL STANDARD
 REQUIREMENTS OF CHAPTER 61G17-6 OF THE
 FLORIDA ADMINISTRATIVE CODE. NOT VALID
 WITHOUT THE SIGNATURE AND THE ORIGINAL
 RAISED SEAL OF A FLORIDA LICENSED
 SURVEYOR AND MAPPER.

[Signature]
 JOHNNY L. FLASKAMP
 FLORIDA PROFESSIONAL
 SURVEYOR & MAPPER NO. 6601



KCI TECHNOLOGIES, INC.
 10401 HIGHLAND MANOR DRIVE,
 SUITE 120
 TAMPA, FLORIDA 33610
 LICENSED BUSINESS. LB 6901

PREPARED FOR:

STI Sunshine
 Towers, Inc.

211 Westminster Road
 West Palm Beach, FL 33405
 (561) 614-4081

EXHIBIT "A"

SEZ 2008-00013

SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA**SKETCH OF DESCRIPTION OF PARENT TRACT****DESCRIPTION: PARENT TRACT (SKETCH ONLY)**SOUTH 1,319.318 FEET OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST.

ALSO BEING DESCRIBED AS FOLLOWS:

A TRACT OF LAND LYING WITHIN THE SOUTHEAST $\frac{1}{4}$ OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**COMMUNITY DEVELOPMENT**

COMMENCE AT A FOUND 4"x4" CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 4 (CERTIFIED CORNER RECORD DOCUMENT# 0041720), ALSO BEING THE POINT OF BEGINNING OF HEREIN DESCRIBED TRACT OF LAND; THENCE N01°13'51"W, ALONG THE WEST LINE OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 4, A DISTANCE OF 1,320.45 FEET, TO A FOUND 5/8" IRON ROD ON THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 4; THENCE S88°43'50"E, ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 4, A DISTANCE OF 2650.53 FEET, TO A FOUND 4"x4" CONCRETE MONUMENT PLS 2465 ON THE EAST LINE OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 4; THENCE S01°19'28"E, ALONG THE EAST LINE OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 4, A DISTANCE OF 1320.18 FEET, TO A FOUND 3"x3" CONCRETE MONUMENT MARKING THE SOUTHEAST CORNER OF SAID SECTION 4 (CERTIFIED CORNER RECORD DOCUMENT# 0041722); THENCE N88°44'19"W, ALONG THE SOUTH LINE OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 4, A DISTANCE OF 2652.67 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH AN EASEMENT DESCRIBED AS FOLLOWS:

A NON-EXCLUSIVE RIGHT-OF-WAY AND EASEMENT ROADWAY PURPOSES THROUGH, OVER AND ACROSS A STRIP OF LAND LYING AND ABUTTING NORTH OF THE NORTH RIGHT-OF-WAY LINE OF ALICO ROAD AND LYING AND ABUTTING WEST OF THE WEST LINE OF A 100 FOOT WIDE ROADWAY EASEMENT GRANTED TO ALICO LAND CORPORATION AND RECORDED IN O.R. BOOK 1265, PAGE 2133, LEE COUNTY RECORDS.

SAID PARENT TRACT CONTAINING 80.3 ACRES MORE OR LESS.

INFORMATION FOR THE PARENT TRACT IS BASED ON A SURVEY PREPARED BY HOLE, MONTES, AND ASSOCIATES, 10550 ABERNATHY STREET, BONITA SPRINGS, FLORIDA 33923, (813) 992-0795, PROJECT NUMBER 90.85, DATED APRIL OF 1991.

NOTES:

- 1). THE SUBJECT PROPERTY APPEARS TO FALL WITHIN THE AREAS DEPICTED ON COMMUNITY MAP 125124, PANEL 0500, PER THE FLOOD INSURANCE RATE MAP OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). ACCORDING TO THE MAP INDEX SHEET, THIS PANEL WAS NOT PRINTED AND CONTAINS NO SPECIAL FLOOD HAZARD AREAS. PLEASE VERIFY WITH LOCAL "FEMA" REPRESENTATIVE.
- 2). BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, BEING N88°44'19"W (ASSUMED).
- 3). NO UNDERGROUND UTILITIES OR UNDERGROUND IMPROVEMENTS, IF ANY, WERE LOCATED DURING THE COURSE OF THIS SKETCH. NO UTILITIES WERE LOCATED EXCEPT AS SHOWN HEREON. UNDERGROUND UTILITIES MAY EXIST.
- 4). THIS SKETCH WAS PREPARED ON JULY 17, 2008 UNDER THE SUPERVISION OF A FLORIDA PROFESSIONAL SURVEYOR AND MAPPER.
- 5). DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF.
- 6). THIS SKETCH DOES NOT REFLECT OR DETERMINE OWNERSHIP.
- 7). DURING THE COURSE OF THIS SKETCH, NO SEARCH FOR VISIBLE EVIDENCE OF EXISTING OR FORMER AREAS OF FACILITIES WHICH MAY HAVE INVOLVED USE OR STORAGE OF HAZARDOUS OR TOXIC SUBSTANCES WAS MADE, NOR WERE ANY WETLAND AREAS OR JURISDICTIONAL WETLANDS SHOWN OR LOCATED.
- 8). REPRODUCTIONS OF THIS SKETCH ARE NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYORS SEAL. ADDITIONS OR DELETIONS TO THIS SKETCH BY ANY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
- 9). PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. THIS SKETCH REFLECTS THE DESCRIPTION PROVIDED BY THE CLIENT. NO ABSTRACT EXAMINATION IS IMPLIED. THE INFORMATION HEREON IS SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.
- 10). THIS MAP IS INTENDED TO BE DISPLAYED AT A SCALE OF 1 INCH = 500 FEET FOR (8.5"x11" DRAWINGS).
- 11). THE SOLE PURPOSE OF THIS SKETCH IS TO SHOW THE BOUNDARY OF PARENT TRACT.
- 12). THE PROPOSED NORTH RIGHT-OF-WAY LINE FOR THE ALICO ROAD EXTENSION IS SHOWN AT 250 FEET NORTH AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST PER INFORMATION PROVIDED TO THIS SURVEYOR ON 3/26/08 BY MR. BOB L. POTTER, PSM AT AIM ENGINEERING & SURVEYING, INC.
- 13). INFORMATION FOR THE PARENT TRACT IS BASED ON A SURVEY PREPARED BY HOLE, MONTES, AND ASSOCIATES, 10550 ABERNATHY STREET, BONITA SPRINGS, FLORIDA 33923, (813) 992-0795, PROJECT NUMBER 90.85, DATED APRIL OF 1991.

PREPARED FOR:

STI Sunshine
Towers, Inc.

211 Westminster Road
West Palm Beach, FL 33405
(561) 514-4081



KCI TECHNOLOGIES, INC.
10401 HIGHLAND MANOR DRIVE, SUITE 120
TAMPA, FLORIDA 33610
LICENSED BUSINESS. LB 6901

PAGE 2 OF 2

*NOT VALID IF PAGE 1 AND 2 ARE
NOT BOUND TOGETHER

** PAGE 1 CONTAINS SURVEYOR
SIGNATURE AND SEAL, SKETCH AND
LEGEND

SEZ 2008-00013

RECEIVED

MAY 22 2008

COMMUNITY DEVELOPMENT


DESCRIPTION: PROPOSED 20' ACCESS AND UTILITY EASEMENT (AS REQUESTED BY CLIENT):

A TRACT OF LAND LYING WITHIN THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 4"x4" CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 4 (CERTIFIED CORNER RECORD DOCUMENT# 0041720); THENCE N01°13'59"W, ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4, A DISTANCE OF 100.09 FEET TO A POINT ON A LINE BEING 100 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4; ALSO BEING THE NORTH LINE OF THAT RIGHT-OF-WAY EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 1265, PAGE 2133 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S88°44'19"E, ALONG SAID LINE, A DISTANCE OF 620.62 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID LINE, N13°35'18"E, A DISTANCE OF 82.42 FEET; THENCE N50°00'00"E, A DISTANCE OF 540.38 FEET; THENCE S48°47'46"E, A DISTANCE OF 20.24 FEET; THENCE S50°00'00"W, A DISTANCE OF 536.90 FEET; THENCE S13°35'18"W A DISTANCE OF 71.48 FEET TO A POINT ON A LINE BEING 100 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4; ALSO BEING THE NORTH LINE OF THAT RIGHT-OF-WAY EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 1265, PAGE 2133 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N88°44'19"W, ALONG SAID LINE, A DISTANCE OF 20.47 FEET TO THE POINT OF BEGINNING.

SAID PROPOSED ACCESS AND UTILITY EASEMENT CONTAINING 12,313 SQUARE FEET, MORE OR LESS.

Applicant's Legal Checked
by B. J. 5/27/08

 <p>KCI TECHNOLOGIES ENGINEERING PLANNING</p> <p>KCI Technologies, Inc. 10101 HIGHLAND MANOR DRIVE, SUITE 120 TAMPA, FL 33610 (813) 740-2300 FLORIDA LICENSE NO.: KB0004898</p>	<p>STI Sunshine Towers, Inc. 244 DATURA STREET, SUITE 1004 WEST PALM BEACH, FL 33411 (561) 514-4061</p>	<p>DRAWING TITLE: LEGAL</p> <p>PROJECT NAME: ALICO EAST</p>	<table border="1"> <tr> <td>REVISION NO. 1</td> <td>DRAWN BY: CO</td> </tr> <tr> <td>DATE ISSUED: 05/22/08</td> <td>CHECKED BY: MW</td> </tr> <tr> <td colspan="2">APPROVED BY: JF</td> </tr> <tr> <td colspan="2">SCALE: N.T.S.</td> </tr> <tr> <td colspan="2">SHEET NO.</td> </tr> <tr> <td colspan="2">A/E PROJECT NO: 10071532B</td> </tr> </table>	REVISION NO. 1	DRAWN BY: CO	DATE ISSUED: 05/22/08	CHECKED BY: MW	APPROVED BY: JF		SCALE: N.T.S.		SHEET NO.		A/E PROJECT NO: 10071532B	
REVISION NO. 1	DRAWN BY: CO														
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SCALE: N.T.S.															
SHEET NO.															
A/E PROJECT NO: 10071532B															

SEZ 2008-00013

RECEIVED

MAY 22 2008

COMMUNITY DEVELOPMENT

DESCRIPTION: PROPOSED STI LEASE PARCEL (AS REQUESTED BY CLIENT):

A TRACT OF LAND LYING WITHIN THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 4"x4" CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 4 (CERTIFIED CORNER RECORD DOCUMENT# 0041720); THENCE N01°13'59"W, ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4, A DISTANCE OF 100.09 FEET TO A POINT ON A LINE BEING 100 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4, ALSO BEING THE NORTH LINE OF THAT RIGHT-OF-WAY EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 1265, PAGE 2133 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S88°44'19"E, ALONG SAID LINE, A DISTANCE OF 620.62 FEET; THENCE LEAVING SAID LINE, N13°35'18"E, A DISTANCE OF 82.42 FEET; THENCE N50°00'00"E, A DISTANCE OF 540.38 FEET TO THE POINT OF BEGINNING; THENCE N41°12'14"E, A DISTANCE OF 75.00 FEET, THENCE S48°47'46"E, A DISTANCE OF 75.00; THENCE S41°12'14"W, A DISTANCE OF 75.00 FEET; THENCE N48°47'46"W, A DISTANCE OF 75.00 FEET TO THE POINT OF BEGINNING.

SAID PROPOSED STI LEASE PARCEL CONTAINING 5625 SQUARE FEET, MORE OR LESS.

Applicant's Legal Checked
by *BSJ* 5/27/08



KCI Technologies, Inc.

10101 HIGHLAND MANOR DRIVE, SUITE 120
TAMPA, FL 33610
(813) 740-2300

FLORIDA LICENSE NO.: EB0004898

STI Sunshine Towers, Inc.

244 DATULA STREET, SUITE 100A
WEST PALM BEACH, FL
33409
(561) 514-4061

DRAWING TITLE:

LEGAL

PROJECT NAME:

**ALICO
EAST**

REVISION NO. 1

DRAWN BY: CO

CHECKED BY: JAJ

DATE ISSUED: 05/06/08

APPROVED BY: JF

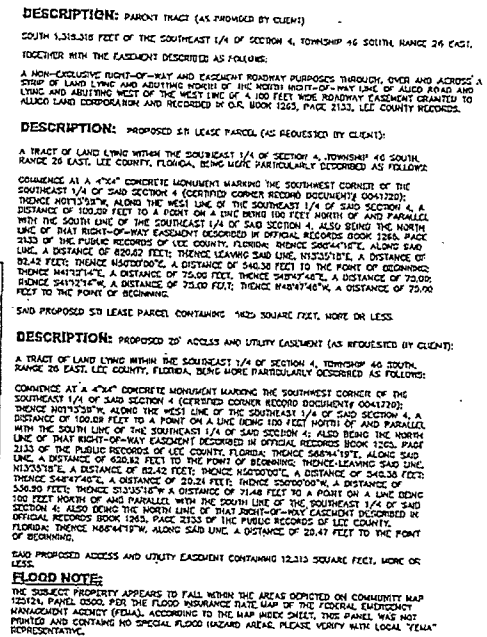
SCALE: N.T.S.

SHEET NO.

A/E PROJECT NO: 100715320

FOR 24"X36" DRAWINGS
GRAPHIC SCALE: 1 INCH = 200 FEET

FOR 11"X17" DRAWINGS
GRAPHIC SCALE: 1 INCH = 400 FEET



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N41°32'14"E (7)	75.00 (7)
L2	S45°47'45"E (5)	75.00 (7)
L3	S41°32'14"W (7)	75.00 (7)
L4	N45°47'45"W (5)	75.00 (7)

L1 = LINE 1

SITE DATA

1. FOLDING WAREHOUSE 04-46-28-00-00001.610
TOWNSHIP VIA
JACKSONVILLE DIST. COUNTY
SITE OWNER: MORTIMER DANIEL R TR
2331 N. W. 10TH ST
FORT WORTH TX 76102
2. VEHICULAR USE
APPROPRIATE USE TO THREE SITE VISITS
3. TRAFFIC AND SEVERE
CONCERNATION FACILITY SHALL NOT BE
SERVED BY WATER OR SEWER
4. LIST
NECESSARY TELECOMMUNICATIONS RELAY
EQUIPMENT
5. STORM WATER MANAGEMENT:
TOWER OWNER TO ENSURE THAT THE
SITE SHALL COMPLY WITH ALL STATE AND
FEDERAL REGULATIONS STORM WATER
ACCUMULATION
6. TOWER OWNER TO ENSURE THAT THE
POWER ANTENNA SHALL NOT BE
INTERFERED WITH NORMAL BROADCAST AND TELEVISION
RECEPTION IN THE VICINITY
7. A SURVEY WAS PERFORMED ON THE SITE
ON 02-28-08
BY METROLOGICS INC. (817) 740-2300.

[illegible]

2008-00013
RECEIVED
2008
DEVELOPMENT

**STAFF REPORT
FROM
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF ENVIRONMENTAL SCIENCES**

Date: September 15, 2008

To: Nettie Richardson, Principal Planner
From: Aaron Martin, Environmental Planner
Phone: 239-533-8522
E-mail: amartin@leegov.com

Project: Alico East
Case: SEZ2008-00013
Strap: 04-46-26-00-00001.1010

PROJECT SITE:

The subject parcel is approximately 80.32 acres and is zoned AG-2. The future land use categories are wetlands and density reduction - groundwater resource (DRGR). Currently the site is approximately half cleared for agricultural use with the remaining half of the site containing wetlands. The applicant is proposing to construct a stealth communication facility consisting of a 149 foot monopole antenna. Per LDC 34-1444(b)(4) stealth wireless communication facilities are allowable in the DRGR. The applicant has provided an MCP, however, the site plan does not depict the wetland line. The site design does not appear to propose any wetland impacts but it is unclear.

ES staff is recommending the following condition to ensure no wetland impacts are being proposed by the applicant:

Prior to local development order approval the development plans must depict the wetland line and may not demonstrate any impacts to the onsite wetlands.

PROTECTED SPECIES:

According to United States Fish and Wildlife Service (USFWS) the proposed project is in a known wood stork foraging area. The USFWS has established guidelines for the installation of towers in known migratory or foraging wading bird areas (see attached *Service Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers*).

Per **Lee Plan Policy 107.10.5:** The county will continue to permit communication towers in excess of 100 feet only by special exception. The impacts of such towers on woodstorks must be considered in review of these applications.

& **Policy 107.10.2:** The county will continue to require management plans for existing woodstork feeding, roosting, and rooking areas to utilize "Habitat Management Guidelines for the Woodstork in the Southeast Region" (U.S. Fish and Wildlife Service, 1990) (see attached).

Please read *Service Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers* and clearly depict how the proposed project will meet the requirements of guidelines 4, 8 and 10. Per Lee Plan Policy 107.10.2 and Policy 107.10.5 provide an analysis of how the project is consistent with these policies, also provide an analysis on how the project will not impact wood storks.

ES staff is recommending the following conditions to ensure compliance with Lee Plan Policy 107.10.2 and 107.10.5:

Prior to local development order approval, please provide rookery area locations, flight patterns, and foraging areas of wood storks for the proposed project.

Prior to local development order approval provide documentation clearly depicting how the project will meet the Service Guidelines on the Siting, Construction, Operation and Decommissioning of Communication Towers requirements of guidelines 4, 8 and 10, and provide an analysis of how the project is consistent with Lee Plan Policies 107.10.2 and 107.10.5 as well as an analysis on how the project will not impact wood storks.

BUFFERS:

The Land Development Code (LDC) section 34-1447 (c)(4)(c)(1) requires towers to provide a minimum 10-foot wide buffer around the perimeter of the site. This buffer must be comprised of sabal palms planted 10 feet on center, and a double hedge row of native shrubs. The hedge must be maintained at a minimum height equivalent to the fence height.

ES staff is recommending the following condition to ensure the buffering required by the LDC is met by the applicant:

Prior to local development order approval the site plans must reflect the proper buffers per LDC 34-1447 (c)(4)(c)(1).

Service Interim Guidelines For Recommendations On

Communications Tower Siting, Construction, Operation, and Decommissioning

1. Any company/applicant/licensee proposing to construct a new communications tower should be strongly encouraged to collocate the communications equipment on an existing communication tower or other structure (e.g., billboard, water tower, or building mount). Depending on tower load factors, from 6 to 10 providers may collocate on an existing tower.
2. If collocation is not feasible and a new tower or towers are to be constructed, communications service providers should be strongly encouraged to construct towers no more than 199 feet above ground level (AGL), using construction techniques which do not require guy wires (e.g., use a lattice structure, monopole, etc.). Such towers should be unlighted if Federal Aviation Administration regulations permit.
3. If constructing multiple towers, providers should consider the cumulative impacts of all of those towers to migratory birds and threatened and endangered species as well as the impacts of each individual tower.
4. If at all possible, new towers should be sited within existing "antenna farms" (clusters of towers). Towers should not be sited in or near wetlands, other known bird concentration areas (e.g., state or Federal refuges, staging areas, rookeries), in known migratory or daily movement flyways, or in habitat of threatened or endangered species. Towers should not be sited in areas with a high incidence of fog, mist, and low ceilings.
5. If taller (>199 feet AGL) towers requiring lights for aviation safety must be constructed, the minimum amount of pilot warning and obstruction avoidance lighting required by the FAA should be used. Unless otherwise required by the FAA, only white (preferable) or red strobe lights should be used at night, and these should be the minimum number, minimum intensity, and minimum number of flashes per minute (longest duration between flashes) allowable by the FAA. The use of solid red or pulsating red warning lights at night should be avoided. Current research indicates that solid or pulsating (beacon) red lights attract night-migrating birds at a much higher rate than white strobe lights. Red strobe lights have not yet been studied.
6. Tower designs using guy wires for support which are proposed to be located in known raptor or waterbird concentration areas or daily movement routes, or in major diurnal migratory bird movement routes or stopover sites, should have daytime visual markers on the wires to prevent collisions by these diurnally moving species. (For guidance on markers, see *Avian Power Line Interaction Committee (APLIC). 1994. Mitigating Bird Collisions with Power Lines: The State of the Art in 1994. Edison Electric Institute, Washington, D.C., 78 pp*, and *Avian Power Line Interaction Committee (APLIC). 1996. Suggested Practices for Raptor Protection on Power Lines. Edison Electric Institute/Raptor Research Foundation, Washington, D.C., 128 pp*. Copies can be obtained via the Internet at <http://www.eei.org/resources/pubcat/enviro/>, or by calling 1-800/334-5453).
7. Towers and appendant facilities should be sited, designed and constructed so as to avoid or minimize habitat loss within and adjacent to the tower "footprint". However, a larger tower footprint is preferable to the use of guy wires in construction. Road access and fencing should be minimized to reduce or prevent habitat fragmentation and disturbance, and to reduce above ground obstacles to birds in flight.

8. If significant numbers of breeding, feeding, or roosting birds are known to habitually use the proposed tower construction area, relocation to an alternate site should be recommended. If this is not an option, seasonal restrictions on construction may be advisable in order to avoid disturbance during periods of high bird activity.
9. In order to reduce the number of towers needed in the future, providers should be encouraged to design new towers structurally and electrically to accommodate the applicant/licensee's antennas and comparable antennas for at least two additional users (minimum of three users for each tower structure), unless this design would require the addition of lights or guy wires to an otherwise unlighted and/or unguyed tower.
10. Security lighting for on-ground facilities and equipment should be down-shielded to keep light within the boundaries of the site.
11. If a tower is constructed or proposed for construction, Service personnel or researchers from the Communication Tower Working Group should be allowed access to the site to evaluate bird use, conduct dead-bird searches, to place net catchments below the towers but above the ground, and to place radar, Global Positioning System, infrared, thermal imagery, and acoustical monitoring equipment as necessary to assess and verify bird movements and to gain information on the impacts of various tower sizes, configurations, and lighting systems.
12. Towers no longer in use or determined to be obsolete should be removed within 12 months of cessation of use.

In order to obtain information on the extent to which these guidelines are being implemented, and to identify any recurring problems with their implementation which may necessitate modifications, letters provided in response to requests for evaluation of proposed towers should contain the following request:

"In order to obtain information on the usefulness of these guidelines in preventing bird strikes, and to identify any recurring problems with their implementation which may necessitate modifications, please advise us of the final location and specifications of the proposed tower, and which of the measures recommended for the protection of migratory birds were implemented. If any of the recommended measures can not be implemented, please explain why they were not feasible."

HABITAT MANAGEMENT GUIDELINES FOR THE WOOD STORK IN THE SOUTHEAST REGION



**HABITAT MANAGEMENT GUIDELINES
FOR THE WOOD STORK IN THE
SOUTHEAST REGION**

Prepared by

John C. Ogden
Acting Program Manager
Wildlife Research
Everglades National Park

for the

Southeast Region
U.S. Fish and Wildlife Service

Cover design by
Florida Power & Light Company
Miami, Florida

HABITAT MANAGEMENT GUIDELINES FOR WOOD-STORK

IN THE SOUTHEAST REGION

Introduction

A number of Federal and state laws and/or regulations prohibit, cumulatively, such acts as harrassing, disturbing, harming, molesting, pursuing, etc., wood storks, or destroying their nests (see Section VII). Although advisory in nature, these guidelines represent a biological interpretation of what would constitute violations of one or more of such prohibited acts. Their purpose is to maintain and/or improve the environmental conditions that are required for the survival and well-being of wood storks in the southeastern United States, and are designed essentially for application in wood stork/human activity conflicts (principally land development and human intrusion into stork use sites). The emphasis is to avoid or minimize detrimental human-related impacts on wood storks. These guidelines were prepared in consultations with state wildlife agencies and wood stork experts in the four southeastern states where the wood stork is listed as Endangered (Alabama, Florida, Georgia, South Carolina).

General

The wood stork is a gregarious species, which nests in colonies (rookeries), and roosts and feeds in flocks, often in association with other species of long-legged water birds. Storks that nest in the southeastern United States appear to represent a distinct population, separate from the nearest breeding population in Mexico. Storks in the southeastern U.S. population have recently (since 1980) nested in colonies scattered throughout Florida, and at several central-southern Georgia and coastal South Carolina sites. Banded and color-marked storks from central and southern Florida colonies have dispersed during non-breeding seasons as far north as southern Georgia, and the coastal counties in South Carolina and southeastern North Carolina, and as far west as central Alabama and northeastern Mississippi. Storks from a colony in south-central Georgia have wintered between southern Georgia and southern Florida. This U.S. nesting population of wood storks was listed as endangered by the U.S. Fish and Wildlife Service on February 28, 1984 (*Federal Register* 49(4):7332-7335).

Wood storks use freshwater and estuarine wetlands as feeding, nesting, and roosting sites. Although storks are not habitat specialists, their needs are exacting enough, and available habitat is limited enough, so that nesting success and the size of regional populations are closely regulated by year-to-year differences in the quality and quantity of suitable habitat. Storks are especially sensitive to environmental conditions at feeding sites: thus, birds may fly relatively long distances either daily or between regions annually, seeking adequate food resources.

All available evidence suggests that regional declines in wood stork numbers have been largely due to the loss or degradation of essential wetland habitat. An understanding of the qualities of good stork habitat should help to focus protection efforts on those sites that are seasonally important to regional populations of wood storks. Characteristics of feeding, nesting, and roosting habitat, and management guidelines for each, are presented here by habitat type.

I. Feeding habitat.

A major reason for the wood stork decline has been the loss and degradation of feeding habitat. Storks are especially sensitive to any manipulation of a wetland site that results in either reduced amounts or changes in the timing of food availability.

Storks feed primarily (often almost exclusively) on small fish between 1 and 8 inches in length. Successful foraging sites are those where the water is between 2 and 15 inches deep. Good feeding conditions usually occur where water is relatively calm and uncluttered by dense thickets of aquatic vegetation. Often a dropping water level is necessary to concentrate fish at suitable densities. Conversely, a rise in water, especially when it occurs abruptly, disperses fish and reduces the value of a site as feeding habitat.

The types of wetland sites that provide good feeding conditions for storks include: drying marshes or stock ponds, shallow roadside or agricultural ditches, narrow tidal creeks or shallow tidal pools, and depressions in cypress heads or swamp sloughs. In fact, almost any shallow wetland depression where fish tend to become concentrated, either through local reproduction or the consequences of area drying, may be used by storks.

Nesting wood storks do most of their feeding in wetlands between 5 and 40 miles from the colony, and occasionally at distances as great as 75 miles. Within this colony foraging range and for the 110-150 day life of the colony, and depending on the size of the colony and the nature of the surrounding wetlands, anywhere from 50 to 200 different feeding sites may be used during the breeding season.

Non-breeding storks are free to travel much greater distances and remain in a region only for as long as sufficient food is available. Whether used by breeders or non-breeders, any single feeding site may at one time have small or large numbers of storks (1 to 100+), and be used for one to many days, depending on the quality and quantity of available food. Obviously, feeding sites used by relatively large numbers of storks, and/or frequently used areas, potentially are the more important sites necessary for the maintenance of a regional population of birds.

Differences between years in the seasonal distribution and amount of rainfall usually mean that storks will differ between years in where and when they feed. Successful nesting colonies are those that have a large number of feeding site options, including sites that may be suitable only in years of rainfall extremes. To maintain the wide range of feeding site options requires that many different wetlands, with both relatively short and long annual hydroperiods, be preserved. For example, protecting only the larger wetlands, or those with longer annual hydroperiods, will result in the eventual loss of smaller, seemingly less important wetlands. However, these small scale wetlands are crucial as the only available feeding sites during the wetter periods when the larger habitats are too deeply flooded to be used by storks.

II. Nesting habitat.

Wood storks nest in colonies, and will return to the same colony site for many years so long as that site and surrounding feeding habitat continue to supply the needs of the birds. Storks require between 110 and 160 days for the annual nesting cycle, from the period of courtship until the nestlings become independent. Nesting activity may begin as early as December or as late as March in southern Florida colonies, and between late February and April in colonies located between central Florida and South Carolina. Thus, full term colonies may be active until June-July in south Florida, and as late as July-August at more northern sites. Colony sites may also be used for roosting by storks during other times of the year.

Almost all recent nesting colonies in the southeastern U.S. have been located either in woody vegetation over standing water, or on islands surrounded by broad expanses of open water. The most dominant vegetation in swamp colonies has been cypress, although storks also nest in swamp hardwoods and willows. Nests in island colonies may be in more diverse vegetation, including mangroves (coastal), exotic species such as Australian pine (*Casuarina*) and Brazilian Pepper (*Schinus*), or in low thickets of cactus (*Opuntia*). Nests are usually located 15-75 feet above ground, but may be much lower, especially on island sites when vegetation is low.

Since at least the early 1970's, many colonies in the southeastern U.S. have been located in swamps where water has been impounded due to the construction of levees or roadways. Storks have also nested in dead and dying trees in flooded phosphate surface mines, or in low, woody vegetation on mounded, dredge islands. The use of these altered wetlands or completely "artificial" sites suggests that in some regions or years storks are unable to locate natural nesting habitat that is adequately flooded during the normal breeding season. The readiness with which storks will utilize water impoundments for nesting also suggests that colony sites could be intentionally created and maintained through long-term site management plans. Almost all impoundment sites used by storks become suitable for nesting only fortuitously, and therefore, these sites often do not remain available to storks for many years.

In addition to the irreversible impacts of drainage and destruction of nesting habitat, the greatest threats to colony sites are from human disturbance and predation. Nesting storks show some variation in the levels of human activity they will tolerate near a colony. In general, nesting storks are more tolerant of low levels of human activity near a colony when nests are high in trees than when they are low, and when nests contain partially or completely feathered young than during the period between nest construction and the early nestling period (adults still brooding). When adult storks are forced to leave their nests, eggs or downy young may be quickly (<20 minutes) when exposed to direct sun or rain.

Colonies located in flooded environments must remain flooded if they are to be successful. Often water is between 3 and 5 feet deep in successful colonies during the nesting season. Storks rarely form colonies, even in traditional nesting sites, when they are dry, and may abandon nests if sites become dry during the nesting period. Flooding in colonies may be most important as a defense against mammalian predators. Studies of stork colonies in Georgia and Florida have shown high rates of raccoon predation when sites dried during the nesting period. A reasonably high water level in an active colony is also a deterrent against both human and domestic animal intrusions.

Although nesting wood storks usually do most feeding away from the colony site (>5 miles), considerable stork activity does occur close to the colony during two periods in the nesting cycle. Adult storks collect almost all nesting material in and near the colony, usually within 2500 feet. Newly fledged storks, near the end of the nesting cycle, spend from 1-4 weeks during the fledging process flying locally in the colony area, and perched in nearby trees or marshy spots on the ground. These birds return daily to their nests to be fed. It is essential that these fledging birds have little or no disturbance as far out as one-half mile within at least one or two quadrants from the colony. Both the adults, while collecting nesting material, and the inexperienced fledglings, do much low, flapping flight within this radius of the colony. At these times, storks potentially are much more likely to strike nearby towers or utility lines.

Colony sites are not necessarily used annually. Regional populations of storks shift nesting locations between years, in response to year-to-year differences in food resources. Thus, regional populations require a range of options for nesting sites, in order to successfully respond to food availability. Protection of colony sites should continue, therefore, for sites that are not used in a given year.

III. Roosting habitat.

Although wood storks tend to roost at sites that are similar to those used for nesting, they also use a wider range of site types for roosting than for nesting. Non-breeding storks, for example, may frequently change roosting sites in response to changing feeding locations, and in the process, are inclined to accept a broad range of relatively temporary roosting sites. Included in the list of frequently used roosting locations are cypress "heads" or swamps (not necessarily flooded if trees are tall), mangrove islands, expansive willow thickets or small, isolated willow "islands" in broad marshes, and on the ground either on levees or in open marshes.

Daily activity patterns at a roost vary depending on the status of the storks using the site. Non-breeding adults or immature birds may remain in roosts during major portions of some days. When storks are feeding close to a roost, they may remain on the feeding grounds until almost dark before making the short flight. Nesting storks traveling long distances (>40 miles) to feeding sites may roost at or near the latter, and return to the colony the next morning. Storks leaving roosts, especially when going long distances tend to wait for mid-morning thermals to develop before departing.

IV. Management zones and guidelines for feeding sites.

To the maximum extent possible, feeding sites should be protected by adherence to the following protection zones and guidelines:

- A There should be no human intrusion into feeding sites when storks are present. Depending upon the amount of Screening vegetation, human activity should be no closer than between 300 feet (where solid vegetation screens exist) and 750 feet (no vegetation screen).

- B. Feeding sites should not be subjected to water management practices that alter traditional water levels or the seasonally normal drying patterns and rates. Sharp rises in water-levels are especially disruptive to feeding storks.
- C. The introduction of contaminants, fertilizers, or herbicides into wetlands that contain stork feeding sites should be avoided, especially those compounds that could adversely alter the diversity and numbers of native fishes, or that could substantially change the characteristics of aquatic vegetation. Increase in the density and height of emergent vegetation can degrade or destroy sites as feeding habitat.
- D. Construction of tall towers (especially with guy wires) within three miles, or high power lines (especially across long stretches of open country) within one mile of major feeding sites should be avoided.

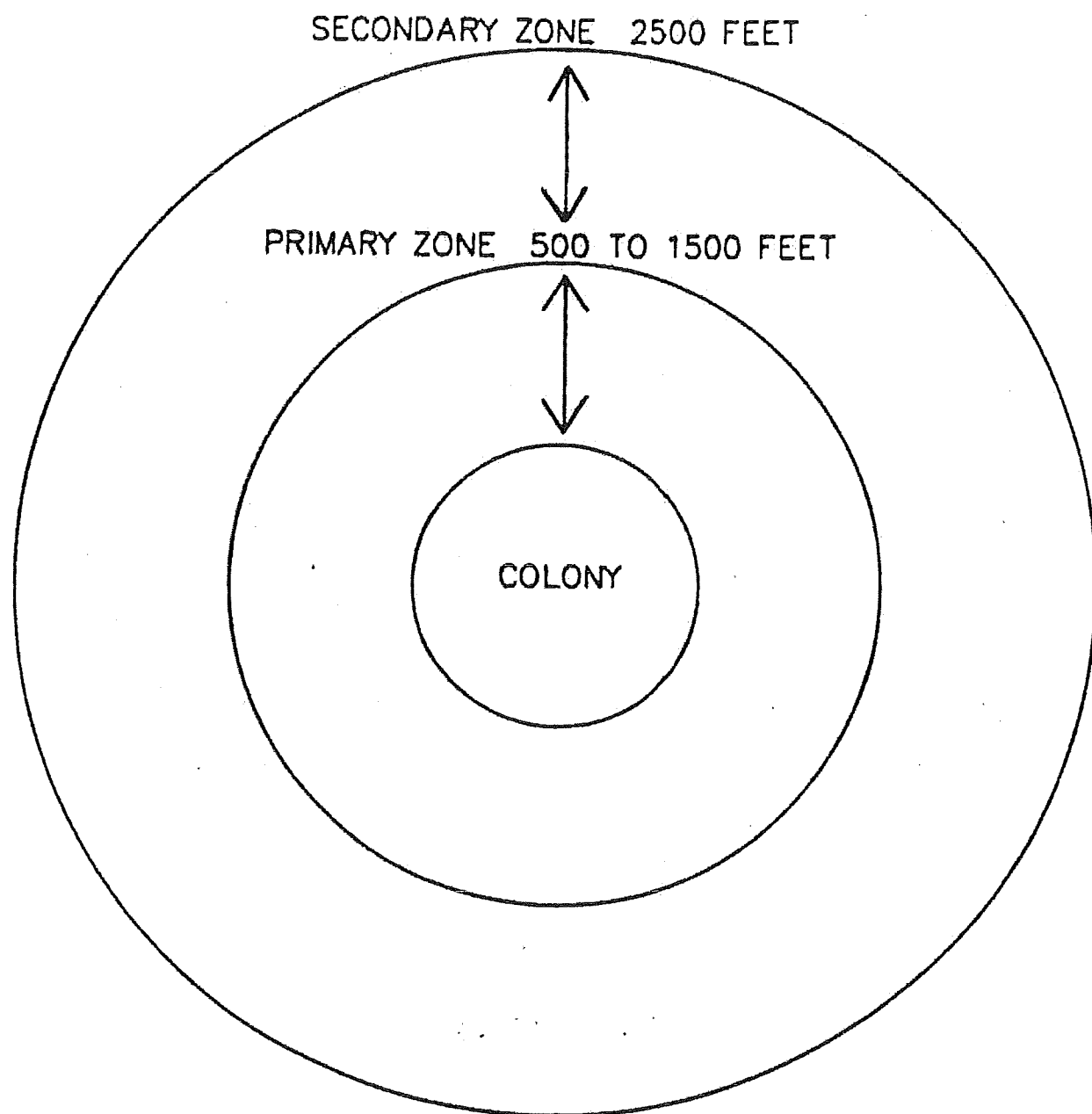
V. Management zones and guidelines for nesting colonies.

- A. Primary zone: This is the most critical area, and must be managed according to recommended guidelines to insure that a colony site survives.

- 1. Size: The primary zone must extend between 1000 and 1500 feet in all directions from the actual colony boundaries when there are no visual or broad aquatic barriers, and never less than 500 feet even when there are strong visual or aquatic barriers. The exact width of the primary zone in each direction from the colony can vary within this range, depending on the amount of visual screen (tall trees) surrounding the colony, the amount of relatively deep, open water between the colony and the nearest human activity, and the nature of the nearest human activity. In general, storks forming new colonies are more tolerant of existing human activity, than they will be of new human activity that begins after the colony has formed.

2. Recommended Restrictions:

- a. Any of the following activities within the primary zone, at any time of the year, are likely to be detrimental to the colony:
 - (1) Any lumbering or other removal of vegetation, and
 - (2) Any activity that reduces the area, depth, or length of flooding in wetlands under and surrounding the colony, except where periodic (less than annual) water control may be required to maintain the health of the aquatic, woody vegetation, and
 - (3) The construction of any building, roadway, tower, power line, canal. etc.
- b. The following activities within the primary zone are likely to be detrimental to a colony if they occur when the colony is active:
 - (1) Any unauthorized human entry closer than 300 feet of the colony, and



- (2) Any increase or irregular pattern in human activity anywhere in the primary zone, and
 - (3) Any increase or irregular pattern in activity by animals, including livestock or pets in the colony, and
 - (4) Any aircraft operation closer than 500 feet of the colony.
- B. Secondary Zone: Restrictions in this zone are needed to minimize disturbances that might impact the primary zone, and to protect essential areas outside of the primary zone. The secondary zone may be used by storks for collecting nesting material, for roosting, loafing, and feeding (especially important to newly fledged young), and may be important as a screen between the colony and areas of relatively intense human activities.
 - 1. Size: The secondary zone should range outward from the primary zone 1000-2000 feet. or to a radius of 2500 feet of the outer edge of the colony.
 - 2. Recommended Restrictions:
 - a. Activities in the secondary zone which may be detrimental to nesting wood storks include:
 - (1) Any increase in human activities above the level that existed in the year when the colony first formed. especially when visual screens are lacking, and
 - (2) Any alteration in the area's hydrology that might cause changes in the primary zone, and
 - (3) Any substantial (>20 percent) decrease in the area of wetlands and woods of potential value to storks for roosting and feeding.
 - b. In addition, the probability that low flying storks, or inexperienced, newly-fledged young will strike tall obstructions, requires that hightension power lines be no closer than one mile (especially across open country or in wetlands) and tall trans-mission towers no closer than 3 miles from active colonies, other activities, including busy highways and commercial and residential buildings may be present in limited portions of the secondary zone at the time that a new colony first forms. Although storks way tolerate existing levels of human activities, it is important that these human activities not expand substantially.

VI. Roosting site guidelines.

The general characteristics and temporary use-patterns of many stork roosting sites limit the number of specific management recommendations that are possible:

- A. Avoid human activities within 500- 1000 feet of roost sites during seasons of the year and times of the day when storks may be present- nocturnal activities in active roosts may be especially disruptive.
- B. Protect the vegetative and hydrological characteristics of the more important roosting sites--those used annually and/or used by flocks of 25 or more storks. Potentially roosting sites may, some day, become nesting sites.

VII. Legal Considerations.

A. Federal Statutes

The U.S. breeding population of the wood stork is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)(Act). The population was listed as endangered on February 28, 1984 (49 Federal Register 7332); wood storks breeding in Alabama, Florida, Georgia, and South Carolina are protected by the Act.

Section 9 of the Endangered Species Act of 1973, as amended, states that it is unlawful for any person subject to the jurisdiction of the United States to take (defined as "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.") any listed species anywhere within the United States.

The wood stork is also federally protected by its listing (50 CFR 10.13) under the Migratory Bird Treaty Act (167 U.S.C. 703-711), which prohibits the taking, killing or possession of migratory birds except as permitted.

B. State Statutes

1. State of Alabama

Section 9-11-232 of Alabama's Fish, Game, and Wildlife regulations curtails the possession, sale, and purchase of wild birds. "Any person, firm, association, or corporation who takes, catches, kills or has in possession at any time, living or dead, any protected wild bird not a game bird or who sells or offers for sale, buys, purchases or offers to buy or purchase any such bird or exchange same for anything of value or who shall sell or expose for sale or buy any part of the plumage, skin, or body of any bird protected by the laws of this state or who shall take or willfully destroy the nests of any wild bird or who shall have such nests or eggs of such birds in his possession, except as otherwise provided by law, shall be guilty of a misdemeanor....

Section 1 of the Alabama Nongame Species Regulation (Regulation 87GF-7) includes the wood stork in the list of nongame species covered by paragraph (4). " It shall be unlawful to take, capture, kill, possess, sell, trade for anything of monetary value, or offer to sell or trade for anything of monetary value, the following nongame wildlife species (or any parts or reproductive products of such species) without a scientific collection permit and written permission from the Commissioner, Department of Conservation and Natural Resources...."

2. State of Florida

Rule 39-4.001 of the Florida Wildlife Code prohibits "taking, attempting to take, pursuing, hunting, molesting, capturing, or killing (collectively defined as "taking"), transporting, storing, serving, buying, selling, possessing, or wantonly or willingly wasting any wildlife or freshwater fish or their nests, eggs, young, homes, or dens except as specifically provided for in other rules of Chapter 39, Florida Administrative Code.

Rule 39-27.011 of the Florida Wildlife Code prohibits "killing, attempting to kill, or wounding any endangered species." The "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida" dated 1 July 1988, includes the wood stork, listed as "endangered" by the Florida Game and Fresh Water Fish Commission.

3. State of Georgia

Section 27-1-28 of the Conservation and Natural Resources Code states that "Except as otherwise provided by law, rule, or regulation, it shall be unlawful to hunt, trap, fish, take, possess, or transport any nongame species of wildlife..."

Section 27-1-30 states that, "Except as otherwise provided by law or regulation, it shall be unlawful to disturb, mutilate, or destroy the dens, holes, or homes of any wildlife; "

Section 27-3-22 states, in part, "It shall be unlawful for any person to hunt, trap, take, possess, sell, purchase, ship, or transport any hawk, eagle, owl, or any other bird or any part, nest, or egg thereof..."

The wood stork is listed as endangered pursuant to the Endangered Wildlife Act of 1973 (Section 27-3-130 of the Code). Section 391-4-13.06 of the Rules and Regulations of the Georgia Department of Natural Resources prohibits harassment capture, sale, killing, or other actions which directly cause the death of animal species protected under the Endangered Wildlife Act. The destruction of habitat of protected species on public lands is also prohibited.

4. State of South Carolina

Section 50-15-40 of the South Carolina Nongame and Endangered Species Conservation Act states, "Except as otherwise provided in this chapter, it shall be unlawful for any person to take, possess, transport, export, process, sell, or offer of sale or ship, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists: (1) the list of wildlife indigenous to the State, determined to be endangered within the State ... (2) the United States' List of Endangered Native Fish and Wildlife.. (3) the United States' List of Endangered Foreign Fish and Wildlife..."

Martin, Aaron D.

From: Martin, Aaron D.
Sent: Wednesday, September 03, 2008 11:05 AM
To: Richardson, Nettie M.
Subject: SEZ2008-00013
Attachments: 20080903110603.pdf

ES staff has reviewed the special exception case and has the following comments:

- Revise the landscape sheet to label a double hedge row of native shrubs to be maintained at a minimum height equivalent to the fence height. Per LDC 34-1447 (c)(4)(c)(2).
- Revise the overall site plan to demonstrate the wetland/vegetation line on the parcel.
- Per policy 107.10.5 of the Lee plan please provide flight patterns and foraging areas of wood storks for the proposed project. Note this information may be obtained from the US fish and wildlife service.
- USFWS has established guidelines for the instillation of towers u=in known migratory or foraging wading bird areas. Per Lee Plan Policy 107.10.2 and Policy 107.10.5 please read the guidelines and clearly depict through analysis how the proposed project will meet these requirements. See attached document and reference this website:
http://www.eei.org/industry_issues/environment/land/wildlife_and_endangered_


Aaron Martin

Aaron Martin
Environmental Planner
Lee County Division of Environmental Sciences
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239.485.8344 (Fax)
AMartin@leegov.com (e-mail)

MEMORANDUM
FROM THE
DIVISION OF
ZONING

DATE: August 18, 2008

TO: Susie Derheimer
Environmental Senior Planner

FROM: Nettie Richardson 
Principal Planner

RE: Alico East
CASE #SEZ2008-00013

Attached are copies of the application, site plan and a GIS map showing the proposed 149 foot monopole antenna supporting structure to be located at on the north side of Green Meadow Road just after Alico Road curves south.

Please review this application in accordance with Lee County Comprehensive Plan Policy 107.10.5 which considers the impacts of the tower on wood stocks. This case is tentatively scheduled on the Hearing Examiner's agenda on September 24, 2008. Please review and submit your comments to me by September 5, 2008. Thanks.

copy: Zoning File



APPLICATION FOR PUBLIC HEARING
FOR ZONING ACTION
UNINCORPORATED AREAS ONLY

RECEIVED
MAY 22 2008

Applicant's
Name:

Sunshine Towers

Project Name:

Alico East

STRAP

04-46-26-00-00001.1010

Number(s):

COMMUNITY DEVELOPMENT

TYPE OF APPLICATION

- ☒ Special Exception (attach Supplement A)
☐ Variance (attach Supplement B)
☐ Conventional Zoning (attach Supplement C)
☐ Planned Development (not PRFPD) (attach Supplement D)
☐ Amendment to built Planned Development (Supplement D may be required)
☐ Private Recreational Facilities Planned Development (attach Supplement D)
☐ Extension of a Master Concept Plan (attach Supplement E)
☐ Reinstatement of a Master Concept Plan (attach Supplement F)
☐ N/A DRI - with rezoning (submit completed DRI Application Form {do not use this form} and Supplement D)
☐ N/A DRI - without rezoning (submit completed DRI Application Form {do not use this form})

Is this project located in the Estero Planning Community, or the Captiva Planning Community, or in the Caloosahatchee Shores Planning Community?

☐ YES* ☒ NO *If YES, please note PARTS 4G, 4.H, and 4.I below for meeting summary document requirements.

STAFF USE ONLY

Case Number: SE2 2008-00013 Commission District: 5
Current Zoning: AG-2 Fee Amount: 1000.00
Land Use Classification: DRGRI Wetlands Intake by: JE
Planning Community: Southeast Lee County

LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (239) 533-8585PART 1

PART 1
APPLICANT\AGENT INFORMATION

A. Name of applicant: Sunshine Towers Inc. David Felton

Address: Street : 224 Datura Street, Suite 1008

City: W. Palm Beach State: Florida Zip: 33401

Phone: Area Code: 561 Number: 719-9632 Ext: _____

Fax: Area Code: 561 Number: 514-4062

E-mail address: dfelton@cdssite.net

B. Relationship of Applicant to owner (check one):

_____ Applicant (including an individual or husband & wife) is the sole owner of the property. [34-201(a)(1)a.1.]

_____ Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.2. (See Part 1 Exhibit Form A1 attached hereto for suggested Affidavit Form for an individual.) [34-202(b)(1)c.]

X Applicant has been authorized by the owner(s) to represent them for this action.

_____ Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.2. (Please select the appropriate Affidavit Form from the suggested forms in Part 1 Exhibits attached hereto.) [34-202(b)(1)c.]

_____ Applicant is a contract purchaser/vendee. [34-202(b)(1)d.]

_____ Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.2. [34-202(b)(1)c.] (Please select the appropriate Affidavit Form from the suggested forms in Part 1 Exhibits attached hereto.)

_____ Application is County initiated. BOCC authorization is attached as Exhibit PH-1.B.3

C. Authorized Agent: Name of the person who is to receive all County-initiated correspondence regarding this application. [34-202(b)(1)c.]

C.1. Company Name: CDS, Inc.

Contact Person: Jackie Gwynn

Address: Street : 3939 Arlington Street

City: Fort Myers State: FL Zip: 33901

Phone: Area Code: 239 Number: 633-7030 Ext: _____

Fax: Area Code: 239 Number: 938-0217

E-mail address: Jgwynn@cdssite.net

C.2. _____ Additional Agent(s): The names of other agents that the County may contact concerning this application are attached as Exhibit PH-1.C.2. [34-202(b)(1)c.]

F.	General Location of Property:					
F.1.	X	Area location map (for all applications other than Planned Developments) is attached as Exhibit PH-3.F. [34-202(a)(4)] {NOTE: For Planned Development Applications see Supplement D [34-373(a)(4)b.]}				
F.2.	Directions to property:		I-75 to Alico Road travel East Approx. 4.5 miles Alico Road will turn South			
	Continue straight on Green Meadow Road approx. 1 mile site located on the North side of the road.					
G.	Surrounding property owners:					
G.1.	X	List of surrounding property owners is attached as Exhibit PH-3.G.1. [34-202(a)(6)]				
G.2.	X	Map of surrounding property owners is attached as Exhibit PH-3.G.2. [34-202(a)(7)]				
G.3.	X	2 sets of mailing labels are attached as Exhibit PH-3.G.3. [34-202(a)(6)]				
H.	Current Zoning of Property:		AG-2			
I.	Current use of property:		Vacant			
I.1.		Current use(s) of the property are:				
		Vacant				
I.2.	NA	If buildings or structures exist on the property, an affidavit is required stating that buildings & structures will be removed or that the proposed use of buildings, structures and land is or will be in compliance with all requirements of the LCLDC. Attach as Exhibit PH-3.I.2. and entitle " Affidavit Regarding Proposed Use ". [34-202(b)(3)]				
I.3.		If the property owner intends to continue an existing agricultural use on the property subsequent to the zoning approval an Existing Agricultural Use Affidavit is attached as Exhibit PH-3.I.3. and entitled " Agricultural Uses at Time of Zoning Application ". [34-202(b)(7)]				
J.	Land Use Classification:					
		Density Reduction/Groundwater Reserve	80	Acres	100	% of total
				Acres		% of total
				Acres		% of total
				Acres		% of total
K.	Flood Hazard (write NA if not applicable) [34-202(a)(8)]					
	NA	The property is within an Area of Special Flood Hazard as indicated in the Flood Insurance Rate Maps (FIRM)s.				
		The minimum elevation required for the first habitable floor is				NGVD (MSL)
L.	Deed Restrictions [34-202(b)(2)]					

L.1.	X	There are no deed restrictions or other covenants on this property that affect this request. [34-202(b)(2)]				
L.2.		Deed restrictions\ covenants that may affect this request are attached as Exhibit PH-3.L .2. [34-202(b)(2)]				
L.3.		A narrative explanation as to how the deed restrictions or covenants may affect this request. is attached as Exhibit PH-3.L.3 [34-202(b)(2)]				
M.	Property Dimensions [34-202(a)(8)]					
	1.	Width (average if irregular parcel):	2650	Feet		
	2.	Depth (average if irregular parcel):	1300	Feet		
	3.	Total area:	80	Acres or square feet		
	4.	Frontage on road or street:	1300	Feet on	Green Meadow Rd.	Street
		2 nd Frontage on road or street:		Feet on		Street

**PART 4
ACTION REQUESTED**

A.	Action Requested: [check applicable action(s)]				
	X	Special Exception for	Stealth Facility		Attached is Supplement A
		Variance for			Attached is Supplement B
		Conventional Rezoning from:		to	Attached is Supplement C
		Planned Development Rezoning from		to	
			DCI - Major: Attached is Supplement D		
			DCI - Minor: Attached is Supplement D		
			Request is for PRFPD zoning in the Private Recreational Facilities Overlay Area. Attached is Supplement D		
		Planned Development Amendment. Attached is Supplement D			
B.	Excavations:				
	X	No blasting will be used in the excavation of lakes or other site elements.			
		If blasting is proposed, Information Regarding Proposed Blasting (including soil borings, a map indicating the general location of the proposed blasting, and other required information) is attached as Exhibit PH-4.B [34-202(b)(6)]			
C.	Bonus Density: (put NA if not applicable)				
	NA	Bonus density will be used. Attached is Exhibit PH-4.C showing calculations. [34-202(b)(5)]			
D.	Hazardous materials: (put NA if not applicable)				
	NA	A Hazardous materials emergency plan is attached as Exhibit PH-4.D [34-202(b)(4)]			
E.	Mobile Home Park: (put NA if not applicable)				
	NA	Request includes rezoning of a Mobile Home Park. Attached is Exhibit PH-4.E [34-203(d)]			

F.	Aviation Hazard: (put NA if not applicable)		
NA	Property is subject to Airport Hazard District regulations. Attached is Exhibit PH-4.F [34-1001 et seq]		
X	A tall structures permit will be required.		
	Property is located within Noise zone:		

G.	Estero Planning Community (put NA if not applicable)		
NA	A summary of public informational session. Attached is Exhibit PH-4.G [34-373(a)(10); Lee Plan Policy 19.5.3]		
H.	Captiva Planning Community (put NA if not applicable)		
NA	A summary of public informational session. Attached is Exhibit PH-4.H [Lee Plan Policy 13.1.7]		
I.	Caloosahatchee Shores Community Plan (put NA if not applicable)		
NA	A summary of public informational session. Attached is Exhibit PH-4.I [Lee Plan Policy 21.6.3]		
J.	Waivers from Application Submission Requirements: The following waivers, approved by the Director of Zoning Services, are attached as Exhibit PH-4.J [Section 34-202(a)]		
	Section Number	Name of item	
K.	Potable Water & Central Sewer. Will the project be connected to potable water and central sewer as part of any development of the property? _____ YES. <u>X</u> NO.		
	If the answer is NO, please explain why the connection to potable water and/or central sewer is not planned. Label explanation as Exhibit PH 4-K.		
	If the answer is YES, please indicate the name of the Utility to which the connection(s) are proposed. _____ [BOCC POLICY]		

STI SUNSHINE TOWERS, INC.**Special Exception Narrative
Wireless Communication Facility
Green Meadow Road, Fort Myers****RECEIVED**

MAY 22 2008

COMMUNITY DEVELOPMENT

Sunshine Towers, Inc. submits this narrative in conjunction with a Special Exception application for a wireless communication facility in the AG-2 District. The project includes a 149' stealth Flagless Flagpole that will house the antennas and an equipment area at the base of the tower as shown on the submitted site plan. The proposed site will be located at Green Meadow Road, Fort Myers, (STRAP # 04-46-26-00-00001.1010).

Proposed Use

Commercial wireless communication providers will use the proposed Stealth Wireless Communication Facility. Currently Verizon Wireless and Alltel Communications have expressed interest in this location we are awaiting signed a Letters of Intent to lease space on the proposed structure to enhance the coverage and capacity of their networks in the area. The facility is also being designed to accommodate three additional wireless carriers. In the event that all of the five canisters within the tower are full antennas may be flush mounted to the exterior of the Flagless Flagpole.

Both Verizon Wireless and Alltel Communications have operational networks in greater Lee County. Their networks are used by their customers to transmit wireless voice and data information via their wireless phones or data devices. Currently both carriers lack useable wireless signal in the geographic area of the proposed facility. This facility will be used to improve their ability to provide continuous coverage in the Fort Myers area, along with their existing sites.

Technology

The Federal Government in the late 1990's auctioned off select frequency ranges to companies for the purpose of building wireless communication networks. The intent was to increase competition between operators and bring down the cost of consumer wireless communications services. Initially the sole use for these networks were for voice transmission via a cell phone. Since there inception a variety of new services are now available to consumers on a cost effective basis. Some of these new services include text messaging, two way paging, high-speed wireless internet access, data transmission, and most recently E-911 service.

E-911 service, which was mandated by the Federal Government, allows local law enforcement and emergency service agencies to track the location of a 911 call. When a 911 call is made the network is able determine the location of the wireless device that the call was made from. This can then be used by the local emergency agencies to pinpoint the location where the call was made from and dispatch the appropriate personnel to that location without ever having to ask where the caller is. These types

STI SUNSHINE TOWERS, INC.

of technologies will greatly improve the ability of local agencies to respond to emergencies.

For these types of services to work optimally, the wireless network must have certain signal levels in a geographic area. The facility we are proposing will greatly improve the signal levels in along Alico Road.

Methodology of Site Determination

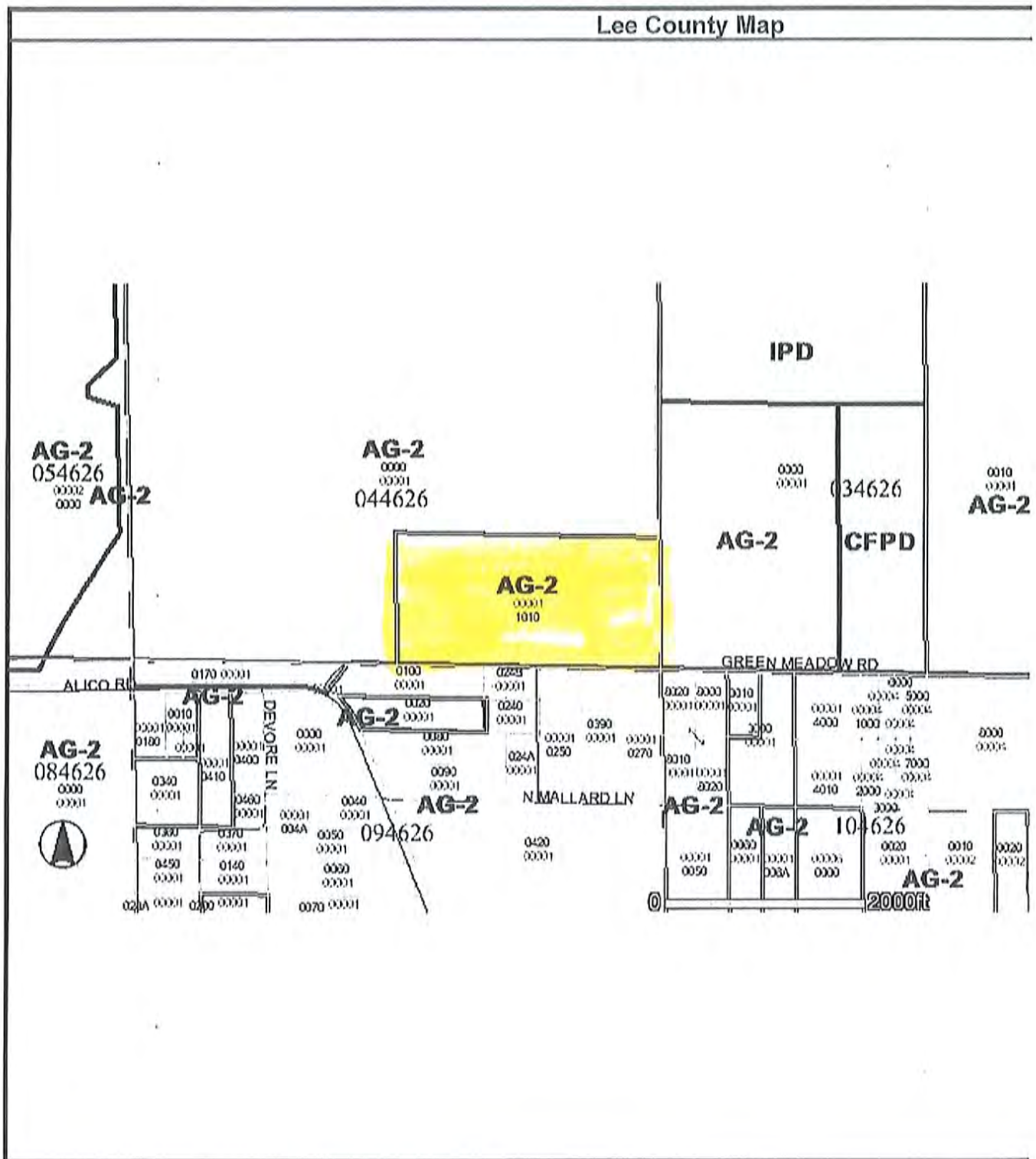
When a carrier determines that they need a new site to place their antennas they use computer models to identify the geographic area where the site needs to be located. They then issue a "Search Ring" specify where the site needs to be located. After receiving the search ring we then use our databases and do field investigations to try and identify any existing structures within the search ring that could be used as a possible collocation. Unfortunately after our investigation of the area we determined that there are no existing structures within, or just outside the search area that could be used as collocation candidates. The criteria used to make this decision are based on the location and available height of the collocation candidate.

After determining there are no collocation possibilities available, we then look for suitable locations to build a new antenna supporting structure. We first look for suitable zoning-districts, which generally means a commercial designation or something more intensive. Within the area of our search the properties are predominately zoned Agricultural. We then looked at individual agricultural properties closer to determine which properties are best suited for this type of installation and provide the most effective buffering of the facility from the surrounding residential properties.

Based on all the available property in the area we feel this location best suites the placement of an antenna supporting structure, especially a stealth facility.

Special Exception Criteria

When choosing a location for a new antenna supporting structure we look for property that will minimize our impact on the surrounding properties. Currently the subject property is surrounded by agricultural properties to the north, south, east, and west. The closest structure within that district is over 600 feet from the subject property and is currently designated AG-2. Based on existing vegetation and the view points there will be no adverse impact to this structure. The proposed facility is unmanned and only generates negligible traffic on the roads. The facility will not overburden other public services such as water, sewer, telephone or electricity, and will have no impact on environmentally critical areas or natural resources. The subject property is zoned AG-2 and is located in unincorporated Lee County. The proposed use is consistent with this zoning district, the goals and objectives of the Lee Plan, and is compatible with existing and proposed uses. The proposed facility will not cause damage, hazard, nuisance, or other detriment to persons or property. In fact the installation provides public benefit by improving communications in the area and critical E-911 service to the community.



224 DATURA STREET, SUITE 1008
WEST PALM BEACH, FL
33401
(561) 514-4061

ALICO EAST 0770-10

**FORT MYERS, FLORIDA 33914
LEE COUNTY
PROPOSED COMMUNICATION FACILITY
149' FLAGLESS FLAGPOLE TOWER**

LATITUDE: N 26° 29' 38.4" (NAD 83) (50±')
LONGITUDE: W 81° 42' 24.6" (NAD 83) (50±')

**SECTION 4, TOWNSHIP 46 SCUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA.**

GENERAL NOTES

- ALL REFERENCES TO OWNER HEREIN SHALL BE CONSIDERED TO MEAN SITER'S DESIGNATED REPRESENTATIVE.
- ALL WORK PERFORMED ON THESE DRAWINGS MUST BE COMPLETED BY THE CONTRACTOR UNLESS NOTED OTHERWISE. THE CONTRACTOR MUST HAVE CONSIDERABLE EXPERIENCE IN PERFORMANCE OF WORK SIMILAR TO THAT DESCRIBED HEREIN. BY ACCEPTANCE OF THIS PROJECT, THE CONTRACTOR IS ATTESTING THAT HE DOES HAVE SUFFICIENT EXPERIENCE AND ABILITY TO PROPERLY COMPLETION OF THE WORK TO BE DONE AND THAT HE IS PROPERLY LICENSED AND PROPERLY REGISTERED TO DO THIS WORK IN THE STATE AND/OR COUNTY WHERE IT TO BE DONE.
- UNLESS SHOWN OR NOTED OTHERWISE ON THE CONTRACT DRAWINGS, OR IN THE SPECIFICATIONS, THE FOLLOWING NOTES SHALL APPLY TO THE MATERIALS LISTED HEREIN AND TO THE PROCEDURES TO BE USED ON THIS PROJECT:
 - ALL HARDWARE EXACTLY MANUFACTURER'S INSTRUCTIONS SHALL BE FOLLOWED AND SHALL SUPERSEDE ANY CONFLICTING METHODS DESCRIBED HEREIN.
 - IT IS THE CONTRACTOR'S SOLE RESPONSIBILITY TO DETERMINE ERECTION PROCEDURE AND SEQUENCE TO INSURE THE SAFETY OF THE STRUCTURE AND THE CONTRACTOR'S PERSONNEL AND THE ADJACENT AND/OR FIELD MODIFICATIONS. THIS INCLUDES, BUT IS NOT LIMITED TO, THE ADDITION OF ANY HARDWARE AND MATERIALS TO THE DRAWINGS THAT MAY BE NECESSARY. SUCH MATERIAL SHALL BE REMOVED AND SHALL REMAIN THE PROPERTY OF THE CONTRACTOR AFTER THE COMPLETION OF THE PROJECT.
 - ALL DIMENSIONS, ELEVATIONS, AND EXISTING CONDITIONS SHOWN ON THE DRAWINGS SHALL BE FIELD VERIFIED BY THE CONTRACTOR AND THE TESTING AGENCY PRIOR TO BEGINNING ANY MATERIALS DELIVERY, FABRICATION, OR CONSTRUCTION WORK ON THIS PROJECT. ANY DISCREPANCIES SHALL BE IMMEDIATELY BRINGED TO THE ATTENTION OF THE OWNER AND THE OWNER'S ENGINEER. THE DISCREPANCIES MUST BE RESOLVED BEFORE THE CONTRACTOR IS TO PROCEED WITH THE WORK. THE CONTRACT DOCUMENTS DO NOT INDICATE THE METHOD OF CONSTRUCTION. THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK AND SHALL BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES, AND PROCEDURES OBSERVED WHILE VISITING TO THE SITE BY THE OWNER AND/OR THE ENGINEER. SITER DOES NOT INCLUDE INSPECTION OF THE PROTECTIVE MEASURES OF THE CONSTRUCTION PROCESSING.
 - ALL MATERIALS AND EQUIPMENT FURNISHED SHALL BE NEW AND OF GOOD QUALITY FREE FROM FLAWS AND DEFECTS AND IN CONFORMANCE WITH THE CONTRACT DOCUMENTS. CONTRACT DOCUMENTS SHALL BE PROPERLY APPROVED AND AUTHORIZED IN WRITING BY THE OWNER AND ENGINEER PRIOR TO INSTALLATION. THE CONTRACTOR SHALL ALLOW ON-SITE SATELITE EVIDENCE AS TO THE KIND AND QUALITY OF THE MATERIALS AND EQUIPMENT BEING SUBSTITUTED.
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR FUELING, MAINTENANCE, AND SUPERVISIONS ALL SAFETY PRECAUTIONS AND PROGRAMS IN CONNECTION WITH THE WORK. THE CONTRACTOR IS RESPONSIBLE FOR INSURE THAT THIS PROJECT AND RELATED WORK COMPLY WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL SAFETY CODES AND REGULATIONS GOVERNING THIS WORK.
 - ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE LATEST EDITION OF THE LOCAL BUILDING CODE.
 - ALL PROPOSED CELLULAR EQUIPMENT AND FEATURES SHALL BE FURNISHED BY OWNER FOR INSTALLATION BY THE CONTRACTOR, UNLESS SPECIFICALLY NOTED OTHERWISE HEREIN.
 - ACCESS TO THE PROPOSED WORK SITE MAY BE RESTRICTED. THE CONTRACTOR SHALL COORDINATE INTENDED CONSTRUCTION ACTIVITY, INCLUDING WORK SCHEDULE AND MATERIALS ACCESS, WITH THE RESIDENT LEASING AGENT FOR APPROVAL.
 - BAZO EQUIPMENT INSTALLATION SHALL BE IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS.
 - CONTRACTOR SHALL REMOVE DEBRIS FROM THE SITE ON A DAILY BASIS.
 - CONTRACTOR SHALL FOLLOW APPLICABLE SAFETY REGULATIONS DURING CONSTRUCTION. A MEANS OF EGRESS SHALL BE MAINTAINED CLEAR OF OBSTRUCTIONS AT ALL TIMES DURING CONSTRUCTION.

STRUCTURAL NOTES

- DESIGN REQUIREMENTS PER FLORIDA BUILDING CODE (2004 EDITION) AND THE 2004 F.S. 550.01. THE STRUCTURE SHALL BE DESIGNED TO MEET THE STANDARDS FOR STEEL ANTENNA TOWERS AND ANTENNA SUPPORTING STRUCTURES. THE STRUCTURE SHALL BE DESIGNED TO RESIST WINDS IN ACCORDANCE WITH THE 2004 FLORIDA WINDMAP CODE, CATEGORY B, TYPE "3", AND CONSTRUCTION TYPE "II" PER THE 2004 FLORIDA BUILDING CODE.
- STRUCTURAL STEEL SHALL CONFORM TO THE LATEST EDITION OF THE AISC SPECIFICATIONS FOR STRUCTURAL STEEL BUILDINGS. ALLOWABLE STRESS DESIGN AND PLASTIC DESIGN INCLUDING THE COMBINATION AND THE AISC CODE OF STANDARD PRACTICE.
- STRUCTURAL STEEL PLATES AND SHAPES SHALL CONFORM TO ASTM A36. ALL STRUCTURAL STEEL PIPES SHALL CONFORM TO ASTM A53 GRADE B. ALL STRUCTURAL STEEL TUBING SHALL CONFORM TO ASTM A53 GRADE B. ALL STRUCTURAL STEEL COMPONENTS AND FABRICATED ASSEMBLIES SHALL BE HOT DIP GALVANIZED AFTER FABRICATION.
- WELDING SHALL BE IN ACCORDANCE WITH THE AMERICAN WELDING SOCIETY (AWS) D1.10X. STRUCTURAL WELDING OF STEEL WELDS ELECTRODES SHALL BE E70XX.
- ALL COUPLER, CABLE CONNECTIONS AND TRANSMITTER EQUIPMENT SHALL BE AS SPECIFIED BY THE OWNER AND IS NOT INCLUDED IN THESE CONSTRUCTION DOCUMENTS. THE CONTRACTOR SHALL FURNISH ALL HARDWARE AND MATERIALS TO BE USED IN THE CABLE CONNECTION HARDWARE SHALL BE STAINLESS STEEL.
- NORTH ARROW SHOWN ON PLANS REFERS TO TRUE NORTH. CONTRACTOR SHALL VERIFY NORTH AND INFORM OWNER ANY DISCREPANCY BEFORE STARTING CONSTRUCTION.
- ALL CAST-IN PLACE CONCRETE SHALL BE MIXED AND PLACED IN ACCORDANCE WITH THE REQUIREMENTS OF AC308 AND AC309, AND SHALL HAVE A 28 DAY MINIMUM COMPRESSIVE STRENGTH OF 3000 PSI (MIN). CONCRETE SHALL BE PLACED AGAINST UNDISTURBED SOIL UNLESS OTHERWISE NOTED. MINIMUM CONCRETE COVER SHALL BE 3 INCHES UNLESS OTHERWISE NOTED.
- ALL REINFORCING STEEL SHALL CONFORM TO ASTM A573 GRADE 60. DEFORMED STEEL STEEL BARS, WELDED REINFORCING SHALL CONFORM TO ASTM A615.
- THE FABRICATION AND ERECTION OF STRUCTURAL STEEL SHALL CONFORM TO THE LATEST AISC SPECIFICATIONS.
- ALL CONNECTIONS NOT FULLY DETAILED ON THESE PLANS SHALL BE DETAILED BY THE STEEL FABRICATOR IN ACCORDANCE WITH AISC SPECIFICATIONS.
- IN HOT-SPOT GALVANIZED HEAVY SPECIFIED TO BE ZINC-COATED, AFTER FABRICATION THERE SHALL BE A MINIMUM OF 1.5 OZS/SQ. YD. OF ZINC. ASTM A153/A 153M OR ASTM A153/A 153M GALV. Q100, AS APPLICABLE.
- REPAIR DAMAGED SURFACES WITH GALVANIZING REPAIR METHOD AND PAINT CONFORMING TO ASTM A 780 OR BY APPLICATION OF STOCK OR THIN FILM PAINTS. DAMAGED SURFACES SHALL BE REPAIRED OR GALVANIZING, CLEAN AREAS TO BE REPAIRED, AND REMOVE SLAG FROM HOT-SPOT GALVANIZED SURFACES. DAMAGED MATERIALS ARE APPLIED WITH A TONGUE TO A TEMPERATURE SUFFICIENT TO MELT THE METALLIC SURFACES. HOT-SPOT GALVANIZED SURFACES SHALL BE REPAIRED OR GALVANIZED TO BE COATED AND WIFE OFF EXCESS MATERIAL.
- CONTRACTOR SHALL FOLLOW THE MANUFACTURER'S INSTRUCTIONS/ SPECIFICATIONS IF NO INFORMATION IS CONTAINED IN THESE PLANS OR IF THE

UTILITIES

CONTRACTOR SHALL CONTACT A SUBSURFACE UTILITY LOCATOR FOR LOCATION OF EXISTING UTILITIES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES. LOCATION OF EXISTING SEWER, WATER, LINES, GAS LINES, CONDUITS OR OTHER UTILITIES ALONG THE LINE OF PROPOSED CONSTRUCTION SHALL BE DETERMINED. WORK ARE NOT NECESSARILY SHOWN ON THE PLANS, AND IF SHOWN ARE ONLY APPROXIMATELY CORRECT. CONTRACTOR ASSUMES SOLE RESPONSIBILITY FOR IDENTIFYING LOCATION AND ELEVATION OF ALL UNDERGROUND UTILITIES. CONTRACTOR SHALL ENGINEER IMMEDIATELY IF LOCATOR INFORMATION DIFFERS FROM THAT SHOWN ON THE PLANS, OR IF THEY APPEAR TO BE A CONFLICT. FOR ACCURACY IN LOCATING EXISTING UTILITIES ONLY. (FL. STAT. 481.1772)

CONTRACTOR SHALL COORDINATE ALL UTILITY CONNECTIONS WITH APPROPRIATE UTILITY OWNERS AND CONSTRUCTION MANAGER.

DAMAGE BY THE CONTRACTOR TO UTILITIES OR PROPERTY OF OTHERS, INCLUDING EXISTING PAVEMENT AND OTHER SURFACES DISTURBED BY THE CONTRACTOR DURING CONSTRUCTION SHALL BE RETURNED TO THE CONSTRUCTION CONDITIONS BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE CLIENT. FOR CRAGGED AREAS SEED AND MUSH SHALL BE ACCEPTABLE.

THE CONTRACTOR SHALL COORDINATE WITH THE OWNER THE REQUIREMENTS FOR AND LISTS OF OVERHEAD AND/OR UNDERGROUND ELECTRICAL SERVICE.

THE CONTRACTOR SHALL COORDINATE THE LOCATION OF NEW UNDERGROUNDS TELEPHONE SERVICE WITH THE TELEPHONE COMPANY AND THE POWER REQUIREMENTS.

ALL UNDERGROUND UTILITIES SHALL BE INSTALLED AND TESTED SATISFACTORY PRIOR TO COMMENCING ANY PAVING OPERATIONS WHERE SUCH UTILITIES ARE WITHIN THE LIMITS OF PAVEMENT.

VICINITY MAP

LOCATION MAP

PERMITS

CONTRACTOR SHALL SECURE ALL NECESSARY PERMITS FOR THIS PROJECT FROM ALL APPLICABLE GOVERNMENTAL AGENCIES.

ANY PERMITS WHICH MUST BE OBTAINED SHALL BE THE CONTRACTOR'S RESPONSIBILITY. THE INSTRUCTIONS SHALL BE THE RESPONSIBLE FOR ASKING BY ALL CONDITIONS AND REQUIREMENTS OF THE PERMITS.

ALL WORK SHALL BE IN ACCORDANCE WITH LOCAL CODES AND THE AC308-95, "BUILDING REQUIREMENTS FOR STRUCTURAL CONCRETE".

THE CONTRACTOR SHALL NOTIFY THE APPLICABLE JURISDICTIONAL AGENCY OR CITY/ENGINEER 24 HOURS BEFORE THE BEGINNING OF CONSTRUCTION.

THE CONTRACTOR SHALL REMOVE (DIRTY, SCRUFF, ETC.) ALL MATERIAL NOT SUITABLE FOR SUBGRADE IN ITS PRESENT STATE. IF THE MATERIAL, AFTER REWORKING, REMAINS UNSUITABLE THEN THE CONTRACTOR SHALL REMOVE THIS MATERIAL AND REPLACE WITH APPROVED MATERIAL. AT HIS EXPENSE. ALL SUBGRADE SHALL BE PROOF ROLLED AFTER REWORKING. HEAVY STOCK PILES OF EXCESS MATERIAL SHALL BE REMOVED OR SOFT MATERIAL SHALL BE REWORKED OR REPLACED.

THE CONTRACTOR IS REQUIRED TO MAINTAIN ALL DITCHES, PIPES, AND OTHER DRAINAGE STRUCTURES FREE FROM OBSTRUCTION DURING WORK IS ACCEPTED BY THE OWNER. THE CONTRACTOR IS RESPONSIBLE FOR ANY DAMAGES CAUSED BY FAILURE TO MAINTAIN DRAINAGE STRUCTURES IN OPERABLE CONDITION.

ALL MATERIALS AND WORKMANSHIP SHALL BE WARRANTED FOR ONE YEAR FROM DATE OF ACCEPTANCE.

ALL DIMENSIONS SHALL BE VERIFIED WITH THE PLANS (LATEST REVISION) PRIOR TO COMMENCING CONSTRUCTION. NOTIFY THE OWNER IMMEDIATELY IF DISCREPANCIES ARE DISCOVERED. THE CONTRACTOR SHALL HAVE A SET OF APPROVED PLANS AVAILABLE AT THE SITE AT ALL TIMES WHEN WORK IS BEING PERFORMED. A DESIGNATED RESPONSIBLE EMPLOYEE SHALL BE AVAILABLE FOR CONTACT BY GOVERNMENT AGENCY INSPECTORS.

PROJECT TEAM

ENGINEER KCI TECHNOLOGIES, INC. 3401 MIDLAND AVE. SUITE 100 TAMPA, FLORIDA 33610	SURVEYOR KCI TECHNOLOGIES, INC. 3401 MIDLAND AVE. SUITE 100 TAMPA, FLORIDA 33610
CIVIL ENGINEER JAMES T. FENNELL, P.E. FL. LICENSE NO. 63908	JOHNNY FLORACAP, P.S.M. FL. LICENSE NO. 6135

PROJECT COORDINATION MANAGER
STI SHAWNEE TOWNS, INC.
294 DALURA STREET, SUITE 1008
WEST PALM BEACH, FL 33411
561-914-4091

SHEET INDEX

DRAWING	TITLE
SHEET NO. 1	SITE PLAN
C-1A	SECTION DETAIL
G-2	COMPOUND DETAIL & TOWER ELEVATION

SYMBOLS

DETAIL NO. 1

THIS SHEET NO. 1

DETAIL IS LOCATED ON

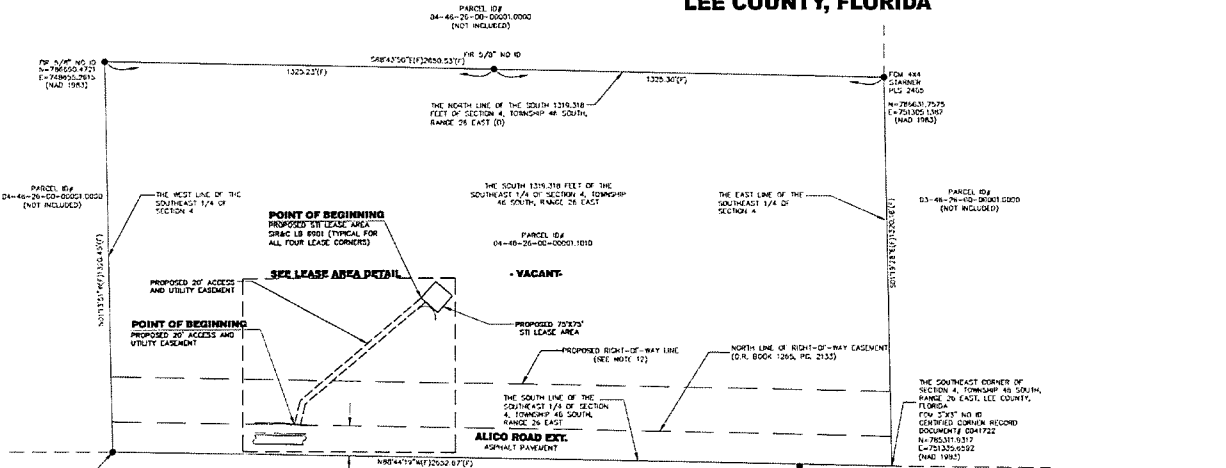
REVISION NUMBER

SEZ 2008-001

SEZ 2008-00013

[illegible]

SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA



DESCRIPTION: PARENT TRACT (AS PROVIDED BY CLIENT)

SOUTH 1,319.318 FEET OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, TOGETHER WITH THE EASEMENT DESCRIBED AS FOLLOWS:

A NON-EXCLUSIVE RIGHT-OF-WAY AND EASEMENT FOR THE PURPOSES OF TRAVEL, OVER AND ACROSS A STRIP OF LAND LYING NORTH AND ADJUTING NORTH OF THE NORTH RIGHT-OF-WAY LINE OF ALICO ROAD AND LYING AND ADJUTING WEST OF THE WEST LINE OF A 100 FEET WIDE ROADWAY EASEMENT GRANTED TO ALICO LAND CORPORATION AND RECORDED IN O.R. BOOK 1265, PAGE 2123, LEE COUNTY RECORDS.

DESCRIPTION: PROPOSED 5TH LEASE PARCEL (AS REQUESTED BY CLIENT)

A TRACT OF LAND LYING WITHIN THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 4"x4" CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 4 (CERTIFIED CORNER RECORD DOCUMENT # 0041720); THENCE NORTH 33°59'W, ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4, A DISTANCE OF 100.00 FEET TO A POINT ON A LINE BEING 100 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4, ALSO BEING THE NORTH LINE OF THAT RIGHT-OF-WAY EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 1265, PAGE 2123 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S88°44'19"E, ALONG SAID LINE, A DISTANCE OF 120.00 FEET; THENCE LEAVING SAID LINE, N13°35'18"E, A DISTANCE OF 82.42 FEET; THENCE S60°00'00"E, A DISTANCE OF 540.30 FEET TO THE POINT OF BEGINNING; THENCE N41°21'4"E, A DISTANCE OF 75.00 FEET; THENCE S48°47'46"E, A DISTANCE OF 75.00 FEET; THENCE S41°21'4"E, A DISTANCE OF 75.00 FEET; THENCE N48°47'46"W, A DISTANCE OF 75.00 FEET TO THE POINT OF BEGINNING.

SAID PROPOSED 5TH LEASE PARCEL CONTAINING 5625 SQUARE FEET, MORE OR LESS.

DESCRIPTION: PROPOSED 20' ACCESS AND UTILITY EASEMENT (AS REQUESTED BY CLIENT)

A TRACT OF LAND LYING WITHIN THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A 4"x4" CONCRETE MONUMENT MARKING THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 4 (CERTIFIED CORNER RECORD DOCUMENT # 0041720); THENCE NORTH 33°59'W, ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4, A DISTANCE OF 100.00 FEET TO A POINT ON A LINE BEING 100 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4, ALSO BEING THE NORTH LINE OF THAT RIGHT-OF-WAY EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 1265, PAGE 2123 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S88°44'19"E, ALONG SAID LINE, A DISTANCE OF 82.42 FEET; THENCE S60°00'00"E, A DISTANCE OF 540.30 FEET; THENCE S48°47'46"E, A DISTANCE OF 33.24 FEET; THENCE S60°00'00"E, A DISTANCE OF 536.80 FEET; THENCE S13°35'18"E, A DISTANCE OF 71.48 FEET TO A POINT ON A LINE BEING 100 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 4, ALSO BEING THE NORTH LINE OF THAT RIGHT-OF-WAY EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 1265, PAGE 2123 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N88°44'19"W, ALONG SAID LINE, A DISTANCE OF 20.47 FEET TO THE POINT OF BEGINNING.

SAID PROPOSED ACCESS AND UTILITY EASEMENT CONTAINING 12,312 SQUARE FEET, MORE OR LESS.

FLOOD NOTE:

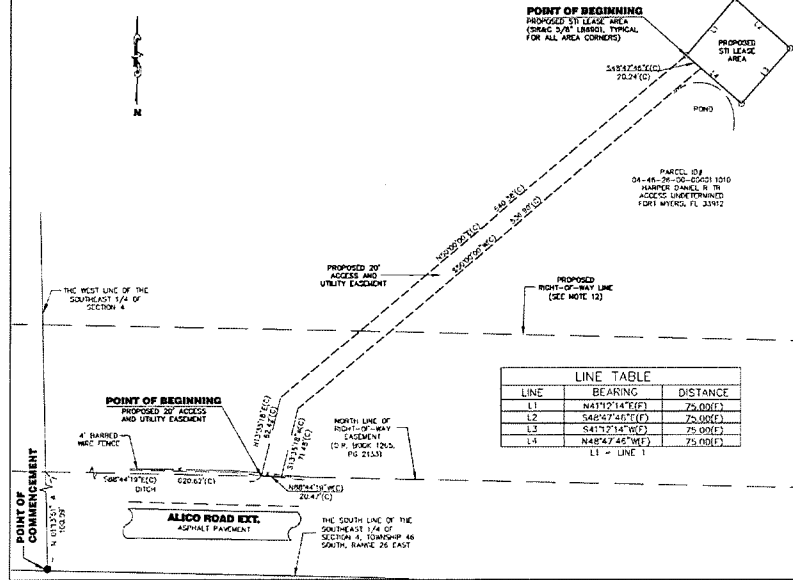
THE SUBJECT PROPERTY APPEARS TO FALL WITHIN THE AREAS DEPICTED ON COMMUNITY MAP 125124, PANEL 0500, PER THE FLOOD INSURANCE RATE MAP OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). ACCORDING TO THE MAP INDEX SHEET, THIS PANEL WAS NOT PRINTED AND CONTAINS NO SPECIAL FLOOD HAZARD AREAS. PLEASE VERIFY WITH LOCAL FEMA REPRESENTATIVE.

SITE DATA

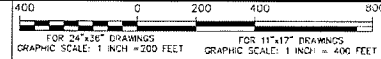
1. FOLD NUMBER: 04-46-26-00-0001.010
2. ZONING: MIA
3. JURISDICTION: LEE COUNTY
4. SITE OWNER: HARPER DANIEL R JR
5. 5771 HALPER AV
6. FORT MYERS FL 33912
7. STORM WATER MANAGEMENT: THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE STORM WATER MANAGEMENT SYSTEMS TO ENSURE THAT THE PROPOSED DEVELOPMENT SHALL NOT INTERFERE WITH NORMAL RAINFALL AND TELEVISION RECEPTION IN THE VICINITY.
8. A SURVEY WAS PERFORMED ON THIS SITE ON 02-19-08 BY KCI TECHNOLOGIES INC. 18131 740-2320.

POINT OF COMMENCEMENT
PROPOSED 5TH LEASE AREA
THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA
FON 474° 55 JOHNSON
CERTIFIED CORNER RECORD DOCUMENT # 0041720
N=785370.3221
E=766663.0281
(NAD 1983)

- LEGEND:**
- (P) = PLAT DATA
 - (C) = CALCULATED DATA
 - (L) = FIELD DATA
 - (D) = DEED DATA
 - (CON) = CONCRETE
 - (W) = WOOD
 - (F) = FENCE
 - (F) = FOUND IRON ROD
 - (F) = FOUND IRON PIPE
 - (F) = FOUND CONCRETE MONUMENT
 - (L) = LICENSED BUSINESS
 - (S) = SEE NOTE 12
 - (NO) = NO UTILITY FENCE
 - (O) = CHAINLINK FENCE
 - (O) = OFFICIAL RECORDS
 - (O) = OWNERS
 - (O) = FOUND IRON ROD & CAP
 - (O) = FOUND IRON ROD & CAP (L20021)
 - (O) = PROFESSIONAL LAND SURVEYOR
 - (O) = RIGHT-OF-WAY
 - (O) = BREAK LINE



LEASE AREA DETAIL
GRAPHIC SCALE: 1 INCH = 100 FEET
FOR 11x17 DRAWINGS
GRAPHIC SCALE: 1 INCH = 200 FEET
FOR 24x36 DRAWINGS



SITE PLAN	DATE	BY	CHKD	APP'D
04	02/19/08	DL	DL	DL

ALICO EAST

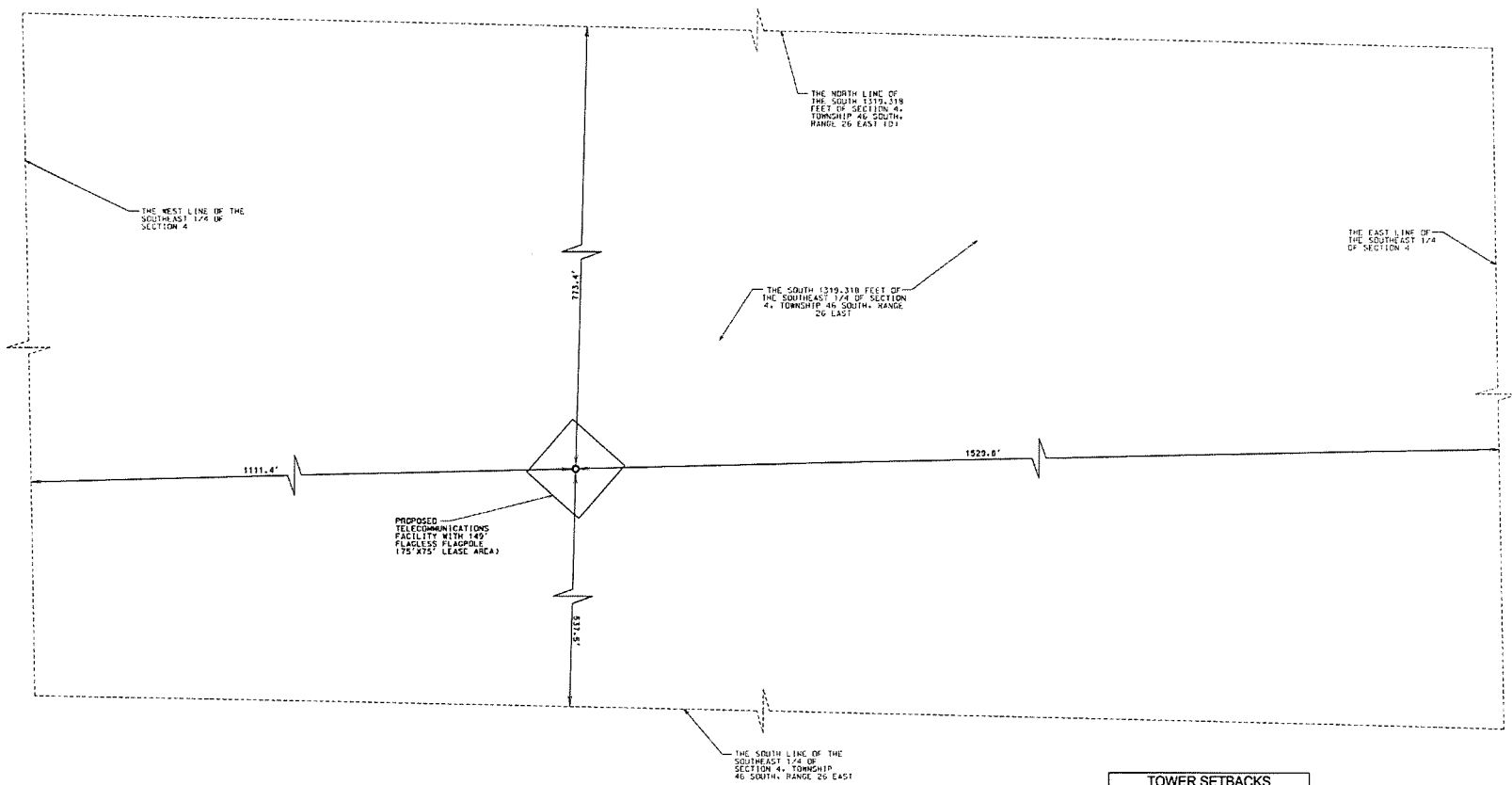
STI Sunshine Towers, Inc.
324 DARTMOUTH STREET, SUITE 1000
WEST PALM BEACH, FL 33411
(561) 511-4001

KCI Technologies, Inc.
18131 740-2320
18131 740-2320
18131 740-2320

KCI

DATE	BY	CHKD	APP'D
02/19/08	DL	DL	DL

100745328



SETBACK DETAIL

FOR 24"x36" DRAWINGS
GRAPHIC SCALE: 1 INCH = 100 FEET
FOR 11"x17" DRAWINGS
GRAPHIC SCALE: 1 INCH = 200 FEET



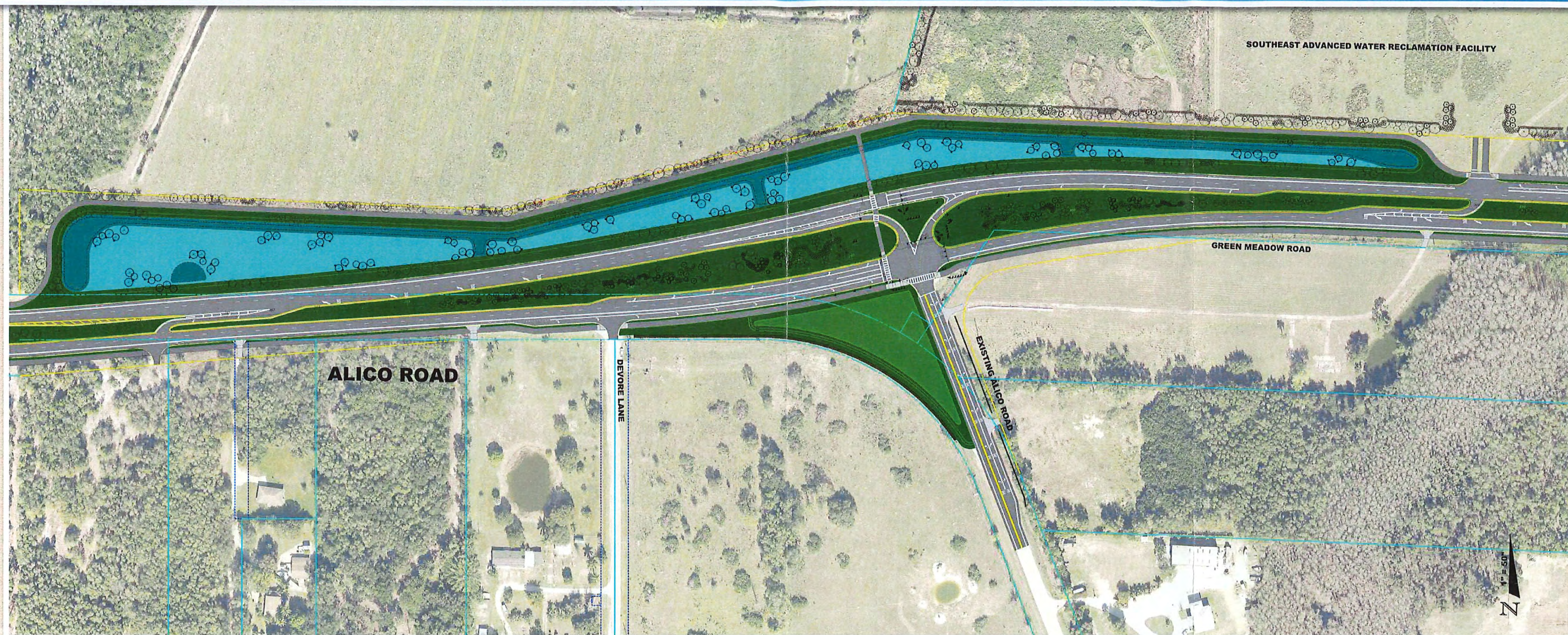
TOWER SETBACKS	
(EDGE OF CASSTON TO PARCEL LINES)	
NORTH	773.4'
SOUTH	537.5'
EAST	1111.4'
WEST	1529.8'

KCI KCI Technologies, Inc. 1400 W. 14th Avenue, Suite 100 Fort Lauderdale, FL 33304 (954) 745-1200 FAX: (954) 745-1201 JAMES T. PATRICK, P.E. - ENGINEER		STI Sunline Towers, Inc. 224 DATURA STREET, SUITE 1008 WEST PALM BEACH, FL (561) 914-4061	ALICO EAST	SETBACK DETAIL DRAWING NO. C-1A DATE: 10/1/03 SCALE: 1" = 100'
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008-00013

100745328

GREEN MEADOW INTERSECTION



Alico Road Connector - Phase 1

FROM AIRPORT HAUL ROAD THROUGH GREEN MEADOW ROAD

ROADWAY EXHIBIT
LEE COUNTY, FLORIDA
MAY 11, 2023
PROJECT No. 20214145-000

JOHNSON
ENGINEERING

ATTACHMENT H

RESOLUTION NUMBER Z-12-003

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

WHEREAS, an application was filed by the property owners, Florida Rock Industries, Inc. and Florida Rock Properties, Inc. to extend the Florida Rock Mine #2 Master Concept Plan (MCP) approvals to 2018; and

WHEREAS, a public hearing was advertised and held on Monday, February 20, 2012, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the documents on record and the testimony of interested persons.

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

SECTION A. REQUEST

Extension of the MCP for Florida Rock Mine #2 aggregate mine zoning approvals to 2018 pursuant to Land Development Code (LDC) §12-109(e). The request sought to unify three existing zoning approvals under a single MCP and set of conditions that are in greater conformity with current county regulations governing mining activity.

The property is located in the Density Reduction/Groundwater Resource (DR/GR) and Wetlands Future Land Use Categories and is legally described in attached Exhibit A.

The request is APPROVED, SUBJECT TO the conditions set forth in Exhibit B and the Master Concept Plan attached thereto as Exhibits 1-1 through 1-4.

SECTION B. EXHIBITS:

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

Exhibit A: Legal description
Exhibit B: Conditions

SECTION C. FINDINGS AND CONCLUSIONS:

1. The request complies with the procedural requirements of LDC §12-109(e).

The applicant submitted documentation required by LDC §12-109(e) for a complete evaluation of the request for an extension of the aggregate mine zoning approvals granted prior to September 9, 2008.

2. The Master Concept Plan for the consolidated mining approvals is consistent with the Lee Plan.

The redesigned Master Concept Plan (MCP) results in:

- decreased mining area,
- increased preservation area,
- enhanced sheet flow with a connection over the eastern conservation area,
- improved movement of large mammals between conservation areas in the vicinity of the property, and
- buffers consistent with Chapter 12 of the LDC.

The MCP extension, as conditioned, is consistent with the Lee Plan.

4. The Master Concept Plan includes all contiguous property under common ownership approved for aggregate mine use.

The subject property is described and depicted in Exhibit A. The Master Concept Plan includes all contiguous property under common ownership consisting of 4,839.7 acres.

5. Consolidation of previous zoning approvals under one master concept plan and set of conditions brings the use into greater conformity with the current regulations set forth in the LDC:

- Approval consolidates several zoning approvals with differing conditions into a single approval and set of unified conditions.
- Approval adopts one Master Concept Plan and set of conditions that will facilitate monitoring and future permitting.
- The existing mining operation would be brought into greater conformity with the requirements of LDC Chapter 12, which was adopted after the existing approvals.
- Approval reduces the land area to be mined by approximately 330-340 acres.
- Approval increases the land area to be preserved by 930 acres.
- The proposal provides for the protection of adjacent preservation and mitigation lands that were not designated as preservation or for mitigation at the time the existing mining approvals were granted.
- The new MCP provides wildlife connectors that are not part of the existing approvals.
- The proposed unified set of conditions includes extensive water level and groundwater monitoring conditions not present in existing approvals.
- Vehicular access to the site is limited to Green Meadow Road and to Alico Road. No direct access is proposed to SR 82.
- The new MCP incorporates buffers consistent with LDC Chapter 12. The existing approvals do not provide buffers to the same degree.
- A future alignment of Alico Road connecting with SR 82 (Alico Connector Road) is accommodated by the Master Concept Plan.
- The wilderness camp and juvenile halfway facility or boot camp is hereby removed from the list of permitted uses.

6. The applicant has demonstrated diligent pursuit of the permits necessary to commence mining operations.

The applicant has pursued and obtained permits from the Army Corps of Engineers (Corps) and DEP. Modifications to those permits may be necessary to pursue the recommended MCP consolidating the existing zoning approvals.

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

John Manning	Aye
Brian Bigelow	Nay
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 20th day of February 2012.

ATTEST:
CHARLIE GREEN, CLERK.

BY: *Insia S. Purice*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *J. Manning*
John Manning, Chair

Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office



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LEGAL DESCRIPTION:

COMMUNITY DEVELOPMENT
A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 26, 27, 28, 33, 34, 35 AND 36, TOWNSHIP 45 SOUTH, RANGE 26 EAST, AND SECTIONS 3 AND 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, AND SECTIONS 28, 31, 32 AND 33, TOWNSHIP 45 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE NORTH HALF OF SECTION 35, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.89°39'51"E., ALONG THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION 35, FOR A DISTANCE OF 5297.78 FEET TO THE SOUTHEAST CORNER OF THE NORTH HALF OF SAID SECTION 35; THENCE RUN S.00°24'40"W., ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, FOR A DISTANCE OF 2450.28 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 36; THENCE RUN S.89°37'49"E., ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 36, FOR A DISTANCE OF 2644.16 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 36; THENCE RUN N.89°48'16"E., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36, FOR A DISTANCE OF 2653.44 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 36; THENCE RUN N.89°05'13"E., ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 45 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA, FOR A DISTANCE OF 2639.27 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 31; THENCE RUN N.89°04'03"E., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 31, FOR A DISTANCE OF 2646.80 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 31; THENCE RUN N.88°39'29"E., ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 45 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA, FOR A DISTANCE OF 2643.25 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 32; THENCE RUN N.88°40'23"E., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 32, FOR A DISTANCE OF 2643.56 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 32; THENCE RUN N.89°06'03"E., ALONG THE SOUTH LINE OF SECTION 33, TOWNSHIP 45 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA, FOR A DISTANCE OF 3366.28 FEET; THENCE RUN N.00°40'08"W., FOR A DISTANCE OF 5178.07 FEET; THENCE RUN N.00°45'15"W., FOR A DISTANCE OF 1880.75 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 82, ACCORDING TO THE STATE OF FLORIDA STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP SECTION 1207-101, ROAD NO. 82; THENCE RUN N.74°24'16"W., ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 82, FOR A DISTANCE OF 840.50 FEET; THENCE RUN S.01°00'35"E., FOR A DISTANCE OF 1043.56 FEET TO A POINT LYING 1000 FEET SOUTH OF AS MEASURED AT RIGHT ANGLES TO THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 82; THENCE RUN N.74°24'16"W., PARALLEL WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 82, FOR A DISTANCE OF 2639.82 FEET TO A POINT ON THE WEST LINE OF SECTION 28, TOWNSHIP 45 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.01°00'35"E., ALONG THE WEST LINE OF SAID SECTION 28, FOR A DISTANCE OF 1993.16 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 28; THENCE RUN N.89°13'07"W., ALONG THE NORTH LINE OF

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PROJECT #2006103
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REF. DWG. #B-6703

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COMMUNITY DEVELOPMENT

THE NORTHEAST QUARTER OF SAID SECTION 32, FOR A DISTANCE OF 2661.31 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 32; THENCE RUN N.89°12'17"W., ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 32, FOR A DISTANCE OF 2661.99 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 32; THENCE RUN N.89°38'59"W., ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 31, FOR A DISTANCE OF 2660.95 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 31; THENCE RUN N.89°37'04"W., ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 31, FOR A DISTANCE OF 2657.12 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 31; THENCE RUN S.85°23'03"W., ALONG THE NORTH LINE OF SAID SECTION 36, FOR A DISTANCE OF 5190.11 FEET TO THE NORTHWEST CORNER OF SAID SECTION 36; THENCE RUN N.01°57'18"W., ALONG THE EAST LINE OF SECTION 26, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, FOR A DISTANCE OF 2095.20 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF A FLORIDA POWER AND LIGHT RIGHT-OF-WAY AGREEMENT AS RECORDED IN O.R. BOOK 872, PAGE 96 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.75°33'56"W., ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID AGREEMENT, FOR A DISTANCE OF 2733.78 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF OF SAID SECTION 26; THENCE RUN N.01°29'50"W., ALONG THE EAST LINE OF THE WEST HALF OF SAID SECTION 26, FOR A DISTANCE OF 2702.95 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 26; THENCE RUN S.89°22'41"W., ALONG THE NORTH LINE OF THE WEST HALF OF SAID SECTION 26 FOR A DISTANCE OF 1300.89 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 26; THENCE RUN S.01°15'53"E., ALONG THE WEST LINE OF THE EAST HALF OF THE WEST HALF OF SAID SECTION 26 FOR A DISTANCE OF 2348.82 FEET TO A POINT ON SAID SOUTHERLY RIGHT-OF-WAY LINE OF A FLORIDA POWER AND LIGHT RIGHT-OF-WAY AGREEMENT; THENCE RUN N.75°33'56"W., ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID AGREEMENT FOR A DISTANCE OF 1359.77 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26; THENCE RUN S.01°01'41"E., ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26 FOR A DISTANCE OF 666.75 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 26; THENCE RUN S.01°01'34"E., ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 26 FOR A DISTANCE OF 1162.68 FEET TO A POINT LYING 1500.00 FEET NORTHERLY OF THE SOUTHEAST CORNER OF SECTION 27, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.89°38'52"W., FOR A DISTANCE OF 7965.76 FEET TO A POINT LYING 1500.00 FEET NORTH OF THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.00°07'50"E., FOR A DISTANCE OF 1500.00 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 28; THENCE RUN S.00°07'31"E., ALONG THE WEST LINE OF THE EAST HALF OF SECTION 33, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA FOR A DISTANCE OF 5269.81 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 33; THENCE RUN N.89°07'24"W., ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA FOR A DISTANCE OF 2640.20 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4; THENCE RUN S.01°04'13"E., ALONG THE

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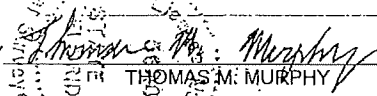
Page 3 of 3

COMMUNITY DEVELOPMENT

WEST LINE OF SAID SECTION 4, FOR A DISTANCE OF 959.96 FEET TO A POINT LYING 959.405 FEET SOUTHERLY OF AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 4; THENCE RUN S.89°07'24"E., PARALLEL TO THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 4 FOR A DISTANCE OF 2622.13 FEET TO A POINT LYING 959.405 FEET SOUTHERLY OF AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 4; THENCE RUN N.89°08'25"E., PARALLEL TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 4 FOR A DISTANCE OF 2662.50 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.01°19'26"E., ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 3, FOR A DISTANCE OF 2286.63 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 3; THENCE RUN S.01°19'10"E., ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 3 FOR A DISTANCE OF 3238.18 FEET TO THE SOUTHWEST CORNER OF THE WEST HALF OF SAID SECTION 3; THENCE RUN S.88°43'31"E., ALONG THE SOUTH LINE OF THE WEST HALF OF SECTION 3 FOR A DISTANCE OF 2647.01 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 3; THENCE RUN N.01°22'15"W., ALONG THE EAST LINE OF THE WEST HALF OF SAID SECTION 3 FOR A DISTANCE OF 6565.71 FEET TO THE SOUTH QUARTER CORNER OF SECTION 34, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.88°32'18"E., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 34 FOR A DISTANCE OF 2641.70 FEET TO THE SOUTHEAST CORNER OF THE SOUTH HALF OF SAID SECTION 34; THENCE RUN N.00°50'24"E., ALONG THE EAST LINE OF THE SOUTH HALF OF SAID SECTION 34 FOR A DISTANCE OF 2547.71 FEET TO THE POINT OF BEGINNING; CONTAINING 4839.658 ACRES, MORE OR LESS.

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF THE NORTH HALF OF SECTION 35, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA AS BEING S.89°39'51"E.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB #1772

BY 
THOMAS M. MURPHY

P.S.M. #5628
STATE OF FLORIDA

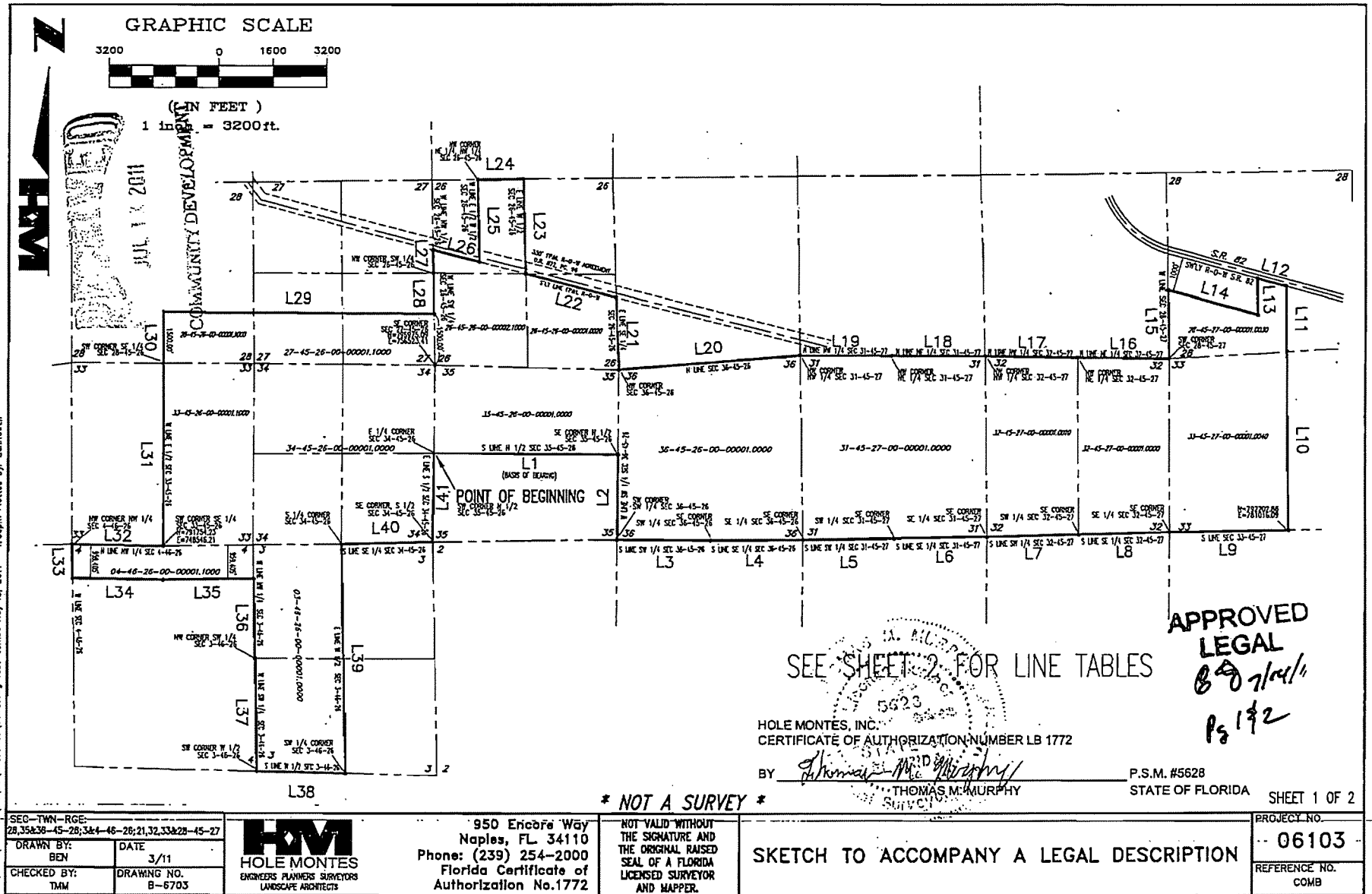
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Exhibit A
Page 4 of 6



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COMMUNITY DEVELOPMENT

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LINE	BEARING	DISTANCE
L1	S 89°39'51" E	5297.78'
L2	S 00°24'40" W	2450.28'
L3	S 89°37'49" E	2644.16'
L4	N 89°48'16" E	2653.44'
L5	N 89°05'13" E	2639.27'
L6	N 89°04'03" E	2646.80'
L7	N 88°39'29" E	2643.25'
L8	N 88°40'23" E	2643.56'
L9	N 89°06'03" E	3366.28'
L10	N 00°40'08" W	5178.07'
L11	N 00°45'15" W	1880.75'
L12	N 74°24'16" W	840.50'
L13	S 01°00'35" E	1043.56'
L14	N 74°24'16" W	2639.82'
L15	S 01°00'35" E	1993.16'
L16	N 89°13'07" W	2661.31'
L17	N 89°12'17" W	2661.99'
L18	N 89°38'59" W	2660.95'
L19	N 89°37'04" W	2657.12'
L20	S 85°23'03" W	5190.11'

LINE	BEARING	DISTANCE
L21	N 01°57'18" W	2095.20'
L22	N 75°33'56" W	2733.78'
L23	N 01°29'50" W	2702.95'
L24	S 89°22'41" W	1300.89'
L25	S 01°15'53" E	2348.82'
L26	N 75°33'56" W	1359.77'
L27	S 01°01'41" E	666.75'
L28	S 01°01'34" E	1162.68'
L29	N 89°38'52" W	7965.76'
L30	S 00°07'50" E	1500.00'
L31	S 00°07'31" E	5269.81'
L32	N 89°07'24" W	2640.20'
L33	S 01°04'13" E	959.96'
L34	S 89°07'24" E	2622.13'
L35	N 89°08'25" E	2662.50'
L36	S 01°19'26" E	2286.63'
L37	S 01°19'10" E	3238.18'
L38	S 88°43'31" E	2647.01'
L39	N 01°22'15" W	6565.71'
L40	N 88°32'18" E	2641.70'
L41	N 00°50'24" E	2547.71'

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY Thomas M. Murphy
THOMAS M. MURPHY

P.S.M. #5628
STATE OF FLORIDA

* NOT A SURVEY *

SHEET 2 OF 2

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DRAWN BY: BEN	DATE 3/11
CHECKED BY: TMM	DRAWING NO. 8-8703



950 Encore Way
Naples, FL 34110
Phone: (239) 254-2000
Florida Certificate of
Authorization No.1772

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

SKETCH TO ACCOMPANY A LEGAL DESCRIPTION

PROJECT NO. 06103
REFERENCE NO. COMB

Zoning Map

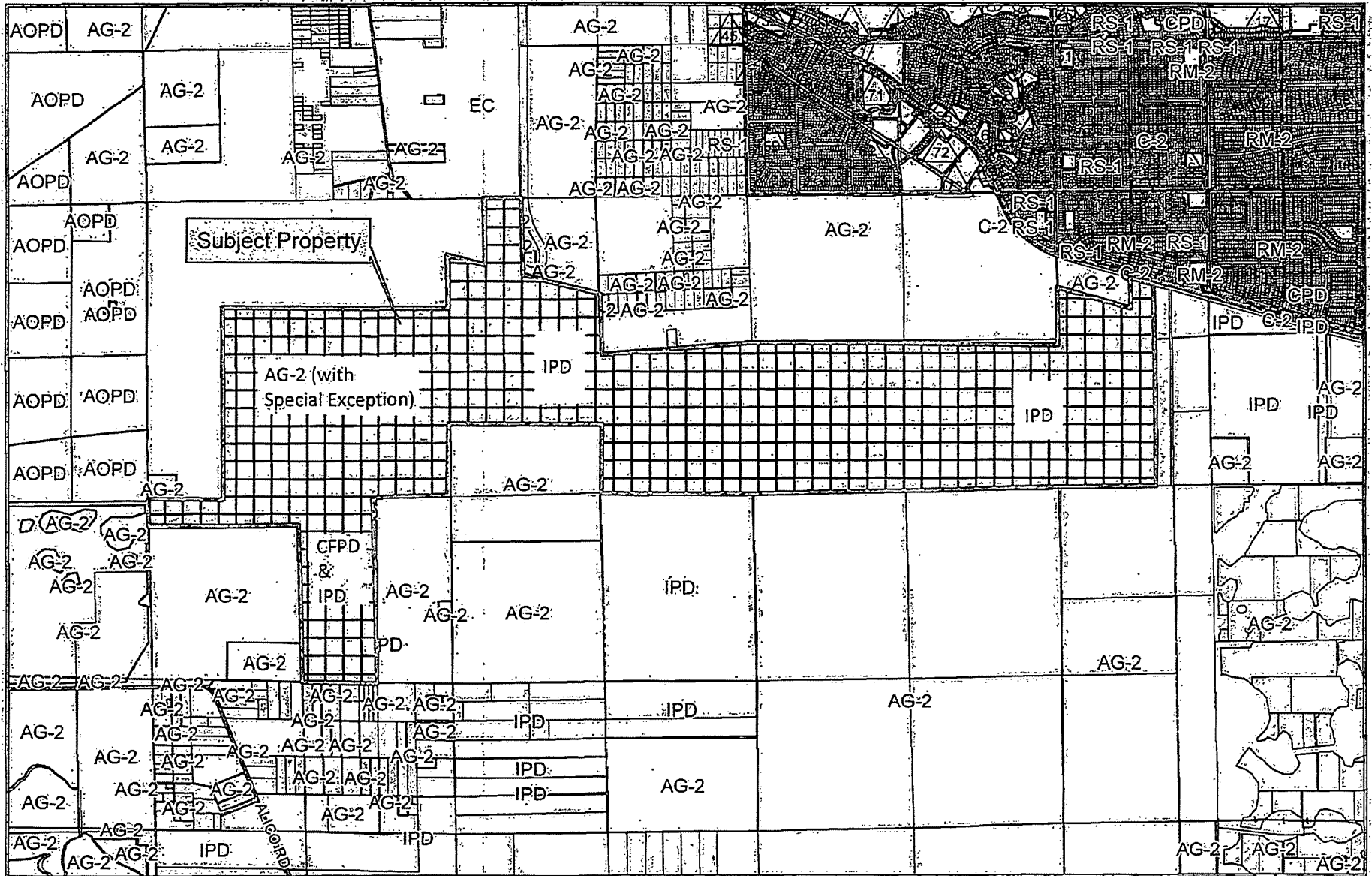
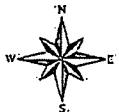


Exhibit A
Page 6 of 6



CONDITIONS

The subject property is approved as an Industrial Planned Development (IPD) and Special Exception (SE) for General Excavation in the AG-2 district, subject to the following conditions:

1. **MASTER CONCEPT PLAN AND MINE DEVELOPMENT ORDER (MDO)**

The development, use, and reclamation of the subject property must be in accordance with the 4-page Master Concept Plan (MCP or mine site plan) entitled, "Florida Rock Industries, Inc. Fort Myers Mine No. 2", prepared by Hole Montes & Associates, attached as Exhibit 1-1 thru Exhibit 1-4 (stamped approved). This project will be developed in accordance with applicable state, regional and local development regulations, except as otherwise provided in these conditions.

The mine as depicted on the attached MCP is approved as an IPD/SE with existing mine rights under LDC Section 12-121.

This IPD/SE must obtain a single Mine Development Order MDO for the entire planned development in accordance with Land Development Code Chapter 12. Upon completion of mining and reclamation of any lake located within the AG-2 zoned areas shown on Exhibit 2 as Future Residential Homesite Locations, the lake and adjoining property may be removed from the MDO and issued a new development order consistent with this zoning approval.

The Mined Materials Processing Facility east of the Eastern Conservation Easement must be located south of the FP&L power line easement consistent with the approved Master Concept Plan.

2. **Uses**

The following uses are permitted:

Excavation, Mining-Fill Dirt and Mining-Construction Materials.

The following uses are permitted only as accessory use to the Mining, excavation use:

- Electrical Substations for processing plant, mine equipment and related facilities
- Portable Mined Material Crushing, Stacking, Conveying and Separating Equipment
- Processed Material stockpiles
- Portable Fuel Dispensing Equipment
- Essential Services and Essential Service Facilities
- Storage, Open (as defined in LDC Section 34-2)
- Accessory Buildings and Structures

For Areas Designated on the Master Concept Plan as "Mining or Plant Facilities Area":

- Mined Material Processing Facilities including but not limited to crushers, screening devices, conveyors, stacking devices, operations tower, material separators and mined material processing equipment
- Fuel and Lubricating Oil storage and containment areas and related tanks and pumps, subject to compliance with the Lee County Wellfield Protection Ordinance
- Administrative Offices, including scales and scale houses
- Vehicle and Equipment Repair and Service limited solely to the maintenance, fabrication and repair of vehicles and equipment for mining and mining related activities

- Entrance Gates and Gate House, in accordance with Chapter 34 of the LDC and located only on private roads or easements
- Self-Service Fuel Pumps further limited by Note 24 in LDC Section 34-934 to two pumps for the on-site business per "Mining or Plant Facilities Area" to provide fuel for the operation's own fleet of vehicles and equipment
- Stone, Clay, Glass and Concrete Products Manufacturing (LDC Section 34-622(c)(48) Groups II and III), including asphalt plant, concrete batch plant, and concrete block and brick plant
- Quality Control Lab Facilities for quality assurance and testing of mined and processed materials

For Areas Designated on the Master Concept Plan as "Mining Accessory Use":

- Administrative Offices
- Vehicle and Equipment Repair and Service limited solely to the maintenance, fabrication and repair of vehicles and equipment for mining and mining related activities
- Entrance Gates and Gate House, in accordance with Chapter 34 of the LDC and located only on private roads or easements
- Self-service Fuel Pumps further limited by Note 24 in LDC Section 34-934 to two pumps for the on-site business per "Mining Accessory Use" parcel (three locations), to provide fuel for the operation's own fleet of vehicles and equipment
- Stone, Clay, Glass and Concrete Products Manufacturing (LDC Section 34-622(c)(48) Groups II and III), including asphalt plants, concrete batch plant, and concrete block and brick plant
- Quality Control Lab Facilities for quality assurance and testing of mined and processed material

Excavation, Water Retention in Accordance with LDC Chapter 10

Existing Agricultural Uses, Subject to Condition 28

Fences and Walls

Emergency Helicopter Landing Zones

Signs, in accordance with LDC Chapter 30

Caretaker's Residence (limited to a maximum of two within the boundary of the site)

Residential Dwelling unit, single family, limited to 105 units subject to Condition #3 and in the locations shown on Exhibit 2, which are zoned AG-2.

3. **PROPERTY DEVELOPMENT REGULATIONS**

IPD/SE Area: 4,839.2 acres (see legal description and property boundary map)

"Mining or Plant Facilities Area" or "Mining Accessory Use":

Minimum Lot Area: 5 acres

Minimum lot depth: 200 feet

Minimum lot width: 200 feet

The property that is the subject of this Resolution presently consists of 15 separate STRAP numbers, eight of which are owned by Florida Rock Industries, Inc., and seven of which are owned by Florida Rock Properties, Inc. The STRAP numbers and ownership are identified on the map attached as Exhibit 3. Each owner is limited to the creation of four (4) additional lots approved through the limited review development order process for each owner's property, for a maximum total of eight (8) created additional lots. Any further subdividing of the property will require

platting in accordance with applicable State and County regulations. Any division or splitting of the property caused by the conveyance or dedication of right-of-way or any other property to any governmental entity will not be counted as one of the four (4) lot splits per owner permitted by this condition.

Setbacks for excavation must be consistent with the four page plan prepared by Hole Montes and Passarella and Associates; attached as Exhibits 4-1, 4-2, 4-3 and 4-4, Project 2006.103D.

Setbacks for accessory buildings or structures must be consistent with LDC Section 12-1 13(d). Setbacks apply only to project perimeter boundaries and do not apply to internal lot lines, as they exist now or may be created in the future. The conveyor belts or rock crushing plant may not be located within 250 feet of a public road right of way except for the crossing of the Alico Connector Road in accordance with approval by Lee County DOT (See also condition 16).

Minimum Building Separation: one-half (1/2) the sum of the height of the buildings, or 20 feet, whichever is greater

Maximum Lot Coverage: 40 percent

Maximum Building Height: 45 feet except for accessory uses such as conveyor belt or rock crushing plant which may extend to a maximum of 85 feet.

Maximum excavation depth: 60 feet below the existing ground elevation, or to the first confining layer, whichever occurs first.

Minimum lot area and setbacks

for residential, single family lots: AG-2 regulations, as set forth in Exhibit 5, attached hereto.

All mining and excavation activities are limited to the areas identified as "Excavation, Mining" or "Mining or Plant Facilities Area" as depicted on the approved Master Concept Plan. If the mine operator seeks to expand the mine footprint, depth or change the location of uses and activities as depicted on the attached MCP or not otherwise permitted herein, then an amendment of the IPD/SE zoning in accord with the then existing provisions of the LDC will be required.

4. **CHANGED CONDITIONS**

As the part of the review of any subsequent Mining Operations Permit (MOP), the conditions of this zoning approval may be reviewed by the appropriate County departments. The County may modify the conditions of approval if it is determined that changed conditions on or near the subject property may result in detrimental impacts to the public health, safety, or welfare that were not considered at the time this rezoning resolution was initially adopted. The modifications by the County are limited to those deemed necessary to offset such detrimental impacts.

5. **EMERGENCY MEDICAL AND FIRE**

- a. Prior to the approval of any MOP, the mine operator must contact the Lee County Emergency Medical Services to confirm the location of the designated emergency helicopter landing zone and the means of access for an Emergency Medical Services Unit. In addition, the mining operation must provide a truck-mounted sprayer maintained on the site to assist in providing fire protection by the fire district.

- b. Arrangements for fire protection on this site must be provided to the satisfaction of the Department of Public Safety and the appropriate fire district; and, must include the utilization of a truck mounted sprayer and other preventative measures. Adequate fire protection must also be provided for any structure developed on the site.

6. **WELLFIELD PROTECTION**

Prior to MDO approval the applicant must submit a plan that meets all proper setback requirements or provide a completed application to obtain a Lee County Wellfield Protection Permit.

7. **CONFINING UNIT**

Prior to MDO approval the applicant will submit material boring descriptions to the top of the confining layer below the proposed mine. In addition the applicant must provide a contour map locating the top of the confining unit which separates the Water Table Aquifer from the Sandstone Aquifer.

8. **HISTORIC FLOWS**

Prior to MDO approval the applicant must submit historic, existing, and proposed drainage patterns including flowways on and within the vicinity of the site. The applicant's design of the mining footprint (as shown on the MCP) is to preserve and enhance existing natural flowways that the County, FDEP and USACOE deem important for local or regional enhancement.

9. **FLOWWAY CROSSING**

The exact detail designs intended for preservation and restoration of wetlands or flow-way crossings substantially consistent with Exhibit 1-4 "Culvert Location Plan" and diversion swales must be submitted and approved as part of the Mining Development Order for the phase of this development that includes the preservation and restoration activities, with such activities being consistent with the "Mitigation and Maintenance Phasing Plan" prepared by Passarella and Associates, attached as Exhibit 6, and the "Lee County Indigenous Preserve Management Plan" prepared by Passarella and Associates, attached as Exhibit 7. Construction of such approved restoration and preservation activities shall be completed prior to the issuance of a MOP for that portion of the mine. At least one 4x8 box culvert for wildlife movement must be incorporated in the design of the haul road crossing the western flowway. The design must accommodate the surface water flow in accordance with FDEP permit requirements.

10. **BASELINE ANALYSIS**

Baseline analysis will be completed via the use of monitoring wells that will be installed as pairs of deep and shallow water table aquifer wells in the locations as outlined in the map attached as Figure 1 of Exhibit 8. All baseline monitoring wells will be installed within 90 days of the issuance of MDO approval, unless extended by the Division of Natural Resources.

A preliminary baseline ground water quality analysis will be conducted for the parameters outlined in Exhibit 9 "Groundwater Parameters". One additional water quality sampling event will be scheduled approximately six months prior to the commencement of excavation activities at the site. The water quality data will be submitted to the Lee County Division of Natural Resources no later than 60 days after testing. All data shall be submitted in electronic and paper form.

11. **TEST BORING DATA**

Prior to MDO approval, the applicant must submit data from test borings conducted on each proposed excavation site a minimum of two borings per ¼ section intervals to the top of the

confining unit. Soil boring data within the footprint of each proposed mine cell or area must be provided to the Division of Natural Resources.

12. **WATER LEVEL AND WATER QUALITY MONITORING**

The water level, water quality monitoring, flow way monitoring and precipitation data will be conducted and submitted in accordance with Exhibit 8, "Groundwater and Surface Water Monitoring Plan" with monitoring continuing during all phases of the mine excavation and reclamation.

13. **MONITORING WELLS/PROGRAM**

Water quality will be tested semi-annually (once during the wet season and once during the dry season) for the parameters previously outlined in Exhibit 9. All water data will be submitted to the Lee County Division of Natural Resources no later than 60 days after testing. Annual monitoring reports will be provided to the Lee County Division of Natural Resources by March 31st of each year for monitoring performed the previous year ending December 31st. Prior to MDO approval the applicant shall provide the format of the monitoring reports (Quarterly, semiannually and annual) to the Division of Natural Resources staff for approval

If monitoring results show parameters in excess of applicable water quality standards, the mine operator will follow Florida Department of Environmental Protection protocol as to reporting and remedial action. Appropriate notification will be provided to the Lee County Division of Natural Resources (Director) within 30 days of results of such testing. Any remedial action plan formulated with the FDEP will be provided to the Lee County Division of Natural Resources. Prior to the issuance of any Mine Operations Permit (MOP) for the property, the mine operator will adopt a Spill Prevention, Control and Countermeasures Plan (SPCC), substantially in accordance with Exhibit 14 attached. The mine operator will follow the criteria of the SPCC including notification to the Lee County Division of Natural Resources of any measures, and the results of those measures, taken pursuant to such plan. All responsibility for any actions required by the remedial action plan will be assumed by the applicant.

14. **DEWATERING**

- a. Dewatering may be conducted in accordance with a Dewatering and Monitoring Plan that will be submitted and approved as part of the MDO approval. The Dewatering and Monitoring plan must expressly provide that no dewatering will occur within 1000 feet of a public water supply (PWS) well. The applicant must ensure as part of this plan that there are no hydrologic impacts to on-site wetlands or to adjoining properties. The water levels maintained within the dewatering perimeter impoundment swales will be reviewed as required by the SFWMD to determine if the levels should be adjusted.
- b. The applicant must submit quarterly reports to the Director of Lee County Division of Natural Resources and copy the Department of Community Development within 30 days of the end of each quarterly period following the commencement of dewatering activities.
- c. Prior to MDO approval, the applicant must submit, for review and approval by the Lee County Division of Environmental Sciences (DES) staff, a wetland monitoring plan to be implemented for the duration of dewatering activities. The wetland monitoring plan must include details of vegetation monitoring methodology, locations of monitoring transects and surface water level monitoring wells within the on-site preserved wetlands. Wetland monitoring will be conducted semi-annually, once in the wet season and once in the dry season. The applicant

must submit each wetland monitoring report to the DES within 30 days of each monitoring date.

- d. Annual reports compiling and documenting the quarterly or semi-annually obtained results of all the monitoring events will also be submitted to the Director of Lee County Division of Natural Resources, and copied to the Director of Development Services. If any adverse impacts (loss of canopy tree and/or under story vegetation) occur within the preserve areas resulting from dewatering activities as documented through the wetland monitoring, indigenous management plan, and/or DES staff inspections, then a restoration plan as per LDC Section 10-423, including a work completion schedule, must be submitted for review and approval of DES staff.
- e. Dewatering is permitted to a maximum of 20 feet below existing ground elevation
- f. All dewatering water shall be retained on the applicant's land. Off-site discharge of dewatering effluent is prohibited.

15. TRANSPORTATION AND TRAFFIC

- a. This zoning approval does not address the mitigation of the project's traffic impacts. Additional conditions may be required at the time of MDO approval, and may include, but are not limited to, the construction of acceleration, deceleration, or turn lanes required along the Alico Connector Road.
- b. The holder of the MOP is responsible for its pro-rata share of any damage to State Road 82 or county maintained roads that is, in the opinion of the Lee County Department of Transportation, reasonably attributed to the holder of the MOP's mining operations and associated truck traffic. Such pro-rated damage must be repaired by the holder of the permit to the satisfaction of the Lee County Department of Transportation. This condition does not preclude the County's right to seek additional fees for road maintenance, if adopted by the County. In the event Lee County enacts a county-wide user fee on mining and/or truck hauling operations to provide assessments for road damage due to truck traffic, this condition will only apply to damage, which is above and beyond the normal wear and tear associated with mining operations and associated truck traffic and which is directly attributable to the holder of the MOP's mining operations.
- c. Green Meadow Road north of the subject property must be improved by the mine operator to the standards of the LDC if this road is used for truck hauling of material. Lee County will cooperate with the applicant for the acquisition of the necessary rights of way and permits to allow for such improvement.
- d. The mine operator is responsible for the payment of duly adopted road impact fees as well as any operations and maintenance fee adopted by the County.
- e. Access to State Route 82 is subject to approval by the Florida Department of Transportation. If access is sought to SR 82, it will require an amendment of this approval through the public hearing process.
- f. In addition to the requirements of LDC 12-121(g)(9), the Traffic Impact Statement submitted with the first MDO must include cumulative trips from the subject property and any interconnected materials excavation operations. Prior to the construction of additional Mine

Materials Processing Facilities in the areas designated as Mining or Plant Facilities Area on the Master Concept Plan, the applicant must submit an updated traffic impact statement as part of the MDO or MDO amendment application to ensure concurrency requirements are satisfied (if in effect at the time of the Development Order application) and also to identify mitigation for the additional impacts, if any, of the additional Mine Materials Processing Facilities in accordance with condition 15.a. above.

16. **ALICO CONNECTOR ROAD CROSSINGS**

The mine operator must work with Lee County DOT to determine the specific locations and construction requirements for right-of-way permit(s) of the Alico Connector Road to facilitate the continued operation of this mine.

17. **ON-SITE HAUL ROADS**

On-site haul roads must be watered on a regular basis or an approved binding agent must be applied to avoid creating dust in excess of the standards of the Florida Department of Environmental Protection.

18. **GATES/GATEHOUSES**

Entrance gates or gatehouses are prohibited on any County-maintained road developed as part of this project.

19. **DIESEL PUMPS**

If the pumps are located within one-half mile of a private residence in existence on the date of this approval, any diesel pumps must be equipped with adequate mufflers and stationary pumps and are to be surrounded by earthen berms to provide to the maximum extent possible a noise barrier.

20. **RECLAMATION**

Prior to issuance of MDO, a reclamation plan must be submitted for review and approval by ES staff for each mine lake. The reclamation plan may not combine the entire reclamation for all lakes into one calculation but must be designed for each lake. The reclamation plan must be in accordance with Exhibits 4-1 thru 4-4, prepared by Hole Montes and Passarella and Associates. Reclamation for each lake must be in accordance with Exhibit 4-1 thru 4-4 with the noted planting and sloping standards required for each separate lake. At a minimum, the reclamation plans must include the following information:

- a. The banks of the excavations must be sloped at a ratio not greater than 6 horizontal to 1 vertical from the top of the finished grade to a water depth of four feet below the dry season depth.
- b. A minimum of 25 percent of the post construction lake (mine) perimeter length is required to have planted littoral shelves. Required littoral planting numbers must be computed for the total area of the littoral shelf (length x width) that is required to be planted. The mine operator must install one plant for each nine square feet of littoral area (this equates to planting one 3-foot on center). A minimum of 80% survivability must be obtained within one year and the plants maintained for a period of ten years.
- c. Littoral plants must meet the standards of LDC Section 10-418(2)d.1. No single herbaceous species may comprise more than a 25 % of the total plantings.

- d. Upland reclamation for the areas adjacent to the littoral shelf. Ten percent of the reclaimed upland must be re-vegetated as forested areas. Trees must be planted at a density of 200 per acre and be a minimum of one gallon container size. The following tree species may be planted: Slash Pine, Live Oak, cabbage palm. No one tree species may comprise more than 50 percent of the total plantings.
- e. The littoral shelf must be protected from impacts during and after mining. If the agricultural use of livestock is the intended post mine use, adequate fencing must be installed to protect the littoral shelf from livestock damage.
- f. A separate reclamation plan must be submitted for the mine lakes that abut the eastern conservation lands (section 31 and 32 of Township 45S Range 27E). The reclamation for these areas must be consistent with attached Exhibit 4-3 prepared by Passarella and Associates for the expanded littoral shelf design.
- g. The reclamation plan must delineate the planted littoral zones located adjacent to existing preserves either onsite or on adjacent preserves.
- h. Reclamation must begin no later than 30 days after completion of mining of each lake. Reclamation must be completed within 12 months of commencement of reclamation of each lake. If the bathymetric survey does not indicate a change in depth or width for a period of five years then the reclamation must commence within 30 calendar days and be completed within 12 months or the mining operations permit expires whichever occurs first.
- i. A draft conservation easement for the lake areas identified on Exhibit 4-4 "Post Mining Conservation Easement" will be conveyed to Lee County in the form attached as Exhibit 10, or in a form acceptable to the Lee County Attorney's Office. This conservation easement must be recorded upon completion of the lake areas, at such time as they will no longer be disturbed by mining operations or reclamation efforts for those areas identified on Exhibit 4-4 that abut the Eastern Conservation Lands.

21. **BUFFERS**

Prior to approval of a MDO, Site Landscaping Plans must be submitted that depict buffers along the public right of ways that abut the "Mining Areas" as shown on the MCP including Alico Road, Alico Connector Road, SR 82 and that portion of Green Meadow Road extending north of the project. The buffer locations are shown on Exhibit 1-2. Prior to issuance of a MOP for any portion of the mine adjacent to an existing in-service public roadway, the buffer plantings must be installed. For public rights-of-way not in service, such as the buffers shown along the Alico Connector Road and that portion of Green Meadow Road extending north of the project, planting of the buffers will take place during construction of the roadway such that the plantings are complete prior to placement of the roadway into service. The buffer must be 50' wide, include a 30 feet wide berm adjacent to the right of way, and planted with native species as shown on Exhibit 4-2. The buffer must contain 20 trees per 100 linear feet (10 of the trees must be 5' in height and 10 trees at 10' in height per 100 linear feet). Shrubs must be three gallon container and calculated at 66 shrubs per 100 linear feet. Trees must be selected from South Florida slash pine, live oak or cabbage palm. A minimum of 8 of trees planted along each 100 linear feet of right-of-way must be live oak, minimum 10' in height. Shrubs must be selected from wax myrtle, saw palmetto, myrsine or Walter's viburnum. All trees and shrubs must be installed in a random fashion and not in straight lines.

22. **INDIGENOUS RESTORATION**

Prior to approval of the MDO, the plans must demonstrate 1,150 acres of the western conservation easement as preserve/enhancement, 854 acres of the eastern conservation as preserve/enhancement and 209 acres of preserve (subject to adjustment pursuant to Condition 40) in substantial compliance with the attached MCP. The "Mitigation and Maintenance Phasing Plan" prepared by Passarella and Associates, attached as Exhibit 6, and the "Lee County Indigenous Preserve Management Plan" prepared by Passarella and Associates, attached as Exhibit 7, provide for the indigenous restoration of this project. At minimum, this plan must include the following:

- a. An exotic removal plan with phasing schedule for the exotic removal from the entire area encompassed by the IPD/SE, excluding "Mining Areas", "Mining or Plant Facilities Area", and "Mining Accessory Use" areas. The timeframe to commence the exotic removal will be in accordance with the aforementioned Exhibits 6 and 7 and may not be delayed beyond the schedule outlined in these exhibits, without prior approval from the Division of Environmental Sciences. The exotic plants to be removed must be consistent with LDC Section 10-420(h), at a minimum. The applicant will work with the Lee County Division of Environmental Sciences to administratively adjust the phasing of the removal of exotic species for the purpose of coordinating such activities with Lee County's efforts related to exotic control on adjacent county owned property, if permitted by the U.S. Army Corps of Engineers and Florida Department of Environmental Protection.
- b. Any sabal palms (*Sabal palmetto*) greater than 8' clear trunk to be impacted by mine activity must be relocated on-site. The relocated sabal palms must be planted within the on-site preservation areas and must be relocated in a horticulturally correct manner (consistent with Lee County Brochure 8/2000A).
- c. Restoration of the preserve/enhancement area must be consistent with FDEP and ACOE permits. The restoration plans must include a phasing schedule and monitoring reports for five years.
- d. A restoration and removal plan for the temporary haul road within the eastern conservation lands.
- e. The use of livestock in conservation easement areas must cease upon issuance of a MOP for the adjacent mining. Removal of the agricultural tax exemption is required to be terminated upon issuance of a MOP for that area see proposed condition #28.

23. **PROTECTED SPECIES SURVEY**

Prior to the issuance of an MDO and MOP for all or a portion of the property, a protected species survey must be conducted in accordance with the provisions of the LDC and submitted for review and approval by Environmental Sciences. The protected species survey must include the adjoining onsite preserves adjacent to the lake excavation. The approved survey will be valid for five years. A protected species management plan per LDC 10-474 must be prepared and submitted for review and approval by the Division of Environmental Sciences or its successor for any protected species found on the parcel during the protected species survey or during operation of the mine.

24. **STOCKPILE SETBACK**

No stockpile of material may be located within 50 feet of any preserve or public road right of way.

25. **BANK SLOPE**

Prior to MDO, a cross section must be provided showing the reclaimed, post mining banks of the excavations sloped at a ratio not greater than 6 horizontal to 1 vertical from the top of the finished grade to a water depth of four feet below the dry season depth.

26. **CONDITION OF FDEP AND ACOE PERMIT**

To the extent the FDEP and COE conditions are consistent with the provisions of this resolution by the Board and the LDC provisions applicable to local approval of the mine operation, the FDEP permit and ACOE conditions are adopted into this resolution as though fully set forth herein.

27. **CONSERVATION EASEMENT**

Prior to the issuance of a MDO for the property, the applicant will convey a conservation easement in favor of Lee County over those certain lands noted on Exhibit 11. These portions of the site are known as the "Western Slough" and the "Eastern Conservation Lands. Other than incidental excavation necessary to accomplish the mitigation, restoration and maintenance work identified in the "Mitigation and Maintenance Phasing Plan" and the "Lee County Indigenous Preserve Management Plan" prepared by Passarella and Associates, attached as Exhibits 6 and 7 hereto, no excavation activity will take place within the conservation easement areas. However, haul roads and drainage conveyances, as depicted on the Master Concept Plan series will be permitted by the conservation easement. Nothing in this resolution or the easement document will prohibit the completion of the mitigation, maintenance and monitoring activity provided for in condition 22, above. The conservation easement may be a joint easement also granted in favor of the Florida Department of Environmental Protection and/or the US Army Corps of Engineers. The form of conservation easement must be substantially in accordance with Exhibit 10, or in a form acceptable to the County Attorney's Office.

28. **AGRICULTURAL USE**

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

- a. Bona fide agricultural uses that are in existence as of October 1, 2009 and as shown on attached Exhibit 12 may continue until approval of a MOP for the area of the project containing those uses.
- b. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.
- c. Prior to issuance of a MOP, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - (1) Termination of all agricultural use on any portion of the property included in the MOP approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - a) the date the agricultural uses ceased;
 - b) the legal description of the property subject to the MOP approval;

- c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow any such uses on the property unless and until the property is re-zoned to permit such uses; and,
- d) that the affidavit constitutes a covenant between the owner and the county that is binding on the owner and their assignees and successors in interest.
- e) The covenant must be properly recorded in the public records of the county at the owner's expense.

(2) Termination of the agricultural tax exemption for any portion of the property included in the MOP application/approval. Proof as to termination must include a copy of the request to terminate the tax exemption provided to the Property Appraiser.

29. **ACCESS to SOUTH**

Access will be allowed to the south from the Florida Rock Mine (subject property) to the Harper Brothers Mine (see attach legal description of Harper Mine property noted as Exhibit 13) for purposes of processing aggregate excavated from the Florida Rock site.

Any proposed access to the south, including conveyor belt access, must be coordinated to avoid impact to any preserves on-site or to adjacent lands. Any impacts are required to be appropriately mitigated.

No aggregate excavated from the Harper Brothers site may be processed on the Florida Rock Mine property unless Harper Brothers obtains approval reflecting the offsite processing of aggregate at the Florida Rock site. However, material underneath the current Harper Brothers plant site in Section 2, Township 46S, Range 26E can be processed on the Florida Rock Mine property once the processing plant on Harper Brothers is dismantled.

30. **MONITORING REPORTS**

- a. *Cumulative/comprehensive monitoring.* The mine operator must submit monitoring reports in compliance with the provisions of LDC Section 12-118.
- b. *Hazardous materials.* Appropriate notice to State departments/divisions, local fire districts, and Lee County Department of Public Safety must be provided related to the handling and storage of listed hazardous substances, if any, in accordance with the reporting requirements of SARA Title III.
- c. *Blasting reports.* The mine operator must make available, upon reasonable notice, a copy of all seismic data concerning blasting operations to the Chief Code Enforcement Officer for the Lee County Division of Code Enforcement.

31. **ENFORCEMENT**

The Division of Code Enforcement must be permitted to monitor the mine site on a random, continuing basis for compliance with the Lee County Land Development Code. Any on-site visits for monitoring by Lee County personnel must be in accordance with U.S. Mine Safety and Health Act (MSHA) regulations.

32. **USE ALLOCATION**

Approval does not give the Developer the undeniable right to receive local Development Order approval that exceeds the use allocation table, if such allocation exists, for the applicable community.

33. **COMPLIANCE WITH LAND DEVELOPMENT CODE**

This development must comply with the Lee County Land Development Code at the time of local development order approval, except as granted by deviation as part of this planned development or otherwise specifically conditioned in the conditions herein. In accordance with LDC Chapter 12, the MOP approval must include all areas necessary to support the MOP activity, including buffers, berms, processing areas, access areas etc.

34. **CONCURRENCY**

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The applicant is required to demonstrate compliance with all concurrency requirements prior to the issuance of a local development order.

35. **ENVIRONMENT AND NATURAL RESOURCES PROTECTION**

This planned development must comply with LDC Chapter 14, except as specifically conditioned otherwise.

36. **IMPROPERLY CASED OR FREE-FLOWING WELLS**

Prior to local development order approval for any phase of the mine, the property must be surveyed for improperly cased or free-flowing wells. Any such wells must be permanently capped or plugged in accordance with the applicable regulations at the sole expense of the property owner/mine operator.

37. **PHYSICAL PLANT AND OTHER FACILITIES**

- a. Physical plant facilities or other facilities supporting the operation, including but not limited to, scale houses, administrative offices, proposed fueling, vehicle servicing, and truck and tire washing facilities must be depicted on the MDO plans.
- b. A truck and wheel wash must be provided at all locations where trucks/equipment requirement must leave the mine/mine plant areas and travel on private or public roads.

38. **HOURS OF OPERATION**

Mining operations may continue 24 hours per day.

39. **EASTERN CONSERVATION LANDS HAUL ROAD CROSSING**

The applicant will coordinate with the U.S. Fish and Wildlife Service on the design parameters for the "Temporary Haul Road" depicted in Section 32, Township 45 South, Range 27 East on the Master Concept Plan, attached as Exhibit 1-1 thru 1-4, and will incorporate those parameters in the application for a Mining Development Order for that portion or phase of the mine within which the temporary haul road is located.

Measures for the design/usage of the haul road will include:

- No pavement of the roadway, baserock road surface only
- No lighting of the roadway

- No through traffic accessing offsite properties or connecting public roadways will be permitted
- Speed limited to 35 miles per hour
- Traffic limited to haul trucks, mining equipment, employee vehicles and service vehicles
- Roadway width limited to 90' of baserock surface
- Culverts to provide for surface water flow in accordance with FDEP permit requirements, including consideration of 4x8 box culverts for wildlife movement in the design of the Eastern haul road.

40. EXCAVATION OF IDENTIFIED PRESERVE AREAS

In the event that the amendment to the Lee Plan Policy 114.1.1 and Map 14 adopted by Lee County Ordinance 10-20 become effective, Florida Rock may excavate the two (2) Preserve areas noted with an asterisk (*) on the MCP without amending the MCP. If the amendments become effective after the issuance of the MDO, a minor change may be obtained to allow excavation of these areas. The three isolated wetlands, consisting of approximately 27.44 acres of preserves in Phase 1, in Section 33, Township 45 South, Range 26 East, may be excavated as part of the MDO approval, so long as an equivalent amount of preserve or indigenous area is added to the western slough.

41. RESIDENTIAL DEVELOPMENT

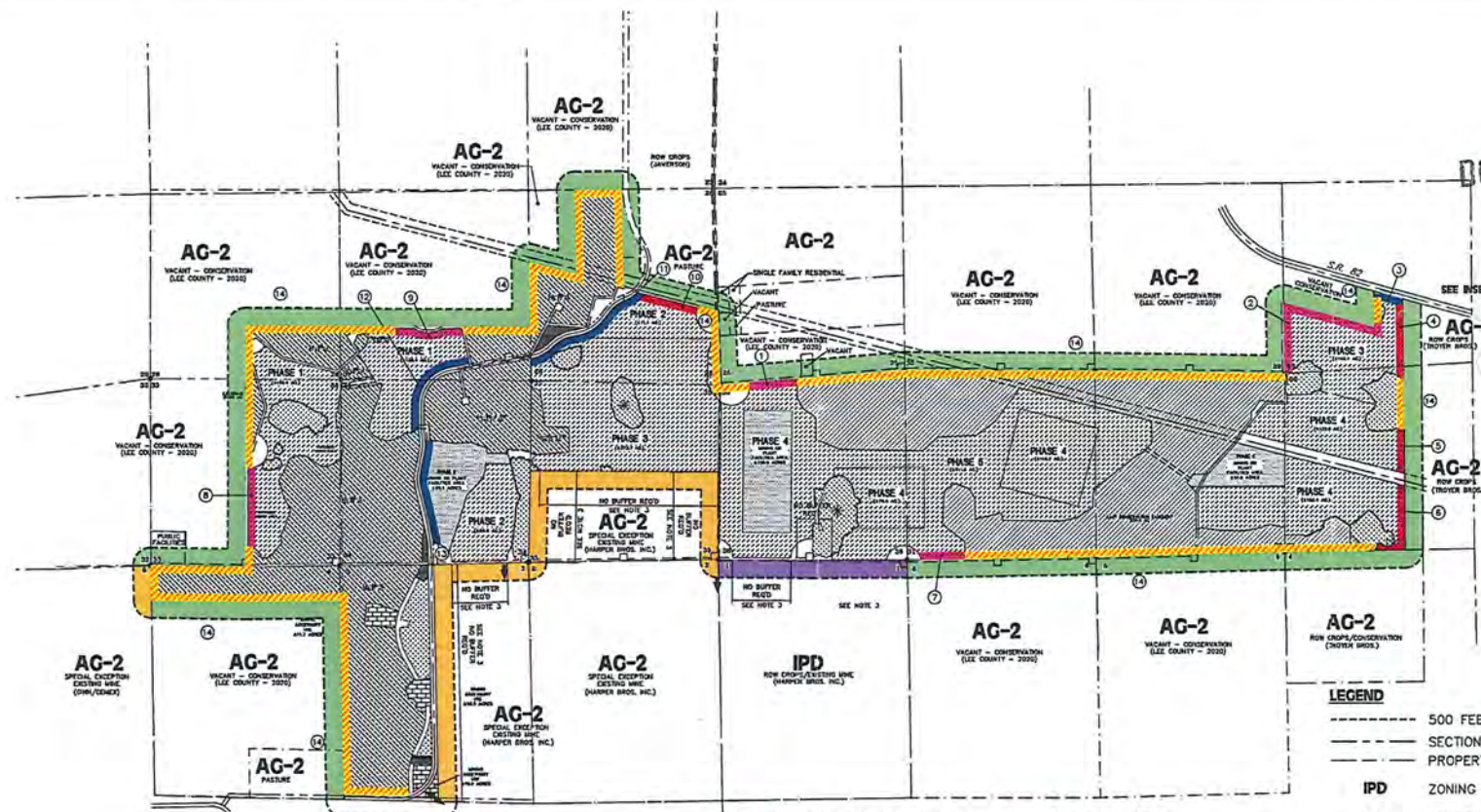
Prior to submitting a development order for residential development on the areas shown on Exhibit 2, the applicant will provide notice to the Conservancy of Southwest Florida, Inc., of the intended development. The applicant will solicit the Conservancy's input pertaining to adequate measures for the protection of wildlife across the roadway connecting the two Phase 1 mine lakes west of the Alico Connector. The applicant must submit documentation of its compliance with this condition with the initial residential development order application.

Exhibits Attached:

- Exhibit 1-1 - Master Concept Plan
- Exhibit 1-2 - Perimeter Buffer Location Plan
- Exhibit 1-3 - Access Location Plan
- Exhibit 1-4 - Culvert Location Plan
- Exhibit 2 - Future Homesite Locations
- Exhibit 3 - Parcel Location Map
- Exhibit 4-1 - Typical Mining Phase Cross Sections
- Exhibit 4-2 - Standard Reclamation & Planting Details
- Exhibit 4-3 - ECL Reclamation & Planting Details
- Exhibit 4-4 - Littoral Shelf/Marsh Location Map
- Exhibit 5 - AG-2 Development Regulations
- Exhibit 6 - Mitigation and Maintenance Phasing Plan
- Exhibit 7 - Lee County Indigenous Preserve Area Management Plan
- Exhibit 8 - Ground Water and Surface Water Monitoring Plan
- Exhibit 9 - Ground Water Quality Testing Parameters
- Exhibit 10 - Draft Deed of Conservation Easement
- Exhibit 11 - Western Slough and Eastern Conservation Lands Location Map
- Exhibit 12 - Agricultural Use Location Map
- Exhibit 13 - Harper Bros. Inc. Mine Legal Description
- Exhibit 14 - Spill Prevention Control and Countermeasure Plan (SPCC)

DCI 2010-00028

Approved as Exhibit 1-2
MCP Page 2 of 4
Resolution # E-12-003



BUFFER REQUIREMENT TABULATION

Buffer Location	Buffer Type	Width	Plantings	Length	10 FT Trees	5 Feet Trees	Shrubs	Seeding, AC	Remarks
1	Conservation	100	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	1100	100	100	100	1.10	
2	Conservation	100	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	4754	475	475	475	5.15	
3	Right-of-Way	50	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	545	54	54	54	0.60	Per Cont. 21, Minimum 8-10 ft Oaks per 100 LF.
4	Agricultural	50	None Required	2118					
5	Agricultural	50	None Required	1505					
6	Agricultural	50	None Required	2028					
7	Conservation	100	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	1100	100	100	100	1.10	
8	Conservation	100	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	2182	218	218	218	2.40	
9	Conservation	100	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	1891	189	189	189	2.10	
10	Agricultural	50	None Required	1706					
11	Right-of-Way	50	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	5053	505	505	505	5.55	Per Cont. 21, Minimum 8-10 ft Oaks per 100 LF.
12	Right-of-Way	50	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	2891	289	289	289	3.19	Per Cont. 21, Minimum 8-10 ft Oaks per 100 LF.
13	Right-of-Way	50	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	2891	289	289	289	3.19	Per Cont. 21, Minimum 8-10 ft Oaks per 100 LF.
14	Private/Other	100	10-12 trees, 10-15 shrubs & 100 shrubs per 100 LF. Seed with herbaceous plants.	6032	603	603	603	6.63	See Exhibit B-1, Mitigation Plan for plantings.
Totals				2128	2128	17934	26.24		

SURROUNDING ZONING LEGEND

- AG-2
- AG-2 W/ SPECIAL EXCEPTION
- IPD-MINING

BUFFER TYPE LEGEND

- ① MINING ADJACENT TO CONSERVATION BUFFER W/ ID
- ② MINING ADJACENT TO AGRICULTURAL BUFFER W/ ID
- ③ MINING ADJACENT RIGHT-OF-WAY BUFFER W/ ID
- ④ ON-SITE PRESERVATION/CONSERVATION ADJACENT TO CONSERVATION/AG. SEE NOTE 2 BELOW.

NOTES:

1. BUFFERS ARE NOT SHOWN TO THE SAME SCALE AS IS REFLECTIVE OF THE REST OF THE DRAWING. SEE THE TABULATION FOR THE ACTUAL BUFFER WIDTHS.
2. PLANTINGS ARE NOT SHOWN FOR BUFFER LOCATION 14. LOCATION WILL MEET THE REQUIREMENTS OF EXHIBIT B MITIGATION AND MAINTENANCE PLAN.
3. THE HARPER BROS. MINE AND THE FLORIDA ROCK MINE #2 PROPERTY ARE UNDER CONSISTENT OWNERSHIP AS WELL AS THE CONSISTENT LAND USE OF ROCK MINING, THEREFORE NO BUFFER IS REQUIRED.

CERTIFICATION:

I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT THIS MAP IS CORRECT, AND SHOWS THE INFORMATION REQUIRED BY THE REQUIREMENTS OF THE LAND DEVELOPMENT CODE TO OBTAIN A MEPO, MDO OR MDP.



REVISION	DATE

FLORIDA ROCK INDUSTRIES, INC.
FT. MYERS MINE NO.2

DESIGNED BY	J.K.H.	DATE	07/09
CHECKED BY	J.K.H.	DATE	07/09
APPROVED BY	T.W.M.	DATE	07/09
SCALE	NONE	PROPORTION	1"= 1200'

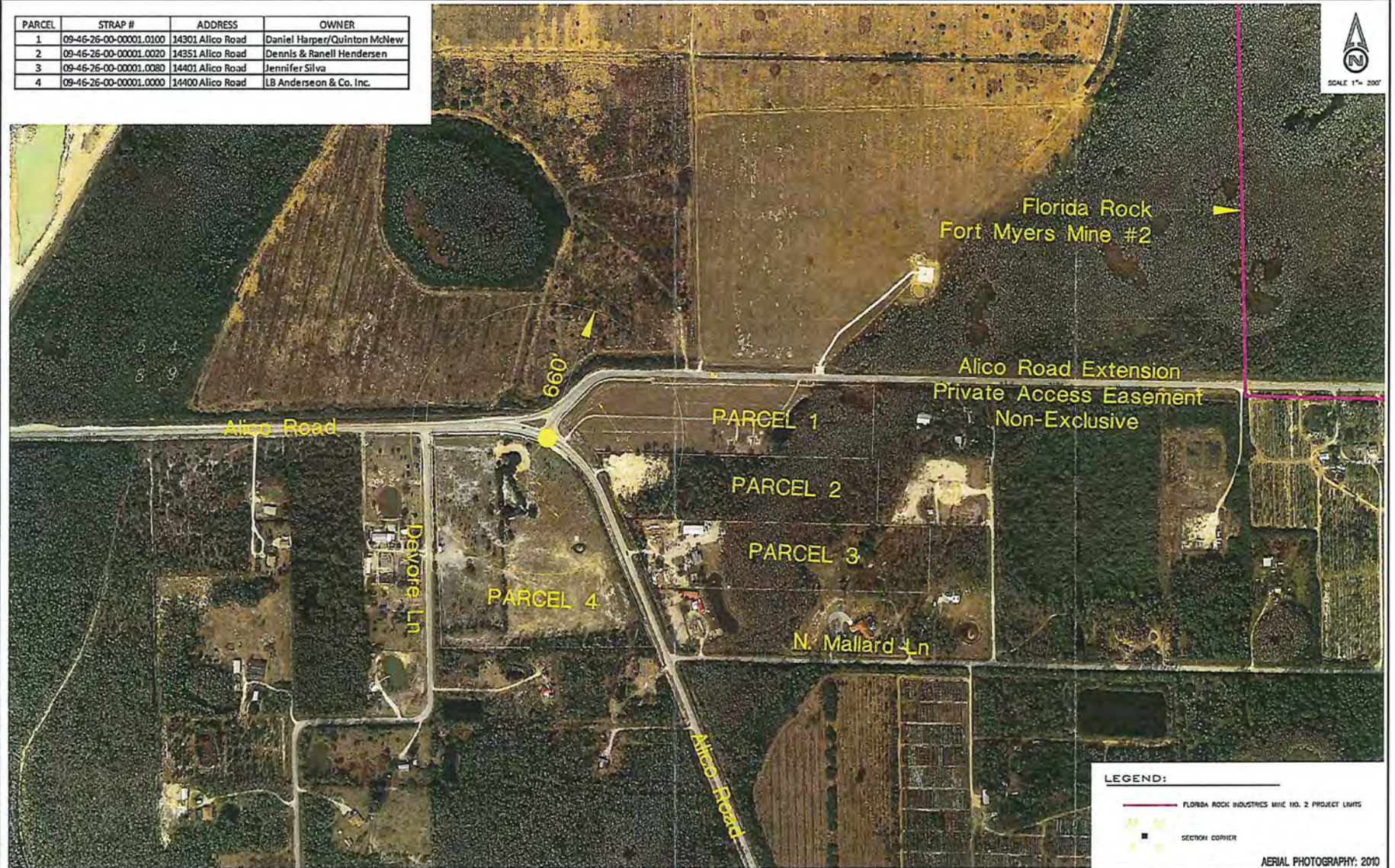


6200 Whiskey Creek Drive
Fort Myers, FL 33919
Phone : (239) 985-1200
Florida Certificate of Authorization No.1772
Naples - Fort Myers - Venice

EXHIBIT 1-2
PERIMETER BUFFER LOCATION PLAN

THESE DRAWINGS ARE NOT APPROVED UNLESS SIGNED AND SEALED BELOW	REFERENCE NO. 05103DBLP	DRAWING NO. EXHIBIT 1-2
SIGNATURE OF REGISTERED PROFESSIONAL ENGINEER DATE	PROJECT NO. 2005.1030	SHEET NO. 2 of 4

PARCEL	STRAP #	ADDRESS	OWNER
1	09-46-26-00-00001.0100	14301 Alico Road	Daniel Harper/Quinton McNew
2	09-46-26-00-00001.0020	14351 Alico Road	Dennis & Ranell Hendersen
3	09-46-26-00-00001.0080	14401 Alico Road	Jennifer Silva
4	09-46-26-00-00001.0000	14400 Alico Road	LB Anderson & Co. Inc.



LEGEND:

- FLORIDA ROCK INDUSTRIES MINE NO. 2 PROJECT LIMITS
- SECTION CORNER

AERIAL PHOTOGRAPHY: 2010

DESIGNED BY J.K.H.	DATE 06/09
DRAWN BY J.K.H.	DATE 06/09
CHECKED BY T.WALL	DATE 06/09
VERTICAL SCALE NONE	HORIZONTAL SCALE 1" = 200'

FLORIDA ROCK INDUSTRIES, INC.
FT. MYERS MINE NO.2



6200 Whiskey Creek Drive
Fort Myers, FL 33919
Phone : (239) 985-1200
Florida Certificate of
Authorization No.1772

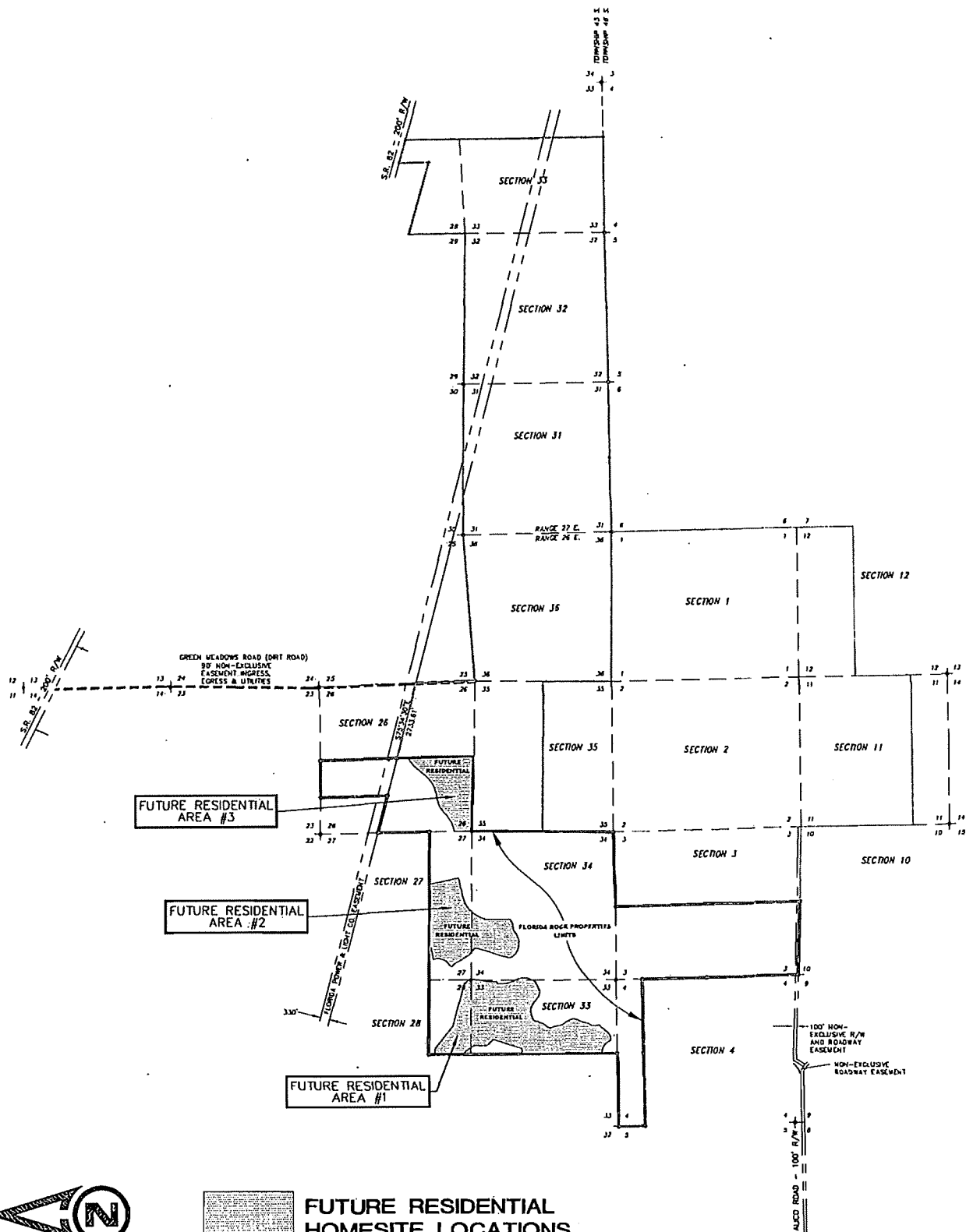
EXHIBIT 1-3
ACCESS LOCATION PLAN

THESE DRAWINGS ARE NOT APPROVED UNLESS SIGNED AND SEALED BELOW :	REFERENCE NO. 06103AER	DRAWING NO. EX 1-3
FOUNDER'S REVIEW AND APPROVAL REQUIRED DATE:	PROJECT NO. 06.103-23	SHEET NO. 3 of 4

REVISED
FEB 01 2012

COMMUNITY DEVELOPMENT

Approved as Exhibit 1-3
MGP Page 3 of 4
Resolution # 2-12-003



SCALE: 1" = 5000'



FUTURE RESIDENTIAL HOMESITE LOCATIONS

EXHIBIT 2



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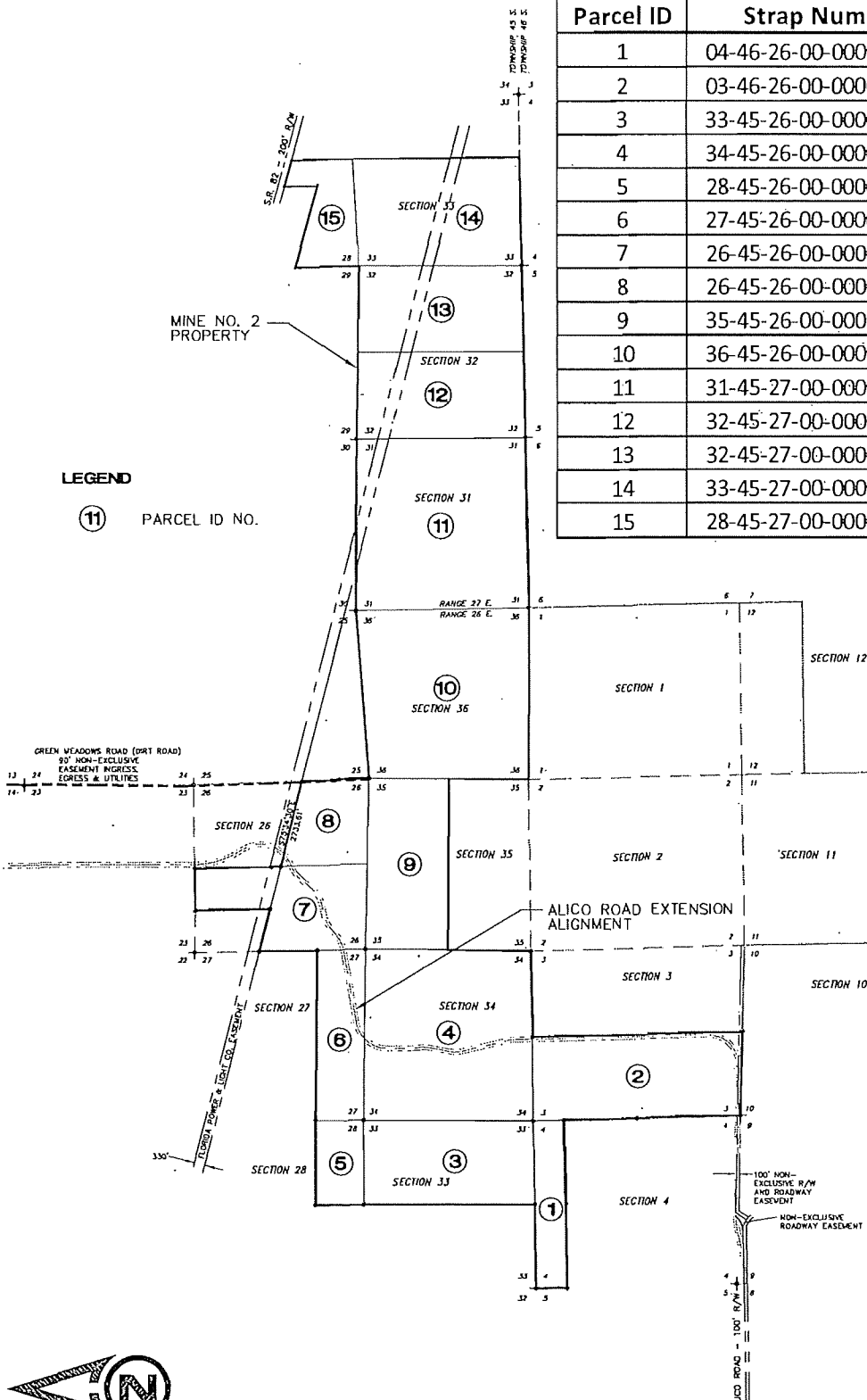
FUTURE HOMESITE LOCATIONS

FLORIDA ROCK MINE NO. 2

FIGURE NO.

EX 2

Parcel ID	Strap Number	Owner of Record
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2	03-46-26-00-00001.0000	F.R.P.
3	33-45-26-00-00001.1000	F.R.P.
4	34-45-26-00-00001.0000	F.R.P.
5	28-45-26-00-00001.1000	F.R.P.
6	27-45-26-00-00001.1000	F.R.P.
7	26-45-26-00-00002.1000	F.R.P.
8	26-45-26-00-00001.0020	F.R.I.
9	35-45-26-00-00001.0000	F.R.I.
10	36-45-26-00-00001.0000	F.R.I.
11	31-45-27-00-00001.0000	F.R.I.
12	32-45-27-00-00001.0010	F.R.I.
13	32-45-27-00-00001.0000	F.R.I.
14	33-45-27-00-00001.0040	F.R.I.
15	28-45-27-00-00001.0030	F.R.I.



SCALE: 1" = 5000'



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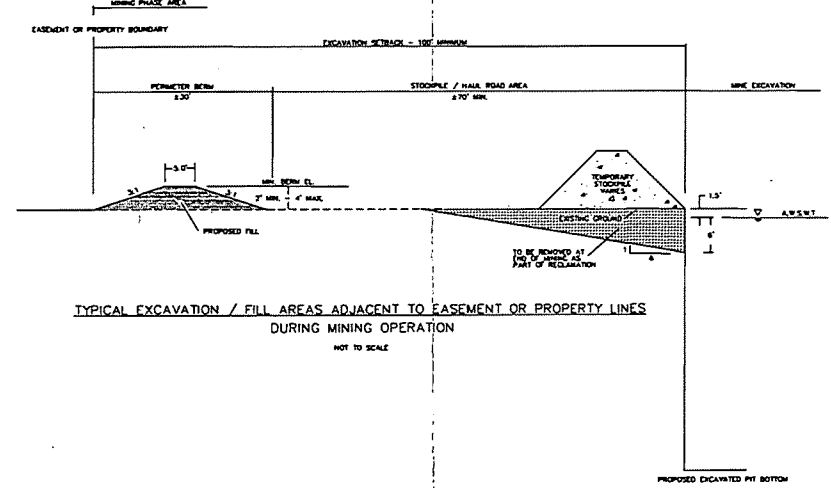
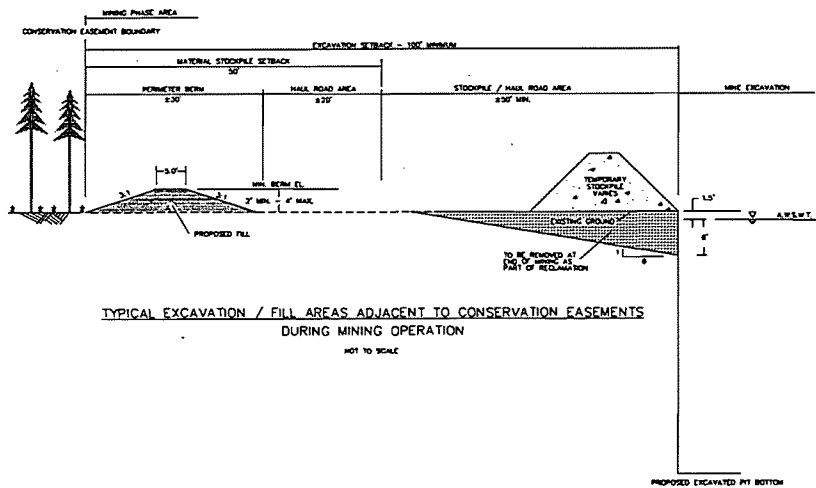
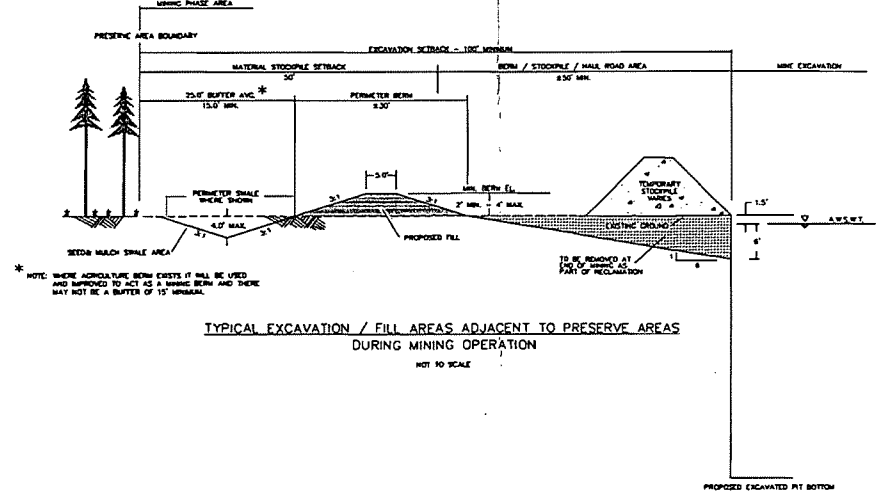
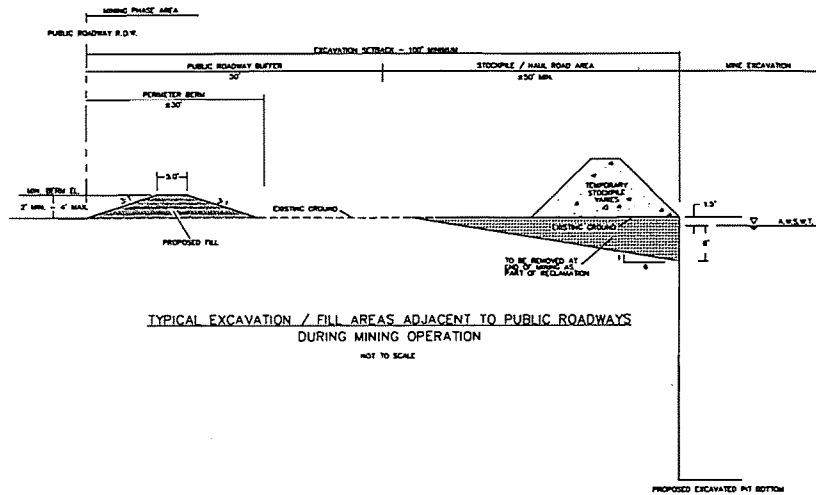
PARCEL LOCATION MAP

FLORIDA ROCK MINE NO. 2

EXHIBIT 3

FIGURE NO.

EX 3



REVISIONS	DATE
1	12-3-11
2	
3	
4	
5	
6	
7	
8	
9	
10	

FLORIDA ROCK INDUSTRIES
Ft. Myers - Mine No. 2

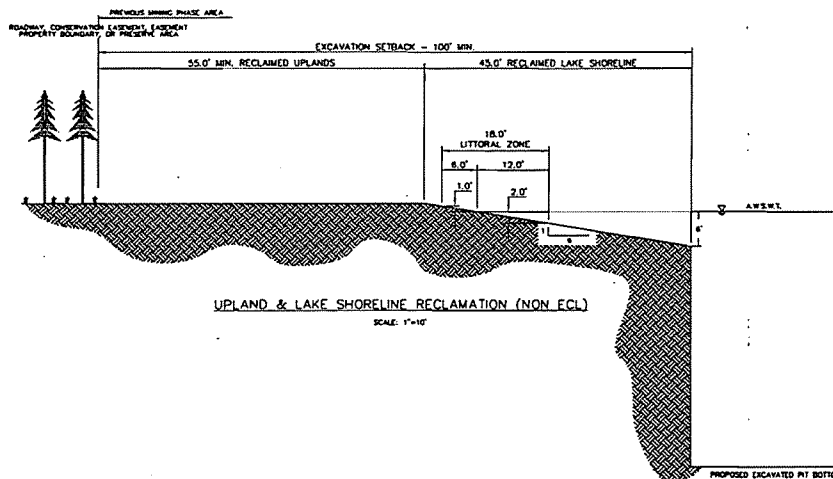
DESIGNED BY: J.K.H./T.W.M.
DATE: 7-08
CHECKED BY: J.K.H.
DATE: 7-08
VERTICAL SCALE: NONE
HORIZONTAL SCALE: 1"=10'



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Florida Certificate of
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EXHIBIT 4-1
TYPICAL MINING PHASE CROSS SECTIONS

REFERENCE NO.	DRAWING NO.
EX 4	EX 4-1
PROJECT NO.	SHEET NO.
2006.103D	1 OF 4



Planting Plan for Reclaimed Uplands

- After obtaining final grades per approved reclamation cross-section, uplands will be seeded with bahia (*Paspalum notatum*). Bahia to achieve 80 percent coverage within one year of seeding with no bare areas exceeding 0.25 acre in size.
 - Ten percent of the reclaimed uplands shall be re-vegetated as forested areas. Trees shall be planted at a density of 200 per acre and shall be a minimum of one gallon container size. The following tree species shall be planted:
 - Slash pine (*Pinus elliotii*)
 - Live oak (*Quercus virginiana*)
 - Cabbage palm (*Sabal palmetto*)
- No one tree species shall comprise more than 50 percent of the total plantings.

Planting Plan for Reclaimed Lake Shoreline

- After obtaining final grades per approved reclamation cross-section, 25 percent of the lake shoreline perimeter shall be planted. The plants will be installed within the littoral zone from approximately one foot above to two feet below average wet season water table. Planting quantities for herbaceous plants will be based on one plant per one foot of total lake shoreline perimeter. Herbaceous plantings will be two inch container size or liners. A minimum of four of the following herbaceous species shall be planted:
 - Cordgrass (*Spartina bakeri*)
 - Spikerush (*Eleocharis interstincta*)
 - Duck potato (*Sagittaria lanceolata*)
 - Pickertweed (*Pontederia cordata*)
 - Alligator flag (*Thalia geniculata*)
 - Maidencane (*Panicum hemitomon*)
 - Sawgrass (*Cladium jamaicense*)
 - Giant bulrush (*Scirpus californicus*)
 - Forty percent of the planted area (ten percent of the total lake shoreline perimeter) shall include tree plantings. Trees shall be planted at a density of 200 trees per acre and shall be a minimum of one gallon container size. The following tree species shall be planted:
 - Cypress (*Taxodium distichum*)
 - Red maple (*Acer rubrum*)
 - Carolina willow (*Salix caroliniana*)
- No one tree species shall comprise more than 50 percent of the total plantings.

TYPICAL RECLAMATION EXAMPLE

Mining Lake Shoreline Perimeter, length = 5,280 LF
 Reclamation length = 25% of shoreline perimeter = 5,280 LF x 0.25 = 1,320 LF
 Reclamation width = 1 foot above and 2 feet below WSWT x reclamation slope (6:1) = (1+2) x 6 = 18 feet
 Reclamation Area = length (1,320 ft) x width (18 ft) = 23,760 SF or 0.55 Acres
 Total Herbaceous Plantings Required = 1 per LF of required shoreline = 5,280 plants planted within the 23,760 SF planting area
 Tree Planting Area = 40% of reclamation area = .40 x 23,760 SF = 9,504 SF or 0.22 Acres
 Total Trees Required = 200 trees per acre = 0.22 Acres x 200 trees/acre = 44 trees within the 9,504 sf planting area



RE-SUBMITTED FOR COUNTY STAFF REPORT	12-5-11
REVISIONS	DATE

FLORIDA ROCK INDUSTRIES
Ft. Myers - Mine No. 2

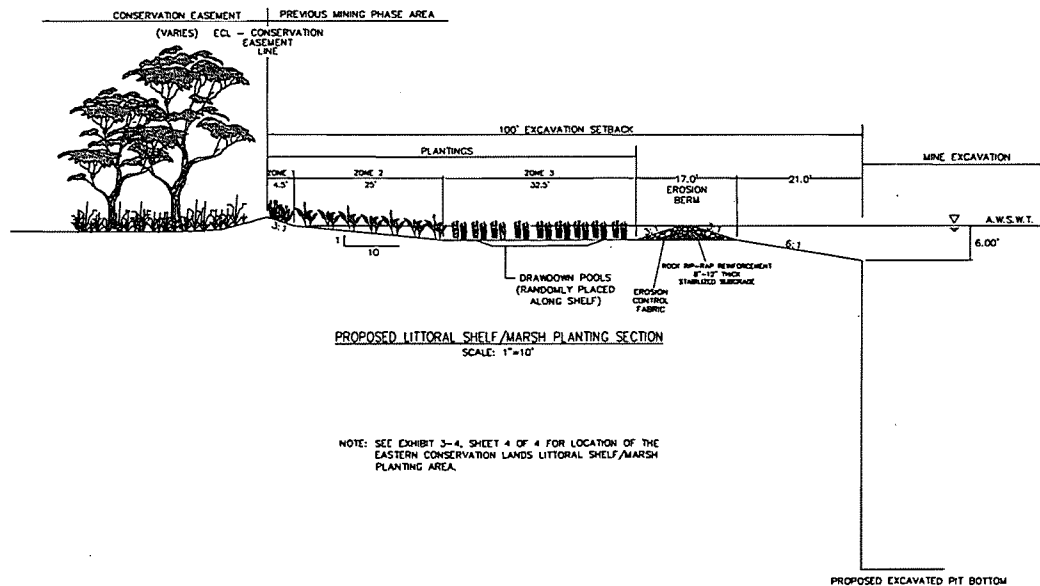
DESIGNED BY: J.K.H./T.W.M.	DATE: 7-08
DRAWN BY: J.K.H.	DATE: 7-08
CHECKED BY: T.W.M.	DATE: 7-08
VERTICAL SCALE: NONE	HORIZONTAL SCALE: 1"=10'



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Fort Myers, FL 33919
Phone : (239) 985-1200
Florida Certificate of
Authorization No.1772

EXHIBIT 4-2
STANDARD (NON EASTERN CONSERVATION LANDS [ECL])
RECLAMATION & PLANTING DETAILS

REFERENCE NO. EX 4	DRAWING NO. EX 4-2
PROJECT NO. 2006.103D	SHEET NO. 2 OF 4



PROPOSED LITTORAL SHELF/MARSH PLANTING SECTION
SCALE: 1"=10'

NOTE: SEE EXHIBIT 3-4, SHEET 4 OF 4 FOR LOCATION OF THE EASTERN CONSERVATION LANDS LITTORAL SHELF/MARSH PLANTING AREA.

Fort Myers Mine No. 2 Proposed Littoral Shelf/Marsh Planting Details

Zone	Elevation	Plant Species		Container Size	Minimum Height	Planting Spacing (On Center)
		Common Name	Scientific Name			
1	1.5 feet above AWSWT to AWSWT	Blue Flag Iris	<i>Iris virginica</i>	Here Root or 1 inch	12"	3'
		Goldenrod	<i>Quercus prinus</i>			
		Goldenrod	<i>Quercus prinus</i>			
		Goldenrod	<i>Quercus prinus</i>			
		Goldenrod	<i>Quercus prinus</i>			
		Goldenrod	<i>Quercus prinus</i>			
2	AWSWT to 1.5 feet below AWSWT	Blackberry	<i>Rubus coccineus</i>	Here Root or 1 inch	12"	3'
		Blackberry	<i>Rubus coccineus</i>			
		Blackberry	<i>Rubus coccineus</i>			
		Blackberry	<i>Rubus coccineus</i>			
		Blackberry	<i>Rubus coccineus</i>			
		Blackberry	<i>Rubus coccineus</i>			
3	1.5 feet below AWSWT to 2.0 feet below AWSWT	Blackberry	<i>Rubus coccineus</i>	Here Root or 1 inch	12"	3'
		Blackberry	<i>Rubus coccineus</i>			
		Blackberry	<i>Rubus coccineus</i>			
		Blackberry	<i>Rubus coccineus</i>			
		Blackberry	<i>Rubus coccineus</i>			
		Blackberry	<i>Rubus coccineus</i>			
3 (Drawdown Ponds)	2.0 feet below AWSWT to 2.5 feet below AWSWT	Blackberry	<i>Rubus coccineus</i>	1 Gallon	36"	10'
		Blackberry	<i>Rubus coccineus</i>			

Notes:
1. AWSWT = Average Wet Season Water Table
2. Minimum of four species to be planted for Zones 1 and 2 and one species may constitute more than 25 percent of the total plantings.
3. Minimum of three species to be planted for Zone 3 (including drawdown ponds) and one species may constitute more than 25 percent of the total plantings.

Passarella & Associates, Inc.
9771 RD 74 - Revised 06/24/09

1 of 1

REVISIONS	DATE
1. SUBMITTED FOR COUNTY DEPT REPORT	12-5-11

FLORIDA ROCK INDUSTRIES
FL. Myers - Mine No. 2

DESIGNED BY: J.K.H./T.W.M.	DATE: 7-08
CHECKED BY: T.W.M.	DATE: 7-08
VERTICAL SCALE: NONE	HORIZONTAL SCALE: 1"=10'



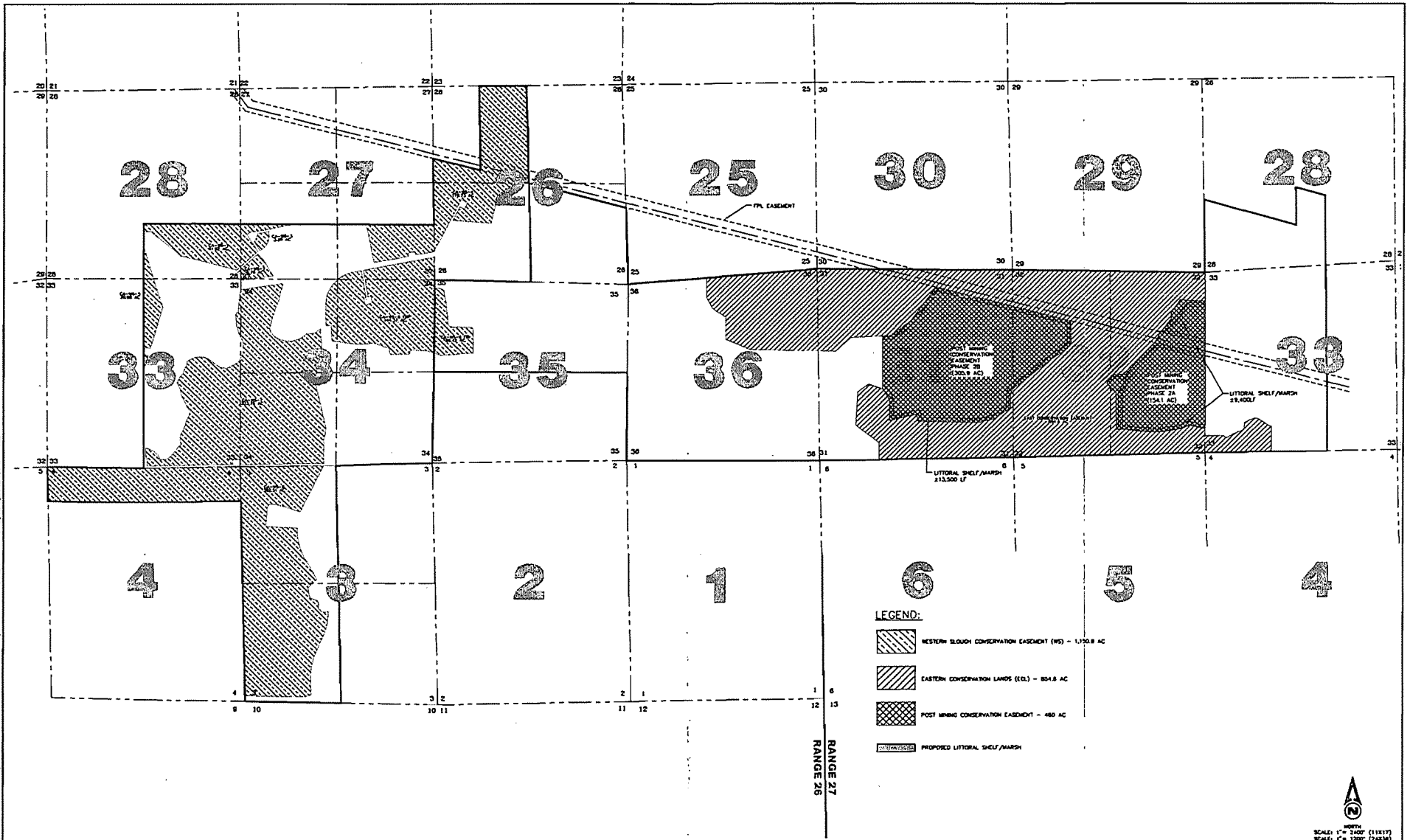
6202-F Presidential Court
Fort Myers, FL 33919
Phone : (238) 985-1200
Florida Certificate of
Authorization No.1772

EXHIBIT 4-3
EASTERN CONSERVATION LANDS (ECL) RECLAMATION & PLANTING DETAILS

REFERENCE NO. EX 6	DRAWING NO. EX 4-3
PROJECT NO. 2006.103D	SHEET NO. 3 OF 4



1. This drawing is the property of H.M. Hole Montes Engineers, Planners, Surveyors, Inc. and should not be used for any other purpose without the written consent of H.M. Hole Montes Engineers, Planners, Surveyors, Inc.



DESIGNED BY	J.K.H./T.W.M.	DATE	7-09
DRAWN BY	J.K.H.	DATE	7-09
CHECKED BY	T.W.M.	DATE	7-09
VERTICAL SCALE	NONE	HORIZONTAL SCALE	1"=1200'
RE-SUBMITTED FOR COUNTY STAFF REPORT	12-3-11	DATE	
REVISIONS			

FLORIDA ROCK INDUSTRIES
 Ft. Myers - Mine No. 2



6202-F Presidential Court
 Fort Myers, FL 33919
 Phone : (239) 985-1200
 Florida Certificate of
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EXHIBIT 4-4
 LITTORAL SHELF/MARSH LOCATION MAP

REFERENCE NO.	EX 4	DRAWING NO.	EX 4-4
PROJECT NO.	2006.103D	SHEET NO.	4 OF 4

Exhibit 5

§ 34-654

LEE COUNTY LAND DEVELOPMENT CODE

Sec. 34-654. Property development regulations table.

Property development regulations for agricultural districts are as follows:

TABLE 34-654. PROPERTY DEVELOPMENT REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Minimum lot dimensions and area:	Note (1)			
Minimum lot area:	Notes (2) and (6)			
Interior lot	34-2221, 34-2222	4.7 acres	39,500 sq. ft.	20,000 sq. ft.
Corner lot	34-2221, 34-2222	4.4 acres	33,600 sq. ft.	20,000 sq. ft.
Minimum lot width (feet)		300	100	100
Minimum lot depth (feet)		300	130	130
Minimum setbacks:				
Street (feet)	Notes (3) and (4), 34-2191 et seq., 34-1261 et seq.	Variable according to the functional classification of the street or road (see section 34-2192), but in no case less than 50 feet in the AG-1 district.		
Side yard (feet)		25	15	15
Rear yard (feet)	34-2191 et seq.	25	25	25
Water body (feet):	34-2191 et seq.			
Gulf of Mexico		50	50	50
Other		25	25	25
Special regulations:				
Animals, reptiles, marine life	34-1291 et seq.	Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.		
Consumption on premises	34-1261 et seq.			
Docks, seawalls, etc.	34-1863 et seq.			
Essential services	34-1611 et seq.			
Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142			
Fences, walls, gatehouses, etc.	34-1741 et seq.			
Nonroofed accessory structures	34-2194(c)			
Railroad right-of-way	34-2195			
Maximum height (feet)	34-2171 et seq.	35	35	35
		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2175).		
Maximum lot coverage (percent of total lot area)		25%	25%(5)	25%

Notes:

- (1) Certain projects in agricultural districts may fall within the density reduction/groundwater resource areas of the Lee Plan. In such areas, additional density and use restrictions are applicable. Permitted land uses in density reduction/groundwater resource areas include agriculture, mineral or limestone extraction, conservation uses, and residential uses at a maximum density of one dwelling unit per ten acres. Individual residential parcels may contain up to two acres of wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetlands.
- (2) Any lot created in the rural community preserve land use category (as delineated by policy 17.1.3 of the Lee Plan) after July 9, 1991, must have a minimum area of 43,560 square feet excluding all street rights-of-way.
- (3) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted only by variance. See section 34-2191 et seq.
- (4) Special street setback provisions apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b)(3) and (4).
- (5) For nonconforming lots, as defined in section 34-3271, the maximum lot coverage will be 40 percent.



* EXCAVATION OF THESE PRESERVE AREAS, AND A CORRESPONDING DECREASE IN PRESERVE ACREAGE AND INCREASE IN EXCAVATION ACREAGE, MAY BE APPROVED PURSUANT TO CONDITION #40 OF THE ZONING APPROVAL, THRU THE MDO PROCESS.

LEGEND:

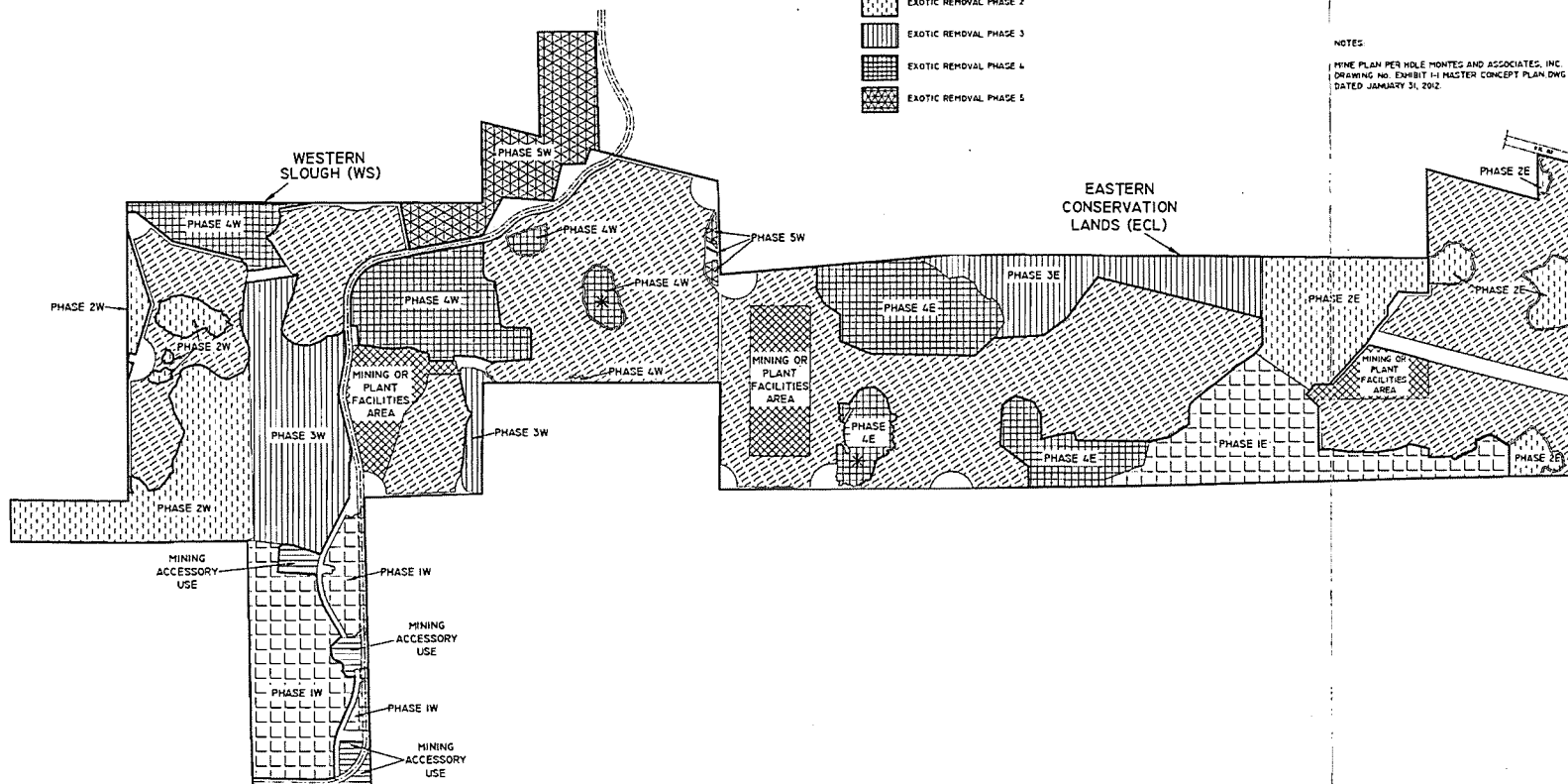
- EXCAVATION, MINING
- MINING OR MINING ACCESSORY USE
- MINING OR PLANT PLANT FACILITIES AREA
- MINING ACCESSORY USE
- SETBACKS/HAUL ROADS/STOCKPILE/OPEN SPACE
- EXOTIC REMOVAL PHASE 1
- EXOTIC REMOVAL PHASE 2
- EXOTIC REMOVAL PHASE 3
- EXOTIC REMOVAL PHASE 4
- EXOTIC REMOVAL PHASE 5

Phase	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
WS and Adjacent Preserve Areas																			
ECL and Adjacent Preserve Areas																			

+ Indicates initial exotic removal
● Indicates grading, planting, and initial exotic removal
★ Indicates annual maintenance

NOTES

MINE PLAN PER HOLE MONTES AND ASSOCIATES, INC.
DRAWING NO. EXHIBIT H-1 MASTER CONCEPT PLAN DWG
DATED JANUARY 31, 2012



REVISIONS	DATE	DRAWN BY	DATE
Revised per new MCP	8/12/09	W.C., J.L.	7/20/09
Revised per new MCP	1/14/10	DESIGNED BY	DATE
Revised per new batch	5/25/10	D.T.	7/20/09
Revised per new MCP	6/14/10	REVIEWED BY	DATE
Revised per new MCP	6/17/11	K.C.P.	7/20/09
Revised per new MCP	1/31/12		

13620 Metropolis Avenue
Suite 200
Fort Myers, Florida 33912
Phone (239) 274-0067
Fax (239) 274-0069



FORT MYERS MINE NO. 2
MITIGATION AND MAINTENANCE PHASING PLAN

DRAWING No.	97FR1074
EXHIBIT No.	6

Exhibit 7

FLORIDA ROCK INDUSTRIES, INC. FORT MYERS MINE NO. 2 LEE COUNTY INDIGENOUS PRESERVE MANAGEMENT PLAN

Revised January 31, 2012

INTRODUCTION

The following outlines the Lee County indigenous preserve management plan for the Florida Rock Industries, Inc. Fort Myers Mine No. 2 located in Sections 26, 27, 28, 33, 34, 35, and 36, Township 45 South, Range 26 East; Sections 28, 31, 32, and 33, Township 45 South, Range 27 East; and Sections 3 and 4, Township 46 South, Range 26 East, Lee County. The Lee County preserves include the "Western Slough" located in Sections 26, 27, 28, 33, 34, and 35; Township 45 South; Range 26 East and Sections 3 and 4, Township 46 South, Range 26 East; the "Eastern Conservation Lands" located in Section 36, Township 45 South, Range 26 East and Sections 31 and 32, Township 45 South, Range 27 East; and other areas labeled "Preserve" on the Master Concept Plan.

Management activities for the Western Slough include the removal of exotics from the slough and adjacent uplands. Management activities for the Eastern Conservation Lands include the removal of exotics from wetlands and uplands, as well as, wetland creation and upland restoration within existing farm fields. A total of 460± acres of lake and reclaimed shoreline within Sections 31 and 32 will be made part of the Eastern Conservation Lands at post-mining. Management activities for the Preserve areas include the removal of exotics from wetlands and uplands.

METHOD AND FREQUENCY OF PRUNING AND TRIMMING

Exotic removal is scheduled to begin after applicable permits and approvals have been attained. Due to the size of the Lee County preserves, the removal of exotics will be phased and conducted over a period of 19 years in accordance with Exhibit 6. The initial exotic removal within the Western Slough and the adjacent Preserve areas will be conducted over a period of five years from Years 1 through 5. The initial exotic removal of the Eastern Conservation Lands and the adjacent Preserve areas will be conducted over a period of four years from Years 11 through 14. Wetland creation and upland restoration, which involves grading of existing farm fields and installation of native plants within the Eastern Conservation Lands, will also occur in Years 11 through 14. Exotic maintenance of each phase will be conducted for a period of five years following the initial removal of exotics. Shoreline reclamation that includes creation of marsh habitat within Sections 31 and 32 of the Eastern Conservation Lands will be constructed upon completion of mining activities in those areas.

Following the completion of the initial exotic removal, regular inspections of the Lee County preserves will occur. Inspections will occur annually for a period of five years. During these

inspections, the preserve areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotics species will be identified for treatment. Annual maintenance will be conducted following the above-described inspections. Exotic maintenance within each phase of the preserves will be conducted annually in accordance with Exhibit 6.

The management activities will be completed in accordance with the Florida Department of Environmental Protection (FDEP) and U.S. Army Corps of Engineers (Corps) permits for Fort Myers Mine No. 2.

REMOVAL AND CONTROL OF EXOTIC AND NUISANCE PLANTS

Prohibited invasive exotics will be eradicated from the Lee County preserves (Table 1). The selective removal of exotics will include one or more of the following methods: (1) cut exotics within 12 inches of ground elevation, hand remove cut vegetation, and treat remaining stump with approved herbicide; (2) girdle standing melaleuca (*Melaleuca quinquenervia*)/Australian pine (*Casuarina equisetifolia*) with diameter at breast height (DBH) greater than 6 inches and apply approved herbicide to cambium; (3) foliar application of approved herbicide to melaleuca/Australian pine saplings and Brazilian pepper (*Schinus terebinthifolius*)/downy rose myrtle (*Rhodomyrtus tomentosus*); and (4) foliar application of approved herbicide or hand pulling of exotic seedlings.

Table 1. Prohibited Invasive Exotics

Common Name	Scientific Name
Air potato	<i>Dioscorea alata</i>
Australian pines	All <i>Casuarina</i> species
Bishopwood	<i>Bischofia javanic</i>
Brazilian pepper	<i>Schinus terebinthifolius</i>
Carrotwood	<i>Cupaniopsis anacardioides</i>
Chinese tallow	<i>Sapium sebiferum</i>
Cork tree	<i>Thespesia populnea</i>
Cuban laurel fig	<i>Ficus microcarpa</i>
Downy rose myrtle	<i>Rhodomyrtus tomentosus</i>
Earleaf acacia	<i>Acacia auriculiformis</i>
Japanese climbing fern	<i>Lygodium japonicum</i>
Java plum	<i>Syzygium cumini</i>
Melaleuca	<i>Melaleuca quinquenervia</i>
Murray red gum	<i>Eucalyptus camaldulensis</i>
Old world climbing fern	<i>Lygodium microphyllum</i>
Rose apple	<i>Syzygium jambos</i>
Rosewood	<i>Dalbergia sissoo</i>
Tropical soda apple	<i>Solanum viarum</i>

Table 1. (Continued)

Common Name	Scientific Name
Wedelia	<i>Wedelia trilobata</i>
Weeping fig	<i>Ficus benjamina</i>
Woman's tongue	<i>Albizia lebbek</i>

ADDITIONAL MANAGEMENT ACTIVITIES

Eastern Conservation Lands – Wetland Creation

A total of 35± acres of wetlands will be created from existing farm fields within the Eastern Conservation Lands in Years 11 and 12. Wetland creation will consist of three areas in accordance with the FDEP and Corps permits for Fort Myers Mine No. 2. The existing farm fields, including the ditches and berms, will be contoured to four inches below the final grades and a four inch layer of wetland topsoil will then be added to the contoured site in order to obtain final wetland grades. Wetland topsoil will be excavated from pre-approved donor sites within the FDEP and Corps permitted wetland impact areas. An as-built survey of the graded site will be performed to ensure the desired elevations have been obtained. After review and approval of the final grades, the area will be planted as shown in Table 2.

Table 2. Planting Schedule for Wetland Creation Areas

Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Instructions (On Center)
Arrowhead	<i>Sagittaria lancifolia</i>	12 in.	4 in.	3 ft.
Bulrush	<i>Scirpus validus</i>	12 in.	4 in.	3 ft.
Carolina willow	<i>Salix caroliniana</i>	12 in.	1 gal.	3 ft.
Cordgrass	<i>Spartina bakeri</i>	12 in.	4 in.	3 ft.
Fireflag	<i>Thalia geniculata</i>	12 in.	4 in.	3 ft.
Gulfdune paspalum	<i>Paspalum monostachyum</i>	12 in.	4 in.	3 ft.
Maidencane	<i>Panicum hemitomon</i>	12 in.	4 in.	3 ft.
Pickerelweed	<i>Pontederia cordata</i>	12 in.	4 in.	3 ft.
Sawgrass	<i>Cladium jamaicense</i>	12 in.	4 in.	3 ft.
Spatterdock	<i>Nuphar advena</i>	24 in.	1 gal.	25 ft.
Spikerush	<i>Eleocharis interstincta</i>	12 in.	4 in.	3 ft.
Spikerush	<i>Eleocharis geniculata</i>	12 in.	4 in.	3 ft.

The goal of the wetland creation activities will be the construction of herbaceous wetlands in the Eastern Conservation Lands to establish additional wading bird habitat on-site. The created wetlands will be graded to varying depths to allow the concentration of prey for wading birds at alternating times of the year as water levels recede and rise. In addition, a willow island

surrounded by deeper water habitat will be created in one of the wetland creation areas to encourage the establishment of wading bird rookery sites.

Eastern Conservation Lands – Upland Restoration

A total of 145± acres of existing farm fields within the Eastern Conservation Lands will be restored to native uplands in Years 11 through 14. Restoration will include backfilling ditches and contouring the existing farm fields to the grades in accordance with the FDEP and Corps permits for Fort Myers Mine No. 2. The graded uplands will be contoured to aid sheet flow to existing and created wetlands. An as-built survey of the graded uplands will be performed to ensure the desired elevations have been obtained. After review and approval of the final grades, the area will be seeded with native grass seed to stabilize the soil and then planted as shown in Table 3. The native grass species for soil stabilization will be dependent on availability at the time of seeding.

Table 3. Planting Schedule for Upland Restoration Areas

Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Instructions (On Center)
Slash pine	<i>Pinus elliottii</i>	Seedling	–	15 ft.
Saw palmetto	<i>Serenoa repens</i>	12 in.	1 gal.	15 ft.
Wire grass	<i>Aristida stricta</i>	12 in.	4 in.	15 ft.

Western Slough and Eastern Conservation Lands – Cattle Grazing and Prescribed Fire

The use of livestock in conservation easement areas will cease upon issuance of a Mining Operation Permit (MOP) for the adjacent mining. Any use of livestock as a land management technique will require a modified indigenous management plan to address livestock grazing on the conservation lands. The revised indigenous management plan for cattle grazing will include at a minimum, the specific information on the cattle stocking rate, monitoring of the vegetation to insure the animals do not overgraze on the indigenous plant material with criteria, baseline photographs of conservation easements, length of time grazing in the area, and how the restoration plantings will be protected from grazing to allow growth, etc. The littoral shelf will be protected from impacts during and after mining. If the agricultural use of livestock is the intended post mine use, adequate fencing will be installed to protect the littoral shelf from livestock damage.

Prescribed fire may be implemented as a management tool for the uplands within the preserves.

DEBRIS REMOVAL

Cuttings will be removed from the site or left on the site. If left on the site, smaller cuttings will be stacked butt end to the ground into a nearly vertical position (i.e., teepee method). Larger cuttings will be cut and stacked side by side into an area approximately six feet on a side.

Cuttings will be stacked perpendicular to the previous layer up to a height of approximately four feet (i.e., log cabin method).

PROTECTED SPECIES MANAGEMENT PLANS

Prior to the issuance of a Mining Development Order and MOP for all or a portion of the property, a protected species survey will be conducted in accordance with the provisions of the Land Development Code (LDC) and submitted for review and approval by Environmental Sciences. The protected species survey will include the adjoining preserves adjacent to the lake excavation. The approved survey will be valid for five years. A protected species management plan per LDC 10-474 will be prepared and submitted for review and approval by the Division of Environmental Sciences or its successor for any protected species found on the parcel during the protected species survey or during operation of the mine.

MONITORING REPORTS

Monitoring reports for each mitigation/maintenance phase, including a narrative documenting the conditions of the Lee County preserves, along with photographic documentation will be submitted to DES staff. A monitoring report for each phase will be submitted prior to Development Order approval to document existing conditions within that phase. Prior to the Certificate of Compliance (CC) approval, subsequent monitoring reports for each phase will be completed to document ecological management activities that have occurred. If review of the monitoring reports reveal death or significant decline to preserve vegetation, then revision of the management plan may be required.

Exhibit 8

Florida Rock Industries – Mine No. 2 Groundwater and Surface Water Monitoring Plan

Introduction

Vulcan Materials Company (Florida Rock Division) currently owns a large parcel of land known as the Fort Myers Mine No. 2 property in south Lee County. The existing Harper Brothers mine is located just to the south of the Mine No. 2 site. The Harper Brothers site has an extensive monitoring system in place that was completed in conjunction with feedback and recommendations from Lee County staff. Approximately 2,027.6 acres of the 4,839.7 acre Mine No. 2 site will be excavated. The site location is shown on Figure 1.

The project is located within the Lee County government land use classification known as the Density Reduction/Groundwater Resource (DR/GR) area. The property also lies within an area that a recent report commissioned by Lee County, "PROSPECTS FOR SOUTHEAST LEE COUNTY PLANNING FOR THE DENSITY REDUCTION / GROUNDWATER RESOURCE AREA (DR/GR)" by Dover Kohl & Partners, designated as a preferred mining area.

The goal of Florida Rock is to operate the Fort Myers Mine No. 2 in a manner that will assure the protection of surface water and groundwater quality. This monitoring plan details the measures to be taken to establish background water level and water quality conditions at the project site. In addition, the mine operators desire to conduct limited dewatering (overburden only) at the site so a general dewatering plan has been developed. Specific details regarding dewatering at the site will be presented when a dewatering permit from the SFWMD is applied for.

Monitoring Plan

The objective of the proposed baseline monitoring is to collect data that documents current water levels and groundwater quality in the project area, prior to the proposed mining/excavation activities. The baseline monitoring plan is discussed in more detail below.

The proposed groundwater and surface water monitoring program will consist of sixteen groundwater monitor wells (eight paired-wells) to monitor groundwater levels and water quality across the property. In addition, three shallow wetland monitoring wells/staff gauges will be constructed to monitor water levels in environmentally sensitive areas. Two rainfall gauges will also be installed at the mine site to record on-site precipitation. Two flow way monitoring sites will be established to measure and record surface water quality coming onto and leaving the mine site property. Two additional monitoring sites

will be established to monitor the surface water flows through the property in the western and eastern conservation lands in the locations shown on Figure 1 .

The proposed monitor well pairs will consist of one shallow well, with a screened section within the sandy overburden, and one deeper well that is screened just above the maximum mining depth in the limestone section. The proposed well construction details are provided in Figure 2. The wells will be installed using the sonic drilling technique. At each of the eight sites, the deeper water-table aquifer monitor well will be installed first. The boreholes will extend down until the confining unit is encountered and its depth is confirmed. The depth to the top of the confining unit at the site will be mapped based on the data collected during drilling. The test boring will then be backfilled with either very fine sand or bentonite chips to a depth that is one foot above the confining unit prior to installation of the well screen. Geologic descriptions of the sediments taken from each deep water-table aquifer well will be provided. During the examination and description of the lithologic samples, the screened section for the shallow water-table aquifer monitor well will be determined. It is anticipated that with each pair of wells, the shallow water-table aquifer well will be located within 10 feet of the deeper water-table aquifer well.

Each well will be completed with a five-foot screen section and a sand filter pack. Following construction of the wells, each well will be developed either by pumping or by using compressed air. The well heads will be completed above grade with an outer protective casing and cap. Cement may be placed above the gravel pack between borehole walls and casings. At each well, a licensed land surveyor will establish the top of casing and ground surface elevations with reference to NGVD 1929.

Groundwater Level Monitoring

Each of the wells shall be equipped with electronic water-level recorders/transducers. These instruments will continuously record water levels, with a data collection frequency of every two hours. In addition, depending on the type of water-level recorders/transducers installed, the project site may also be equipped with one barometric pressure transducer, if necessary, to compensate for barometric pressure variations recorded by the water level transducers.

Prior to installation of the transducers and prior to the retrieving and downloading of the transducers, a manual water level measurement will be taken, using an electric tape. Water levels will be reported to the nearest 0.01 foot. It is anticipated that the water level transducers will be downloaded on a quarterly basis.

Baseline Groundwater Quality Monitoring

The groundwater monitoring network is characterized by paired wells located up-gradient, down-gradient and intermediate, relative to the proposed Mine No. 2 excavation area. Following construction and development of each monitor well, baseline water

quality samples will be collected. Samples will be collected in accordance with the Florida Department of Protection's (FDEP) Standard Operating Procedures for Field Activities, DEP-SOP-001/01, February 1, 2004, or a more current revision, if applicable. During baseline water quality monitoring, each of the newly constructed wells will be field tested for temperature, conductivity, and pH. In addition, samples will be collected for in-house analysis of chloride using the argentometric titration technique. It is proposed that during baseline testing the deeper water-table aquifer monitor wells will also be tested for the parameters outlined on Exhibit 9 "Groundwater Parameters".. The samples will be analyzed by a State of Florida, Department of Health, NELAC certified environmental laboratory. Baseline groundwater quality sampling will occur after installation of the groundwater monitoring network. Water level readings will be taken during the sampling events and be included in the baseline water quality report. An additional water quality sampling and analyses will be conducted approximately six months prior to the commencement of excavation activities at the site.

Wetland Monitoring Stations

Three wetland monitoring stations are proposed (Figure 1). These stations will consist of shallow, approximately five feet deep, hand-augered wells. The two-inch diameter wells will be screened from total depth to near land surface. Typical construction details are shown in Figure 3. The wells will be completed with water level recorders/transducers to automatically record water levels in the wetland areas, with a data recording frequency of every two hours. It is anticipated that the transducers will be downloaded on a quarterly basis. The top of casing elevation and the land surface elevation at each of the wetland wells will be established by a licensed land surveyor.

Flow Way Monitoring Stations

The flow way monitoring sites are shown on Figure 1. An attempt will be made to measure surface water flow rates through the site at the flow rate monitoring locations. Flow rates through culverts or other surface water management design features will be used to gain information on the amount of surface water flowing through the sites. Flow rates will be determined in the field by measuring the average velocity of flow in the culvert pipes and their cross sectional areas. Water level measuring devices will be installed on the upstream and downstream sides of the culvert groups and appropriate equations used to calculate flow rates. The field measurements will be used to verify the flow rates determined using analytical methods. Spreadsheets or rating curves developed will be presented to County staff for review if requested.

Water quality samples will be obtained at each of the flow way water quality monitoring sites early and late in the wet season, if feasible, representing two monitoring results per year. The samples will be analyzed for the parameters noted on Exhibit 9. Field parameters including temperature, specific conductance, pH, turbidity, dissolved oxygen, and water levels will be measured during the sampling events. It is likely that flow rates will be measured and samples obtained following significant (1.5-inch or greater) rainfall events.

Mine Lake Water Level Monitoring Gauges

A total of seven staff gauge locations will be installed with one in each separate lake proposed on the Master Concept Plan.. Exact location of the staff gauge can be changed depending on field conditions such as accessibility. At minimum, one staff gauge will be installed at each mine lake within three months from the beginning of each lake excavation.. If the water level monitoring in the lake areas produces information that is not statistically different from the water level readings in the nearest water table aquifer monitoring well for a period of one year from the date of installation of the staff gauge, the applicant may petition the Lee Division of Natural Resources with a request to remove either the staff gauge or the recorder/transducer located in the adjacent groundwater monitoring well. The Division of Natural Resources will consider the request administratively and approval will not be unreasonably withheld. Lake level monitoring date/time and frequency will be the same as groundwater level monitoring. All data shall be submitted in electronic and paper form.

Reporting

The groundwater level, lake staff gauge and rain gauge monitoring results will be submitted to the Division of Natural Resources on a quarterly basis within 60 days after the end of each quarter.

The baseline water quality analysis, baseline water levels and pre-excavation analysis will be submitted to the Division of Natural Resources within 60 days after the testing event.

The flow rate and flow way water quality monitoring results will be submitted to the Division of Natural Resources within 60 days of the monitoring and testing event.

Annual monitoring reports will be provided to the Lee County Natural Resource Division by March 31 of each year for monitoring performed the previous year ending December 31. The report will contain the data collected during the previous year and will identify any cumulative trends or significant changes in water levels relative to baseline values. The baseline water quality data will be submitted in an electronic format to the Natural Resources Division, per Lee County criteria.

Dewatering Plan

Dewatering during the removal of overburden (sand and other unconsolidated sediments) in mining areas is proposed at the Fort Myers Mine No. 2 site. Dewatering will occur in cells located adjacent to the rock excavation areas. The cells will be approximately 10 acres in size. Dewatering will be limited to a maximum depth of 20 feet below land surface or the top of the limestone deposits, whichever is higher. Water pumped for dewatering purposes will be discharged to recharge trenches located near the dewatering

operations. The trenches will generally be placed between the dewatering cells and any preserved wetland areas or public supply wells that may be located in the vicinity of the dewatering operation. The trenches reduce the potential for drawdown impacts due to dewatering activities at the site. Water levels in the recharge trenches will be measured during periods of active dewatering.

A dewatering permit from the SFWMD will be applied for and obtained prior to commencing any dewatering operations on-site. The permit will provide additional detail regarding the proposed dewatering activities such as specific locations for dewatering cells, recharge trenches, recharge trench design, and monitoring point locations.

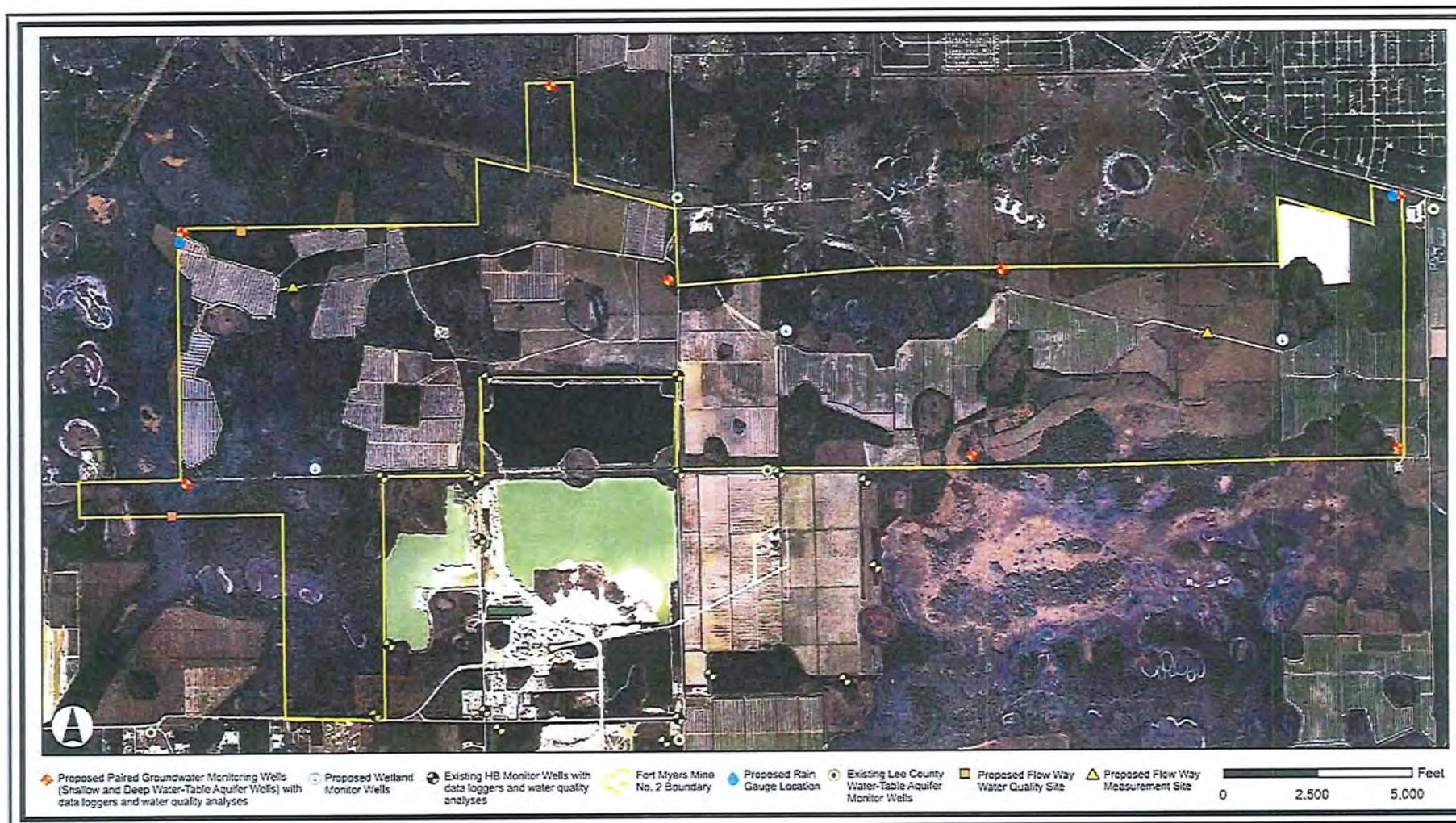
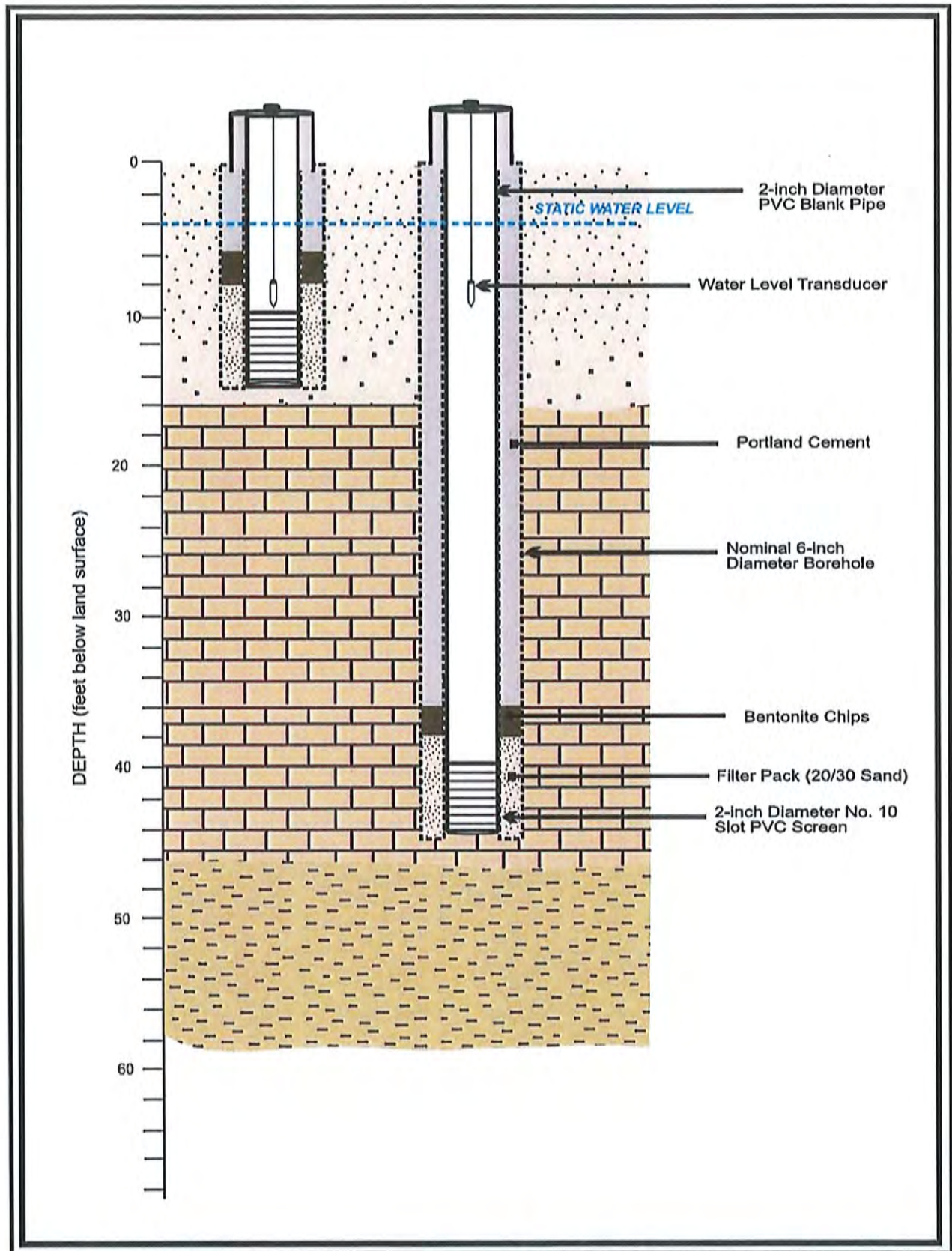


Figure 1
Florida Rock Industries
Florida Rock Fort Myers Mine No. 2 Proposed Monitoring Plan - November 17, 2011 Revision



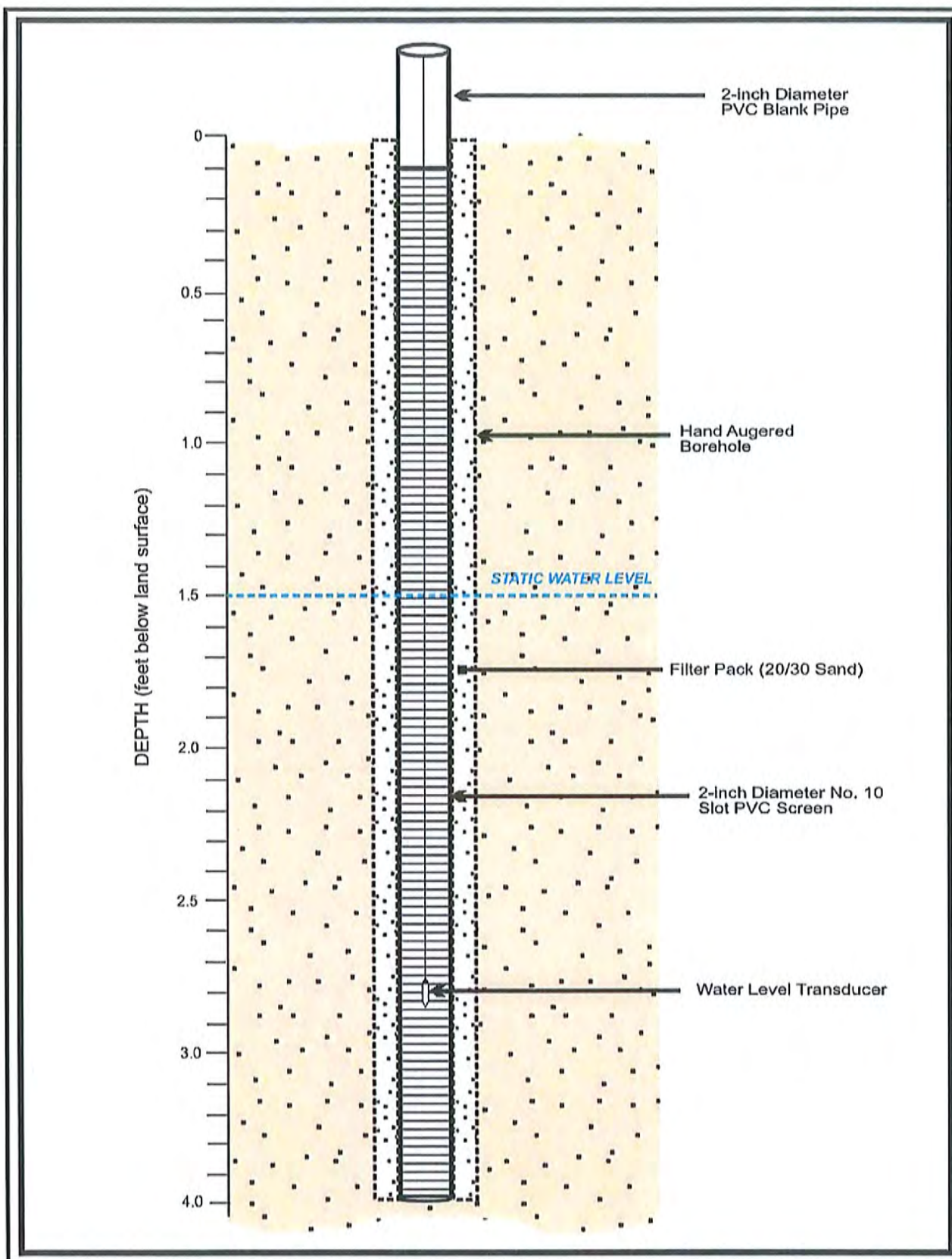


Figure 3
Florida Rock Industries Fort Myers Mine No. 2
Typical Construction Details of Piezometer/Shallow Monitoring Well

Exhibit 9 Groundwater Parameters

Analyte/Parameter	Units	Method	MDL	Monitoring	
				Baseline	Compliance
Total Kjeldahl Nitrogen (TKN)	mg/L as N	EPA 351.2	0.05	x	x
Ammonia as Nitrogen	mg/L as N	EPA 350.1	0.01	x	x
Nitrite + Nitrate as Nitrogen (NOX)	mg/L as N	EPA 353.2	0.01	x	x
Nitrite	mg/L as N	EPA 353.2	0.01	x	x
Nitrate	mg/L as N	EPA 353.2	0.01	x	x
Total Phosphorus (T-PO4) or (TP)	mg/L as P	EPA 365.4	0.01	x	x
Total Organic Carbon (TOC)	mg/L	SM5310B	0.4	x	x
Chloride	mg/L	SM4500Cl-E	1	x	x
Sulfate	mg/L	ASTM-D-516-90	2	x	x
Total Dissolved Solids (TDS)	mg/L	SM2540C	20	x	x
Iron	mg/L	EPA 200.7	0.025	x	x
Florida PRO	mg/L	FL PRO		x	x

Field Parameters

Temperature	°C	EPA 170.1	0.1	x	x
Specific Conductance	mhos/cm	SM2510B	0.1	x	x
pH	pH units	SM4500H-B	0.01	x	x

Bacteriologicals

E. Coli	CFU/100ml	EPA 1603		x	x
Coliform	CFU/100ml	EPA 1603		x	x

EXHIBIT 10

Parcel ID No. _____

DEED OF CONSERVATION EASEMENT

This Deed of Conservation Easement is given this ____ day of _____, 20____, by FLORIDA ROCK INDUSTRIES, INC., a Florida corporation, whose mailing address is 155 East 21st Street, Jacksonville, FL 32206 ("Grantor"), to LEE COUNTY, FLORIDA, a political subdivision and charter County of the State of Florida, whose mailing address is P.O. Box 398, Fort Myers, Florida 33902 ("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors or assigns of the Grantor and all subsequent owners of the "Property" (as hereinafter defined), and the term "Grantee" shall include any successor or assignee of Grantee.

WITNESSETH

WHEREAS, the Grantor is the owner of certain lands situated in Lee County, Florida, and more specifically described in Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, the Grantor in consideration of the preservation of the natural state of a portion of the Property, is agreeable to granting and securing to the Grantee a perpetual conservation easement as defined in Section 704.06, Florida Statutes, over the area described on Exhibit "A" ("Conservation Easement").

NOW THEREFORE, in consideration of the preservation of the natural state of the Conservation Easement, together with other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, Grantor hereby grants, creates and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the property described on Exhibit "A" which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature and character of this Conservation Easement shall be as follows:

1. Recitals. The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. Purpose. It is the purpose of this Conservation Easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition, and to retain such areas as suitable habitat for fish, plants or wildlife.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

(a) To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry;

(b) To enjoin any activity on or use of the Property that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Conservation Easement that may be damaged by any inconsistent activity or use.

3. Prohibited Uses. Except to the extent: (a) consistent with the plans and specifications approved by Grantee in that certain Resolution No. ____ dated the ____ day of _____, 20____, and (b) consistent with easement rights granted to Florida Power and Light Company recorded in OR Book ____, Page ____, Public Records of Lee County, and those certain wellfield easement rights granted to Lee County Utilities recorded in O.R. Book ____, Page ____, Public Records of Lee County, Florida, the following activities are prohibited in or on the Conservation Easement:

(a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

(b) Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials;

(c) Removal or destruction of trees, shrubs or other vegetation, except for the removal of exotic or nuisance vegetation;

(d) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such a manner as to affect the surface;

(e) Surface use except for purposes that permit the land or water area to remain in its natural or enhanced condition;

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, including, but not limited to, ditching, diking and fencing;

(g) Acts or uses detrimental to such aforementioned retention of land or water areas;

(h) Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archeological, or cultural significance.

4. Grantor's Reserved Rights. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are consistent with Resolution No. _____ referenced in paragraph 3 above, uses that are not prohibited herein and which are not inconsistent with any Grantee rule, criteria, permit and the intent and purposes of this Conservation Easement. The rights granted herein are subject to and subordinate to the rights granted in those prior-recorded easements identified in paragraph 3 above.

5. No Dedication. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

6. Grantee's Liability. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

7. Property Taxes. Grantor shall keep the payment of taxes and assessments on the Conservation Easement current and shall not allow any lien on the Conservation Easement superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, the Grantee may, but shall not be obligated to, elect to pay the lien on behalf of the Grantor and Grantor shall reimburse Grantee for the amount paid by the Grantee, together with Grantee's reasonable attorney's fees and costs, with interest at the maximum rate allowed by law, no later than thirty days after such payment. In the event the Grantor does not so reimburse the Grantee, the debt owed to Grantee shall constitute a lien against the Conservation Easement which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Conservation Easement in the manner provided for mortgages on real property.

8. Enforcement. Enforcement of the terms, provisions and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

9. Assignment. Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement, except to another organization qualified to hold such interests under the applicable state laws.

10. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

11. Terms and Restrictions. Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Conservation Easement.

12. Written Notice. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor in interest.

13. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors in interest, which shall be filed in the Public Records in Lee County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Conservation Easement is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens on the Conservation Easement area, if any, have been subordinated to this Conservation Easement; and that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

In Witness Whereof, Grantor has hereunto set its authorized hand this ____ day of _____, 20__.

Signed and Sealed
in the Presence of:

**GRANTOR: Florida Rock Industries,
Inc., a Florida corporation**

Print Name: _____

Print Name: _____

By: _____
Its: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__
by _____ as _____ of Florida Rock Industries, Inc., who
is personally known to me or who has produced _____ as identification.

My Commission Expires:

Notary Public

Print/Type Name of Notary

Accepted on behalf of Lee County, Florida, this ____ day of _____, 20____.

ATTEST:
CHARLIE GREEN, CLERK

GRANTEE:

**LEE COUNTY, FLORIDA, BY ITS BOARD
OF COUNTY COMMISSIONERS**

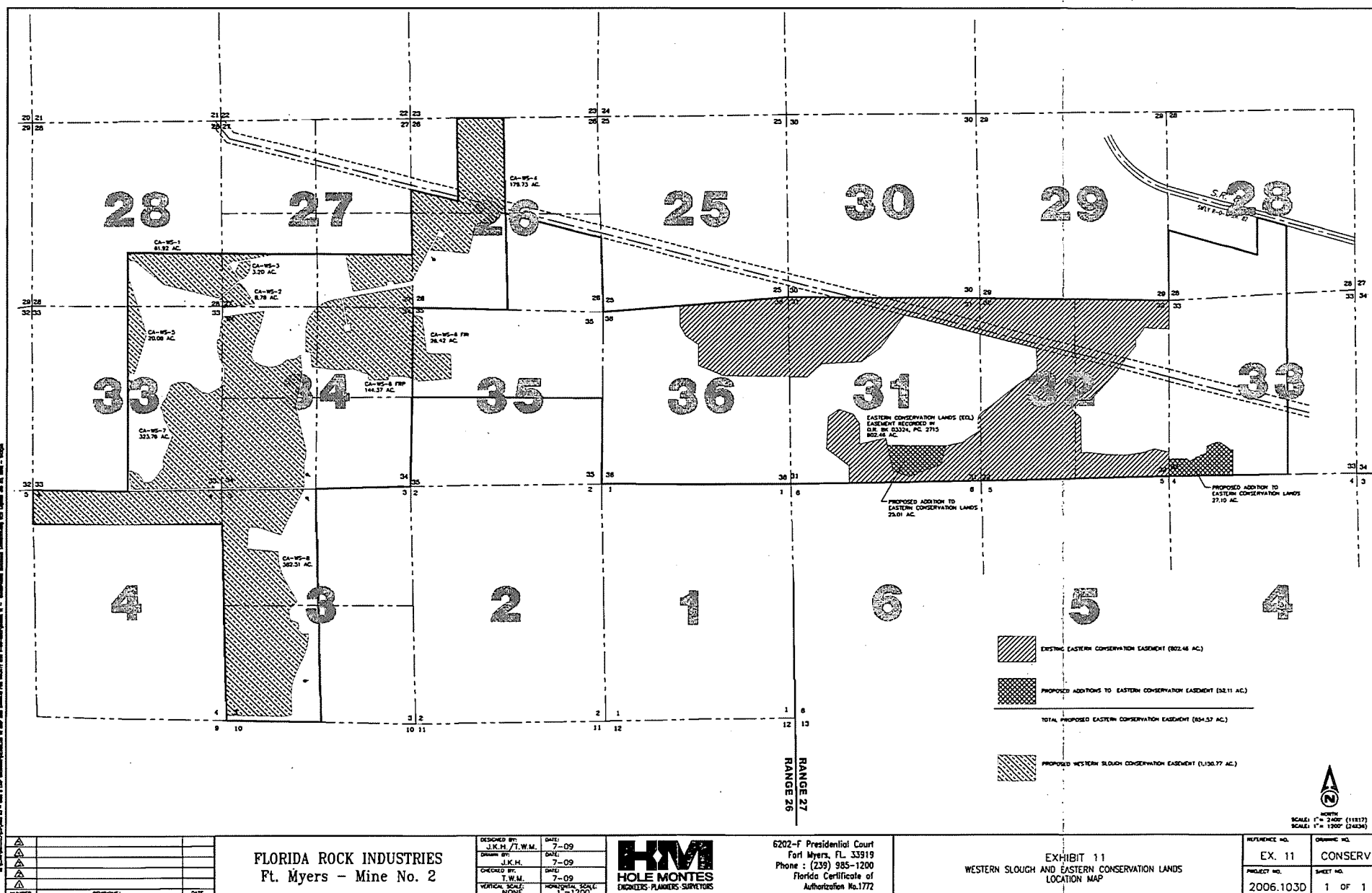
By: _____
Deputy Clerk

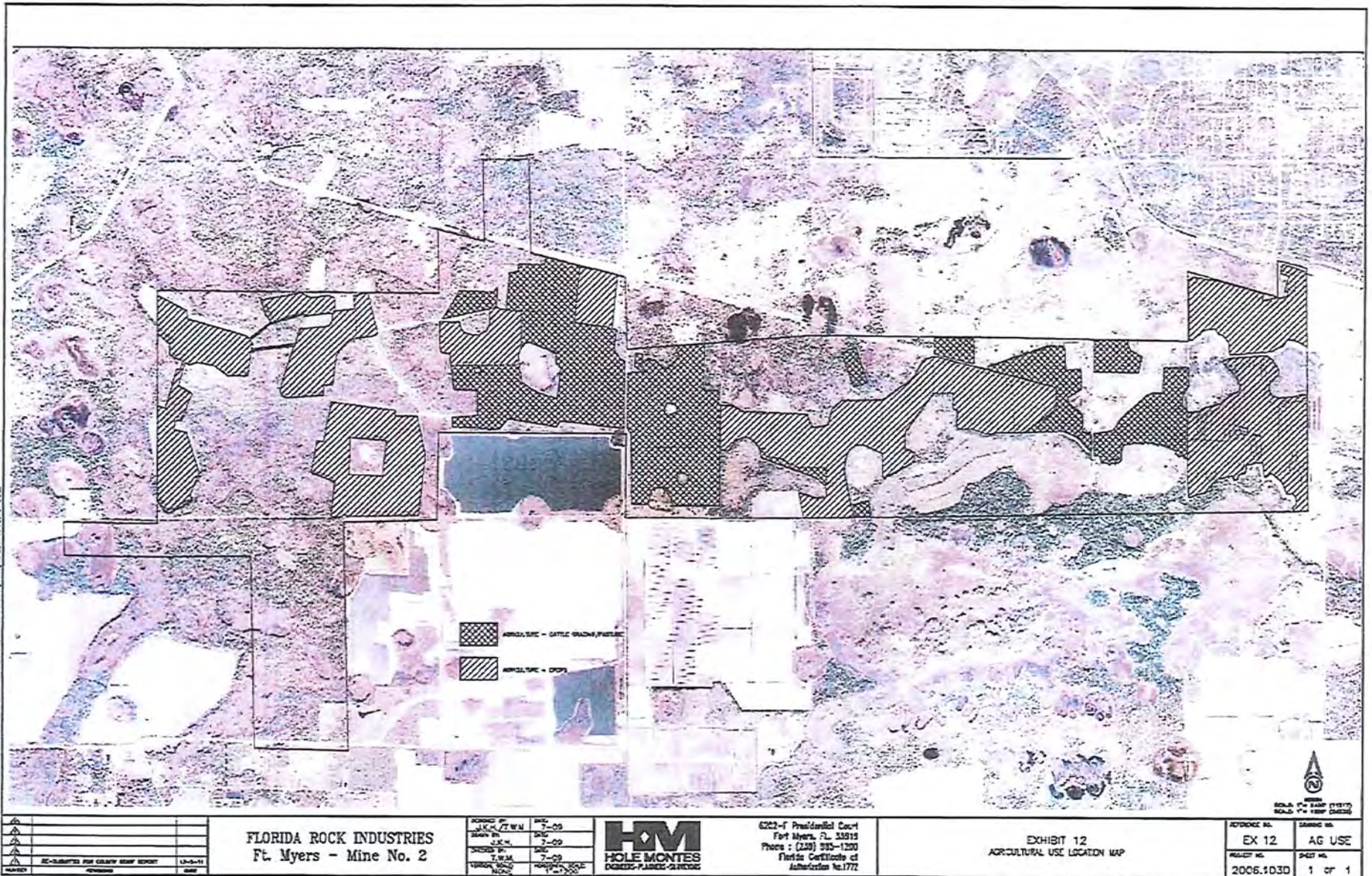
By: _____
Peter J. Eckenrode, Director,
Division of Development Services,
on behalf of the Lee County Board
of County Commissioners

Approved as to form:

Office of County Attorney

EXHIBIT "A"
CONSERVATION EASEMENT AREA





FLORIDA ROCK INDUSTRIES
Ft. Myers - Mine No. 2

APPROVED BY: J.C.M. / J.W.M.
DATE: 7-09
DESIGNED BY: J.C.M.
DATE: 7-09
DRAWN BY: J.W.M.
DATE: 7-09
CHECKED BY: J.W.M.
DATE: 7-09
APPROVED BY: J.W.M.
DATE: 7-09

H.M.
HOLE MONTES
DESIGNED - PLANNED - CONSTRUCTED

6202-F Presidential Court
Fort Myers, FL 33913
Phone: (239) 935-1200
Florida Certificate of
Authorization No. 1772

REFERENCE NO.	DRAWING NO.
EX 12	AG USE
PROJECT NO.	SHEET NO.
2006.1030	1 of 1

Exhibit 13

Harper Bros., Inc. Mine - Legal Decsription

A PARCEL OF LAND LOCATED IN SECTION 1, SECTION 2 AND A PORTION OF SECTION 3, TOWNSHIP 46 SOUTH, RANGE 26 EAST TOGETHER WITH A PARCEL OF LAND LOCATED IN A PORTION OF SECTION 35, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF SECTIONS 1 AND 2, TOWNSHIP 46 SOUTH, RANGE 26 EAST, THE EAST HALF OF SECTION 3, TOWNSHIP 46 SOUTH, RANGE 26 EAST, AND THE SOUTH HALF OF SECTION 35, TOWNSHIP 45 SOUTH, RANGE 26 EAST

SPILL PREVENTION CONTROL AND COUNTERMEASURE PLAN (SPCC)

**Florida Rock Ft. Myers Mine
14341 Alico Road
Ft. Myers, Lee County, Florida 33913**

**Contact:
Ft. Myers Mine Site Manager
Telephone: 239-267-1803**

Prepared For:

Florida Rock Industries Division Office
155 East 21st Street
Jacksonville, Florida 32206

Prepared by:



88 Riberia Street, Suite 300
St. Augustine, Florida 32084

EXHIBIT 14

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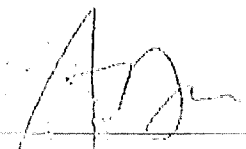
TABLE 1	Construction, Volume, and Content of Bulk Storage Containers at Florida Rock Ft. Myers Mine
TABLE 2	Regulatory and Emergency Response Agencies/Organizations for Discharge Notification, Florida Rock Ft. Myers Mine
TABLE 3	SPCC Emergency Response Procedures

LIST OF APPENDICES

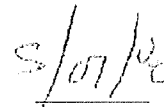
APPENDIX A	Discharge Records
APPENDIX B	Dike Drainage Discharge Records

ENGINEER'S CERTIFICATION

"I certify under penalty of law that this SPCC Plan and all attachments has been prepared under my direction or supervision in accordance with good engineering practices, including consideration of applicable industry standards, that the Plan is adequate for this facility, and in accordance with 40 CFR Part 112 requirements."



Name: Andrew D. Korb, PE
Title: President, Korb Engineering of Florida, Inc.
Address: P.O. Box 1682
Ponte Vedra Beach, FL 32004



Date:

Registration Number: FL-38059

MANAGEMENT APPROVAL

As the manager responsible for the operation of this Florida Rock Ft. Myers Mine, I hereby state that the following SPCC Plan has my full approval and that I have the authority to commit the necessary resources required to implement this plan. I acknowledge that I am responsible for full implementation of this plan as required by the SPCC regulations as specified in 40 CFR 112. In addition, I shall maintain a complete copy of this plan and the associated documents at the facility, and shall make the plan available for on-site review during all working hours. This SPCC plan is fully approved by the management of Florida Rock Industries and has been implemented as described.

Signature: _____

Date: _____

Name: _____

Title: _____

CERTIFICATION AND REVIEW RECORD

The owner and/or operator must complete a review and evaluation of the SPCC plan at least once every five years. Evidence of these reviews shall be recorded below.

Date	Type	Professional Engineer	Remarks
05/07/08	Review/Certify	Andrew D. Korb, PE	Original Plan
7/13/10	Add reference to FL Statutes	Lori Sanville	Amended text

1.0 INTRODUCTION

1.1 Facility Information

Facility Name and Address: Florida Rock Industries
Ft. Myers Mine
14341 Alico Road
Ft. Myers, Lee County, Florida 33913

Facility Contact: Ft. Myers Mine Site Manager
Phone – 239-267-1803

Owner Name and Address: Florida Rock Industries
155 East 21st Street
Jacksonville, Florida 32201

Environmental Contacts: Lori Sanville – Ft. Myers Mine
Environmental Representative
Cell – 239-280-9156

Location: The facility is located approximately .60 miles east of the intersection of Harper Road and Alico Road Extension in Ft. Myers, Lee County, Florida. The facility is surrounded by agricultural and commercial property. The facility's coordinates are 26° 29' 47.68" north latitude and 81° 41' 30.95" west longitude. A topographic map showing the location of the facility is included as Figure 1.

Facility Description: The Florida Rock Ft. Myers Mine mines and distributes crushed aggregate. The mine office, maintenance shop, drum storage areas, scale house, dry retention pond, and fueling systems are located on the southwestern portion of the mine property, and the borrow pits/quarry are located on the northern and eastern portions of the mine property. Table 1 summarizes the construction, volume, and content of bulk storage containers at this facility. The facility does not have any underground storage tanks (USTs); or water treatment facilities. A site map showing the area covered under this SPCC plan is included as Figure 2.

1.2 Purpose and Scope

This Florida Rock Industries Spill Prevention Control and Countermeasures Plan (SPCC) was prepared and implemented as required by U.S. Environmental Protection Agency (U.S. EPA) regulations contained in Title 40, *Code of Federal Regulations*, Part 112 (40CFR 112). This non-transportation facility is subject to SPCC regulations based on the total aboveground storage

capacity, which exceeds 1,320 gallons. The purpose of the SPCC plan is to establish procedures, methods and equipment necessary to minimize the hazards to human health or the environment and prevent any sudden or non-sudden release of petroleum and non-petroleum products or lubricants (also known as petroleum and organic liquids or POL) to the air, soil, surface water, and ground water from facility operations. The provisions of this plan are to be carried out immediately whenever there is a fire, explosion, or release of oil or petroleum products from the storage tank and/or product storage area.

1.3 Discharges and Documentation

This SPCC plan is not required to be filed with the U.S. EPA; however, a copy of the SPCC plan must be available for onsite review during normal working hours if the facility is attended at least four hours a day.

This SPCC plan must be submitted to the U.S. EPA Region IV Regional Administrator and the Florida Department of Environmental Protection (FDEP) along with the other information specified in 40 CFR 112.4 if either of the following occurs:

1. The facility discharges more than 1,000-gallons of fuel in a single event; or
2. The facility discharges more than 42-gallons of fuel in each of two discharge events within any 12-month period.

If any of the above thresholds are reached, the discharge information must be reported to U.S. EPA Region IV and the FDEP within 60 days, and submitted with a copy of the SPCC plan. The report is to contain the following information:

1. Name of facility;
2. Name of the owner and operator of the facility;
3. Location of the facility;
4. Maximum storage or handling capacity of the facility and normal daily throughput;
5. Corrective actions and/or countermeasures taken, including a description of equipment repairs and/or replacements;
6. An adequate description of the facility, including maps, flow diagrams, topographical maps as necessary, and diagrams which show the location of exempted tanks;

7. The cause of the discharge, including a failure analysis of the system or subsystem that failed;
8. Additional preventative measures taken or contemplated to minimize the possibility of recurrence; and
9. Such other information the Regional Administrator may require pertinent to the Plan or discharge.

According to a review of the available records, there have been no discharges meeting the above reporting thresholds in the past 12 months at this facility. According to this SPCC plan, the discharge reporting and corrective measures for all new discharges at the facility after the implementation of this SPCC plan will be documented in Appendix A.

The SPCC plan shall be amended within six months whenever there is a change in facility design, construction, operation, or maintenance that materially affects the facility's discharge potential. The SPCC plan must be reviewed once every five years and amended to include more effective prevention and control technology, if such technology will significantly reduce the likelihood of a discharge event and has been proven in the field. All technical amendments must be certified by a registered professional engineer.

1.3.1 Additional Federal Requirements

Pursuant to the Discharge of Oil Regulation, 40 CFR 110, (aka - "sheen rule"), the National Response Center must be notified immediately if the following occurs:

1. A discharge causes a sheen or discoloration on the surface of a body of water;
2. A discharge violates applicable water quality standards; and
3. A discharge causes a sludge or emulsion to be deposited beneath the surface or the water or on adjoining shorelines.

1.3.2 Additional State Requirements

Pursuant to 62-770.160(1)(c) FAC; 62-762.451(2)(a)5; and 62-762.451(2)(a)6, the Florida Department of Environmental Protection (FDEP) must be notified if either of the following occurs:

1. The facility discharges any amount to surface waters;
2. The facility discharges greater than 25-gallons to a pervious surface;

3. The facility discharges 100-gallons or more to an impervious surface; and
4. The facility discharges 500-gallons or more into a secondary containment system.

Any discharge that meets the above thresholds must be reported to FDEP and the State Warning Point within 24 hours of the spill. The following information must be reported:

1. Name, address, and telephone number of person reporting
2. Name, address, and telephone number of person responsible for the discharge or release, if known
3. Date and time of the discharge or release
4. Type or name of substance discharged or released
5. Estimated amount of the discharge or release
6. Location or address of discharge or release
7. Source and cause of the discharge or release
8. Size and characteristics of area affected by the discharge or release
9. Containment and cleanup actions taken to date
10. Other persons or agencies contacted

2.0 FAILURE POTENTIAL AND CONTAINMENT PLAN

2.1 Facility Drainage System

The facility drainage system consists of the following two distinct subsystems.

Sanitary Sewer System

The sanitary sewer services at the facility are provided by an onsite septic system. Oil or petroleum discharges are never diverted to the septic system.

Surface Water Discharge System

Stormwater runoff from the facility office/fueling area will either percolate into the underlying soil and/or flow to the northeast into the dry retention pond and wooded area.

Oil/Water Separator System

The drainage collection point for the containment structure is located at the northern end of the covered containment structure. If sheen is present, sorbent pads are used to remove any oily waste prior to the water being pumped into the used oil tank. Rainwater discharged from the containment structure is recorded and copies will be included in Appendix B.

2.2 Potential for Major Failure, Containment and Preventative Measures

Aboveground Storage and Piping (Bulk Delivery/Off Loading)

Vehicular off-road diesel, engine oil, highway diesel, hydraulic oil, transmission fluid, gear oil, mineral oil, unleaded gasoline, and used oil are stored in single-walled, welded steel ASTs situated within covered concrete secondary containment structures. The associated piping, fill ports, and dispensers are situated within the secondary containment structures. The tanks have been suitably coated to be compatible with the petroleum products stored, as well as with the conditions of storage (i.e., temperature, pressure, etc.). The tank exteriors are painted tan and silver, which allows easy visual inspection for fuel spillage and leakage. All equipment and materials used are compatible for intended use and meet all applicable code and NFPA 30 requirements. All electrical work was in accordance with NEC Class I, Group D, Division 1. The ASTs are manually checked to prevent overfilling. Routine visual inspections of the AST system, for cracking, leaks, and corrosion are conducted on a monthly basis. The AST systems underwent a

compliance inspection by FDEP in February 2008. Additionally, facility operates a fuel truck to refuel machinery located at the quarry pits.

There is a potential that the AST systems could experience a major failure (i.e. tank and/or pipe rupture, overflow, or leakage). Complete failure of the ASTs and piping would result in the most severe discharge, which would be contained within the secondary containment structures. Should the secondary containment structures fail, material would be released and percolate into the exposed soil. A serious discharge is highly improbable. The ASTs and piping are protected from vehicular traffic within the covered concrete containment structure. Routine visual inspections of the fuel and oil ASTs, for cracking, leaks, and corrosion are conducted on a monthly basis. The AST systems undergo a compliance inspection (performed by FDEP) on a yearly basis. Copies of all inspection records are maintained in the facility office.

There is a potential that the portable fuel AST could experience a major failure (i.e. tank and/or pipe rupture, overflow, or leakage). Complete failure of the portable fuel AST would result in the most severe discharge, which would be pond in the immediate area of the fuel truck percolate into the surrounding exposed soil. A serious discharge is highly improbable. Routine visual inspections of the portable fuel AST, for cracking, leaks, and corrosion are conducted on a monthly basis.

Transfer from the tanker delivery truck to the AST systems are through an aboveground fill ports and associated piping, with lockable caps inside a lockable hood. The fill ports are situated within the covered secondary containment structure. Shut off valves are positioned at the fill port connections to prevent the release of product to the environment.

There is a potential that the petroleum delivery tanker could experience a major failure (i.e. tank rupture, overflow, or leakage). Complete failure of the petroleum delivery tanker would result in the most severe discharge. Discharged materials would flow onto the concrete refueling pad. A serious discharge is highly improbable. A serious discharge is highly improbable. The most probable discharge would be from the overfilling of the AST or seal leakage between the tanker and the fill ports. The area is relatively flat and since all transfer operations are visually monitored, any discharges would be limited to the area of the fill ports, within the covered secondary containment structure. In any case, there are spill control materials readily available at or near the AST system.

Dispenser Pump and Vehicles (Off-Loading/Refueling)

The off-loading from the diesel and gasoline ASTs to the work vehicles and heavy equipment is through aboveground piping to stand-alone dispensers equipped with a 25-foot retractable dispenser line and hand-activated nozzle. The dispensers are situated within and protected from vehicular traffic by the secondary containment structures. The fueling dispensers have an on/off lever switch and is secured against unauthorized operation by a pad-lock which the Site Manager unlocks when needed. An emergency shut-off to the entire AST system is located approximately 200 feet west of the covered containment structure. The dispenser lines and tank are grounded as protection from lightning strikes.

The most probable discharge, for the ASTs would be at the dispensers from the overfilling of work vehicles and containers. The nozzle valve handles are manually operated and can be locked in the open position and automatically shuts off when the vehicle fuel tank reaches capacity. However, as a spill preventative measure, the dispenser nozzles should never be locked in the open position and never be left unattended. In case of an overfill spill or malfunctioning nozzle valve handle, an emergency shut-off switch is located approximately 200 feet west of the covered containment structure. Complete inspection of all visible fluid transfer lines and valves are made daily by the facility personnel. Any indication of leakage along the system's joints, fittings, connections or valves is corrected immediately. Any discharge would be limited to the dispenser area. In addition, the nozzle and dispenser hoses are connected by a check valve, which would immediately interrupt the flow of product, should the nozzle and hose become disconnected during a potential drive-off scenario.

2.3 Discharge Management

Discharge management includes activities and contingency plans involving discharges. The management of discharges can be categorized according to the type of activities and their potential for a discharge to occur.

In the event of a **serious discharge** from the AST system and associated piping, and 55-gallon product drums, stop and contain the discharged material. An authorized hazardous waste licensed contractor will be engaged to conduct cleanup operations. The contractor shall remove, stockpile, and/or containerize all contaminated soil and cleanup materials found during cleanup operations

and shall replace any excavated soil with clean native or borrow backfill. All contaminated soil shall be properly disposed of per current state regulations covering such activity. In addition, all state laws and regulations pertaining to the remediation and abatement of any residual contamination caused by a discharge to soil and/or groundwater shall be followed.

For **minor discharges** around the AST system and associated piping, and 55-gallon product drums, stop and contain the discharge. Absorbent pads, socks, and/or oil dri will be used to contain and remove any discharged material. These spill cleanup materials will be containerized and properly disposed of by a licensed waste management contractor.

2.3.1 Facility Transfer Operations

Pipeline, Dispensers, and Valves

The activities related to this involve the aboveground piping and valves. The inspections of the piping and valves are performed at periodic intervals as a preventative measure. The details of the inspections and documentation are discussed in Section 3.0. The warnings are posted for aboveground pipes and valves are discussed in Section 4.0. The standard operating procedures for preventative measures and discharge response are addressed in Sections 5.0 and 6.0.

Driver/operator attendance/observation is required during all fuel loading operations. When filling trucks and heavy equipment, the operator is required to monitor the liquid level in the vehicles and shut-off the system when the vehicles are adequately full. Fuel transfer operations are continuously monitored by the driver/operator until the transfer is complete.

Upon completion of fuel transfer, the hand-held hose nozzle is returned to its proper storage position, and the vehicle's tank cap/cover is securely replaced. Prior to departure, all truck outlets and inlets are checked for leakage. Corrective action is taken, if necessary.

2.3.2 Facility Tanker Unloading

Unloading Areas for Bulk Tanker Delivery

Bulk petroleum products are supplied by tanker trucks and are only restocked during the day shift. The tanker trucks are unloaded via tanker truck hose through fill ports directly into the AST's. Florida Rock personnel are responsible for supervising all bulk product transfers. Florida

Rock personnel will place a vehicle traffic barricade (i.e. orange safety cones) at the front and rear of the tanker truck prior to hose connection. This barricade will prevent vehicular departure before complete disconnection. The truck driver is responsible for tanker to fill port connections, vapor recover connections, and pump operations. Before unloading can begin, a Florida Rock operator checks tank and piping valve positions to confirm that product is unloaded into the storage tank. Florida Rock personnel monitor the storage tank's liquid level during bulk fuel transfers. Consequently, overflow spills are not expected to occur.

Accidental releases during making or breaking of the hose connections to the truck would be limited to the fill port areas. Truck unloading is continuously monitored by trained Florida Rock personnel (in addition to the tanker driver) to forestall any unexpected event that could result in an accidental spill. During and after truck unloading, the Florida Rock operator and truck driver are responsible for performing a visual leak inspection on all the tanker truck outlets. Prior to the truck leaving the unloading area, any leaks found are to be repaired. Once the leaks are repaired, or if no leaks were found from the visual inspection, the vehicle traffic barricades are removed from the path of the tanker truck so the truck may exit.

Portable discharge containment and cleanup equipment and personnel to operate the equipment are available to respond to any fuel discharge emergency. Telephone numbers to call for immediate mobilization of emergency response contractors and equipment is posted in the facility office on the Emergency Response List.

In-Facility Leaks or Discharges (Materials Stored in Bulk)

Any discharges from the ASTs would be contained within the secondary containment structures. In the event a discharge occurs from the ASTs, emergency response personnel should stop and contain the discharged materials immediately. Additionally, the discharged materials should be prevented from entering the surrounding wooded areas.

2.3.3 Drum Storage

In-Facility Leaks or Discharges (Materials Stored in Drums/Containers)

The drum storage area is located inside the south end of the covered containment structure and adjacent to the south of the containment structure. The most probable discharge, for the drum storage areas, is expected to originate during the transfer and removal of the drums by the waste

management contractor. The drums could become punctured or upended by a forklift or other heavy machinery. Any discharges would be contained within the covered containment structure or on the concrete drum storage pad. Care should be taken during the transfer of drums from one area to another. Routine inspections are conducted daily by maintenance personnel. Spill control materials are readily available at or near the drum storage area.

Additionally, any discharge from the fleet vehicles, heavy equipment and machinery would be contained within the immediate area of the vehicles and equipment. Routine inspections are conducted daily by facility personnel. Spill control materials are readily available at the warehouse area.

3.0 INSPECTIONS AND RECORDS

3.1 General

Routine inspections of equipment and components at the facility are performed, as required, by facility personnel on a monthly basis. These inspection records are maintained as a part of the records of facility operations. The inspection records are maintained at the facility office building and are readily available for inspection during all working hours.

All equipment, piping, and the AST are inspected regularly to minimize the possibility of a fuel discharge and to insure containment should a fuel discharge occur. During these inspections, the storage tank and the related equipment are examined for cracks, corrosion, and leakage. The AST undergoes testing when material repairs are performed. All mechanical equipment is maintained and inspected according to the manufacturer's recommendations. Rainwater discharged from the containment structure is recorded and copies will be included in Appendix B.

All inspection records should be maintained at the facility for five years. However, sequential records for inspections of the AST will be maintained as long as necessary to serve as comparison records. Records maintained by operations can be found at the facility locations given below.

SPCC Plan Location: Florida Rock Ft. Myers Mine Facility Office
14341 Alico Road
Ft. Myers, Lee County, Florida 33913

Florida Rock Industries
155 East 21st Street
Jacksonville, Florida 32201

Environmental Handbook: Same location as the SPCC Plan

3.2 Integrity Tests

In accordance with 40 CFR 112.8 (c)(6), the AST will undergo integrity testing on a regular basis and during material repairs. Inspections of the fuel storage tank is done per API 653; this requires that the tank be visually inspected monthly, have an in-service inspection (visual and ultrasonic thickness) every five years and an out-of-service inspection every 20 years (or more frequently as determined by tank corrosion rate) by a certified tank inspector. However, monthly visual inspections will suffice if the AST is not in direct contact with the ground.

Visual inspections are performed monthly for:

- Tank leaks, corrosion, cracks, and structural damage;
- Valves and piping corrosion, cracks, and leaking;

The AST will be evaluated for risk of discharge or failure due to brittle fracture or other catastrophe if the storage tank undergoes a repair, alteration, reconstruction, or a change in service that might affect the risk of a discharge or failure due to fracture or other catastrophe, or has discharge due or fail due to brittle fracture failure or other catastrophe (40CFR 112.7(i)).

Copies of the most recent inspection records are maintained at the facility office.

4.0 FACILITY SECURITY

The Security measures for the area must provide security and control of access to prevent unauthorized entry or exit. The Site Manager is responsible for administering all security measures.

This Florida Rock property is surrounded by a barbed wire fence along the property boundaries. The entry gate is located at the access roads to the mine on the western and southern portions of the property. The Florida Rock facility is manned five days a week (Monday through Friday) between twelve to twenty-four hours a day (actual facility operation times vary). All gates are locked after hours.

Vehicular traffic granted entry into the facility is appraised by appropriate signs in critical areas (i.e. vehicle height limitations, flammable products, traffic patterns, etc.). Warning signs forbidding unauthorized entry are posted at the entry gates.

The facility is appropriately lighted for security purposes, as well as, to detect discharges or leaks while operating during hours of darkness.

The AST system is shut down nightly from the emergency shut-off switch located approximately 200 feet west of the covered containment structure, and the hand-activated dispenser nozzles are padlocked after hours.

5.0 PERSONNEL, TRAINING, AND DISCHARGE PREVENTION PROCEDURES

All personnel employed at the facility or contracted for operation and maintenance at the facility are responsible for following good management practices to assure that a petroleum discharge as described in 40 CFR 112.1(b) will not occur. Operations and maintenance personnel are trained in the use of discharge prevention and countermeasure equipment and procedures outlined in this plan. Facility personnel are aware of the locations of emergency equipment and are briefed regularly on corrective action procedures to be followed in the event of a discharge.

5.1 Personnel and Responsibility

For the purpose of this SPCC Plan, the Site Manager is designated as the Chief-on-Site Emergency Coordinator for the facility. It will be the Site Manager's responsibility, in coordinating with other facility personnel, to identify needs and potential problem areas, to initiate emergency response measures, and contact the Operations Manager and the Environmental Representative. It will be the Operations Manager's and the Environmental Representative's responsibility to plan, schedule, and organize all elements of the contingency plan and other emergency response procedures. In any event, the responsibility for initiating emergency response measures will be the Site Manager on duty at the time of the emergency, and the responsibility for coordinating all emergency response measures will be with the Environmental Representative.

The Site Manager, the Operations Manager and the Environmental Representative shall be thoroughly familiar with all aspects of this SPCC Plan, all operations at the facility, the location and characteristics of all petroleum and non-petroleum products that are handled and stored at the facility, the location and contents of product storage areas, the location of manifests and other records, and the locations and use of all fire control equipment, decontamination equipment, first aid and emergency equipment.

5.2 Personnel Training

The primary intent of this contingency plan is to minimize hazards to health or environment by familiarizing appropriate facility personnel with a planned course of action should an emergency develop. The contingency plan is not intended to replace the other regularly scheduled Safety

Training, but rather is intended to supplement the current program of continuous safety preparedness and management.

Site personnel will become familiar with this written plan and procedures through initial employee training and regular discussions at scheduled site safety meetings. New employees will receive required initial training needed to perform their job duties safely. This training will include site specific controls to ensure a safe and healthy workplace.

The Environmental Representative should utilize training films on spill prevention and clean-up as well as consultants certified in hazardous waste clean-up and spill prevention.

Specific information conveyed to employees during the training program will include, but is not limited to, the following:

- A. A comprehensive review of the location and proper operation of all emergency equipment including, fire extinguishers, communications system, alarm system, and safety showers.
- B. A review of evacuation routes leaving the facility and leaving the area.
- C. A review of the emergency notification/chain-of-command procedures.
- D. General group discussions (during annual meetings) concerning potential emergency situations, necessary immediate actions, and hypothetical emergency situations and responses for employees.

The Site Manager completes an annual 8-Hour In-House Safety and Environmental Hazard Training class. Facility personnel complete a 2-hour Mine Safety and Health Administration (MSHA) Training class every quarter and safety meetings are held four times a month. Copies of all training records for facility personnel are kept in the facility office.

5.3 Discharge Prevention Procedures

5.3.1 Discharge Prevention Briefings

Facility personnel attend yearly meetings with Florida Rock's Safety, Health, and Environmental Group. These meetings serve as discharge prevention briefings for the facility. The briefings

highlight and describe known discharges as defined in 40 CFR 112.1(b), failures, malfunctioning equipment, and any recently developed precautionary steps.

5.3.2 Discharge Notification

All discharges at the facility require the notification of Florida Rock Division's Site Manager, Operations Manager, and Environmental Representative and the initiation of corrective actions to prevent the discharged materials from spreading and to clean up the discharge. Since a discharge could occur at any time of the day or night, a sequence of notification, as discussed below, has been established to ensure the property authorities are made aware of the situation.

Notification of Environmental Coordinator and Regional Management

Any facility personnel discovering that a discharge has occurred or is occurring have three initial responsibilities:

1. Stop the discharge if possible,
2. Contain the discharge if possible, and
3. Immediately notify the Site Manager

The chain-of-command to establish lead responsibility for notification of authorities and implementation of discharge prevention control and countermeasure procedures is as follows (see Emergency Notification List posted in the facility office for personnel names and contact telephone numbers):

1. Site Manager (or Assistant)
2. Operations Manager
3. Environmental Representative
4. Florida Rock Division Safety, Health, and Environmental Group

If none of these personnel are available, the person discovering the discharge shall assume responsibility to take charge of the direction of discharge control and countermeasure procedures, until the above personnel become available.

Notification of Regulatory Agencies/ Emergency Agencies/Organizations

In the event of a discharge meeting the federal, state, and local thresholds described below and in Section 1.3 of this SPCC; the Environmental Representative will contact the regulatory agencies listed in Table 2.

Federal Requirements

Pursuant to the Discharge of Oil Regulation, 40 CFR 110, (aka – “sheen rule”), the National Response Center must be notified immediately if the following occurs:

1. A discharge causes a sheen or discoloration on the surface of a body of water;
2. A discharge violates applicable water quality standards; and
3. A discharge causes a sludge or emulsion to be deposited beneath the surface or the water or on adjoining shorelines.

In the event of a single discharge greater than 1,000-gallons or two or more discharges of more than 42-gallons each in a 12-month period, the Environmental Representative must contact the EPA Regional Administrator within 60 days with the information listed in 40 CFR 112.4(a) and Section 1.3 of this SPCC plan. The same information must be provided to the FDEP division in charge of oil pollution control activities.

State Requirements

Pursuant to 62-770.160(1)(c) FAC; 62-762.451(2)(a)5; and 62-762.451(2)(a)6, the Florida Department of Environmental Protection (FDEP) and the State Warning Point must be notified within 24 hours of the discharge if either of the following occurs:

1. The facility discharges any amount to surface waters;
2. The facility discharges greater than 25-gallons to a pervious surface;
3. The facility discharges 100-gallons or more to an impervious surface; and
4. The facility discharges 500-gallons or more into a secondary containment system.

5.3.3 Emergency Response Team and Equipment

The Emergency Response Team shall be comprised of all available Florida Rock operating personnel, in the immediate and surrounding areas. The Emergency Response Team will be under the authority of the Environmental Representative. The Environmental Representative will determine whether additional assistance is needed from local fire or police units or other emergency response agencies.

Facility intercom, telephones, and cellphones or hand held radios are to be used as alarm and communication systems.

Underwriters Laboratories (UL) approved BC fire extinguishers are strategically located throughout the site. Extinguishers are inspected and maintained in accordance with standard safety guidelines. Fire extinguisher locations and maintenance are in accordance with the requirements of Fire Control Codes.

Clean-up equipment and decontamination equipment include several types of adsorbents, shovels, brooms, and oil absorbent pads. Other items are available on-site at short notice. The spill control equipment is located in a kwanza hut approximately 500 feet east of the containment structure. If further equipment is needed, (e.g. vehicle-mounted pumps and tanks, vacuum trucks, and loading and excavation equipment), a private contractor will be contacted for assistance.

First aid kits are maintained in the facility office building. All safety-related training records are maintained in the facility office.

6.0 RESPONSE AND RECOVERY

Whenever there is an imminent or actual emergency situation such as a fire, explosion or discharge/release of petroleum products which have the potential for damaging human health or the environment, Emergency Procedures shall immediately be activated and the Environmental Representative notified. Table 3 provides a quick reference to the appropriate response measures to an imminent or actual emergency situation.

The Environmental Representative and alternates are responsible for emergency response coordination with state and local agencies on a 24-hour basis. Upon notification of an existing, imminent, or potential emergency situation, the Site Manager will:

- Immediately identify the media, exact source, amount, and extent of the release or emergency;
- Initiate emergency response procedures to stop and/or contain the discharged material;
- Notify the Operations Manager and Environmental Representative;
- Activate the internal communication system to notify facility personnel; and
- Determine the need for a plant evacuation.

After this information is received, a decision is made whether or not to enact the provisions of this SPCC Plan. Upon enactment of the SPCC Plan, the Operations Manager will be responsible for:

- Mobilization and direction of the Emergency Response Team and/or Emergency Response Contractor;
- Ensuring that the emergency situation does not reoccur or spread to other areas;
- Ceasing all operations during the emergency; and
- Removing, or isolating, any incompatible and/or ignitable materials.

Upon enactment of the SPCC Plan, the Environmental Representative will be responsible for:

- Notifying the appropriate governmental agencies and off-site responders (See Table 2); and,
- Documentation and reporting after an emergency situation.

The Environmental Representative will, with the assistance of appropriate subcontractors, provide for handling and disposal of recovered material, in accordance with applicable regulations, resulting from the emergency. Recovered materials include: contaminated soil, waste, contaminated water, or other material. In addition, the Operations Manager is responsible for the proper handling and segregation of incompatible and/or ignitable materials.

A **preliminary written report** of the emergency shall be prepared by the Environmental Representative as soon as the emergency has been mitigated. This report will be submitted with all appropriate notification/reports to the proper agencies. The following information shall be included in the Environmental Representative's written report:

- A. The name, address and telephone number of the operator of the facility and the location of the facility where the incident occurred;
- B. Date, time and type of incident (fire, explosion or release or discharge);
- C. Name and quantity of material or materials involved;
- D. The extent of injuries, if any;
- E. An assessment of actual or potential hazards to human health or the environment, where this is applicable; and,
- F. The estimated quantity and disposition of recovered material that resulted from the incident.

The facility management and Florida Rock representatives will review the circumstances of the emergency, then recommend and implement the necessary adjustments in facility operations to minimize the potential for additional emergencies.

6.1 Emergency Facility Evacuation

Should an emergency occur, it may be necessary to evacuate employees or visitors from the facility. The Site Manager and the Operations Manager shall decide upon and direct the evacuation of appropriate areas of the facility. Should the emergency be severe enough to necessitate an evacuation beyond the facility fenceline, the Environmental Representative will coordinate with the Emergency Response Agencies to determine the necessity of evacuating nearby residents and proceed under their direction. Refer to the onsite Emergency Response Plan.

It is important to emphasize that only the Emergency Response Agency in charge can, after consulting with the facility Environmental Representative, make decisions to evacuate local residents. It is not the intent of this plan to cause unwarranted alarm by providing an evacuation plan, but rather to be prepared for any and all emergencies as the direct result of storing flammable petroleum products on-site.

6.2 Response Actions

Response activities can be roughly divided into the following steps, not all of which apply to every incident:

1. Recognition of the incident by someone on the scene.
2. Notification of the Site Manager, Operations Manager, and the Environmental Representative.
3. Activation of internal alarms.
4. Evacuation of the facility or immediate area of the incident of all non-involved personnel.
5. Evaluation of the incident - what is happening to how much of what material, and what are the possible consequences.
6. Containment or control of the spill, fire or explosion.
7. Notification of appropriate outside agencies, from the Fire Department to the National Response Center.
8. Clean-up of debris and equipment, including disposal of hazardous waste.
9. Paperwork, from written reports to the State or Federal EPA, to a critique of the contingency plan.
10. Disposal of contaminated, disposable items should be placed in a DOT 17H drum before leaving the job site - this includes gloves, protective suits, respirator filters, polyethylene sheeting, etc.
11. Decontamination of contaminated non-disposable items, such as shovels, pumps, recoverable fittings and lines must be thoroughly rinsed before removal from the site.

6.3 Post-Emergency Equipment Inspection

All equipment used and/or involved either superficially or directly with the emergency must be cleaned, decontaminated and inspected to ensure it is functioning properly before being placed back into service. All solvents, adsorbents, protective clothing and equipment used or damaged as a result of the emergency must be replaced or fixed within two weeks in order to assure adequate response to future emergency response action.

All equipment will be periodically checked and maintained on a regularly scheduled routine preventative maintenance (PM) program. The PM program will help insure that the emergency equipment will be operational regardless of how long it has been since the last emergency response action.

7.0 SPCC PLAN PROCEDURES

The following types of spills could occur on-site and are discussed in detail in Section 2.0:

- A rupture or failure of a bulk delivery truck tank, unloading hose, or fittings, resulting in a spill;
- A rupture or failure of a product storage tank. If such a failure were to occur, petroleum would be released and be contained within the secondary containment structures;
- A release from the hand-activated dispenser nozzle. Petroleum spilled during this type of operation would be significantly smaller in volume; and/or
- A rupture or failure of vehicle fuel tanks. Petroleum spilled during this type of accidental release would be smaller in volume.

7.1 Bulk Delivery Tanker Truck and Storage Tank Spill

1. Stop all operations.
2. Quickly check to see if the fuel discharge is due to an open valve. If so, shut the valve. If release is occurring from a storage tank, ensure the containment valve is closed. Close and lock the valve if needed.
3. Contact the following personnel, responsible for performing or directing actions in the following steps
 - Site Manager
 - Operations Manager
 - Environmental Representative
4. Sound the emergency alarm or alert personnel via telephone or paging system.
5. Secure the area. Prevent unauthorized entry of personnel with sources of ignition such as flares, lit cigarettes, flash cameras, etc., and vehicles with hot exhaust systems. Keep the public away from the immediate area and upwind from the vehicle spill.
6. Establish a temporary dike area, spreading oil sorbent if necessary, to prevent discharge into the stormwater collection system.
7. Call 911 and report that a tanker truck has ruptured and diesel fuel is being released at the Florida Rock Ft Myers Mine located at 14341 Alico Road.
8. Notify the facility personnel, informing them emergency vehicles have been dispatched to the site. Facility personnel should direct emergency vehicles to the release site.

9. If a discharge as described in Section 1.3 or Section 5.3.2 occurs or the Environmental Representative determines that the incident could threaten human health or the environment outside of the facility, he/she must immediately:
 - Contact the National Emergency Response (800-424-8802), Florida State Warning Point (800-320-0519) and all pertinent regulatory and emergency agencies listed on Table 2 and report:
 - a. Name and telephone number of caller.
 - b. Name and address of facility.
Florida Rock Ft. Myers Mine
14341 Alico Road
Ft. Myers, Florida 33913
 - c. Time and type of accident.
 - d. Name and quantity of material(s) involved, if known.
 - e. Extent of injuries.
 - f. Possible hazards to human health or the environment outside the facility.
10. Document all spill related information.
11. File all appropriate notifications as required by Authorities.

7.2 Fuel Dispensing Spills, Leaks and Releases

1. Stop fueling operations by closing all valves.
2. The Site Manager must be informed immediately if the spill constitutes more than one (1) gallon of fuel discharged to ground surface. This initial report should include the reporting employee's name, exact location of the incident, type and quantity of material(s) involved, if known, and a brief description of the incident.
3. Contact the following personnel, responsible for performing or directing actions in the following steps.

Site Manager
Operations Manager
Environmental Representative
4. If appropriate, evacuate all non-involved personnel from the area around the spill or facility.
5. Assess the situation, determine, if possible, the exact identity, source, and amount of material(s) involved, then evaluate the hazards associated with the incident.

Environmental Representative should evaluate if cleanup can be handled by onsite personnel, or outside contractor services are required.

- Determine chemical hazards present and the type of protective equipment required for responding personnel, including choice of glove type, respiratory protection and protective clothing/ material.
6. Attempt to stop source of released materials via plug, duct tape, harnesses, and closing valves.
 7. As dictated by the actual hazard(s) presented, the following precautions may be taken:
 - Response personnel should wear appropriate protective clothing.
 - Temporarily dike the area.
 - Isolate the leaking equipment from uninvolved personnel.
 - If ignitable materials are involved, obtain appropriate fire extinguishers and call the Fire Department (911).
 - Partition off the work area with ropes and/or warning signs.
 - Prevent smoking, sparks, or open flames in the vicinity of the affected area, in case of flammable and/or combustible materials.
 8. If a discharge as described in Section 1.3 or Section 5.3.2 occurs or the Environmental Representative determines that the incident could threaten human health or the environment outside of the facility, he/she must immediately:
 - Contact the National Emergency Response (800-424-8802), Florida State Warning Point (800-320-0519) and all pertinent regulatory and emergency agencies listed on Table 2 and report:
 - a. Name and telephone number of caller.
 - b. Name and address of facility:
Florida Rock Ft. Myers Mine
14341 Alico Road
Ft. Myers, Florida 33913
 - c. Time and type of accident.
 - d. Name and quantity of material(s) involved, if known.
 - e. Extent of any injuries.
 - f. Possible hazards to human health or the environment outside facility.

9. Released material would percolate into the underlying soil .
 - For small spills, containment of a released material is to be achieved by diking and berming with absorbent materials. Absorbent pads are located in the drum storage area.
 - For larger spills, containment of released materials is to be achieved by diking and berming with absorbent materials. Absorbent pads are located in the drum storage area. The sediment traps to the stormwater ponds are to be closed with absorbent materials. All attempts need to be made to keep released fuel on the concrete/asphalt surface for containment.
10. Cleanup operations may include the following steps:
 - Free standing liquids pumped into suitable storage tanks.
 - Non-pumpable liquids absorbed with vermiculite, oil dri, etc., and shoveled or swept-up solids, semi-solids, adsorbents, etc. should be placed in appropriate containers (usually 1711 open head drums) and properly disposed.
 - Residue materials on the ground may be removed by:
 - a. Appropriate solvents if the surface is hard and impenetrable.
 - b. Digging up contaminated soil or even concrete, if necessary.
11. Decontamination of Area:
 - The Environmental Representative may choose to determine the extent of any potential pollution or contamination by contracting with an outside environmental service to sample and analyze soil, water, vegetation, etc.
12. Area is checked for any damage which may have caused the leak, such as corrosion, etc.
13. All drums are manifested, sealed and labeled per State, EPA and DOT guidelines and transported to an EPA permitted T/S/D facility for final disposition.
14. File all appropriate notification as required by Authorities.
15. If a fire results during the incident only the Environmental Representative and his designated personnel will provide any information to the fire fighters (i.e., nature of materials and associated hazards).

7.3 Fires and Explosions

1. Personnel at the scene should immediately clear the area and report to a designated safe location.
2. Contact the Fire Department (911), regardless of the size of the fire or explosion.
3. Contact the following personnel, responsible for performing or directing actions in the following steps.

Site Manager
Operations Manager
Environmental Representative
4. Notify facility personnel that emergency vehicles have been dispatched to the site.
5. If a discharge as described in Section 1.3 or Section 5.3.2 occurs or the Environmental Representative determines that the incident could threaten human health or the environment outside of the facility, he/she must immediately:
 - Contact the National Emergency Response (800-424-8802), Florida State Warning Point (800-320-0519) and all pertinent regulatory and emergency agencies listed on Table 2 and report:
 - a. Name and telephone number of caller.
 - b. Name and address of facility:
Florida Rock Ft. Myers Mine
14341 Alico Road
Ft. Myers, Florida 33913
 - c. Time and type of accident.
 - d. Name and quantity of material(s) involved, if known.
 - e. Extent of any injuries.
 - f. Possible hazards to human health or the environment outside facility.
6. Run-off water or released wastes must be controlled (as for any other discharge) by use of dikes, berms, or adsorbents. All storm drains, sewers, streams, and surface water must be protected, if at all possible, by use of bags of vermiculite, adsorbent or soil. These activities should be concurrent with the activities of fire suppression.
7. When the immediate problem of fire or explosion is controlled, clean-up and decontamination activities shall be conducted as for a discharge.
8. File all appropriate notification as required by Authorities.

TABLE 1
Construction, Volume, and Content of Bulk Storage Containers at Florida Rock Ft. Myers Mine

Number of Containers	Type (Construction)	Capacity (gallons)	Content	Discharge Prevention & Containment
1	single-walled, steel horizontal AST	15,000	Diesel (on-road)	Visual monitoring, manual measurement of contents, monthly and yearly inspections. Covered, concrete secondary containment structure.
4	single-walled, steel horizontal AST	15,000	Diesel (off-road)	Visual monitoring, manual measurement of contents, monthly and yearly inspections. Covered, concrete secondary containment structure.
1	single-walled, steel horizontal AST	15,000	Used oil	Visual monitoring, manual measurement of contents, monthly and yearly inspections. Covered, concrete secondary containment structure.
3	single-walled, steel horizontal AST	1,000 each	Hydraulic Oil, 15wt motor oil 50wt Trans. Oil	Visual monitoring, manual measurement of contents, monthly and yearly inspections. Covered, concrete secondary containment structure.
1	single-walled, steel horizontal AST	275	Gear Oil	Visual monitoring, manual measurement of contents, monthly and yearly inspections. Covered, concrete secondary containment structure.
1	single-walled, steel horizontal AST	475	Unleaded Gasoline	Visual monitoring, manual measurement of contents, monthly and yearly inspections. Covered, concrete secondary containment structure.
21	Steel Drums	55 each	Coolant, used filters, degreaser, gear oil	Visual monitoring, monthly inspections. Inside storage shed.
1	Fuel Truck	1 - 3000 (diesel) 3 - 80 (oil) 1 - 50 (50wt)	Various	Periodic maintenance/monitoring Spill Kit

TOTAL GALLONS: 97,040 gallons

TABLE 2
Regulatory and Emergency Response Agencies/Organizations
for Discharge Event Notification
Florida Rock Ft. Myers Mine

<u>Organization</u>	<u>Contact</u>	<u>Phone Numbers</u>
Regulatory & Government Agencies		
National Response Center – USEPA/US Coast Guard	24-Hour Spill Reporting	
	-Spills into or involving surface waters (any amount)	(800) 424-8802
FDEP State Monitoring Point	24-hour Spill Reporting and Response	
	-Spills into or involving surface waters (any amount)	(850) 413-9911
	-Spills greater than 25 gallons (to pervious surface)	(800) 320-0519
	-Spills greater than 100 gallons (to impervious surfaces)	
	-Spills greater than 500 gallons (to secondary containment areas)	
EPA Region IV Spill Reporting	Spill Reporting	(404) 562-8700
Lee County DNR – Tanks Program	Spill Notification	(239) 694-0929
Chemtree (Chemical Information)		(800) 424-9300
Emergency Agencies		
Fire Department	Emergency operator	911
		Non-emergency (239) 267-7525
Lee County Sheriff	Emergency operator	911
		Non-emergency (239) 477-1810

TABLE 3
SPCC Emergency Response Procedures

RESPONSE ACTION	RESPONSIBLE PERSONNEL
<u>Recognition</u> of the incident by someone on the scene.	Facility Personnel
<u>Notification</u> of the Site Manager, Operations Manager, and the Environmental Representative .	Site Manager
<u>Activation</u> of internal alarms.	Site Manager
<u>Evacuation</u> of the facility or immediate area of the incident of all non-involved personnel.	Site Manager
<u>Evaluation</u> of the incident - what is happening to how much of what material, and what are the possible consequences.	Site Manager & Operations Manager
<u>Containment</u> or control of the spill, fire or explosion.	Site Manager & Operations Manager
<u>Notification</u> of appropriate outside agencies, from the Fire Department to the National Response Center.	Environmental Representative
<u>Clean-up</u> of debris and equipment, including disposal of hazardous waste.	Emergency Contractor Cleanup
<u>Paperwork</u> , from written reports to the State or Federal EPA, to a critique of the contingency plan.	Environmental Representative
<u>Disposal</u> of contaminated, disposable items should be placed in a DOT 17H drum before leaving the job site - this includes gloves, protective suits, respirator filters, polyethylene sheeting, etc.	Emergency Contractor Cleanup
<u>Decontamination</u> of contaminated non-disposable items, such as shovels, pumps, recoverable fittings and lines <u>must</u> be thoroughly rinsed before removal from the site.	Emergency Contractor Cleanup

FIGURES

APPENDIX A

Discharge Records

APPENDIX B

Dike Drainage Discharge Records

ATTACHMENT I

02/15/2021

**AGREEMENT PURSUANT TO STIPULATION OF SETTLEMENT
UNDER SECTION 70.001, FLORIDA STATUTES**

**THIS AGREEMENT PURSUANT TO STIPULATION OF SETTLEMENT
UNDER SECTION 70.001, FLORIDA STATUTES (hereinafter, "Agreement")** is entered into this _____ day of _____, 20____, by and between:

LEE COUNTY, a political subdivision and charter county of the State of Florida (hereinafter "County"), having its principal office at 2115 Second Street, Fort Myers, FL 33901; and

FFD LAND CO., INC., a Florida corporation (hereinafter, "FFD" or "Developer"), whose address for purposes of this Agreement is 315 New Market Road East, Immokalee, FL 34142.

WHEREAS, FFD owns approximately 5,208.6 +/- acres of land located in Lee County, said property being legally described in Exhibit "A" attached hereto (hereinafter, "the Property"); and

WHEREAS, in January 2009, FFD filed an application with the County for a rezoning to the Mine Excavation Planned Development (MEPD) district in order to mine a portion of the Property for limerock extraction purposes; and

WHEREAS, the County denied the MEPD rezoning request on May 6, 2013; and

WHEREAS, FFD filed a claim with the County and a Complaint in Circuit Court against the County (Case No. 17-CA-001517, 20th Judicial Circuit) under the Bert J. Harris Private Property Rights Protection Act ("the Act"), Section 70.001, Fla. Stat., alleging that the denial of the MEPD rezoning and other regulatory restrictions adopted by the County have placed an inordinate burden on the use of the Property, entitling FFD to compensation under the Act; and

WHEREAS, the Act allows the parties to a dispute under the Act to enter into agreements in order to settle claims filed thereunder, and expressly provides that such agreements may modify or contravene applicable ordinances, rules, regulations, and statutes, subject to the requirements of Section 70.001(4)(d), Florida Statutes; and

WHEREAS, Lee County has adopted Land Development Code (LDC) Section 2-450 to implement Section 70.001(4)(d), Florida Statutes, and expressly allows the Board of County Commissioners to waive any or all procedural requirements contained in otherwise applicable codes and ordinances, and to directly exercise all authority otherwise delegated to the Lee County Hearing Examiner, the County Manager, or any other division or agency of the County; and

WHEREAS, the County and FFD engaged in mediation in an effort to resolve

FFD's claim under the Act, and the parties have met subsequent to the mediation in order to identify alternative uses for the Property that are satisfactory to FFD which, if approved by the County, would resolve FFD's claim under the Act; and

WHEREAS, the County and FFD have identified and agreed upon such alternate uses for the Property, and the parties desire to enter into this Agreement in order to implement their understanding; and

WHEREAS, FFD, in consideration of the covenants and conditions contained herein, has also agreed to convey to the County FFD's rights and interests in excavation and mining on the Property to preclude any future mining permit requests on the Property; and

WHEREAS, the County and FFD have entered into that certain Stipulation of Settlement dated October 15, 2020, agreeing to resolve all claims associated with FFD's Complaint under the Act; and

WHEREAS, this Agreement was reviewed in a public hearing before the Lee County Hearing Examiner on _____, 2020, and in two public hearings before the Board of County Commissioners of Lee County on _____, 2021, and _____, 2021, at which time public comment was taken and duly considered; and

WHEREAS, the Stipulation of Settlement will be reviewed by the Circuit Court pursuant to Section 70.001(4)(d)2., Florida Statutes, at which time a hearing will be held before the Circuit Court for the presentation of public comment on the Stipulation of Settlement and this Agreement;

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and of the benefits to accrue to each Party, the County and FFD agree as follows:

1. Recitals. The foregoing recitations are true and correct and are incorporated herein by reference. All exhibits to this Agreement are deemed a part hereof.

2. Property Subject to this Agreement. The Property described on the attached Exhibit "A" is subject to this Agreement. The terms "Property" and "Project" are used interchangeably in this Agreement.

3. Ownership. FFD represents that it is the fee owner of the Property and as such may lawfully enter into this Agreement.

4. Proposed Development of the Property. The County agrees that FFD will have the right to develop the Property as set forth in this Agreement. The Proposed Development of the Property will comply with the following:

A. Development will be consistent with the Master Concept Plan ("MCP") attached as Exhibit "B," and will comply with the Schedule of Uses attached as Exhibit "C," the Conditions shown on attached Exhibit "D," and the Property Development

Regulations shown on attached Exhibit "E."

B. Upon the Effective Date of this Agreement, the Property will be designated and treated as a Mixed-use Planned Development ("MPD") under the LDC. Upon compliance with the terms of this Agreement and the requirements of the LDC, local development orders and other development permits for development of the Property will be issued by the County as provided under the LDC and other applicable regulations.

5. Consistency with Lee County Comprehensive Plan. The parties acknowledge that certain aspects of the development approved pursuant to this Agreement would require a plan amendment to the County's Comprehensive Plan ("Plan") adopted pursuant to Chapter 163, Florida Statutes. Accordingly, approval of the development without a plan amendment will contravene the application of Sections 163.3184 and 163.3194(1)(a), Florida Statutes (the "Contravened Statutes"). Pursuant to Section 70.001(4)(d)2., Florida Statutes, the parties will file an action in circuit court to ensure that the relief granted by this Agreement protects the public interest served by the Contravened Statutes and is the appropriate relief necessary to prevent the County's regulations from inordinately burdening the Property.

6. Public Facilities. Potable water, sanitary sewer, solid waste service, surface water management and fire/EMS services necessary to serve the Proposed Development are either adequate as existing or will be adequate or mitigated for at the time of development order for the Proposed Development or any portion thereof, subject to the following:

A. Transportation and fire/EMS services will be mitigated by Developer as provided in paragraphs 8.A. and 8.C., respectively, below.

B. Potable water service and sanitary sewer service is presently adequate at the existing plants or will be available for the Proposed Development. The Developer will pay standard hook-up and connection fees charged by the County at the time of local development order for the uses within that development order. Adequate potable water transmission lines for the Proposed Development are available within the Corkscrew Road right-of-way adjacent to the Property. The Developer and LCU will identify any sewer collection system force mains and/or pump station improvements needed to meet the demands of the Proposed Development and existing approved developments. The Developer will be responsible for needed sewer improvements attributable to the Proposed Development. Any upsizing of the force mains and/or pump stations desired by the County to meet future demands will be designed, permitted, and constructed by Developer in accordance with the following:

(i) The Developer will notify the County at least sixty (60) days in advance of commencing engineering design work for the force mains and/or pump station improvements.

(ii) Within thirty (30) days of receipt of Developer's notice, the County may request Developer to upsize the force mains and/or pump station improvements to a capacity identified by the County.

(iii) The County agrees to reimburse Developer for all incremental costs of design, permitting, and construction of the force mains and/or pump station improvements attributable to the requested upsizing, such reimbursement

to be due upon inspection and acceptance of the transmission line improvements by the County.

C. Solid waste service will be provided by a franchised hauler and the County's waste-to-energy incinerator.

D. Subject to the requirements of paragraph 8.B. below, surface water management will be provided in accordance with permits to be issued by the South Florida Water Management District.

7. Development Permits Needed for Proposed Development. FFD must obtain all State and Federal permits necessary to allow development in accordance with this Agreement, subject to paragraph 19 below. FFD must obtain all development orders and development permits from Lee County necessary to allow development in accordance with this Agreement, subject to and in accordance with this Agreement.

8. Development Limitations, Commitments and Obligations. For and in consideration of the benefits received pursuant to this Agreement, FFD agrees to the following limitations, commitments and obligations in order to mitigate the impacts of the Proposed Development:

A. Transportation Mitigation. Mitigation for the traffic impacts attributable to the Proposed Development will be provided in accordance with the following:

- i. The Developer will pay road impact fees to the County in effect at the time of building permit for all uses. In the event road impact fees are replaced by another fee, assessment, or charge of general applicability for the mitigation of road impacts from new development, payment of the new fee, assessment, or charge will replace road impact fees for any development for which road impact fees have not been paid.
- ii. The Developer will pay a proportionate share payment to the County of two thousand (\$2000.00) dollars for each residential dwelling unit. This payment will be made at the time each development order for vertical development or plat for residential lots is issued, and the amount paid will be based upon the number of dwelling units approved by each development order or plat.
- iii. No additional fees, charges, or assessments for road improvements may be made by the County in connection with the residential, commercial, and amenity portions of the Proposed Development without the consent of the Developer. Public schools, civic uses, and other public facilities may be required to provide additional mitigation to be determined prior to issuance of building permit.

B. Environmental Enhancements. Environmental enhancements to the

Property will occur in accordance with the Conditions of Development attached as Exhibit "D" and the phasing plan attached hereto as Exhibit "F."

- C. The building permit applicant will pay Fire and EMS Impact Fees in accordance with the Fire/EMS Impact Fee Ordinances. The Developer will pay to Lee County EMS a proportionate share payment in the amount of \$100 per dwelling unit, in advance of building permits. Payments will be made as follows: \$173,600.00 at the time of first residential building permit; \$173,600.00 at the time of issuance of a development order for the 1736th dwelling unit; and a final payment to be determined at the time of issuance of a development order for the 3472nd residential unit, such payment to be based upon Developer's good faith estimate of the remaining residential dwelling units to be developed at that time. In the event the actual number of dwelling units exceeds this good faith estimate, the Developer will be required to pay \$100 for each dwelling unit in excess of the estimate at the time of development order for such additional units.

9. Applicable Land Use Regulations. The Proposed Development within the Property shall be subject to the County's land development regulations and policies governing development as of the Effective Date of this Agreement for the duration of this Agreement. Unless otherwise requested and agreed to by FFD, the County may not apply subsequently adopted regulations and policies to the Proposed Development.

10. Duration of Agreement. This Agreement shall remain in full force and effect until buildout of the Proposed Development, unless terminated earlier as provided in Paragraph 11 of this Agreement. For purposes of this Agreement, buildout shall occur upon the earlier of (a) issuance of certificates of occupancy for all development authorized herein, or (b) recording in the Public Records of Lee County of a declaration by FFD that it has completed development under this Agreement and transmittal of same to the County. Notwithstanding anything in the LDC to the contrary, the MCP, Schedule of Uses, Conditions of Development, and Property Development Regulations attached hereto as Exhibits "B," "C," "D," and "E," respectively, will remain valid for the duration of this Agreement.

11. Amendment and Termination. This Agreement will terminate only upon mutual consent of the parties, in writing, executed with the same formalities as this Agreement or upon recording of a Notice of Termination by either Party pursuant to paragraph 21 below. Amendments to the density or intensity of the Proposed Development can only be approved through mutual agreement of the parties. All other changes to Exhibits "B," "C," "D," and "E" may be reviewed and approved administratively through the same processes and criteria identified for planned developments in LDC Chapters 10 and 34. If the proposed amendment does not meet the criteria for administrative approval, the amendment must be approved through the public hearing

process under the same processes and criteria identified for planned developments in LDC Chapters 10 and 34.

12. Relinquishment of Claims by FFD. Upon entry of an Order of Dismissal by the Circuit Court in that certain case styled *FFD Land Co., Inc. v. Lee County*, 20th Judicial Circuit Case No. 17-CA-001517:

A. FFD agrees to relinquish to the County all of FFD's rights and interests in excavation and mining on the Property through a restrictive covenant on the Property that will ensure that future owners and successors have no rights or interests in mining the Property for limerock or other sedimentary minerals. Provided, however, that nothing contained herein shall preclude excavation in connection with the Proposed Development of the Property including, but not necessarily limited to, excavation for water retention, fill, utilities, infrastructure, structures, and other related purposes. The foregoing restrictive covenant will not prohibit exploration or production of oil or natural gas on or under the Property, will not create oil, gas or mineral rights in the County, and shall not be deemed to prohibit the sale and removal of excess fill material created by an approved development of the Property if approved by the County in accordance with LDC Chapter 10. The restrictive covenant shall be recorded in the Public Records of Lee County.

B. FFD agrees to waive, relinquish, and release forever its claim for damages for an "as applied" taking and pursuant to that certain claim letter filed with the County by FFD dated April 8, 2014, pursuant to the Act, for actions arising out of the County's denial of its MEPD zoning request on May 6, 2013; provided, however, that nothing contained herein shall constitute a waiver or relinquishment of any claim for damages or any other relief whatsoever arising against the County from or out of this Agreement, or for any subsequent property rights violation arising after the date of this Agreement that is not directly related to the County's denial of said MEPD zoning request.

13. Credit Against Proportionate Share Payment. For and in consideration of FFD's conveyance to the County of all of FFD's rights and interests in excavation and mining of limerock and other sedimentary minerals on the Property as provided in Paragraph 12 above, FFD will receive a credit from the County in the amount of \$1.5 million that may be used by FFD, or its assigns, towards the proportionate share payments charged by the County under paragraph 8 of this Agreement. FFD may transfer or assign all or part of this credit to a third party only for use in conjunction with development of the Property. No building permits for development utilizing this credit will be issued by the County unless the permit applicant provides to the County a notarized form executed by FFD identifying the number of dwelling units or square footage of non-residential development authorized by FFD to be built. The form will be in substantially the same format as the form attached hereto as Exhibit "G." The County will not issue building permits for any development that exceeds the amount of development authorized by FFD.

14. Notices. All notices required or permitted under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested to the following

addresses, or to such other person or address as any Party may designate from time to time in writing:

If to FFD: FFD land Co., Inc.
315 New Market Road East
Immokalee, FL 34142
Attn: Jaime Weisinger, V.P. Real Estate

With a copy to: Henderson, Franklin, Starnes & Holt, P.A.
1715 Monroe St.
Fort Myers, Florida 33901
Attn: Russell P. Schropp

If to the County: Lee County
2115 Second Street
Fort Myers, FL 33901
Attn: County Manager

With a copy to: Lee County
2115 Second Street
Fort Myers, FL 33901
Attn: Lee County Attorney

15. Remedies. Any material breach of this Agreement may be enforced by either Party as against the other by appropriate action in law or equity filed in a court of competent jurisdiction, including but not limited to an action for specific performance; provided, however, no such action may be brought until the defaulting Party has been given notice and ninety (90) days in which to cure the default to the satisfaction of the non-defaulting party. Notwithstanding the foregoing, violations of the Master Concept Plan, Schedule of Uses, Conditions of Development and Deviations, and Property Development Regulations attached hereto as Exhibits A, B, C, and D, respectively, may also be enforced by the County through appropriate code enforcement actions.

16. Governing Law; Venue. This Agreement shall be construed and interpreted according to the laws of the State of Florida, and venue with respect to any litigation between the Parties related to this Agreement shall be exclusively in Lee County, Florida.

17. Severability. If any part, term, or provision of this Agreement is held to be illegal, void, or unenforceable, the remaining portions or provisions of this Agreement shall not be affected or impaired, each remaining provision shall remain in full force and effect, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

18. Entire Agreement. This Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications,

representations, or agreements, either verbal or written, regarding the Proposed Development of the Property between the Parties.

19. Conflict of Laws. If state or federal laws are enacted subsequent to the execution of this Agreement which are applicable to and preclude either Party's compliance with the terms of this Agreement, this Agreement shall be modified as necessary to comply with the relevant state or federal laws, in a manner that most closely reflects the intent of this Agreement.

20. Covenants Running with the Land; Assignment of Obligations by FFD. The obligations imposed and entitlements created pursuant to this Agreement shall run with and bind the Property as covenants running with the land, and this Agreement shall be binding upon and enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees, and assigns. All or any of the obligations of FFD may be assigned to one or more successor developers, property owners associations or to one or more community development districts established under Chapter 190, Fla. Stat., and FFD shall thereafter be relieved of all obligations so assigned.

21. Effective Date. This Agreement will become effective (the "Effective Date") upon full execution by both Parties and recording of the Agreement in the Public Records of Lee County pursuant to paragraph 22 below; provided, however, that none of the rights or obligations contained herein will become effective as to either Party until issuance of the Order of Dismissal by the Circuit Court pursuant to paragraph 12 above. In the event an Order of Dismissal is not entered within one (1) year of the Effective Date of this Agreement, then either Party may terminate this Agreement by recording a Notice of Termination in the Public Records of Lee County, whereupon this Agreement will be considered null and void.

22. Recording of Agreement. This Agreement will be recorded by the County at the County's expense in the Public Records of Lee County within fourteen (14) days of approval by the Lee County Board of County Commissioners. In the event this Agreement is terminated as provided herein, the Parties will execute and FFD will record a Notice of Termination in the Public Records of Lee County within twenty (20) days of such termination.

23. Findings Under Section 70.001(4)(d)1., Florida Statutes. Pursuant to Section 70.001(4)(d)1., Florida Statutes, the County finds that, to the extent that this Agreement has the effect of a modification, variance, or a special exception to the application of a rule, regulation, or ordinance as it would otherwise apply to the Property, the relief granted herein and the obligations and mitigation to be provided by FFD pursuant to this Agreement, adequately protect the public interest served by the rules, regulations or ordinances at issue and is the appropriate relief necessary to prevent the County's regulatory efforts from inordinately burdening the Property.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year written below.

WITNESSES:

FFD LAND CO., INC., a Florida corporation

Print Name: _____

Print Name _____

By: _____

Name: _____

Title: _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to and subscribed before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 20____, by _____, as _____ of FFD Land Co., Inc., a Florida corporation, who is ☐ personally known to me or ☐ who produced _____ as identification.

Notary Public Signature

My Commission Expires:

Type/Print Notary Public Name

Commission No.: _____

ATTEST:
LINDA DOGGETT, CLERK

**BOARD OF COUNTY
COMMISSIONERS OF LEE COUNTY,
FLORIDA**

By: _____
Deputy Clerk

By: _____, Chair

Date: _____

Print Name

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

County Attorney's Office

Exhibits:

- A. Legal Description of the Property
- B. Master Concept Plan
- C. Schedule of Uses
- D. Conditions of Development and Deviations
- E. Property Development Regulations
- F. Phase Plan and Schedule
- G. Impact Fee Authorization Form
- H. Existing AG Uses
- I. Form of Conservation Easement

Exhibit A

Legal Description of the Property

LEGAL DESCRIPTION

ALL OF SECTIONS 26, 35 AND 36 AND THE EAST ONE-HALF OF SECTION 34 TOWNSHIP 46 SOUTH RANGE 26 EAST, LEE COUNTY FLORIDA AND ALL OF SECTIONS 1, 2, 11, 12 AND THE EAST ONE-HALF OF SECTION 3 TOWNSHIP 47 SOUTH RANGE 26 EAST LEE COUNTY FLORIDA LESS THE RIGHT OF WAY FOR CORKSCREW ROAD BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 36;
THENCE NORTH 00°53'47" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2644.58 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;
THENCE NORTH 00°54'01" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2644.35 FEET TO THE NORTHEAST CORNER OF SAID SECTION 36;
THENCE SOUTH 89°17'03" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2641.41 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;
THENCE SOUTH 89°21'54" WEST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 36 A DISTANCE OF 2637.56 FEET TO THE NORTHWEST CORNER OF SAID SECTION 36 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 26;
THENCE NORTH 00°34'00" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 26 A DISTANCE OF 2629.17 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;
THENCE NORTH 00°34'15" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2578.45 FEET TO THE SOUTH RIGHT OF WAY LINE OF CORKSCREW ROAD (100' WIDE) AS RECORDED IN OFFICIAL RECORDS BOOK 571 PAGE 457 PUBLIC RECORDS OF LEE COUNTY FLORIDA;

THENCE SOUTH 89°29'01" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 2657.86 FEET;
THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE SOUTH 89°29'14" WEST A DISTANCE OF 1138.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1859.57 FEET;
THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°19'01" AN ARC DISTANCE OF 432.21 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26;
THENCE LEAVING SAID RIGHT OF WAY LINE ALONG SAID SECTION LINE SOUTH 89°29'14" WEST A DISTANCE OF 1091.28 FEET TO THE NORTHWEST CORNER OF SAID SECTION 26;
THENCE SOUTH 00°58'11" EAST ALONG THE WEST LINE OF THE NORTHWEST CORNER OF SAID SECTION 26 A DISTANCE OF 2637.69 FEET TO THE WEST QUARTER CORNER OF SAID SECTION;
THENCE SOUTH 00°55'06" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2636.23 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 26 AND THE NORTHEAST CORNER OF THE AFOREMENTIONED SECTION 34;
THENCE SOUTH 89°17'12" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2640.06 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;
THENCE SOUTH 00°38'09" EAST A DISTANCE OF 5293.88 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 34 AND THE NORTH QUARTER CORNER OF THE AFOREMENTIONED SECTION 3;
THENCE SOUTH 00°28'36" WEST A DISTANCE OF 5444.35 FEET TO THE SOUTH QUARTER

CORNER OF SAID SECTION 3;
THENCE NORTH 88°35'10" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2693.91 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 3 AND THE NORTHWEST CORNER OF THE AFOREMENTIONED SECTION 11;
THENCE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11 A DISTANCE OF 2702.33 FEET TO THE WEST QUARTER CORNER OF SAID SECTION;
THENCE CONTINUE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2702.33 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 11;
THENCE NORTH 88°41'40" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2681.61 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;
THENCE NORTH 88°43'03" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2675.62 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 11 AND THE SOUTHWEST CORNER OF THE AFOREMENTIONED SECTION 12;
THENCE NORTH 88°37'36" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2698.32 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;
THENCE NORTH 88°37'51" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2697.96 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 12;
THENCE NORTH 00°51'57" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.13 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;
THENCE NORTH 00°51'43" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 12 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 1;
THENCE NORTH 01°01'36" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2639.48 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;
THENCE NORTH 01°03'27" WEST ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 2639.69 FEET TO THE NORTHEAST CORNER OF SAID SECTION 1 AND THE SOUTHEAST CORNER OF SAID SECTION 36 AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

CONTAINING 5208.61 ACRES OF LAND MORE OR LESS;
SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD;
ABSTRACT NOT REVIEWED.

AGNOLI, BARBER AND BRUNDAGE, INC.
PROFESSIONAL ENGINEERS, PLANNERS & SURVEYORS AND MAPPERS

GEORGE W. HACKNEY P.S.M. 5606

Exhibit B
Master Concept Plan

Exhibit C

Schedule of Uses

Residential Parcels (all Parcels except 10, 11, and 15)

Accessory Uses and Structures
Administrative Offices
Agricultural Uses, in compliance with Condition 12
Club, private
Community Gardens
Clubhouse/Amenity Areas (subject to condition 1.b.):
 Consumption on Premises
 Day care, child
 Food and Beverage Service, limited
 Health Clubs or Spas, as part of the private club
 Personal Services, Group I and 2 (limited to health clubs or spas)
 Recreational Facilities, Personal, Private on-site, Private off-site
 Restaurant, Groups I, II, and III (including outdoor seating and service areas)
 Real estate sales office
 Specialty Retail, Groups I and II
 Parking lot - accessory
Dwelling Units (subject to condition 1.b.)
 Single-Family
 Two-Family Attached
 Duplex
 Zero Lot Line
 Townhouses
 Multi-family
Entrance Gate and Gatehouse
Essential Services
Essential Service Facilities, Groups I and II (excluding solid waste transfer stations)
Excavation, Water Retention
Excess Spoil Removal
Fences, Walls, Entrance Gates
Home Occupation
Model Homes, Model Display Center, Model Display Group, Model Units
Parking Lot, Accessory
Real Estate Sales Office
Recreational Facilities, Personal & Private
Residential Accessory Uses
Signs, in accordance with LDC Chapter 30
Temporary Uses, in compliance with LDC section 34-3044

Commercial Parcels (Parcels 1, 2, 3, 4, and 11; subject to condition 1.b. and other conditions as noted)

Accessory Uses and Structures
Administrative Offices
Agricultural Uses, in compliance with Condition 12
Animal Clinic or Kennel (no outdoor runs)
Bait and Tackle Shop
Banks and Financial Institutions, Group I
Business Services, Group I
Cleaning and Maintenance Services
Clothing Stores, General
Consumption on Premises
Convenience Food and Beverage Store (no fuel pumps)
Daycare, Child and Adult
Drive-through facility for any permitted use
EMS, Fire or Sheriff's Station (in compliance with wellfield protection regulations)
Essential Services
Essential Services Facilities, Group I
Excavation, Water Retention
Fences, Walls
Food Stores, Group I
Gift and Souvenir Shop
Healthcare Facilities, Group III
Hobby, Toy and Game Shops
Household and Office Furnishings, Group I
Medical Office
Package Store
Parcel and Express Services
Parking Lot: Accessory
Personal Services, Groups I, II and III
Pet Services
Pet Shop
Pharmacy
Place of Worship
Real Estate Sales Office
Recreational Facilities, Commercial, Group IV, excluding Convention or Exhibit Halls
and Gun Ranges
Rental or Leasing Establishments, Groups I, II and III
Restaurant, Groups I, II and III
Schools, Commercial and Noncommercial
Signs
Specialty Retail Shops, all Groups
Studios
Temporary Uses
Variety Store

**Amenity Parcels (Parcels 10,
11 and 15; subject to
condition 1.b.)**

Accessory Uses and Structures
Administrative Offices

Agricultural Uses, in compliance with Condition 12
Club, private
Community Gardens
Consumption on Premises
Day Care, child
Essential Services
Essential Service Facilities, Group I
Excavation, water retention
Fences, Walls
Food and Beverage Service, limited
Food Stores, Group I
Health Clubs or Spas, as part of the private club
Personal Services, Group I
Real Estate Sales Office
Recreational Facilities, Personal, Private on-site
Rental and Leasing Establishments, Group I
Restaurant, Groups I, II, and III (including outdoor seating and service areas)
Signs
Specialty Retail, Groups I and II
Parking lot - accessory

R&D Parcel (portion of Parcel 22; subject to condition 1.b.)*

Business Services, Groups I and II
Fences, Walls
Parking Lot, accessory
Research and Development Laboratories, Groups I & IV
Agricultural Uses, in compliance with Condition 12
All uses described above for Residential Parcels

Existing Farmworker Housing Parcel (portion of Parcels 20 and 21)*

Farm labor housing
All uses described above for Residential Parcels

*The parcel designated for Existing Farmworker Housing may remain and be maintained for this use until such time as it may be converted to residential use. The parcel designated as Office R&D may be used for agriculturally-related office and research/development uses not to exceed 50,000 sq. ft. of building area until such time as this use is converted to residential use. These parcels may be converted to residential use at any time, in which case allowable uses will be as stated under "Residential Parcels" above, provided, however, the any such conversion to residential use will not cause the maximum number of dwelling units for the project to exceed 5,208.

Exhibit D

Conditions of Development

CONDITIONS:

1. Master Concept Plan/ Development Parameters

Development must be consistent with the Master Concept Plan (MCP) for FFD Corkscrew Road Property, dated XXX, attached as Exhibit B to the Agreement, except as modified by the conditions below.

a. Development must comply with the Lee County Land Development Code (LDC) in existence as of the effective date of this Agreement. In light of the conceptual nature of the MCP and the expected duration of the development, deviations from the LDC that do not increase the height, density or intensity of the development and otherwise meet the criteria of LDC Section 34-380 may be approved administratively by the Zoning Director without a public hearing.

b. The project is approved for a maximum of 5,208 dwelling units; 100,000 square feet of commercial floor area; 240,000 square feet total building floor area for clubhouse/amenity uses to be located within the Amenity Parcels and Residential Parcels; 50,000 square feet of Research and Development uses (existing); farmworker housing (existing); and public schools, civic uses, and other public facilities (subject to appropriate mitigation pursuant to paragraph 8.A.iii. of the Agreement). The Development Summary table on the MCP provides for the distribution of approved land uses throughout 22 Parcels. The allocation provides flexibility for the amount of development to be constructed on each Parcel but limits the maximum amount of development for the entire project that can be developed at buildout to the parameters identified in this condition. Changes to the number of dwelling units allowed on each Parcel may be approved through an administrative amendment, which may also require review and adjustment of the Conservation Area phasing plan provided in condition 1.c. below. Commercial development must only occur on uplands.

c. The Land Use Summary table on the MCP provides that 2,916.8 acres, or 56% of the project's total land area, will be dedicated to conservation purposes and these areas are identified on the MCP. Restoration and dedication of conservation areas shall occur over time as development orders are issued based upon the Phase Plan attached as Exhibit F to the Agreement and the Table below so that a minimum of 56% of the land area for each development order will be restored and dedicated to conservation concurrent with development:

Phase	Land Area (acres)	Development Area, incl. roads (acres)	Restoration Area (acres)*	Cumulative maximum units
A – Par. 1-7	797.3	350.8	446.5	797 units
B – Par. 8	672.5	295.9	376.6	1,469 units
C – Par. 9-12	951.8	418.8	533.0	2,421 units
D – Par. 13-17	932.9	410.5	522.4	3,354 units
E – Par. 18-20	1,090.9	480.0	610.9	4,445 units
F – Par. 21-22	763.2	335.8	427.4	5,208 units
Total	5,208.6	2,291.8	2,916.8	5,208

*The cumulative amount of Restoration Area provided must equal at least 56 percent of the phase's acreage plus the acreage of previous phases.

Phasing of development and conservation acreage will be subject to the following conditions:

- i. Restoration and dedication of conservation areas shall occur as development orders are issued so as to achieve and maintain a minimum 56% of total land area in conservation.
- ii. The cumulative number of dwelling units permitted by development orders at any given time may not exceed the sum of the acreage for development and conservation included in development orders.
- iii. Individual parcels within a phase may be granted a development order as long as the total area of restoration/preservation and the number of dwelling units is consistent with i. and ii. above.
- iv. Parcels are not required to be developed sequentially according to their number on the Development Summary table on the MCP. If a Parcel is tied to a future Conservation Area on the Table above, the developer may obtain a development order for that parcel provided the minimum 56% conservation area is provided. However, the County may require that the conservation area be provided in an unfinished Conservation Area rather than the future Conservation Area to which the Parcel is tied in the Table above.
- v. A cumulative development update statement and summary must be provided with each development order application with the following information:
 - Existing and pending development order reference numbers, names, and status.
 - Development parameters (by du or square feet) approved by previous development orders, the parameters sought for approval by the current application, and a cumulative total of approved/pending parameters for the project to date.
 - A land use summary table that includes acreage approved by prior development orders and pending approval in the current application for development, conservation, and open space.

- vi. Conservation phases must be completed within ten (10) years of commencement of restoration of each phase, regardless of the progress of development tied to each phase.
- vii. In lieu of restoration/conservation activities required above, a future non-residential development in Phase A may proceed through the reconnection of the offsite flow-way on the east side of the property adjacent to the golf course. Off-site flow would need to be accommodated within the farm infrastructure and future residential property. Phase A restoration must still be completed by the end of development of Phase A parcels.

2. Uses and Site Development Regulations

- a. The Schedule of Uses is set forth in Exhibit C to the Agreement.
- b. The Property Development Regulations are set forth in Exhibit E to the Agreement

3. Wildlife Crossings

The location of wildlife crossings for the project shown on the MCP will be approved prior to issuance of the first development order. Animal crossings will be reviewed and permitted in accordance with the approved locations at time of local development order on a phase-by-phase basis. The construction of the animal crossings must be consistent with similarly approved crossings within other residential developments in the area.

4. Protected Species Management and Human-Wildlife Coexistence Plan

The developer must submit an updated Protected Species Management and Human/Wildlife Coexistence Plan for approval by the County prior to or concurrent with the first development order application. The Plan and development order plans must address the following:

- Lighting: Lighting must comply with LDC 34-625. Lighting plans must demonstrate no light spillage into the indigenous preserve and restoration areas. Techniques to limit lighting impacts include shielding and motion sensor devices. The lighting standards must also be included in deed restrictions;
- Trails: The location of proposed passive trails within indigenous preserve and restoration areas must include designated trailheads with signs and educational kiosks posted with information on possible wildlife encounters and appropriate actions when encountering wildlife. Signs and educational kiosks must identify all wildlife documented in the Plan as present or with the potential to utilize the habitat;

- Signs: The placement and content of signs between lakes and residential buildings warning of the presence of alligators and that it is dangerous and illegal to feed or harass alligators. The developer must also include these warnings in the deed restrictions;
- Wildlife Fencing: (If proposed) must meet recommendations and requirements of the Florida Fish and Wildlife Conservation Commission (FWC) and US Fish and Wildlife Service (FWS); and
- The Plan must be updated to reflect FWC and FWS requirements if permits are issued after approval of the first development order.
- Vegetation Removal permit applications must include a map depicting the work limit area and a species survey for the work limit area. The developer must submit a management plan for protected species within the work limit area identifying protection measures, monitoring, and/or relocation consistent with State and Federal requirements.
- Development order plans for commercial uses must demonstrate use of bear resistant dumpsters and below ground grease traps.

5. Open Space

Prior to or concurrent with the first development order application, the developer will submit for County approval an Open Space Plan that must demonstrate how a minimum of 65% open space will be achieved at buildout in substantial compliance with the approved MCP.

6. Platting Preserve Areas

At time of platting on a phase-by-phase basis, the developer will plat preservation areas into separate tracts and dedicate those tracts to a single maintenance entity, which must be either a master home owners association ("HOA"), a community development district ("CDD"), or a governmental entity acceptable to the County that will accept responsibility for the perpetual maintenance of the preservation areas in compliance with these conditions. The HOA or CDD must be created prior to CC for the first development order.

7. Conservation Easement

Prior to or concurrent with the first development order, the developer will submit a Master Conservation Easement Dedication Plan that will accomplish the dedication of a minimum of 56% of the planned development for conservation purposes on a phase-by-phase basis. The conservation easements will be dedicated to a maintenance entity that provides third party enforcement rights to the County or other public agency acceptable to the County. The conservation easements will be dedicated on a phase-by-phase basis in accordance with the phasing plan attached as Exhibit F to the Agreement as development orders are

issued, and will be reflected on the plats approved by the County for the subject property. The form of the conservation easement will be in the form attached as Exhibit "I" to the Agreement, except as may be required to be modified by the State or South Florida Water Management District.

8. Indigenous Management Plans

The developer must submit for approval by the County a final Indigenous Preservation, Restoration, and Management Plan prior to or concurrent with the first development order application. The Indigenous Preservation, Restoration, and Management Plan must include the following language:

- At the time of purchase, deed holders must be placed on notice through covenants and deed restrictions that project preserve areas may be managed with prescribed burns.
- Prior to commencing prescribed burn activity, the community development district (CDD) or HOA must notify residents of the prescribed burn activities and provide general prescribed burn management educational materials.

9. Agricultural Uses: Existing bona fide agricultural uses, as shown on Exhibit "H," are allowed to continue on the property subject to the following:

- a. The bona fide agricultural use of row crops and citrus groves in existence at the time of this Agreement (including all associated irrigation and fertilization) must be discontinued prior to issuance of a local development order for vertical development of a non-agricultural use for the land area subject to the development order; provided, however, that all agriculture must cease for each Parcel no later than ten (10) years after the commencement of vertical development on that Parcel. Development orders for platting, infrastructure, or other non-vertical development will not require discontinuance of the agricultural use.
- b. Clearing or injury of native trees and vegetation (including understory) is prohibited in areas devoted to agricultural uses. Violations of this condition will require restoration in accordance with LDC 10-423. The prohibition on clearing or expansion of agricultural use does not preclude County approved requests to remove invasive exotic vegetation.
- c. Prior to issuance of a local development order for vertical development, the developer must submit written proof, subject to approval by the County Attorney's Office, of the following:
 - 1) Termination of agricultural uses on the land area subject to the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the land area that provides:

- a) the date agricultural uses ceased;
- b) the legal description of the land area subject to development order approval;
- c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the land area and that the owner covenants with the County that they will not allow agricultural uses on the land area until it is rezoned to permit agricultural uses; and
- d) that the affidavit constitutes a covenant between the owner and the County binding on the owner, their assignees and successors in interest.

The affidavit must be recorded in the public records of the County at the owner's expense.

2) Proof of termination of the agricultural tax exemption on the land area subject to the development order. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

10. Native Vegetation

Development order landscape plans must reflect 100% native vegetation for required landscaping within common elements. These planting requirements and a native plant list must be incorporated into the project's covenants and deed restrictions.

11. Vehicular/Pedestrian Impacts

- a. Local Development Order. This approval does not address site-related mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
- b. Impact Fees and Proportionate Share Payments. The development must mitigate the traffic impacts of the project and pay a proportionate share of the needed roadway improvements in accordance with paragraph 8 of the Agreement.
- c. Shared Use Path. The developer must provide an off-road shared use bike path/sidewalk in front of each residential lot and along at least one side of every project roadway. The shared use path must be 5 feet wide and separated from the travel lanes of the roadway. This separation from the travel lanes may be achieved by the installation of

a structural curb/gutter that prevents normal vehicular traffic on the path.

d. Access. Agricultural uses (including farmworker housing and research and development uses) may access the property only via Six L's Farm Road and may not access Corkscrew Road directly from the property. Residential, commercial, and related amenity and accessory uses may access the property only via Corkscrew Road and may not directly access Six L's Farm Road. At the developer's option, an emergency access for fire/ems may be provided onto Six L's Farm Road to provide access for these services to the residential, commercial, and related amenity and accessory uses within the development.

e. Phasing. The residential and commercial development authorized by this Agreement will be phased as follows:

- i. Not more than twelve hundred fifty (1,250) dwelling units and 100,000 sq. ft. of commercial uses may be issued a building permit within three (3) years of the Effective Date of this Agreement.
- ii. Not more than twenty-five hundred (2,500) dwelling units and 100,000 sq. ft. of commercial uses may be issued a building permit within five (5) years of the Effective Date of this Agreement.
- iii. Not more than forty-two hundred fifty (4,250) dwelling units and 100,000 sq. ft. of commercial uses may be issued a building permit within seven (7) years of the Effective Date of this Agreement.
- iv. All residential and commercial development may be issued a building permit after seven (7) years of the Effective Date of this Agreement.
- v. These phasing restrictions do not apply to uses on the amenity uses, Office/R&D Parcel, and Farmworker Housing Parcel.

12. Entrance Gates and Gatehouses

Entrance gates and gatehouses are permitted at development entrances from Corkscrew Road and along the internal spine roads of the development. Gates must allow unencumbered pedestrian and bicycle movement between sub-neighborhoods and the overall development.

13. Surface & Ground Water Monitoring

The developer must submit an Enhanced Lake Management Plan at the time of Development Order application that includes monitoring components of surface and groundwater levels and quality as follows:

- a. The proposed groundwater (level and quality) monitoring program must establish baseline conditions and address monitoring during construction and operation of the storm water management facility.
- b. Quality of storm water entering and leaving the site must be monitored twice during the wet season and once during the dry season. Reporting must consist of an Electronic Data Deliverable (EDD) in a format approved by the Lee County Department of Natural Resources and submitted quarterly.
- c. The developer or successor must annually update the Water Quality Monitoring Program within the Enhanced Lake Management Plan to: 1) assess water quality data and trend analysis, 2) identify potential issues, and if necessary, 3) recommend corrective actions for changes to the monitoring plan.
- d. The developer may amend water quality monitoring and reporting after written request, review, and approval by the Department of Natural Resources.
- e. Groundwater quality monitoring well(s) for the Surficial Aquifer System must be provided and located between and proximate to Lee County's nearest production well(s) identified in the Water Quality Monitoring Plan.
- f. If any development order proposes to discharge into the County's MS4, the developer will coordinate with Lee County Department of Natural Resources through the development order process to ensure available capacity.

14. Wellfield Protection

- a. A portion of the property lies within Wellfield Protection Zones for the County public water supply. Development in those areas must comply with the Wellfield Protection Ordinance.
- b. The first development order application must include a list of Best Management Practices to address potential degradation of groundwater due to storage and use of regulated substances on-site during construction and operation of the development, if such substances will be stored or used on-site.
- c. The Declarations and Covenants must specify that only licensed professionals authorized by Lee County may perform activities such as the application of fertilizers, pesticides, insecticides, herbicides, nematicides or

other chemicals on the property. This restriction also applies to any commercial development.

- d. Docks, boat ramps, and motorized boats are prohibited within on-site storm water management lakes.
- e. Residential and amenity center development areas within the 5-year travel zones of the Wellfield Protection Ordinance must provide a minimum of 1.5 inches of water quality treatment of which, a minimum of 0.5-inch must be completed by water quality dry pretreatment prior to discharging into the lakes.
- f. Commercial development within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance must provide a minimum of 1.5 inches of water quality treatment, of which, a minimum of 0.5 inches must be completed by water quality dry pretreatment. Commercial development will be considered within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.
- g. Dry and wet treatment on any commercial property must be located outside of the 6-month and 1-year travel zones.

15. Irrigation Wells

Single-Family Irrigation and Domestic Wells are prohibited. Development order plans must demonstrate irrigation will be provided via a central irrigation system using onsite lakes and, as necessary, existing permitted wells (or replacement wells). The Property Owner Association documents, including Declarations and Covenants, must prohibit the installation of single-family use wells for potable or irrigation water. Landscape irrigation must comply with the Water Conservation Ordinance #17-04, as amended.

16. Water and Sewer

All development must connect to central water and sewer; no septic systems or potable water wells will be permitted. The developer will utilize Lee County Utilities for potable water for the property, as provided in the Agreement. The development will connect to reclaimed water when available at the boundary of the subject property.

17. Maintenance

The developer and/or the CDD must submit a biennial drainage report signed by a licensed Professional Engineer in the State of Florida certifying that the drainage capacities of the flow-ways or buffer lakes at the completion of the project are consistent with the original design. If the report finds that flow-ways or buffer lakes require maintenance, then the developer/CDD must submit a remedial plan for review and approval to address measures to conduct

maintenance (i.e. re-grading the flow-ways or berms). Providing the County with a copy of the CDD Engineer's Report will satisfy this requirement with the additional requirements above.

18. Hydrological Restoration Plan

a. Flow Way Re-establishment. The developer must demonstrate how it will re-establish historic storm water flows through the property to the greatest extent practicable consistent with the MCP. The developer is responsible for providing storm water flow through the project site until the property and permits are transferred to a third party.

b. Hydrological Restoration Plan. The developer must submit a Hydrological Restoration Plan that incorporates the requirements of Policy 33.2.4.2.c. of the Lee Plan prior to or concurrent with the first development order application. The Hydrological Restoration Plan must be based, in part, on an integrated surface and groundwater model to demonstrate protection of Lee County's natural resources, and must include backfill and restoration of manmade ditches on the property. The developer must phase backfill work to coincide with project development. A key feature of the Hydrological Restoration Plan is the re-establishment of the flowways encompassed within the conservation areas on the MCP, to restore historic flow-ways and improve drainage patterns to the extent feasible.

The Hydrological Restoration Plan must include detailed calculations and analyses for proposed flow-ways and other drainage improvements to estimate hydrologic benefits while ensuring no adverse impacts to adjacent properties. As part of the analysis, the developer will consult with County staff regarding the potential for providing additional regional surface water storage within the subject property. If mutually agreed upon, the County and the Developer may enter into an Agreement to provide for such additional storage.

The calculations/analyses must analyze post-development phases including peak stages, flows, and inundation (durations and frequency) for design storms (25 yr - 3 day and 100 yr -3 day) and compare hydrologic conditions for wet and dry seasons.

c. Timing. The developer must construct the hydrological restoration plan approved by the County coincident with construction of the storm water management system for each phase of development.

19. Landscape Berm. A 100-foot wide buffer must be provided along Corkscrew Road. The buffer may include a decorative landscape berm with a maximum height of 6 feet as measured from the crown of Corkscrew Road.

20. Letters of Availability. Letters of availability will be provided for law enforcement, fire, ems, and schools concurrent with each development order application.

21. Development Permits. Issuance of a county development permit does not establish a right to obtain permits from state or federal agencies. Further, it does not establish liability on the part of the county if the developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of state or federal law.

DEVIATIONS

Deviation 1 grants relief from LDC Section 10-296(e)(3), which requires roadway segments in Lee Plan future non-urban areas to be designed to non-urban design standards, to allow the internal roadways to be designed to the suburban roadway standards of LDC Section 10-296(e)(2).

Deviation 2 grants relief from LDC Section 10-291(3), which requires that residential development of more than five acres and commercial development of more than ten acres provide more than one means of ingress and egress, to allow (1) a single entrance onto Corkscrew Road for development of Parcels 1-5; and (2) two entrances onto Corkscrew Road for development of all remaining parcels.

Exhibit E

Property Development Regulations (in feet)

	Single Family	Zero Lot Line	Two Family Attached	Townhouse	Multi-Family	Amenity Center	Commercial
Minimum Lot Width	35	35	27	18	100	100	100
Minimum Lot Depth	120	120	100	100	100	150	150
Minimum Lot Area	4,200	4,200	3,500	2,200	10,000	15,000	15,000
Maximum Building Height	35	35	35	35	55	45	45
Maximum Lot Coverage	65%	65%	70%	70%	65%	60%	60%

SETBACKS	Single Family	Zero Lot Line	Two Family Attached	Townhouse	Multi-Family	Amenity Center	Commercial
Public Street	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Corkscrew Road	100						
Private Street*	25	25	20	20	20	25	25
Side Yard	5	5/0**	5/0**	5/0**	10	10	10
Rear Yard	10	10	10	10	10	10	10
Accessory Structure	5	5	5	5	5	5	10
Lake Maintenance Easement	5	5	5	5	10	0	25

*10 feet for corner lots

** 0' for the common wall or lot line

Exhibit F
Phase Plan and Schedule

EXHIBIT G

Development Authorization Form

**AUTHORIZATION TO OBTAIN BUILDING PERMIT
WITHIN FFD/CORKSCREW ROAD PLANNED DEVELOPMENT**

The XYZ Corporation is hereby authorized by FFD Land Co., Inc. ("FFD") (or successor developer), to obtain a building permit in [describe lot, tract, or property] of the FFD/Corkscrew Road Property planned development.

In accordance with the Agreement entered into between FFD and the County dated _____, 20____, this document is a limited authorization for the following amount of development to be permitted:

_____ dwelling units
_____ sq.ft. of non-residential; type of use: _____

Further, FFD hereby assigns \$_____ in Proportionate Share credits created pursuant to the Agreement. If no amount is provided, no credits have been assigned.

Building permits in excess of the number of dwelling units and/or non-residential square footage identified above or for uses other than identified above are expressly prohibited.

Developer's Authorized Representative

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _ day of _____, 20____, by _____ as _____ of FFD Land Co., Inc., a Florida corporation, who is personally known to me or has produced _____ as identification.

Notary Public

(SEAL)

Print Name

Commission Expiration Date

EXHIBIT H

Existing Agricultural Uses

EXHIBIT I

Form of Conservation Easement

ATTACHMENT J

INSTR. # 2022000208255, Pages 263
Doc Type: AGR, Recorded: 6/22/2022 at 4:58 PM
Kevin C. Karnes Lee County Clerk of the Circuit Court
Rec Fees: \$2,237.00

AGREEMENT PURSUANT TO STIPULATION OF SETTLEMENT UNDER SECTION 70.001, FLORIDA STATUTES
Deputy Clerk ACRUZ #1

THIS AGREEMENT PURSUANT TO STIPULATION OF SETTLEMENT UNDER SECTION 70.001, FLORIDA STATUTES (hereinafter, "Agreement") is entered into this 22nd day of June 2022, by and between:

LEE COUNTY, a political subdivision and charter county of the State of Florida (hereinafter "County"), having its principal office at 2115 Second Street, Fort Myers, FL 33901; and

CORKSCREW GROVE LIMITED PARTNERSHIP, a Delaware limited partnership (hereinafter, "CGLP" or "Developer"), whose address for purposes of this Agreement is 3602 Colonial Court, Fort Myers, FL 33913.

WHEREAS, CGLP and CGLP's represented parties owns approximately 6,674.56 +/- acres of land located in Lee County, said property being legally described in Exhibit "A" attached hereto (hereinafter, "the Property"); and

WHEREAS, after CGLP acquired the Property they continued to process a pending application with the County for a rezoning to the Industrial Planned Development (IPD) district in order to mine a portion of the Property for limerock extraction purposes; and

WHEREAS, the County denied the IPD rezoning request on November 6, 2019; and

WHEREAS, CGLP filed a claim with the County and a Complaint in Circuit Court against the County (Case No. 19-CA-008183, 20th Judicial Circuit) under the Bert J. Harris Private Property Rights Protection Act ("the Act"), Section 70.001, Fla. Stat., alleging that the denial of the IPD rezoning and other regulatory restrictions adopted by the County have placed an inordinate burden on the use of the Property, entitling CGLP to compensation under the Act; and

WHEREAS, the Act allows the parties to a dispute under the Act to enter into agreements in order to settle claims filed thereunder, and expressly provides that such agreements may modify or contravene applicable ordinances, rules, regulations, and statutes, subject to the requirements of Section 70.001(4)(d), Florida Statutes; and

WHEREAS, Lee County has adopted Land Development Code (LDC) Section 2-450 to implement Section 70.001(4)(d), Florida Statutes, and expressly allows the Board of County Commissioners to waive any or all procedural requirements contained in otherwise applicable codes and ordinances, and to directly exercise all authority otherwise delegated to the Lee County Hearing Examiner, the County Manager, or any other division or agency of the County; and

WHEREAS, the County and CGLP have identified and agreed upon such alternate uses for the Property, and the parties desire to enter into this Agreement in order to implement their understanding; and

WHEREAS, the County owns Property that is adjacent to the proposed Project as shown on the attached Exhibit "B" (hereinafter "County Property"); and

WHEREAS, as an aid to resolution of the dispute between the Litigation Parties, CAM7-SUB, LLC ("CAM") and the County agree, after closing of the purchase of the Property between CGLP and CAM, to swap similar property located within the Project boundaries for the County Property; and

WHEREAS, CGLP, in consideration of the covenants and conditions contained herein, has also agreed to convey to the County CGLP's rights and interests in excavation and mining on the Property to preclude any future mining permit requests on the Property; and

WHEREAS, the County and CGLP have entered into that certain Stipulation of Settlement dated April 19, 2022, agreeing to resolve all claims associated with CGLP's litigation and Bert Harris claim ; and

WHEREAS, this Agreement was reviewed in a public hearing before the Lee County Hearing Examiner on May 17, 2022, and in two public hearings before the Board of County Commissioners of Lee County on June 7, 2022, and June 22, 2022, at which time public comment was taken and duly considered; and

WHEREAS, the Stipulation of Settlement will be reviewed by the Circuit Court pursuant to Section 70.001(4)(d)2., Florida Statutes, at which time a hearing will be held before the Circuit Court for the presentation of public comment on the Stipulation of Settlement and this Agreement;

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and of the benefits to accrue to each Party, the County and CGLP agree as follows:

1. Recitals. The foregoing recitations are true and correct and are incorporated herein by reference. All exhibits to this Agreement are deemed a part hereof.

2. Property Subject to this Agreement. The Property described on the attached **Exhibit "A"** is subject to this Agreement. The terms "Property", "Project" Development, and Proposed Development are used interchangeably in this Agreement. The Proposed Development boundaries may be modified in accordance with subsection 11(B) below.

3. Ownership. CGLP represents that it is the fee owner or designated agent of the Property or otherwise authorized to lawfully enter into this Agreement.

4. Proposed Development of the Property. The County agrees that CGLP or its successors and assigns, will have the right to develop the Property as set forth in this Agreement. The Proposed Development of the Property will comply with the following:

A. Development will be generally consistent with the Master Concept Plan ("MCP") attached as **Exhibit "C"**, and will comply with the Schedule of Uses attached as **Exhibit "D"**, the Conditions shown on attached **Exhibit "E"**, the Property Development Regulations shown on attached **Exhibit "F"**, the Restoration Phasing Plan shown on **Exhibit "G"**,

B. Upon the Effective Date of this Agreement, the Property will be designated and treated as a Mixed-use Planned Development ("MPD") as shown on the MCP. Upon compliance with the terms of this Agreement and the requirements of the LDC, local development orders and other development permits for development of the Property will be issued by the County as provided under the LDC and other applicable regulations except where superseded by the terms of this agreement and the documents attached hereto and made a part hereof.

5. Consistency with Lee County Comprehensive Plan. The parties acknowledge that certain aspects of the development approved pursuant to this Agreement would require a plan amendment to the County's Comprehensive Plan ("Plan") adopted pursuant to Chapter 163, Florida Statutes. Accordingly, approval of the development without a plan amendment will contravene the application of Sections 163.3184 and 163.3194(1)(a), Florida Statutes (the "Contravened Statutes"). Pursuant to Section 70.001(4)(d)2., Florida Statutes, the parties will file an action in circuit court to ensure that the

relief granted by this Agreement protects the public interest served by the Contravened Statutes and is the appropriate relief necessary to prevent the County's regulations from inordinately burdening the Property.

6. Public Facilities. Potable water, sanitary sewer, solid waste service, surface water management and fire/EMS services necessary to serve the Proposed Development are either adequate and existing or will be adequate or mitigated for at the time of development order for the Proposed Development or any portion thereof, subject to the following:

A. Transportation and fire/EMS services will be mitigated by Developer as provided in paragraphs 8.A and 8.C. below.

B. Potable water service is presently adequate at the existing plants or will be available for the Proposed Development. Based on the proposed Project and agreed upon analysis, the required offsite potable water system infrastructure, upgrades, or improvements will be funded by the Developer. The anticipated infrastructure improvements needed to serve the Project consists of the utility extensions identified and depicted in Exhibit "P" which shall include a water tank and booster pump(s). Ensuring the adequacy of the existing and proposed improvements to serve the Project will be the responsibility of the Developer.

The Developer will pay 50% of the standard hook-up and connection fees charged by the County at the time of phased construction plan submittal and the balance at the time the potable water infrastructure has been turned over to the County as a Developer Contributed asset and put into service per each phase of individual development orders. The Developer or assign will pay standard meter fees charged by the County at the time the water meters are requested.

Any extension or upsizing of the potable water main, water tank and/or pump desired by the County to meet future County offsite demands will be designed, permitted, and constructed by Developer in accordance with the following:

(i) The Developer will notify the County in writing or by email at least sixty (60) days in advance of commencing engineering design work for the potable water mains, water tank and/or pump improvements for the Project.

(ii) Within thirty (30) days of receipt of Developer's written or electronic email notice, the County may request, by writing or email, the Developer to upsize the potable water mains, water tank and/or pump improvements to a capacity or size identified by the County.

(iii) The County agrees to reimburse Developer for all incremental costs of design, permitting, financing, bond issuance, overhead, and construction of the potable water mains, water tank and/or pump improvements and infrastructure attributable to the requested upsizing. Such reimbursement to be due within sixty (60) days from County inspection and final acceptance of the transmission line and infrastructure.

C. To facilitate the construction of necessary infrastructure the Parties agree as follows:

1. Sanitary sewer service is not currently available for the Proposed Development.
2. The Developer will be responsible for needed sanitary sewer offsite utility infrastructure improvements to serve the Development, per attached Exhibit K.
3. The County is designing and planning to construct a minimum 10 MGD wastewater facility on Alico Road ("SEWRF"), which once completed will provide sufficient capacity for the Proposed Development.

4. By June 1, 2029, the County is obligated to design, permit, and complete construction of Phase 1 of SEWRF to accept offsite wastewater from the Proposed Development.
5. Phase 1 must be designed and built to provide adequate capacity to serve a minimum of 5,000 residential units and 200,000 square feet of commercial development for the Proposed Development.
6. The County shall provide CGLP or its assigns with written notice no later than August 31, 2025, if the SEWRF construction design plans have not been submitted to the Florida Department of Environmental Protection (FDEP) for review, and written notice shall be provided to CGLP or its assigns on June 15, 2026, if a permit for construction of the SEWRF hasn't been obtained from the FDEP.
7. The sanitary sewer improvements and corresponding minimum capacities set forth herein to accommodate the Proposed Development are in addition to any needed capacity for existing or other proposed developments that the County intends to serve with SEWRF.
8. The Developer shall pay 50% of the Proposed Development's sewer LCU connection fees equal to \$13,300,000.00, based on 10,000 units at a cost of \$2,660.00 per each unit and 50% of the approximate required connection fees for commercial development at the later of (i) the first development order for vertical construction, (ii) August 31, 2025, or (iii) the submittal date of the design plans (together hereinafter referred to as "Connection Fees.") The remaining 50% balance of the Project sewer LCU fee shall be paid at the time the infrastructure is put into service per each phase of development, consistent with current County policies.
9. If less than 10,000 residential units and 700,000 square feet of commercial space are designed within the Proposed Development then any over payment of the initial 50% pre-payment of Connection Fees shall be credited toward the required remaining balance of 50% of the required Connection Fees.
10. Once the initial 50% of the Connection Fees have been paid, the County hereby guarantees the necessary sanitary sewer capacity to serve the 10,000 residential units and accompanying commercial developments within the Project utilizing the capacities of SEWRF and Three Oaks WWTP as needed.
11. The Parties hereby agree and acknowledge that construction of Phase 1 of SEWRF will only be required to accommodate 5,000 units and 200,000 square feet of commercial development for the Proposed Development (in addition to other existing and proposed developments). Once the Connection Fees have been paid, the capacity for the remaining 5,000 units and remaining commercial square footage will be provided for through the construction of future phase(s) of the SEWRF. The future phases of the SEWRF necessary to provide capacity for the remaining portions of the Proposed Development, not accommodated within Phase 1, must be constructed and operational no later than December 31, 2033.
12. Once the SEWRF is completed, the Proposed Development will connect to it through infrastructure installed by the Developer at the Developer's expense and through infrastructure installed third parties or the County.

13. In the event construction of the Proposed Development is delayed or the real estate market reduces overall demand, CGLP and the County may agree in writing to extend the deadlines for construction of the SEWRF identified above.
14. In the event the County is unable to construct the initial or subsequent phases of the SEWRF in accordance with the terms provided herein, the Developer may construct temporary sanitary sewer facilities needed to serve the Proposed Development. Once the temporary facilities are constructed, the County agrees to operate and maintain those temporary facilities at the County's cost until such time as the relative phase(s) of the SEWRF is completed.
15. In the event the County is prevented, hindered or delayed directly or indirectly by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, or any other similar cause beyond the reasonable control of the County (each a "Force Majeure Event"), and such non-performance, hindrance or delay could not have been prevented by reasonable precautions, then the County shall be excused for such non-performance, hindrance or delay, as applicable, of completion of the SEWRF affected by the Force Majeure Event for as long as the Force Majeure Event continues and, except as otherwise provided in this Section, the County continues to use its reasonable efforts to recommence performance whenever and to whatever extent possible without delay to include securing the necessary permitting from State and Federal agencies.
16. Until such time as Phase 1 of SEWRF is completed, the County shall allow a sewer consumptive use rate of 200GPD to determine the sewer capacity available in the existing Pinewoods Master Pump Station and pipes that feed it with the additional calculated capacity to be used by the Proposed Development.
17. The County shall allow a sewer consumptive use rate of 200GPD compared to a design rate of 250GPD to determine the sewer capacity available in the SEWRF and pipes that feed it with the additional calculated capacity to be used by the Proposed Development until the Proposed Development's 10,000 residential units and commercial square footage are accommodated.
18. Based on the Proposed Development and agreed upon analysis, the required offsite wastewater system infrastructure, upgrades, or improvements funded by the Developer are anticipated to consist of the utility extensions identified and depicted in Exhibit "K". Ensuring the adequacy of the existing and proposed improvements to serve the Proposed Development other than those set forth herein, will be the responsibility of the Developer. Any improvements not contemplated within Exhibit "K" that are needed to serve the development will be the responsibility of the Developer except that the County and Developer recognize that Exhibit "K" contemplates the sewer installation in front of the FFD property has been constructed and the sewer installed on Alico Road from Corkscrew Road to the SEWRF has been installed by the County as part of the SEWRF construction.
19. In the event a force main is not installed from the FFD development along Corkscrew Road to Alico Road or the force main on Alico Road from Corkscrew Road to the SEWRF, as assumed within Exhibit "K", then the Developer will be responsible for constructing the necessary improvements. If the Developer constructs the sewer force main on Corkscrew Road from the FFD development to Alico Road, Alico Road from Corkscrew Road to the

SEWRF, or other offsite infrastructure not contemplated in Exhibit "K" and needed to serve the Proposed Development, then the County will reimburse the Developer for the full cost of the sewer installed from Corkscrew Road to the SEWRF along with a proportionate share of the design, permitting, construction including infrastructure, maintenance of traffic, landscape restoration and a proportionate share of the financing cost for those improvements. The County and the Developer will enter into a Rebateable Agreement to reimburse the Developer for the other additional infrastructure improvements.

20. To expedite the Proposed Development, and at the Developer's discretion, a temporary connection to the existing Verdana Village Pod 2 master pump station and/or construction of a package WWTP built on the Project may be constructed until such time as the County SEWRF is in operation. The construction of the discretionary improvements for the Project may be completed in phases.

21. Any sewer extension or upsizing of the sanitary sewer infrastructure or facilities requested by the County to meet future county offsite demands, and agreed to be performed by the Developer, will be designed, permitted, and constructed by Developer in accordance with the following:

(i) The Developer will notify the County in writing or electronically by email at least sixty (60) days in advance of commencing engineering design work for the sanitary sewer infrastructure and facility improvements.

(ii) Within thirty (30) days of receipt of Developer's notice, the County may request in writing the Developer to upsize the Proposed Development's sanitary sewer infrastructure and facilities in writing or electronically by email to a size and capacity identified by the County.

(iii) The County agrees to reimburse Developer for all incremental costs of design, permitting, financing, bond issuance, overhead, and construction of the sanitary sewer infrastructure and facility improvements attributable to the requested upsizing. Such reimbursement to be due to the Developer within sixty (60) days after inspection and acceptance of the requested upsizing improvements by the County which will not be unreasonably withheld or delayed.

D. Solid waste service will be provided by a franchised hauler.

E. Subject to the requirements of paragraph 8.B. below, surface water management will be provided in accordance with permits to be issued by the South Florida Water Management District.

7. Development Permits Needed for Proposed Development. CGLP, or its successor in ownership, must obtain all State and Federal permits necessary to allow development in accordance with this Agreement, subject to paragraph 19 below. CGLP must submit and obtain all development orders and development permits from Lee County necessary, and Lee County must review and approve those submittals to allow development subject to, consistent with, and in accordance with this Agreement.

8. Development Limitations, Commitments and Obligations. For and in consideration of the benefits received pursuant to this Agreement, CGLP agrees to the following limitations, commitments and obligations in order to mitigate the impacts of the Proposed Development:

- A. Developer will construct an internal public spine road from Corkscrew Road to State Route 82 and provide for a Project Proportionate Share payment of \$2,000.00 per residential unit which payment shall be due at issuance of each residential building permit. In addition:
- (i) The cost of construction of the spine road, including but not limited to, road landscaping, signage, and lighting, will be borne by the Developer;
 - (ii) The spine road will be constructed in phases to County specifications for a collector road;
 - (iii) Impact fee credits will be issued for Corkscrew Road right of way dedicated to the County adjacent to the Project;
 - (iv) The Project will pay impact fees at the rate in effect at the time of issuance of building permits;
 - (v) Once built to County standards the spine road will be dedicated to the County and the County will take over the future maintenance of the Spine Road which transfer, and maintenance responsibility will be assumed by the County upon acceptance of the dedication to the county for ownership and maintenance on the record plat. Any landscaping, lighting, and signage that is above County "core-level" shall be maintained by the Project homeowner association, community development district, or independent special district.
- B. Environmental Enhancements. Environmental enhancements to the Property will occur in accordance with the Conditions of Development attached as **Exhibit "E"** and the Restoration Phasing plan attached hereto as **Exhibit "G"**.
- C. The building permit applicant will pay Fire and EMS Impact Fees in accordance with the Fire/EMS Impact Fee Ordinances.

9. Applicable Land Use Regulations. The Proposed Development within the Property shall be subject to the County's land development regulations governing development as of the Effective Date of this Agreement for the duration of this Agreement except as superseded by this agreement and the attached Exhibits. Unless otherwise requested and agreed to by CGLP or assigns, the County may not apply subsequently adopted Land Use regulations and policies to the Proposed Development. Any County initiated Lee Plan Amendments that apply to the Property must be consistent with this Agreement and the attached Exhibits for the duration of this Agreement.

10. Duration of Agreement. This Agreement shall remain in full force and effect until buildout of the Proposed Development, unless terminated earlier as provided in Paragraph 11 of this Agreement. For purposes of this Agreement, buildout shall occur upon the earlier of (a) issuance of certificates of occupancy for all development authorized herein, or (b) recording in the Public Records of Lee County of a declaration by CGLP or its assigns, that it has completed development under this Agreement and transmittal of same to the County. Notwithstanding anything in the LDC to the contrary, the MCP, Schedule of Uses, Conditions of Development, Property Development Regulations, Restoration Phasing Plan, and Development Authorization Form attached hereto as Exhibits "C," "D," "E," "F," "G" and "H" respectively, will remain valid for the duration of this Agreement.

11. Amendment and Termination. This Agreement will terminate only upon mutual consent of the parties, in writing, executed with the same formalities as this Agreement or upon recording of a Notice of Termination by either Party pursuant to paragraph 21 below.

A. Amendments to the density or intensity of the Proposed Development can only be approved through mutual agreement of the parties. All other changes may be reviewed and approved administratively through the same processes and criteria identified for planned developments in LDC Chapters 10 and 34. If the proposed amendment does not meet the criteria for administrative approval, the amendment must be approved through the public hearing process under the same processes and criteria identified for planned developments in LDC Chapters 10 and 34 in accordance with the procedures in place at the time of application.

B. Amendments to the Proposed Development boundaries and associated Master Concept Plan may be approved through issuance of an Administrative Amendment subject to the following:

- i. The property is adjacent to the Proposed Development boundaries and under common ownership of the Developer;
- ii. The reduction of the Property boundaries will not reduce the overall required open space or conservation areas. Reductions of the Property boundaries that include a corresponding addition of property to replace the open space or conservation areas being removed by the reduction may be approved;
- iii. Property that is removed from the Proposed Development boundaries is subject to the development parameters, including density and intensity permitted under the Lee Plan and Land Development Code as it existed without the Development Agreement and Stipulation of Settlement.
- iv. The addition of property to the Proposed Development boundaries will be subject to the same development limitations as though the property was included in this Development Agreement.

12. Relinquishment of Claims by CGLP. Upon entry of an Order of Dismissal by the Circuit Court in that certain case styled *CGLP Land Co., Inc. v. Lee County*, 20th Judicial Circuit Case No. 19-CA-008183.

A. CGLP agrees to relinquish to the County all of CGLP's rights and interests in mining on the Property through a restrictive covenant on the Property that will ensure that future owners and successors have no rights or interests in mining the Property for limerock or other sedimentary minerals. Provided, however, that nothing contained herein shall preclude excavation in connection with the Proposed Development of the Property including, but not necessarily limited to, excavation for water retention, fill, utilities, infrastructure, structures, and other related purposes. The foregoing restrictive covenant will not prohibit exploration or production of oil or natural gas on or under the Property, will not create oil, gas or mineral rights in the County, and shall not be deemed to prohibit the sale and removal of excess fill material created by the approved development of the Property in accordance with LDC Chapter 10. The restrictive covenant shall be recorded in the Public Records of Lee County.

B. CGLP agrees to waive, relinquish, and release forever its claim for damages for an "as applied" taking and pursuant to that certain claim letter filed with the County by CGLP dated September 11, 2020, pursuant to the Act, for actions arising out of the County's denial of its IPD zoning request on November 6, 2019; provided, however, that nothing contained herein shall constitute a waiver or relinquishment of any claim for damages or any other relief whatsoever arising against the County from or out of this Agreement, or for any subsequent property rights violation arising after the date of this Agreement that is not directly related to the County's denial of said IPD zoning request.

13. Credit Against Proportionate Share Payment. For and in consideration of CGLP's conveyance to the County of all of CGLP's rights and interests in the mining of limerock and other sedimentary minerals on the Property as provided in Paragraph 12 above, CGLP will receive proportionate share credits from the County in the amount of \$2,400,000.00 that may be used by CGLP, or its assigns, towards the proportionate share payments charged by the County under paragraph 8 of

this Agreement. CGLP may transfer or assign all or part of this credit to a third party only for use in conjunction with development of the Property. No building permits for development utilizing this credit will be issued by the County unless the permit applicant provides to the County a notarized form executed by CGLP or its assigns identifying the number of dwelling units or square footage of non-residential development authorized by CGLP or its assigns to be built. The Development Authorization form will be in substantially the same format as the form attached hereto as **Exhibit "J."** The County will not issue building permits for any development that exceeds the amount of development authorized by CGLP or its assigns.

14. Notices. All notices required or permitted under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested to the following addresses, or to such other person or address as any Party may designate from time to time and after Property sale in writing:

If to CGLP: Corkscrew Grove Limited Partnership
3602 Colonial Court
Fort Myers, FL 33913
Attn: Mitch Hutchcraft

With a copy to: Moore Bowman & Reese, P.A.
551 N. Cattlemen Road,
Suite 100
Sarasota, Florida 34232
Attn: S. William Moore, Esquire

If to the County: Lee County
2115 Second Street
Fort Myers, FL 33901
Attn: County Manager

With a copy to: Lee County
2115 Second Street
Fort Myers, FL 33901
Attn: Lee County Attorney

15. Remedies. Any material breach of this Agreement may be enforced by either Party as against the other by appropriate action in law or equity filed in a court of competent jurisdiction, including but not limited to an action for specific performance; provided, however, no such action may be brought until the defaulting Party has been given notice and ninety (90) days in which to cure the default to the satisfaction of the non-defaulting party. Notwithstanding the foregoing, violations of the Master Concept Plan, Schedule of Uses, Conditions of Development and Deviations, Property Development Regulations, and Restoration Phasing, attached hereto as Exhibits B, C, D, E, and F, respectively, may also be enforced by the County through appropriate code enforcement actions.

16. Governing Law; Venue. This Agreement shall be construed and interpreted according to the laws of the State of Florida, and venue with respect to any litigation between the Parties related to this Agreement shall be exclusively in Lee County, Florida.

17. Severability. If any part, term, or provision of this Agreement is held to be illegal, void, or unenforceable, the remaining portions or provisions of this Agreement shall not be affected or impaired, each remaining provision shall remain in full force and effect, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

18. Entire Agreement. This Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, regarding the Proposed Development of the Property between the Parties.

19. Conflict of Laws. If state or federal laws are enacted subsequent to the execution of this Agreement which are applicable to and preclude either Party's compliance with the terms of this Agreement, this Agreement shall be modified as necessary to comply with the relevant state or federal laws, in a manner that most closely reflects the intent of this Agreement.

20. Covenants Running with the Land; Assignment of Obligations by CGLP. The obligations imposed and entitlements created pursuant to this Agreement shall run with and bind the Property as covenants running with the land, and this Agreement shall be binding upon and enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees, and assigns after notice to the County. All or any of the obligations of CGLP may be assigned to one or more successor developers, property owners associations or to one or more community development districts established under Chapter 190, Fla. Stat., and CGLP shall thereafter be relieved of all obligations so assigned.

21. Effective Date. This Agreement will become effective (the "Effective Date") upon full execution by both Parties and recording of the Agreement in the Public Records of Lee County pursuant to paragraph 22 below; provided, however, that none of the rights or obligations contained herein will become effective as to either Party until issuance of the Order of Dismissal by the Circuit Court pursuant to paragraph 12 above. In the event an Order of Dismissal is not entered within eighteen (18) months of the Effective Date of this Agreement, then either Party may terminate this Agreement by recording a Notice of Termination in the Public Records of Lee County, whereupon this Agreement will be considered null and void.

22. Recording of Agreement. This Agreement will be recorded by the County at the County's expense in the Public Records of Lee County within fourteen (14) days of approval by the Lee County Board of County Commissioners. In the event this Agreement is terminated as provided herein, the Parties will execute and CGLP will record a Notice of Termination in the Public Records of Lee County within twenty (20) days of such termination.

23. Findings Under Section 70.001(4)(d)1., Florida Statutes. Pursuant to Section 70.001(4)(d)1., Florida Statutes, the County finds that, to the extent that this Agreement has the effect of a modification, variance, or a special exception to the application of a rule, regulation, or ordinance as it would otherwise apply to the Property, the relief granted herein and the obligations and mitigation to be provided by CGLP pursuant to this Agreement, adequately protect the public interest served by the rules, regulations or ordinances at issue and is the appropriate relief necessary to prevent the County's regulatory efforts from inordinately burdening the Property.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year written below.

WITNESSES:

**CORKSCREW GROVE LIMITED
PARTNERSHIP, a Delaware limited
partnership**

Michael D. Jacob
Print Name: Michael D. Jacob

Daniel Delisi
Print Name Daniel Delisi

By: Mitchell A. Hutchcraft
Name: MITCHELL A. HUTCHCRAFT
Title: VICE PRESIDENT

STATE OF FLORIDA
COUNTY OF LEE

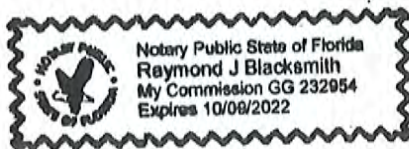
Sworn to and subscribed before me by means of ☐ physical presence or ☐ online
notarization this 22 day of JUNE, 2022, by MITCHELL HUTCHCRAFT, as
Vice President of Corkscrew Grove Limited Partnership, a Delaware limited partnership, who is
☒ personally known to me or ☐ who produced [Signature] as identification.

[Signature]
Notary Public Signature

My Commission Expires:

Raymond J. Blacksmith
Type/Print Notary Public Name

Commission No.: 66232954



ATTEST:
KEVIN KARNES, CLERK

By: Melissa Butler

Deputy Clerk

Melissa Butler
Print Name



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Cecil L. Pendergrass

Cecil L. Pendergrass, Chair

Date: 6-22-22

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

[Signature]
County Attorney's Office

Exhibits:

- A. Legal Description of the Property
- B. County Land Swap Property Exhibit
- C. Master Concept Plan
- D. Schedule of Uses
- E. Conditions of Development and Deviations
- F. Property Development Regulations
- G. Restoration Phasing Plan
- H. Development Authorization Form
- I. Protective Species Survey
- J. Human/Wildlife Coexistence Plan and Protective Species Management Plan
- K. Offsite Sewer Analysis
- L. Indigenous Preservation, Restoration, and Management Plan
- M. Existing Agricultural Areas
- N. Enhanced Lake Management Plan
- O. Hydrological Restoration Plan
- P. Offsite Potable Water Analysis

EXHIBIT A

Barraco
and Associates, Inc.

www.barraco.net
Civil Engineers, Land Surveyors and Planners

DESCRIPTION

Parcel in
Section 35, Township 45 South, Range 27 East
and Sections 2, 3, 10, 11, 14, 15, 24, 25, 26, 34, 35 and 36,
Township 46 South, Range 27 East,
Lee County, Florida

A tract or parcel of land lying in Section 35, Township 45 South, Range 27 East and Sections 2, 3, 10, 11, 14, 15, 24, 25, 26, 34, 35 and 36, Township 46 South, Range 27 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

PARCEL 1:

Beginning at the Southwest corner of said Section 35 run N00°42'20"W along the West line of said Section 35 for 4,913.47 feet to an intersection with the Southwesterly right of way line of State Road 82 (F.D.O.T. right of way Section No. 1207-101) (200 feet wide right of way); thence run S74°24'28"E along said Southwesterly right of way line for 5,474.38 feet to an intersection with the East line of said Section 35; thence run S01°27'49"E for 3,347.79 feet to the Northeast corner of said Section 2; thence run S00°37'24"E along the East line of said Section 2 for 4,496.97 feet; thence run S88°14'39"W for 2,954.70 feet; thence run S00°38'17"E for 1,000.18 feet; thence run N89°34'20"E for 89.85 feet; thence run S00°42'50"E for 1,075.98 feet to an intersection with the North line of the West Half (W 1/2) of said Section 11; thence run N88°06'17"E along said North line for 218.81 feet to the Northeast corner of said Fraction; thence run S00°11'24"E along the East line of said Fraction for 5,325.44 feet to Southeast corner of said Fraction; thence run N88°33'37"E along the North line of said Section 14 for 2,623.23 feet to the Northeast corner of said Section 14; thence run S00°02'19"W along the East line of said Section 14 for 5,330.76 feet to the Southeast corner of said Section 14; thence run S88°57'32"W along the South line of said Section 14 for 5,217.75 feet to the Southeast corner of said Section 15; thence run S88°56'48"W along the South line of said Section 15 for 5,216.63 feet to the Southwest corner of said Section 15; thence run N00°12'22"W along the West line of said Section 15 for 5,552.99 feet to the Southwest corner of said Section 10; thence run N01°06'50"W along the West line of said Section 10 for 5,068.95 feet to the Southwest corner of said Section 3; thence run N00°58'11"W along the West line of said Section 3 for 6,632.47 feet to the Northwest corner of said Section 3; thence run N89°02'20"E along the North line of said Section 3 for 5,301.06 feet to the POINT OF BEGINNING.
Containing 4,202.62 acres, more or less.

PARCEL 2:

Beginning at the Northwest corner of said Section 24 run N88°48'32"E along the North line of said Section 24 for 5,496.75 feet to an intersection with the West line right of way line of Corkscrew Road, also being the West line of the East 25 feet of said

DESCRIPTION (CONTINUED)

Section 24; thence run $S01^{\circ}20'16''E$ along said West line for 4,100.52 feet to an intersection with the Northerly right of way line of Corkscrew Road, as described in a deed recorded in Instrument No. 2005000136900, Lee County Records; thence run along said Northerly right of way line the following three (3) courses: $S88^{\circ}39'44''W$ for 50.00 feet to a point on a non-tangent curve; Southwesterly along an arc of a curve to the right of radius 1,175.00 feet ($\Delta 90^{\circ}09'17''$) (chord bearing $S44^{\circ}50'13''W$) (chord 1,663.94 feet) for 1,848.86 feet and $S00^{\circ}05'08''E$ along a radial line for 25.00 feet to an intersection with the North right of way line of said Corkscrew Road, also being North line of the South 50 feet of said Section 24; thence run along said North right of way line the following two (2) courses: $S89^{\circ}54'52''W$ for 1,393.63 feet and $S88^{\circ}51'37''W$ for 2,675.85 feet to an intersection with the West line of said Section 24; thence run $N03^{\circ}15'49''W$ along said West line for 5,255.07 feet to the POINT OF BEGINNING.

Containing 644.59 acres, more or less.

PARCEL 3:

Beginning at the Northwest corner of said Section 26 run $N88^{\circ}51'40''E$ along the North line of the Northwest Quarter (NW 1/4) of said Section 26 for 2,663.66 feet to the North Quarter corner of said Section 26; thence run $N88^{\circ}54'17''E$ along the North line of the Northeast Quarter (NE 1/4) of said Section 26 for 2,666.51 feet to the Northwest corner of said Section 25; thence run $S01^{\circ}09'29''E$ along the West line of the Northwest Quarter (NW 1/4) of said Section 25 for 50.00 feet to an intersection with the South right of way line of Corkscrew Road, also being South line of the North 50 feet of said Section 25; thence run along said South right of way line the following two (2) courses: $N88^{\circ}51'37''E$ for 2,673.06 feet and $N89^{\circ}54'52''E$ for 2,671.08 feet to an intersection with the East line of Northeast Quarter (NE 1/4) of said Section 25; thence run $S01^{\circ}11'48''E$ along said East line for 2,550.74 feet to the East Quarter corner of said Section 25; thence run $S01^{\circ}12'17''E$ along the East line of Southeast Quarter (SE 1/4) of said Section 25 for 2,650.95 feet to the Northeast corner of said Section 36; thence run $S01^{\circ}11'26''E$ along the East line of Northeast Quarter (NE 1/4) of said Section 36 for 1,320.34 feet; thence run $S89^{\circ}10'39''W$ parallel with the North line of said Fraction for 990.98 feet; thence run $N01^{\circ}11'26''W$ parallel with the East line of said Fraction for 1,320.34 feet to an intersection with the North line of said Fraction; thence run $S89^{\circ}10'39''W$ along the North line of said Fraction for 1,683.83 feet to the North Quarter corner of said Section 36; thence run $S89^{\circ}09'00''W$ along the North line of the Northwest Quarter (NW 1/4) of said Section 36 for 2,672.43 feet to the Northeast corner of said Section 35; thence run $S88^{\circ}41'30''W$ along the North line Northeast Quarter (NE 1/4) of said Section 35 for 150.00 feet to an intersection with the West line of the East 150 feet the Northeast Quarter (NE 1/4) of said Section 35; thence run $S01^{\circ}02'25''E$ along said West line for 2,605.57 feet to an intersection with the South line of the North Half (N 1/2) of said Section 35; thence run $S88^{\circ}35'54''W$ along said South line for 5,197.13 feet to the East Quarter corner of said Section 34; thence run $S89^{\circ}18'56''W$ along the North line of the Southeast Quarter (SE 1/4) of said Section 34 for 662.29 feet to the Northeast corner of the West Half (W 1/2) of the East

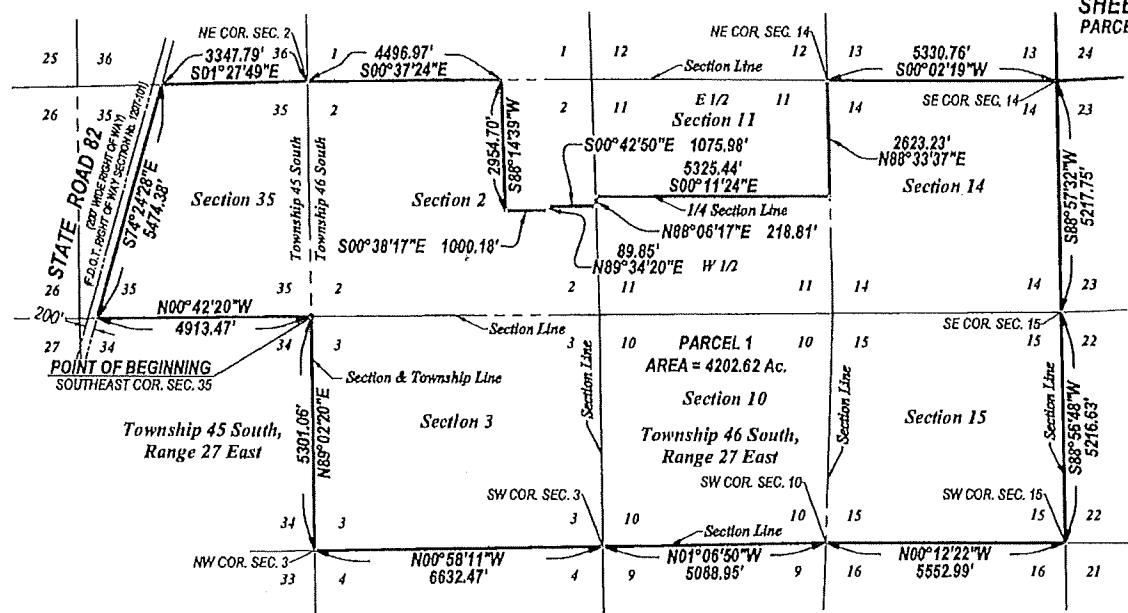
DESCRIPTION (CONTINUED)

Half (E 1/2) of the Southeast Quarter (SE 1/4) of said Section 34; thence run S00°56'36"E along the East line of said Fraction for 978.73 feet to the Northwest corner of the South Half (S 1/2) of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) said Section 34; thence run N89°21'38"E along the North line of said Fraction for 662.30 feet to the Northeast corner of said Fraction; thence run S00°56'36"E along the East line of said Fraction, also being the East line of the Southeast Quarter (SE 1/4) of said Section 34 for 326.43 feet to the Southeast corner of said Fraction; thence run S89°21'38"W along the South line of said Fraction for 662.30 feet to the Southwest corner of said Fraction; thence run S00°56'36"E along the East line of said West Half (W 1/2) of the East Half (E 1/2) of the Southeast Quarter (SE 1/4) of Section 34 for 325.25 feet; thence run S89°21'38"W for 1,985.63 feet to an intersection with the West line of said Southeast Quarter (SE 1/4) of Section 34; thence run N00°56'43"W along said West line for 1,628.85 feet to the Center of said Section 34; thence run N00°55'48"W along the West line of the Northeast Quarter (NE 1/4) of said Section 34 for 2,623.36 feet to the North Quarter corner of said Section 34; thence run N89°31'02"E along the North line of the Northeast Quarter (NE 1/4) of said Section 34 for 2,646.41 feet to the Southwest corner of said Section 26; thence run N88°41'30"E along the South line of the Southwest Quarter (SW 1/4) of said Section 26 for 1,335.92 feet to the Southeast corner of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 26; thence run N01°03'24"W along the East line of said Fraction for 1,321.72 feet to the Northeast corner of said Fraction; thence run S88°43'35"W along the North line of said Fraction for 1,335.09 feet to the Northwest corner of said Fraction and intersection with the West line of said Southwest Quarter (SW 1/4) of Section 26; thence run N01°01'16"W along said West line for 1,322.52 feet to the West Quarter corner of said Section 26; thence run N01°00'42"W W along the West line of the Northwest Quarter (NW 1/4) of said Section 26 for 2,645.28 feet to the POINT OF BEGINNING.

Containing 1,827.35 acres, more or less.

Bearings hereinabove mentioned are based on the North line of said Section 3 to bear N89°02'20"E.

Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949



SEE
SHEET 5
PARCEL 2

Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING

www.barraco.net

2271 WINDSOR BLVD., SUITE 300
FORT MYERS, FLORIDA 33903
PHONE (813) 411-1170
FAX (813) 411-1170

FLORIDA CERTIFICATE OF AUTHORIZATION
C100042700 - SURVEYING 11-8-03

PREPARED FOR:

CAM7-SUB, LLC

3171 DESIGN PARK LANE, SUITE 100
ESTERO, FL 33928
PHONE (888) 425-8802
FAX (888) 425-8802
www.cam7.com

PROJECT DESCRIPTION:

A PARCEL
OF LAND IN SECTION
35, TOWNSHIP 45
SOUTH, RANGE 27
EAST AND
SECTIONS 2, 3, 10, 11, 14,
15, 34, 35,
36, 37 AND 38,
TOWNSHIP 46 SOUTH,
RANGE 27 EAST,
LEE COUNTY, FLORIDA

PROJECT SURVEYOR:

SCOTT A. WHEELER
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5949

DATE SIGNED:

10/10/2012

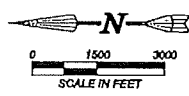
SKETCH TO
ACCOMPANY
DESCRIPTION

PROJECT / FILE NO.
7001

SHEET NUMBER
4 OF 5

NOTES:

- ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.
- D.B. - DENOTES DEED BOOK
- INST. No. - DENOTES INSTRUMENT NUMBER, LEE COUNTY PUBLIC RECORDS.
- O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
- (P) - DENOTES PLAT.
- P.B. - DENOTES PLAT BOOK.
- PG. - DENOTES PAGE
- BEARINGS AS SHOWN ARE BASED ON THE NORTH LINE OF THE OF SECTION 3 TO BEAR N89°02'20"E.
- DESCRIPTION IS ATTACHED.



THIS IS NOT A SURVEY

SCOTT A. WHEELER (FOR THE FIRM - LB-6940)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5949

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

EXHIBIT "B"

LEGAL DESCRIPTION OF COUNTY EXISTING PROPERTY

Parcel 1:

A parcel of land located in Section 23, Township 46 South, Range 27 East, Lee County, Florida, being more particularly described as follows:

Commence at the Southeast corner of Section 23, Township 46 South, Range 27 East, Lee County, Florida; thence run S.89°28'06" W., along the South line of the Southeast quarter of said Section 23, for a distance of 525.38 feet a point 525.00 feet Westerly of, as measured at right angles to, the East line of the Southeast quarter of said Section 23 and the point of beginning of the parcel of land herein described; thence continue S.89°28'06"W., along the South line of the Southeast quarter of said Section 23, for a distance of 2141.32 feet to the South quarter corner of said Section 23; thence run S.89°26'02"W., along the South line of the Southwest quarter of said Section 23, for a distance of 12.65 feet; thence run N.00°34'53"W. for a distance of 1115.00 feet; thence run S.89°26'02"W., parallel with the South line of the Southwest quarter of said Section 23, for a distance of 810.00 feet; thence run N.00°34'53"W. for a distance of 888.90 feet; thence run N.89°11'45"E. for a distance of 1030.45 feet; thence run N.03°17'37"W. for a distance of 3299.20 feet to a point on the North line of said Section 23, said point being located 2798.63 feet Easterly of, as measured along the North line of said section 23, the Northwest corner of said Section 23; thence run N.89°31'47"E., along the North line of said Section 23, for a distance of 1258.65 feet to a point 1160.00 feet Westerly of, as measured along the North line of said Section 23, the Northeast corner of said Section 23; thence run S.02°42'10"E., parallel with the East line of the Northeast quarter of said Section 23, for a distance of 990.00 feet; thence run N.89°31'47"E., parallel with the North line of the Northeast quarter of said Section 23, for a distance of 634.60 feet; thence run S.02°42'10"E., parallel with the East line of said Section 23, for a distance of 4315.46 feet to the point of beginning.

Parcel 2:

A parcel of land located in Section 23, Township 46 South, Range 27 East, Lee County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Section 23, Township 46 South, Range 27 East, Lee County Florida; thence run N.89°31'47"E., along the North line of said Section 23, for a distance of 1795.03 feet to the point of beginning of the parcel of land herein described; thence continue N.89°31'47"E., along the North line of said Section 23, for a distance of 1003.60 feet; thence run S.03°17'37"E. for a distance of 3299.20 feet; thence run S.89°11'45"W. for a distance of 1030.45 feet; thence run N.02°49'26"W. for a distance of 3303.99 feet to the point of beginning.

LOCATION	USE
POD 1	RESIDENTIAL WITH AMENITY
POD 2	RESIDENTIAL WITH AMENITY
POD 3	RESIDENTIAL WITH AMENITY
POD 4A	RESIDENTIAL WITH AMENITY OR MASTER AMENITY, COMMERCIAL
POD 4B	RESIDENTIAL WITH AMENITY
POD 5	RESIDENTIAL WITH AMENITY
POD 6	RESIDENTIAL WITH AMENITY OR MASTER AMENITY, COMMERCIAL
POD 7	RESIDENTIAL WITH AMENITY
POD 8	RESIDENTIAL WITH AMENITY
POD 9	RESIDENTIAL WITH AMENITY
POD 10	RESIDENTIAL WITH AMENITY
POD 11A	RESIDENTIAL WITH AMENITY
POD 11B	RESIDENTIAL WITH AMENITY OR COMMERCIAL
POD 12	COMMERCIAL
POD 13	COMMERCIAL
POD 14	COMMERCIAL
POD 15	COMMERCIAL
POD 16	RESIDENTIAL WITH AMENITY, CIVIC, SCHOOLS (COMMERCIAL AND NON-COMMERCIAL)
POD 17	PUBLIC SERVICES
POD 18	COMMUNITY FACILITIES
POD 19	COMMUNITY FACILITIES, RESIDENTIAL WITH AMENITIES, COMMERCIAL

MINIMUM OPEN SPACE REQUIRED @ 63%	4,002.8 AC
OPEN SPACE PROVIDED	4,002.8 AC
MINIMUM RESTORATION REQUIRED @ 50%	3,287.0 AC
MINIMUM RESTORATION PROVIDED	3,287.0 AC

LAND USE SUMMARY	
LAND USE	APPROXIMATE ACRES
DEVELOPMENT PODS *	3,275
RESTORATION AREA	3,287
KINGSTON POLYCORNSCREW ROAD R/W	114
TOTAL	6,676

* RESIDENTIAL, COMMERCIAL AND AMENITY AREAS WILL CONTAIN A MINIMUM OF 548 ACRES OF LAKE AND OTHER GREEN SPACE AREA TO BE COULATED TOWARD THE OPEN SPACE REQUIREMENT.

DEVIATIONS

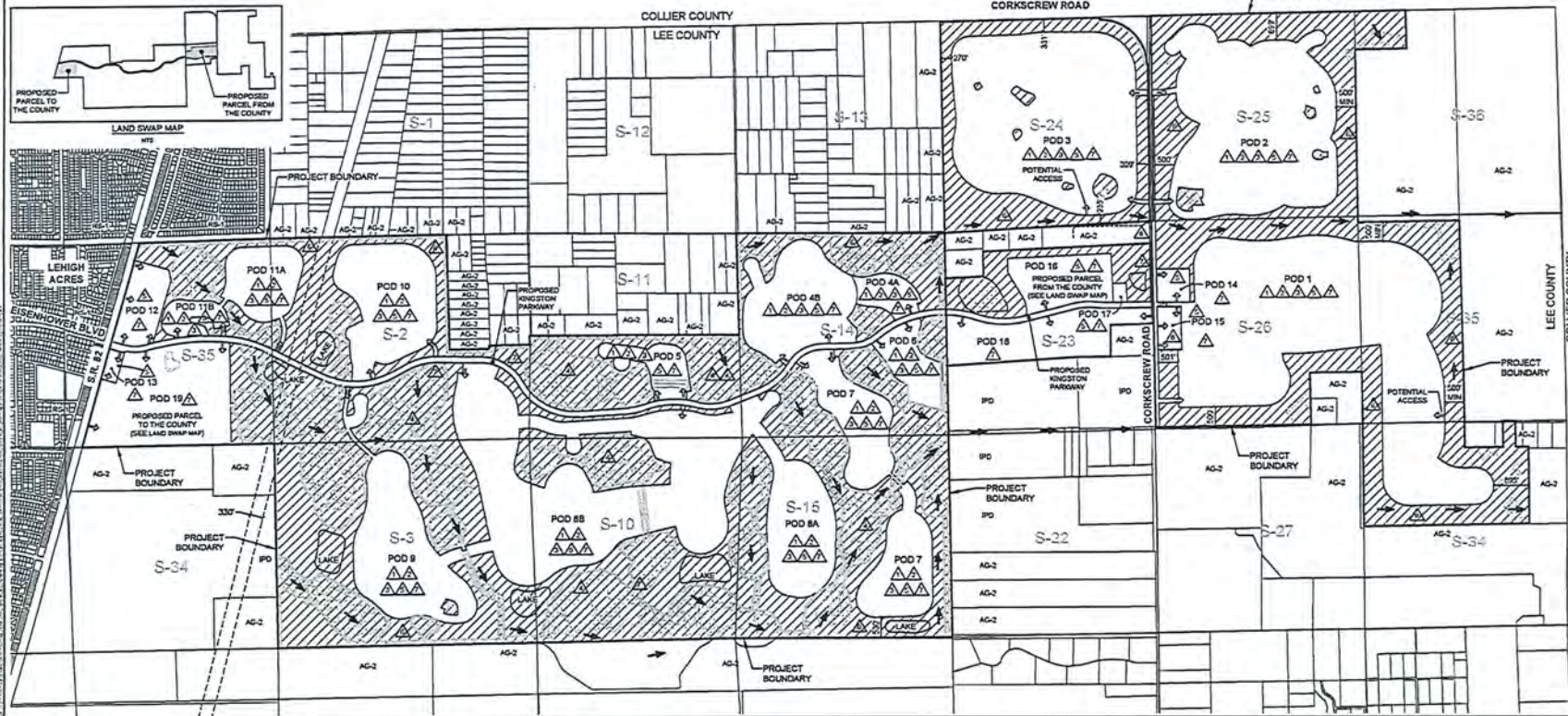
- ▲ TO ALLOW CONSTRUCTION OF ROADWAYS AS DEPICTED WITHIN THE MCP FOR INTERNAL ROADWAY AREAS.
- ▲ TO ALLOW LAKES WITHIN DEVELOPMENT PODS TO BE EXCAVATED TO A MAXIMUM DEPTH OF 35'.
- ▲ TO ALLOW ADDITIONAL LITTORAL PLANTINGS TO BE PLANTED IN LIEU OF DEEP LAKE TREES.
- ▲ THE GENERAL TREE REQUIREMENT IS MET THROUGH THE USE OF EXISTING ON-SITE INDIGENOUS VEGETATION AND FLOWHAY RESTORATION PLANTS.
- ▲ TO ALLOW FOR A SINGULAR MEANS OF INGRESS AND EGRESS TEMPORARILY DURING PROJECT DEVELOPMENT.
- ▲ TO ALLOW CONSERVATION AND FLOWHAY AREAS TO ACT AS A VEGETATIVE BUFFER.
- ▲ TO ALLOW WATER MAIN LOOPS LARGER THAN 1,500 LF, AS LONG AS FIRE FLOW ARE MET.
- ▲ TO ALLOW ACCESS SEPARATION OF LESS THAN 660' ALONG CORKSCREW.

NOTE: DEVIATIONS NOT LIMITED TO THOSE LOCATIONS SHOWN WITHIN THE PLAN BELOW.



LEGEND

- FLOWHAY DIRECTION
- ◆ POD ACCESS POINTS
- RESTORATION AREAS
- ▨ EXISTING WETLANDS
- ▨ RESTORATION AREAS



J.R. EVANS ENGINEERING, P.A.
9351 CORKSCREW ROAD, SUITE 102
FORT MYERS, FL 33903
PHONE: (239) 405-8148
FAX: (239) 288-5537
WWW.JREVAENGINEERING.COM

KINGSTON (A Cameratta Development)

MASTER CONCEPT PLAN

PROJECT #	00624MCP
SHEET:	1 of 2

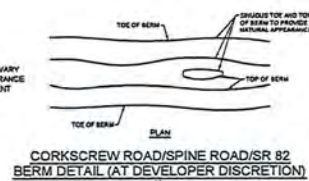
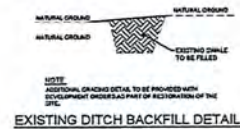
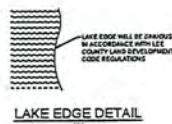
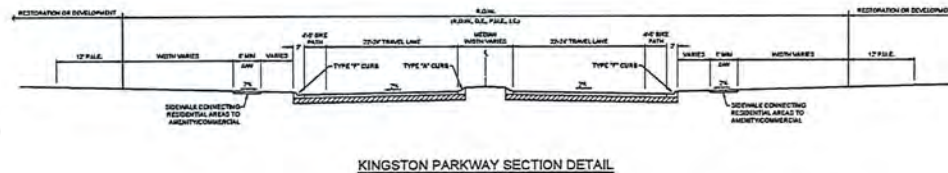
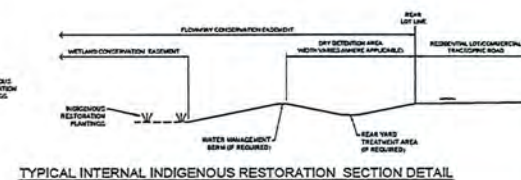
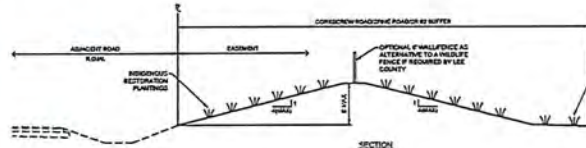
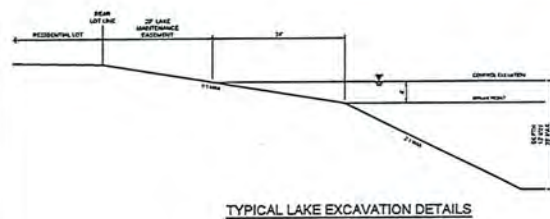
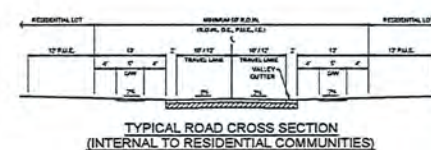
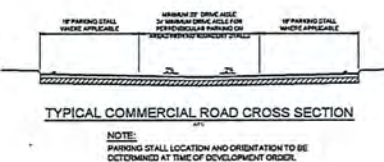
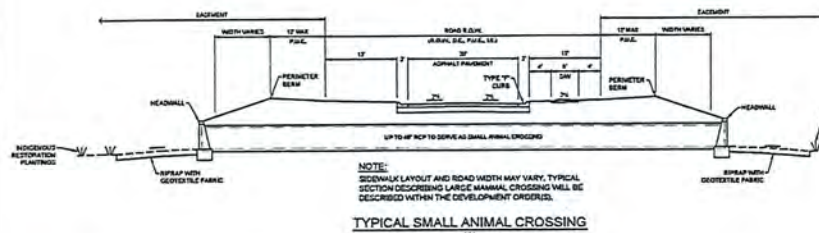
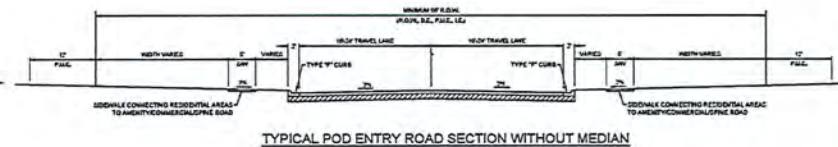
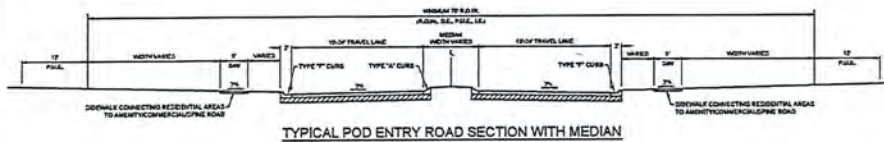


Exhibit D

Schedule of Uses

Residential Pods (1,2,3,4A,4B,5,6,7,8,9,10,11A,11B,16,19)

Accessory Uses and Structures
Accessory Buildings
Administrative Offices
Agricultural Uses, in compliance with Condition 10
Club, private
Community Gardens
Dwelling Units:
 Single-Family
 Two-Family Attached
 Duplex
 Zero Lot Line
 Townhouses
 Multi-family
Entrance Gate and Gatehouse
Essential Services, including EV Charging Stations
Essential Service Facilities, Groups I and II
Excavation, Water Retention
Fences, Walls
Home Occupation
Model Homes, Model Display Center, Model Display Group, Model Units
Parking Lot, Accessory
Real Estate Sales Office
Recreational Facilities, Personal & Private
Residential Accessory Uses
Signs, in accordance with LDC Chapter 30
Temporary Uses, in compliance with LDC section 34-3044

Amenities within Residential Pods (1,2,3,4A,4B,5,6,7,8,9,10,11A,11B,16,19)

Accessory Uses and Structures
Administrative Offices
Boat Ramps
Boat Rental, non-motorized
Clubs, private
Community Gardens
Consumption on Premises (in conjunction with Private Clubs)
Convenience Food and Beverage Store, excluding fuel pumps
Daycare, child
Entrance gate and gatehouse
Essential Services, including EV Charging Station
Essential Services Facilities, Group I and Group II
Excavation, Water Retention
Fences, walls
Fishing pier
Food and Beverage Service, limited
Food Stores, Group I

General Office
Health Clubs or Spas, as part of the private club
Parking Lot, Accessory, including EV Charging Stations, all levels
Personal Services, Group I and II,
Real Estate Sales Office
Recreational Facilities, Personal, Private on-site
Rental and Leasing Establishments, Group I
Restaurant, Groups I, II, and III (including outdoor seating and service areas)
Signs, in accordance with LDC Chapter 30
Specialty Retail Shops, Groups I and II
Temporary Uses
Any other use deemed similar in nature by the Director

Optional Master Amenity Pods (4A,6)

Accessory Uses and Structures
Administrative Offices
Agricultural Uses, in compliance with Condition 10
Boat Ramps
Boat Rental, non-motorized
Clubs, country, commercial, fraternal, membership organization, and private
Community Gardens
Consumption on Premises (in conjunction with Private Clubs)
Convenience Food and Beverage Store, excluding fuel pumps
Daycare, child
EMS, Fire, or Sheriff's station
Entrance gate and gatehouse
Essential Services, including EV Charging Stations
Essential Services Facilities, Group I and Group II
Excavation, Water Retention
Fences, walls
Food and Beverage Service, limited
Food Stores, Group I
General Office
Health Clubs or Spas, as part of the private club
Hotel (Guest lodging, up to 50 units)
Parking Lot, Accessory, including EV Charging Stations, all levels
Personal Services, Group I and II (limited to Health Clubs or Spas),
Real Estate Sales Office
Recreational Facilities, Personal, Private on-site and Private, Off Site (including but not limited to miniature golf)
Rental and Leasing Establishments, Group I
Restaurant, Groups I, II, and III (including outdoor seating and service areas)
Signs, in accordance with LDC Chapter 30
Specialty Retail, Groups I and II
Temporary Uses
Any other use deemed similar in nature by the Director

Commercial Pods (4A,6,11B,12,13,14,15,16,19)

Accessory Uses and Structures
Administrative Offices
Agricultural Uses, in compliance with Condition 10

Animal Clinic or Kennel (no outdoor runs)
 Assisted Living Facility (calculated as density)
 ATM (automatic teller machine)
 Bait and Tackle Shop
 Banks and Financial Institutions, Group I and II
 Bar or cocktail lounge
 Beer and Wine Sales for off-premise consumption
 Building material sales
 Business Services, Group I
 Car wash (Pods 11B, 12, 13, and 19 only)
 Cleaning and Maintenance Services (Pods 11B, 12, 13, and 19 only)
 Clothing Stores, General
 Clubs, commercial, fraternal and membership
 Communication facility, wireless
 Computer and Data Processing Services
 Contractors and Builders, Group I
 Consumption on Premises
 Continuing Care Facilities (calculated as density)
 Convenience Food and Beverage Store (24 pumps, 24 hours) (Pods 11B, 12, 13, and 19 only)
 Cultural Facilities
 Daycare, Child and Adult
 Department store
 Drive-through facility for any permitted use
 Drugstore, pharmacy
 EMS, Fire or Sheriff's Station
 Entrance gates and gatehouses
 Essential Services, EV Charging Station
 Essential Services Facilities, Group I and Group II
 Excavation, Water Retention
 Fences, Walls
 Food and beverage service, limited
 Food and Kindred Products, Group II including accessory tasting room (limited to malt beverages and distilled, rectified and blended liquors)
 Food Stores, Group I
 Gift and Souvenir Shop
 Hardware store
 Healthcare Facilities, Group I, II, III, and IV
 Health Club and Spa
 Hobby, Toy and Game Shops
 Hotel/motel
 Household and Office Furnishings, Group I, and II
 Hybrid Warehouse
 Insurance companies
 Laundry and Dry Cleaning, Group I (Pods 11B, 12, 13, and 19 only)
 Laundry and Dry Cleaning, Group I (Offsite services only in Pods 4A, 6, 14, 15, 16, and 17 only)
 Library
 Medical Office
 Mini-warehouse
 Non-Store Retailers, Group I
 Package Store
 Paint, glass and wallpaper (Pods 11B, 12, 13, and 19 only)
 Parcel and Express Services
 Parking Lot: Accessory
 Personal Services, Groups I, and IV
 Pet Services
 Pet Shop

Place of Worship
Plant nursery
Real Estate Sales Office
Recreational Facilities, Commercial, Groups I, III, and IV, (excluding Convention or Exhibit Halls)
Religious facilities
Rental or Leasing Establishments, Groups I, II, and III
Repair Shops, Groups I-III (Pods 11B, 12, 13, and 19 only)
Restaurant, fast food
Restaurant, Groups I-IV
Schools, Commercial and Noncommercial
Signs
Specialty Retail Shops, Groups I-IV
Storage, Indoor only
Studios
Temporary Uses
Theater, Indoor
Used Merchandise, Group I (excluding pawn shops)
Variety Store
Warehouse, public, private

Community Facilities Pods (18,19)

Accessory uses and structures
Administrative offices
Cultural facilities (34-622(c)(10))
Entrance gates and gatehouse
Emergency operations center
EMS, fire or sheriff's station
Essential services
Essential service facilities (34-622(c)(13)): Groups I, and II
Excavation: Water retention
Excess spoil removal
Fences, walls
Health care facilities (34-622(c)(20)): Groups I, II, III and IV
Hospice
Housing units for employees only
Library
Maintenance facility (Government)
Parks (34-622(c)(32)): Groups I and II
Parking lot:
 Accessory
 Park-and-ride
 Temporary
Post office
Signs in accordance with chapter 30
Storage: Indoor only
Temporary uses
Transportation services (34-622(c)(53)): Group III

Per Lee County LCC, 34-620, the Director is authorized to determine that uses that are not specifically listed in the uses set forth herein are permitted by right or an administrative amendment based on the placement of similar or complementary uses in the area.

Exhibit E

Conditions of Development and Deviations

CONDITIONS:

1. Master Concept Plan / Development Parameters

Development must be consistent with the Master Concept Plan (MCP) for the Kingston Property, dated May 3, 2022, attached as **Exhibit "C"** to the Agreement, and the conditions below.

a. Development must comply with the Lee County Land Development Code (LDC) in existence as of June 22, 2022 [the effective date of this Agreement]. In light of the conceptual nature of the MCP and the expected duration of the development, deviations from the LDC or other changes to the Conditions of Development, Schedule of Uses or Property Development Regulations that do not increase the height, density or intensity of the development and otherwise meet the criteria of LDC Section 34-380 may be approved administratively by the Zoning Director without a public hearing. The conditions and auxiliary documentation control should there be a conflict between the Conditions, the LDC, and/or the approved MCP.

b. The project is approved for:

1. Residential dwelling units including Assisted Living Facilities and Continuing Care Facilities not to exceed 10,000 units as outlined in the schedule of uses;
2. Amenities, internal to the Project, for use by its residents (no limitation in square footage)
3. 700,000 square feet of commercial floor area, depicted on the MCP, limited to:
 - i. 150,000 square feet located on Pods 14 and 15. Any unused square footage can be reallocated to other commercial Pods described in 3(ii) and or 3(iii);
 - ii. 50,000 square feet can be located on Pods 4A, 6, 16, and 17. Any unused square footage can be reallocated to other commercial Pods described in 3(iii);
 - iii. 500,000 square feet can be located on Pods 11B, 12, 13, and 19. Any unused square footage can be reallocated to other commercial Pods described in 3(ii);
4. Public facilities; and
5. 240 hotel or other transient lodging units.

c. The Land Use Summary table on the MCP reflects a minimum of 3,287 acres of created, restored, and/or enhanced areas that will be dedicated in a combination of Conservation Easements and Flowway easements and provides a minimum of 50% of the Project's gross land area less tracts to be dedicated to the County. These areas are located and identified on the MCP.

Construction phasing of the development will be subject to the following conditions:

- i. Restoration and dedication of conservation and flowway areas shall occur as development orders are issued as depicted on **Exhibit "G"**.
- ii. Development Pods are not required to be developed sequentially according to the numbers depicted on the Development Summary table on the MCP.

- iii. Phasing of the restoration as depicted on the MCP may be adjusted at time of Development Order submittals provided minimum restoration acreages are maintained to support the project:
 - a. For residential, a minimum restoration acreage based on the GREATER of the following options:
 - i. The cumulative development pod area (including previous phases) OR
 - ii. The number of residential dwelling units in the development pod using the following analysis whereas the Project required restoration equals 3,287 acres divided by the total Project density of 10,000 residential units times the number of units, both previously approved and proposed.
 - b. For commercial or amenity pods, the required acres of restoration shall be equal to the acreage of the pod being developed.
- iv. A cumulative development update statement and summary table must be provided with each development order application and shown on the engineered plans containing the following information:
 - Cumulative residential dwelling units and intensity of non-residential uses;
 - Cumulative development pods (in acres);
 - Cumulative open space (in acres); and
 - Cumulative conservation and flowway areas (in acres).
- v. Restoration areas must be completed within ten (10) years of commencement of restoration of each phase, regardless of the progress of development tied to each phase. If any phased restoration construction is not complete within ten (10) years from that phase restoration start date, work may not commence in future phases until such time as that incomplete restoration phase construction is completed.

2. Uses and Site Development Regulations

- a. The Schedule of Uses is set forth in **Exhibit “D”** to the Agreement.
- b. The Property Development Regulations are set forth in **Exhibit “F”** to the Agreement

3. Wildlife Crossings

Any wildlife crossings required for the project will be determined by the USFWS and FDEP prior to issuance of the first development order creating residential lots. Any animal crossings required by the USFWS or FDEP will be reviewed and permitted in accordance with the approved locations at time of local development order on a phase-by-phase basis and shall be consistent with the Human/Wildlife Coexistence Plan **Exhibit “J”**.

4. Protected Species Management and Human-Wildlife Coexistence Plan

The Protected Species Surveys **Exhibit “I”** must be updated every five (5) years and Human-/Wildlife Coexistence Plan **Exhibit “J”** must be updated by the Developer, if needed for the presence of new listed species, for approval by the County prior to or concurrent with the first development order application creating residential lots. The Plan and development order plans must address the following:

- Trails: The location of proposed passive trails within the restoration areas must include designated trailheads with signs with information on possible wildlife encounters and appropriate actions when encountering wildlife.
- Signs: Development order plans that include surface water management lakes or conservation areas must depict the location and typical signs for prohibiting the feeding of alligators around the lake and preservation signs that state no dumping. Distance between signs should be approximately 300ft.
- Wildlife Fencing: Must meet recommendations and requirements of the Florida Fish and Wildlife Conservation Commission (FWC) and US Fish and Wildlife Service (FWS); and
- The Development Order plans must be updated to reflect FWC and FWS requirements if permits are issued after approval of the first development order creating residential lots.
- Vegetation Removal permit applications must include a map depicting the work limit area and a species survey for the work limit area. The developer must submit a management plan for protected species within the work limit area identifying protection measures, monitoring, and/or relocation consistent with State and Federal requirements.
- Development Order plans for vertical development that includes commercial and amenity uses and areas must demonstrate use of bear resistant dumpsters and below ground grease traps.

5. Open Space

The total open space acreage shall not be less than 61% of the project's total land area less tracts to be dedicated to the County. The minimum required open space must be achieved at buildout in substantial compliance with the approved MCP. Compliance with the Project's open space addresses the open space requirements of Section 34-414 and 10-415.

6. Platting Restoration Areas

At time of platting, on a phase-by-phase basis, the Developer will plat restoration areas consisting of wetland conservation and flowways into separate tracts and dedicate those tracts to a maintenance entity, which must be either a home owners association ("HOA"), a community development district ("CDD"), an Independent Special District ("ISD"), or a governmental entity acceptable to the County that will accept responsibility for the perpetual maintenance of the restoration conservation and flowway areas in compliance with these conditions. The HOA, CDD, or ISD must be created prior to Certificate of Compliance for the first development order.

7. Conservation and Flowway Easements

The conservation and flowway easements will be dedicated to a maintenance entity that provides third party enforcement rights to the County or other public agency acceptable to the County. The easements will be dedicated in general accordance with the phasing plan attached as **Exhibit "G"** to the Agreement and will be reflected on the phased recorded plats approved by the County for the subject property. Restoration areas located within a Conservation Easement consisting of existing or mitigated wetlands can include exotic vegetation removal and native planting. Restoration areas located within a Flowway Easement can include vegetation removal, grading, lakes, drainage ways, wet and dry detention, surface water treatment, and water storage, water bodies and on/off site wildlife mitigation. The Easements will permit passive trails, kiosks, and pavilions. The combined acreages within the

Conservation Easements and Flowway easements shall satisfy the minimum required restoration acreage for the Project.

8. Indigenous Management Plans

The Indigenous Preservation, Restoration, and Management Plan **Exhibit “L”** must be updated by the Developer for approval by the County prior to or concurrent with the first development order application. The Indigenous Preservation, Restoration, and Management Plan must include the following language:

- At the time of purchase, third-party deed holders must be placed on notice through covenants and deed restrictions that project conservation and flowway areas may be managed with prescribed burns.
- Prior to commencing prescribed burn activity, the HOA, CDD, or ISD must notify residents of the prescribed burn activities and provide general prescribed burn management educational materials.

9. Agricultural Uses:

Existing agricultural areas, as shown on **Exhibit “M”** are allowed to continue on the property and convert to alternative agricultural uses subject to the following:

- a. Areas of agricultural uses and field areas in existence and/or authorized by the SFWMD at the time of this Agreement, including all associated irrigation and fertilization, must be discontinued prior to issuance of a vegetation removal permit for the land area subject to the vegetation removal permit. Development orders required for offsite infrastructure construction or a Development Order for onsite infrastructure construction that does not create residential or commercial vertical construction will not require discontinuance of the agricultural use.
- b. Prior to issuance of a local development order for vertical development, the developer must submit written proof, subject to approval by the County Attorney's Office, of the following:
 - 1) Termination of bona fide agricultural uses on the land area subject to the development order application/approval for vertical construction. Proof must include a sworn affidavit from the person or entity holding title to the land area that provides:
 - a) the date agricultural uses are proposed to cease or will cease after harvesting;
 - b) the legal description of the land area subject to development order approval;
 - c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are prohibited on the land area and that the owner covenants with the County that they will not allow agricultural uses on the land area until it is rezoned to permit agricultural uses; and
 - d) that the affidavit constitutes a covenant between the owner and the County binding on the owner, their assignees and successors in interest.

The affidavit must be recorded in the public records of the County at the owner's expense.

2) Proof of termination of the agricultural tax exemption on the land area subject to the development order. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

10. Native Vegetation

Development order landscape plans must reflect 100% native vegetation for required landscaping within common elements. These planting requirements and a native plant list must be incorporated into the project's covenants and deed restrictions.

11. Transportation

- a. Notwithstanding the LDC, internal project roadways must be substantially similar to the cross sections as depicted on the MCP.
- b. Roadway turn lane necessity and length at project/pod entrances will be determined at time of local development order review.
- c. Signalization:

The cost of signalization including design and construction of the Spine Road intersections with Corkscrew Road, SR 82, and/or a Development Pod shall be borne by the Developer or assigns. Installation of any signalization shall be the earlier of (x) at the Developers discretion; or (y) when found necessary as such intersection meets the Manual on Uniform Traffic Control Devices (MUTCD) traffic signal warrants.

12. Vehicular/Pedestrian Impacts

- a. Local Development Order. This approval does not address site-related mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
- b. Impact Fees and Proportionate Share Payments. The development must mitigate the traffic impacts of the project and pay a proportionate share of the needed roadway improvements which payment shall be \$2,000.00 per residential dwelling unit.
- c. Shared Use Path. The developer must provide off-road shared use bike paths/sidewalks in front of each residential lot and along at least one side of every internal project roadway in substantial compliance with the cross sections depicted on the MCP (Exhibit "C").

13. Entrance Gates and Gatehouses

Entrance gates and gatehouses are permitted at development entrances within each development Pod and temporarily on the spine road from Corkscrew Road to State Road 82.

14. Surface Water Monitoring

The Enhanced Lake Management Plan **Exhibit "N"** must be updated by the Developer if needed at the time of Development Order application creating residential lots that include monitoring components of surface water quality as follows:

- a. Quality of storm water (surface water) leaving the site at permitted outfalls must be monitored twice during the wet season and once during the dry season if there is water being discharged in the dry season. No discharge means no sample. Constituents sampled will consist of those outlined in **Exhibit "N"**. Reporting must consist of an Electronic Data Deliverable (EDD) in a format approved by the Lee County Department of Natural Resources and submitted biannually.
- b. The Developer or HOA/CDD/ISD must annually report the findings of the Surface Water Quality Monitoring Program within the Enhanced Lake Management Plan to:
 - i. assess water quality data and trend analysis;
 - ii. identify potential issues, and if necessary;
 - iii. recommend corrective actions to be consistent with existing State water quality standards. .
- c. The Developer or HOA/CDD/ISD may amend water quality monitoring and reporting after written request, review, and approval by the Department of Natural Resources.
- d. If any development order proposes to discharge into the County's MS4, the Developer will coordinate with Lee County Department of Natural Resources through the development order process to ensure available capacity.

15. Irrigation Wells

Single-Family Irrigation and Domestic Wells are prohibited. Development Order plans must demonstrate irrigation will be provided via a central irrigation system using onsite lakes, reclaimed water (if available), and/or as necessary, existing permitted wells (or replacement wells). The Property Owner Association documents, including Declarations of Covenants, must prohibit the installation of single-family use wells for potable or irrigation water. Landscape irrigation must comply with the Water Conservation Ordinance #17-04, as amended. This does not apply to wells being used for agricultural purposes prior to termination. All agricultural wells will be formally plugged and abandoned by the Developer as agricultural operations cease in conjunction with an approved Development Order.

16. Water and Sewer

All new development must connect to central water and sewer; no new septic systems or potable water wells will be permitted. Existing well and septic systems used for Property caretaker, construction and/or agricultural project manager will be properly abandoned upon the later of termination of agricultural operations or central water and sewer direct availability as determined by the Developer. The development may connect to reclaimed water if available and if the Project has been designed for its use.

17. Maintenance

The Developer and/or the HOA/CDD/ISD must submit a biennial drainage report signed by a licensed Professional Engineer in the State of Florida certifying that the drainage capacities of the flowways or buffer lakes at the completion of the project are consistent with the original design. If the report finds that flowways or buffer lakes require maintenance, then the Developer or HOA/CDD/ISD must submit a remedial plan for review and approval to address measures to conduct maintenance (i.e. re-grading the flowways or berms). Providing the County with a copy of the HOA/CDD/ISD Engineer's Report will satisfy this requirement with the additional requirements above.

18. Hydrological Restoration Plan

a. Flowway Re-establishment. The Developer will re-establish historic surface water flows through the Property consistent with Exhibit "O", within the designated conservation and flowway areas on the MCP. The Developer is responsible for providing stormwater flow through the project site until the property and permits are transferred to a third-party maintenance entity, as required by the South Florida Water Management District Applicant's Handbook for transfer of the permit(s).

b. Hydrological Restoration Plan. The Hydrological Restoration Plan, as conceptually described and depicted in the Hydrological Restoration Narrative **Exhibit "O"** and phased as depicted in **Exhibit "G"** must incorporate the requirements of Policy 33.2.4.2c of the Lee Plan and be submitted by the Developer with the first Development Order application. The Hydrological Restoration Plan must be based on an integrated surface and groundwater model to demonstrate protection of Lee County's natural resources and must include backfill and restoration of manmade ditches on the property if necessary. The Developer must phase backfill work to coincide with project development and not impede flow from agricultural operations. A key feature of the Hydrological Restoration Plan is the re-establishment of the flowways encompassed within the conservation and flowway areas on the MCP, to restore historic flowways and improve regional drainage patterns consistent with Condition 1(c).

The Hydrological Restoration Plan submitted at time of the first Development Order application must include detailed calculations and analyses for proposed flowways and other drainage improvements to estimate hydrologic benefits while ensuring no adverse impacts to adjacent properties.

The calculations/analyses must analyze post-development phases including peak stages, flows, and inundation (durations and frequency) for design storms (25 yr. - 3 day and 100 yr. -3 day) and compare hydrologic conditions for wet and dry seasons.

c. Timing. The Developer must implement the Hydrological Restoration Plan approved by the County coincident with construction of the storm water management system for each phase of development.

19. Landscape Berm

A decorative landscape berm or buffer may be installed along the frontage of Corkscrew Road, State Road 82, and the spine road at the discretion of the Developer. The berm shall be permitted a maximum height of 6 feet as measured from the crown of the higher adjacent pavement. At the Developers discretion a decorative wall or fence may also be installed on top of any landscape berm or buffer along Corkscrew Road, State Road 82, or the spine road provided the wall or fence does not impede drainage or movements of small and large mammals.

20. Development Permits.

Issuance of a county development permit does not establish a right to obtain permits from state or federal agencies. Further, it does not establish liability on the part of the county if the Developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of state or federal law.

21. Security and Public Safety Fences

The Developer may install fences or walls to maintain security, public safety, and preservation of conservation and flowway areas, so long as it does not impede pathways identified within the

Hydrological Restoration Plan Narrative (Exhibit "O") and the Human Wildlife Coexistence Management Plan (Exhibit "J") or as deemed necessary by onsite conditions.

22. County Land Swap

Prior to the approval of the first Development Order creating residential lots the Developer will deed to the County Pod 19 and the County will deed to the Developer the County property described in **Exhibit "B"** less Pod 18. This Agreement shall create uses on Pods 18 and 19 as depicted on the MCP and described herein.

23. Letters of Availability

Letters of availability will be provided for the law enforcement, Fire, EMS, and Schools concurrent with each development order application.

24. Excess Spoil Removal

Excavated material may be moved around the Project site without requiring an off-site excess spoil removal plan per LDC 10-329(b) and (c). The movement of excess spoil material within the Exhibit "A" and "B" property is permitted regardless of ownership and will not be deemed the removal of excess spoil material off-site and there will not be a limitation on the amount of excess spoil material plan per LDC 10-329 that can be moved within the Exhibit "A" and "B" property.

25. Offsite Flows

The Development Order must demonstrate an off-site hydraulic connection to help alleviate flooding of the Wildcat Run properties to the east. The hydraulic connection relative to the individual Pods of 4A, 4B, 5, 7, 8A, and 8B must be included, constructed, installed and certified with each individual construction of Pods 4A, 4B, 5, 7, 8A, and 8B. The hydraulic connection(s) must be sized to accommodate up to an allowable 25 yr.-3 day storm event discharge rate of 25 CSM for those properties determined to flow to the connection by field reconnaissance and existing topographical maps.

26. Lake Depth (See Deviation 2)

35' maximum lake excavation depth is only within the residential development pods and subject to compliance with an enhanced deep lake management plan for water quality and groundwater monitoring and all requirements of LDC 10-329(d)(3) (except LDC Section 10-329(d)(3)a.2. requirements regarding native shade trees).

27. Deep Lake Plantings (See Deviation 3)

All lakes with a depth of more than 12 feet measured at control elevation must provide an additional 20% littoral plantings in addition to required littoral plantings in lieu of deep lake trees.

28. Wetlands

No wetlands may be impacted within the commercial pods of the Project.

DEVIATIONS

Street Design and Construction Standards

Deviation 1 grants relief from LDC Section 10-296(e)(3), which requires roadway segments in Lee Plan future non-urban areas to be designed to non-urban design standards, to allow the internal roadways to be designed to the suburban roadway standards of LDC Section 10-296(e)(2).

Maximum Lake Depth

Deviation 2 grants relief from LDC Section 10-329(d) (3)a, which requires lakes to be limited to a 20ft depth to allow for a maximum lake excavation depth not to exceed 35ft or one foot above the confining layer whichever is less. This deviation is subject to **Condition 26**.

Deep Lake Shade Trees

Deviation 3 grants relief from LDC Section 10-329(d)(3)a.2, which requires native shade trees calculated at one tree per 100 feet of lake shoreline measured at control elevation to be installed for all lakes over 12ft in depth, to allow for an additional 20% of littoral plantings from what is required in lieu of native shade trees. This deviation is subject to **Condition 27**.

General Tree Plantings

Deviation 4 grants relief from LDC Section 10-416(a) which requires general tree plantings. The general tree requirement for the Project are met through the use of existing onsite indigenous vegetation and flowway restoration plants. The flowway plants will not be subject to required minimum plant heights per LDC 10-420(c) and (d). Landscaping for parking areas and vehicle use areas must still be provided as required in the LDC.

Ingress/Egress

Deviation 5 grants relief from LDC Section 10-291(3), which requires that residential development of more than five acres and commercial development of more than ten acres provide more than one means of ingress and egress, to allow one ingress/egress per initial construction of a residential or commercial Pod with the remaining access point(s) installed prior to completion of the residential or commercial Pod. The development of any Pod that connects to the spine road shall require the spine road to connect to either Corkscrew Road or State Route 82.

Buffering Adjacent Property

Deviation 6 grants relief from LDC Section 10-416(d)(1), which requires a landscape buffer along the entire perimeter of the proposed development whenever the proposed development abuts a different use, to allow the proposed preservation and restoration areas consistent with **Exhibit "L"** to act as the buffer. This deviation does not apply to development Pods abutting SR 82 which must comply with landscape buffer requirements provided in LDC Section 10-416(d)(1) or Section 10-424, as applicable.

Water Main Installation

Deviation 7 seeks relief from LDC Section 10-384(c)(1), which requires water mains for one- and two-story residential buildings be constructed in an external loop no greater than 1,500 feet, to allow 3,700 feet provided required fire flows are met.

Access Separation

Deviation 8 seeks relief from LDC 10-285, which requires an access separation of 660 feet along principal arterials in Future Non-Urban areas to allow a connection separation distance of 460', as depicted on the MCP.

Exhibit F

Property Development Regulations (in feet)

LOTS WITHIN DEVELOPMENT PODS	Single Family	Zero Lot Line	Two Family Attached	Townhouse	Multi-Family	Res. Pod Amenity Center	Master Amenity Center Pod	Commercial
Minimum Lot Width	35	**35	27	18	100	100	100	100
Minimum Lot Depth	120	120	100	100	100	150	150	150
Minimum Lot Area	4,200	4,200	2,700	1,800	10,000	15,000	15,000	15,000
Maximum Building Height	35	35	35	35	55	55	55	55
Maximum Lot Coverage	65%	65%	70%	70%	65%	60%	60%	60%

MINIMUM SETBACKS	Single Family	Zero Lot Line	Two Family Attached	Townhouse	Multi-Family	Res. Pod Amenity Center	Master Amenity Center	Commercial
<u>Public Street</u>								
Corkscrew Road	100	100	100	100	100	100	N/A	100
Spine Road	100	100	100	100	100	25	25	25
State Route 82	100	100	100	100	100	N/A	N/A	25
<u>Private Street</u>								
Front Yard Setback	25	25	20	20	20	25	25	25
<u>Side and Rear Yard Setbacks</u>								
Side Yard Setback on a Corner Lot	12	12	12	12	12	25	25	25
Side Yard Setback	5	5/0 & 0/5	5/0 & 0/5	5/0 & 0/5	10	10	10	10
Rear Yard Setback Principal Structure	10	10	10	10	10	0	10	10
Rear Yard Setback Accessory Structure	5	5	5	5	5	0	5	10
<u>Rear Yard Setback to a Lake Maintenance Easement</u>								
Principal Structure	10	10	10	10	10	0	0	25
Accessory Structure	0	0	0	0	10	0	0	25

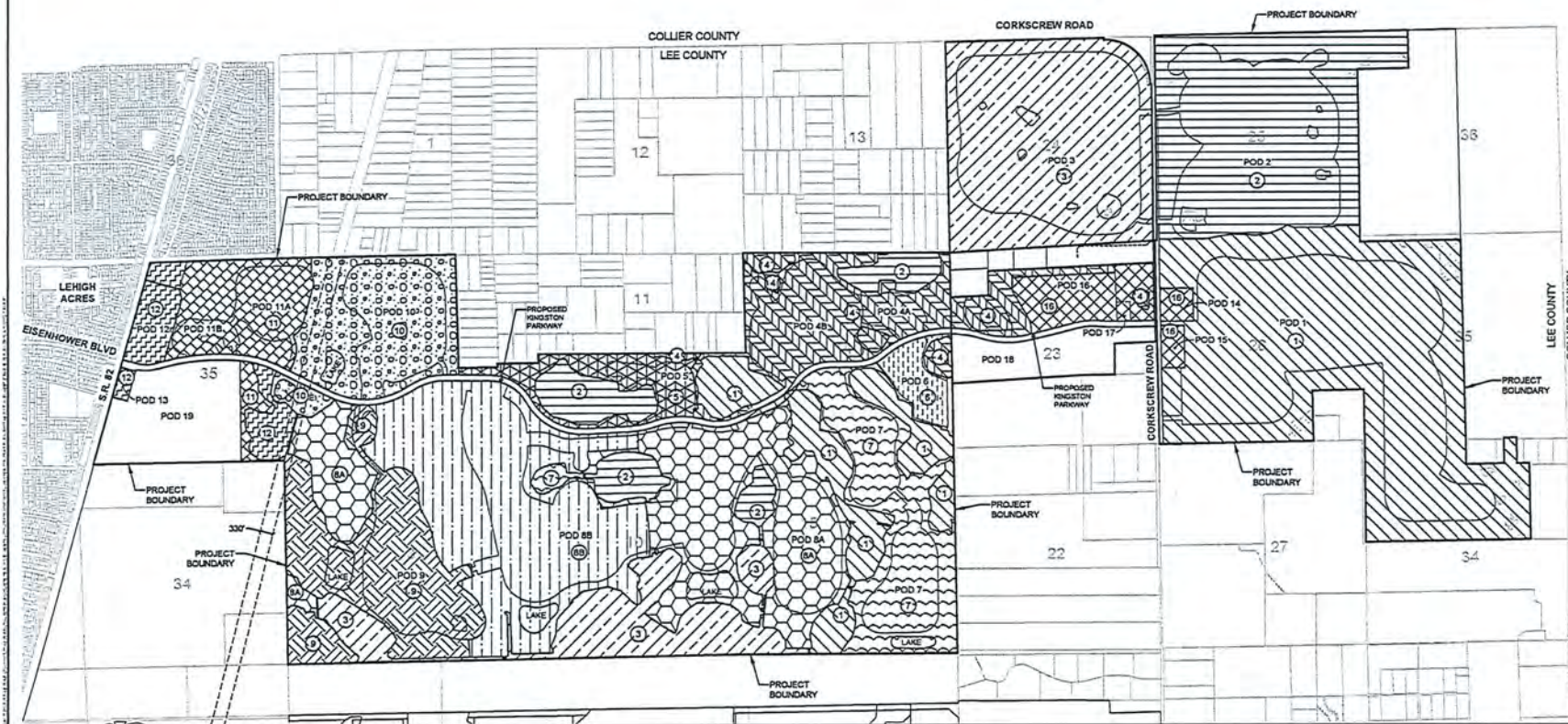
****Setbacks from existing indigenous and flowway areas from principal structures must be provided in compliance with the LDC Section 10-415(b)1.c.**



POD	AREA TO BE DEVELOPED (AC)	RESTORATION AREA (AC) *	INDIVIDUAL RESTORATION %	CUMULATIVE RESTORATION %
POD 1	671.38	733.62	52.21%	52.21%
POD 2	412.25	428.25	50.95%	51.74%
POD 3	452.27	469.11	50.91%	51.50%
POD 4	186.6	180.45	49.34%	51.30%
POD 5	49.35	65.59	60.21%	51.52%
POD 6	58.41	11.66	18.79%	50.97%
POD 7	131.67	113.83	44.14%	50.39%
POD 8-1	318.44	307.35	49.11%	50.22%
POD 8-2	329.47	350.17	51.52%	50.38%
POD 9	197.48	199.47	50.34%	50.27%
POD 10	125.12	125.7	52.48%	50.49%
POD 11	106.88	110.33	50.79%	50.50%
POD 12, 13	58.06	56.58	49.35%	50.48%
POD 14, 15, 16	101.00	44.1	30.49%	50.04%
TOTAL	3,381	3,286	50.64%	50.64%

* NOTE
EXACT ACREAGE AND RESTORATION LOCATION TO BE DETERMINED AT TIME OF DEVELOPMENT ORDER(D), IN ACCORDANCE WITH CONDITION 1(C).

⊙ DENOTES PHASE NUMBER



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J.R. EVANS
ENGINEERING

KINGSTON (A Cameratta Development)

EXHIBIT G PHASING PLAN

DATE	REVISION	BY	CHKD
11/14/2017	1	EVANS	EVANS

PROJECT # 00017-400P
SHEET: 1 of 1

STAFF REPORT FOR Southeast Advanced Water Reclamation Facility:

CPA2023-00003

Small-Scale Map Amendment to the Lee Plan



Amendment Type:

County Initiated
Lee County Public Utilities
Direction: 01/17/2023

Amended Element:

Lee Plan Map 1-A

Staff Recommendation:

Adopt

Representative:

Alexis V. Crespo, AICP

Property Location:

18940 Green Meadow Rd
Fort Myers, FL 33913

Property Size:

± 35.65 acres

Community Plan Area:

Southeast Lee County

Commissioner District:

District #2

Hearing Dates:

LPA: 09/25/2023
BoCC #1: TBD

Attachments:

- 1: Proposed Amendments
- 2: Natural Resources Memo
- 3: Corkscrew Area Wastewater Master Planning Report
- 4: Applicant Materials

PURPOSE

- Amend the Future Land Use Map designation on ±35.65 acres of the ±80-acre parcel from Density Reduction/Ground Water Resources (DR/GR) to Public Facilities.

SUMMARY

The requested amendment is to change the Future Land Use Map designation on ±36 acres from DR/GR to Public Facilities to allow the subject parcel, as well as the adjacent parcel to the west, currently designated Public Facilities, to be developed as a contiguous ±112-acre site. The request will allow for the development of the Southeast Advanced Water Reclamation Facility (SEAWRF) with an initial operating capacity of 6 million gallons per day (MGD) and the ability to expand to 10 MGD.

PROJECT LOCATION

The subject property is located on Green Meadow Road approximately 0.2 miles east of the intersection with Alico Road. See Figure 1, below.



Figure 1 : Ariel view of the subject property and surrounding area

RECOMMENDATION

Staff recommends that the Board of County Commissioners **adopt** the requested amendment based on the analysis and findings provided in this staff report.

PART 1

STAFF DISCUSSION AND ANALYSIS

CONCURRENT REZONING

Lee County Utilities has filed a companion rezoning application (DCI2023-00011) which is being reviewed concurrently with this plan amendment request. The proposed rezoning of the property will change the zoning from Agricultural (AG-2) to Community Facilities Planned Development (CFPD) to allow the development of a public water reclamation facility.

Florida Statutes Chapter 163.3184(12) provides that “At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this subsection.” This requires that Lee County provide concurrent review of the rezoning request.

Even with the recommended adoption of the proposed amendment, Lee County Utilities must demonstrate consistency with the Lee Plan, including the proposed amendment, in order for the companion rezoning to receive a favorable recommendation.

SUBJECT PROPERTY

The subject property is located on Green Meadow Road approximately 0.2 miles east of the intersection with Alico Road and approximately 4 miles east of I-75. The property is located in the Southeast Lee County Community Plan area and is in the Density Reduction/Groundwater Resource (DR/GR) on the Future Land Use Map. The subject property is zoned Agricultural (AG-2).

The subject property was cleared prior to the 1960s and used for agricultural purposes. Historical agricultural uses included row crops through approximately 2002 when the site was converted to cattle pasture. The proposed amendments do not include the Wetlands and historic flowway immediately east of the proposed amendment area. The proposed amendment area includes the western ±36 acres of the 80-acre property. The remainder of the property will remain in the Wetlands future land use category.

The property was partially developed through a Special Exception (SEZ2008-00013) and Limited Development Order (LDO2009-00045), which allowed the construction of a 149-foot wireless communication facility and supporting infrastructure on the site.

A request to rezone the site to CFPD, DCI2018-10023, to allow a collocated wastewater treatment plant and solid waste facility was submitted in 2018. This request was subsequently withdrawn to address public concerns surrounding additional traffic and environmental impacts, complete additional public outreach, evaluate design alternatives, and to pursue this small-scale Future Land Use Amendment.

SURROUNDING PROPERTIES

Green Meadow Road abuts the subject property on the south side and includes public right-of-way (ROW) reserved for the Alico Road extension which will include a 250-foot-wide right-of-way, 4-lane arterial roadway capable of expansion to a 6-lane facility. Phase I construction adjacent to the subject property is planned for mid-year 2024 and construction is expected to be completed in late 2026.

South of Meadow Road/Alico Road extension are agricultural and single-family residential uses on parcels ranging in size from approximately 4 to 80 acres.

TABLE 1: SURROUNDING PROPERTIES INFORMATION

	Future Land Use	Zoning	Existing Use
North	Conservation Lands - Upland	AG-2	Conservation Land
East	Wetlands	AG-2	Unimproved
South	DR/GR	AG-2	ROW and Single-Family Residential
West	Conservation Lands- Wetland, DR/GR	AG-2/MEPD	Conservation Land and CEMEX Alico Road Mine

Other surrounding development in the area includes mining operations to the west, east and south as well as large-scale master planned communities south of Alico and along the Corkscrew Road corridor. Additionally, recently approved settlement agreements for “Kingston” and “FFD” will substantially increase the residential development in the surrounding area.

DISCUSSION AND ANALYSIS – MAP 1-A: FUTURE LAND USE MAP

The request is to amend the future land use category on ±35.65 acres of the ±80-acre parcel from DR/GR to Public Facilities to facilitate the development of a water reclamation facility (WRF). The subject site does not include any areas designated as Wetlands on the Future Land Use Map. The policies describing the existing and proposed future land use categories are provided below:

POLICY 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) future land use category includes upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed.

1. New land uses in these areas that require rezoning or a development order must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels utilizing hydrologic modeling, the incorporation of increased storage capacity, and inclusion of green infrastructure. The modeling must also show that no adverse impacts will result to properties located upstream, downstream, as well as adjacent to the site. Offsite mitigation may be utilized, and may be required, to demonstrate this compatibility. Evidence as to historic levels must be submitted as part of the rezoning application and updated, if necessary, as part of the mining development order application.
2. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, public and private recreation facilities, and residential uses at a maximum standard density of one dwelling unit per ten acres (1 du/10 acres). See Objectives 33.2 and 33.3 for potential density adjustments resulting from concentration or transfer of development rights.
3. Private Recreational Facilities may be permitted in accordance with the site locational requirements and design standards, as further defined in Goal 13. No Private Recreational Facilities may occur within the DR/GR land use category without a rezoning to an appropriate Planned Development zoning category, and compliance with the Private Recreation Facilities performance standards, contained in Goal 13.

POLICY 1.1.8: The Public Facilities areas include the publicly owned lands within the County such as public schools, parks, airports, public transportation, and other governmental facilities. The allowable uses within these areas are determined by the entity owning each such parcel and the local government having zoning and permitting jurisdiction.

The subject request seeks to amend the future land use category from DR/GR to Public Facilities. Policy 1.4.5 describes the DRGR future land use category as “upland areas that provide substantial recharge to aquifers most suitable for future wellfield development.” **Policy 1.1.8** describes the Public Facilities future land use category as areas that “include the publicly owned lands within the County such as public schools, parks, airports, public transportation, and other governmental facilities.” The subject property is owned by Lee County and is currently in the DR/GR future land use category. The future land use of the property to the west was amended from DR/GR to the Public Facilities future land use category in Ordinance No. 18-25. See Figure 2, below.

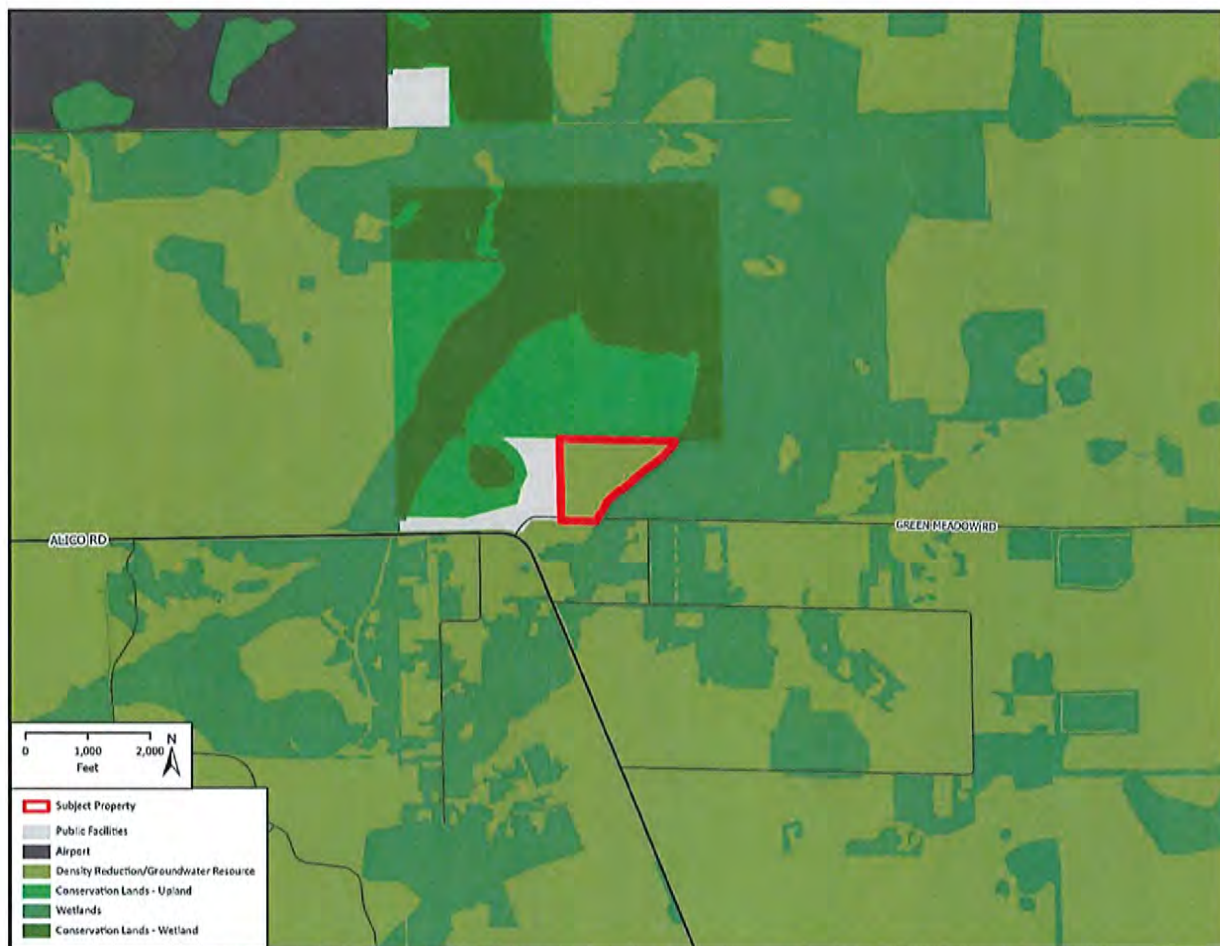


Figure 2: Existing Future Land Use Map of subject property and surrounding area.

Given the adjacent land use category, public ownership and intended future use, the request is consistent with the proposed future land use category. Although the intended use of the property is allowable in the DR/GR future land use category based on Policy 2.1.3, the proposed change to the future land use category is consistent with other Lee County Utilities facilities within Southeast Lee County, including the adjacent property to the west. Groundwater and surface water models were submitted and demonstrated

that no adverse impacts to surface or groundwater are expected from the proposed development. This is further discussed below.

The Subject property is within the Agricultural Overlay, as identified on Map 1-G. **Policy 1.6.7** describes the Agricultural Overlay special treatment area. Policy 1.6.7 provides that agricultural uses “should be protected from the impacts of new developments, and the county should not attempt to alter or curtail agricultural operations on them merely to satisfy the life-style expectations of non-urban residents.” This policy is meant to protect existing agricultural uses in non-urban areas from compatibility concerns of nearby residents. Policy 1.6.7 does not prohibit the conversion of agricultural uses to other uses. Although Florida Statute 163.3177(6)(a) requires the Lee Plan’s future land use element include the general distribution and location of land for agriculture, Florida Statute 187.201(22)(b)(1) ensures the goals and policies in state and regional plans are not interpreted to restrict the conversion of agriculture lands to other uses. Similar language was deleted from the Lee Plan in Ordinance 21-09 to “remove redundancy with Florida Statute.”

Goal 2 of the Lee Plan is to coordinate “the location and timing of new development with the provisions of infrastructure by government agencies.” The proposed development of the SEAWRF is critical in providing centralized wastewater treatment facilities to developing communities.

Policy 2.3.1 and **2.3.2** requires applicant’s amending the Future Land Use Map, for any land in the DR/GR future land use category, to analyze the proposed land uses to determine the short-term and long-term availability of irrigation and domestic water sources and to assess any significant impact that may occur to present or future water resources that will result from the proposed change. For the Board of County Commissioners to approve a change to the DR/GR future land use category, a formal finding that no significant impact will result must be made. To address these requirements a *Surface Water and Groundwater Impacts/Benefits Analysis* dated July 21, 2023 was provided. This analysis was reviewed by Natural Resources staff and found to be consistent with the requirements in **Policy 2.3.1** and **2.3.2** (see attachment 2). Therefore, the **Board of County Commissioners can make a formal finding that no significant impacts on present or future water resources will result from changing the Future Land Use Category, as required in Lee Plan Policy 2.3.1 and 2.3.2**

Policy 5.1.5 protects existing residential areas from any encroachment of uses that are potentially destructive. As previously discussed, there are no residential uses to the north, east, or west. There are residential uses south of Alico Road on relatively large parcels (approximately 4 to 80 acres). The nearest residential structure is located approximately 550 southeast of the proposed development across Green Meadow Road/Alico Road and will be buffered from the proposed development by the wetland in the southeast corner of the property, proposed to be preserved. Future residential development will be limited to areas south of the Green Meadow/Alico Road right-of-way. The proposed development of the SEAWRF will comply with landscape and buffering requirements in the LDC at time of development and will include odor abatement technology such as scrubbers and active carbon filters. The proposed development will be less intensive than existing uses in the area such as the CEMEX mining operation to the west and Florida Rock/Vulcan Materials mining operation to the east.

Opportunities for public input is required for privately initiated comprehensive plan amendments in accordance with **Objective 17.3** and **Policy 17.3.2**. Although Objective 17.3 and the subsequent policies do not apply to the proposed amendment because it was initiated by the County, a public information meeting was conducted approximately 5 miles from the subject site on 01/31/2023 by Lee County Utilities.

One of the primary intents of **Goal 33** is to protect Southeast Lee County's natural resources. Goal 33 also provides that public facilities are an allowable land use if found compatible with protecting Southeast Lee County's environment. To help determine compatibility with protecting Southeast Lee County's environment, **Policy 33.1.7** requires integrated surface and groundwater modeling to assess any adverse impacts of proposed development on surface and groundwater resources. The required models were submitted and were analyzed by the Lee County Division of Natural Resources. The review concluded that the models demonstrated no adverse impacts to surface or groundwater are expected from the proposed development. **Policy 33.1.8** describes the County's support of a comprehensive and coordinated effort to manage water resources and the protection and restoration of natural systems in Southeast Lee County. The proposed SEAWRF represents a coordinated effort to provide a solution to the need identified in the *Corkscrew Overlay Area Wastewater Master Planning Report* through the use of a centralized WWTP that will protect water resources and limit the use of individual uncoordinated septic systems thereby enhancing resource protection. The proposed project has minimal water supply demand and irrigation water will be sourced from treated effluent which is defined as an "alternative water supply" further enhancing resource protection. The proposed amendment is consistent with **Goal 33** and the applicable subsequent policies.

Goal 56 encourages utility providers to provide sanitary sewer service and wastewater treatment throughout Lee County. Furthermore **Objective 56.1** and **Policy 56.1.3**, addresses acceptable levels of sanitary sewer service and construction of sufficient treatment facilities to meet or exceed the minimum acceptable service standards. These level of service standards, as outlined in **Objective 95.1.3**, are the basis for planning and providing public facilities to meet the public need. The Corkscrew Overlay Area Wastewater Master Planning Report, completed in October 2016, identified a need to construct a WWTP in Southeast Lee County. Through significant analysis including wastewater flow projections, future development and population growth projections, the plan established that a new WWTP would be required to meet the future demand. The planning report also developed recommendations, site criteria, and timeframes necessary for construction of a new County-owned WWTP. The Corkscrew Overlay Area Wastewater Master Planning Report included an analysis of the planned development approval of Wildblue (1,096 DU), The Place at Corkscrew (1,325 DU), and Verdana (2,400 DU) in addition to other development projections to establish a total projection of 12,093 DUs within the Southeast Lee County Planning Community.

The Corkscrew Overlay Area Wastewater Master Planning Report analyzed two possible locations for the construction of a new WWTP based on the area of demand and support for fiscal and reduced environmental impact through the reduction of infrastructure. The first property identified was the location of the Corkscrew Water Treatment Plant on Alico Road approximately 0.6 miles north of the intersection of Alico Road and Corkscrew Road. Property number two was located on the north side of Corkscrew Road approximately 3.5 miles east of the intersection of Alico Road and Corkscrew Road. The plan further established that property number one provided several advantages including more developable area, less residential development immediately surrounding the location, and ease of conveying flows.

In May 2017 an addendum to the Corkscrew Overlay Area Wastewater Master Planning Report was completed. The addendum focused on a third potential location. The third location is the subject of this amendment request. The third site was selected after the completion of a due diligence siting analysis completed in 2018. The siting analysis identified the added benefit of a larger developable area and ability to maintain buffers and separation from adjacent properties.

After completion of the planning report and addendum, settlement agreements for additional density and intensity were approved for FFD¹ and Kingston² leading to a significant increase in projected future demand. These developments expand on the already documented need for the proposed WRF.

The proposed amendment is consistent with **Goal 56** and the applicable subsequent policies and furthers Lee County's ability to "provide sanitary sewer service and wastewater treatment facilities throughout Lee County."

Goal 63 protects the County's groundwater supplies from activities having a potential of depleting or degrading those supplies. As previously discussed, based on the requirements of **Goal 33**, and **Policies 2.3.1, 2.3.2, 33.1.7**, an integrated surface and groundwater model submitted by the applicant and reviewed by Lee County Natural Resources has demonstrated that the proposed amendment will not negatively impact the County's groundwater supplies. Additionally, the subject site is not within any Wellfield Protection Zone as identified on Map 4-C. The proposed amendment is consistent with **Goal 63**.

Policy 123.2.4 which encourages the protection of viable tracts of sensitive or high-quality natural plant communities. The subject 36+/- acres has previously contained agricultural row crop and cattle grazing activities and does not contain sensitive or high-quality plant communities. The request does not seek to change the future land use designation of the portion of the property designated Wetlands. The subject request is consistent with Policy 123.2.4.

Policy 123.4.4 restricts the use of protected plant and wildlife species habitat to that which is compatible with the requirements of endangered and threatened species and will provide equivalent mitigation, if necessary, prior to development. A Protected Species Survey, dated February 2023, did not observe any protected species or direct signs of protected species utilization within the subject area or the adjacent Wetlands. If species are documented prior to development, a species management plan will be required in accordance with the Land Development Code. The subject property is located within the USFWS Panther Primary Zone and within the secondary protection zone of a Crested Caracara nest. A Panther Habitat Unit Analysis will be required prior to construction and Recommended Management Practices for Caracaras will be implemented. The request is consistent with Policy 123.4.4.

Policy 126.1.1 provides that "natural water system features which are essential for retention, detention, purification, runoff, recharge and maintenance of stream flows and groundwater levels shall be identified, protected and managed." There are no wetlands, historic flowways or other natural water system features on the 36 acres subject to the proposed Future Land Use Map amendment. Additionally, the MCP submitted with DCI2023-00011 demonstrates that proposed impacts will not be located within wetlands or historical flowways. The proposed amendments are consistent with Policy 126.1.1.

Policy 127.1.1 requires development to prevent significant emissions of air pollution. The proposed development will be required to comply with all required air pollution regulations and will be designed to prevent emission of air pollution and significant odor using bio scrubbers and low-speed aerators.

¹ FFD: Case No.: 21-CA-001993 approved 5,208 dwelling units, residential amenities, and 100,000 square feet of commercial.

² Kingston: Case No.: 22-CA-002724 approved 10,000 dwelling units, residential amenities, 700,000 square feet of commercial and 240 hotel rooms.

Based on the analysis above, redesignating the subject property from Density Reduction/Groundwater Resource to Public Facilities is found to be appropriate and consistent with the Lee Plan.

SERVICE AVAILABILITY

The requested amendment will allow for the development of the SEAWRF on the subject property. There are adequate potable water, sanitary sewer, solid waste, police, fire and EMS to accommodate anticipated development on the subject property.

Transportation: The subject property is located on Alico Road and Green Meadow Road approximately 4 miles east of I-75. Alico Road is a 4-lane arterial roadway and Green Meadow Road is scheduled to be upgraded to a 4-lane arterial roadway as part of Phase 1 of the Alico Road Extension. The site will have direct access to an arterial roadway.

Short Range Impacts: Proposed change will not cause any roadway link to fall below the recommended minimum acceptable Level of Service thresholds.

Long Range Impacts: Proposed change will not cause any roadway link to fall below the recommended minimum acceptable Level of Service thresholds.

Mass Transit: The subject property is not within ¼ mile of a fixed route corridor and is further than ¼ mile of the nearest bus stop. The 2020 Transit Development Plan does not identify the need for enhanced or additional transit services in the area.

Utilities: The subject property is within the Lee County Utilities future potable water service areas as identified on Lee Plan Map 4-A. Once operational the facility will provide its own wastewater service.

Solid Waste: The subject property has access to solid waste services. Solid waste collection services will be provided by using Lee County contract haulers, the Lee County Resource Recovery Facility, and the Lee-Hendry Regional Landfill.

Fire: The San Carlos Park Fire Protection District indicated that they are capable of providing fire protection to the subject property.

EMS: The subject property has access to Emergency Medical Services. Lee County Emergency Medical Services indicated that they will be able to serve the property.

Police: The Lee County Sheriff's Office will provide law enforcement services primarily from the South District offices in Bonita Springs. The Sheriff indicated in a letter that development of the subject property will not affect the ability of the Lee County Sheriff's Office to provide core services at this time. The Sheriff's Office requests a Crime Prevention through Environmental Design report at the time of Development Order.

CONCLUSIONS

The proposed amendment will support the Lee Plan's aim to provide sanitary sewer service and wastewater treatment throughout Lee County, maintain minimum levels of service, and protect existing natural resources. The need, identified in the *Corkscrew Overlay Area Wastewater Master Planning Report*, for additional public infrastructure in Southeast Lee County is critical to address emerging

development patterns in the area. The proposed amendment will allow development of the SEAWRF with an initial operating capacity of 6 MGD and the option to expand to 10MGD to address the future demand.

Staff has reviewed the proposed amendments and provides the following conclusions.

- The adjacent parcel to west is in the Public Facilities future land use category.
- The proposed amendment supports Goal 56, Objective 56.1, 56.1.3, and Objective 95.1.3 which aim to provide sanitary sewer service and wastewater treatment at acceptable levels of service throughout Lee County.
- The proposed amendment will not result in significant impacts to present or future surface and groundwater resources as demonstrated through the use of groundwater and surface water modeling, consistent with Goal 33, Goal 63, Objective 60.1 and Policies 2.3.1 and 2.3.2.
- The subject request does not include the areas of the property designed Wetlands and does not contain sensitive or high-quality plant communities or protected species. The request is consistent with Policies 60.4.3, 123.2.3, 126.1.1, and 126.1.4.
- The concurrent rezoning request will provide opportunities to address compatibility with surrounding uses.

For the reasons discussed in this staff report, staff recommends that the Board of County Commissioners ***adopt*** the proposed amendments as provided in Attachment 1.

ATTACHMENT L



BOARD OF COUNTY COMMISSIONERS

Kevin Ruane
District One

Cecil L Pendergrass
District Two

Raymond Sandelli
District Three

Brian Hamman
District Four

Michael Greenwell
District Five

Roger Desjarlais
County Manager

Richard Wm Wesch
County Attorney

Donna Marie Collins
*County Chief
Hearing Examiner*

February 6, 2023

Via E-Mail

Alexis Crespo
RVI Planning
28100 Bonita Grande Drive
Bonita Springs, FL 34135

RE: **Potable Water and Wastewater Availability
Southeast Advanced Water Reclamation Facility
18940 Green Meadows Road
STRAP # 04-46-26-00-00001.0010, 04-46-26-00-00001.1010 and
09-46-26-00-00001.0170**

To whom this may concern:

The subject properties are located within Lee County Utilities Future Water Service Area as depicted on Map 4A, but not currently located within Lee County Utilities Future Wastewater Service Area as depicted on Map 4B of the Lee County Comprehensive Land Use Plan. Potable water 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 and a comprehensive plan amendment (for wastewater) will be required.

Your firm has indicated that this project will consist of 1 commercial unit with an estimated flow demand of approximately 3,750 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water and 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 Corkscrew Water Treatment Plant.

Once the comprehensive plan amendment is approved, the sanitary sewer service will be provided by the future Southeast Advanced Water Reclamation Facility (the subject project). 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



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AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER

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 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 Zoning and Comprehensive Plan Amendment only. Individual letters of availability will be required for the purpose of obtaining building permits.

Sincerely,

LEE COUNTY UTILITIES



Mary McCormic
Technician Senior
239-533-8532
UTILITIES ENGINEERING

ATTACHMENT M

Lee County, Florida DEPARTMENT OF COMMUNITY DEVELOPMENT ENVIRONMENTAL STAFF REPORT

CASE NUMBER: DCI2023-00011

TYPE OF CASE: Community Facilities Planned Development

CASE NAME: Southeast Water Reclamation Facility

TOTAL ACREAGE: 112.21 Acres

SUFFICIENCY DATE: August 1, 2023

HEARING EXAMINER DATE: October 19 & 20, 2023

Request

The applicant is requesting to rezone a 112.21-acre parcel from Agricultural (AG-2) to Community Facilities Planned Development (CFPD). The request is to allow a public wastewater treatment facility to provide facilities for the growing communities. The property is located in Fort Myers, and north of the future Alico Road right-of-way expansion. According to the Lee Plan, the property is located within the DR/GR and Public Facilities Future Land Use Category. The proposed development is within the South-East Lee County Planning Community.

Existing Conditions

As mentioned, the site is located northeast of Alico Road expansion. The applicant has submitted a Protected Species Survey (Exhibit A) and the Florida Land Use Cover and Classification System (FLUCCS) map (Exhibit B). There were no protected species observed on the site.

A large portion of the project FLUCCS map demonstrates wetlands present onsite. The applicant is not proposing impacts to the wetland areas to demonstrate compliance with Lee Plan Policy 123.2.4. The applicant must obtain a formal jurisdictional determination or ERP permit from the South Florida Water Management District prior to construction of the water treatment facility. If the SFWMD deems there are more wetlands than the environmental consultant observed, the applicant will have to provide an updated MCP or mitigate through State and Federal Permitting. Staff has proposed wetland conditions in regard to state and federal permitting.

Open Space

The applicant is proposing a public facilities development for water treatment. The Land Development Code requires large (defined in LDC 10-1) CFPDs to provide 30% open space. The site area is 112.21 acres; however, the applicant is calculating open space based on the right-of-way taking (31.21 acres are being utilized), for the expansion of Alico Road. The total site area after the planned taking for the expansion is 80.99 acres. The applicant is required to provide 24.30 acres of open space; however, 48.82 acres are being provided. The project is exceeding the minimum required open space by 24.52 acres through buffers, indigenous preservation, stormwater, etc.

Staff recommends the following open space condition to ensure that 60.3% or 48.82 acres of open space is being provided:

Prior to the issuance of the first development order, the development order plans must depict 60.3% or 48.82 acres open space over the entirety of the CFPD.

Indigenous Open Space Preservation

The Land Development Code requires that large projects must provide 50 percent of the open space percentage requirement through onsite preservation of existing native vegetation communities (LDC 10-415(b)). The site area is 112.21 acres; however, the applicant is calculating open space based on the right-of-way taking. Therefore, the applicant is calculating the indigenous preservation area off the 80.99 acres (total site area after the right-of-way taking). LDC 10-415(b) requires the applicant to provide 12.15 acres of indigenous open space. However, the applicant is exceeding the minimum required indigenous open space through preservation and restoration, providing a total of 31.39 acres.

The applicant is offering enhancements through the restoration process, in accordance with Lee Plan Objective 33.1. Lee Plan Objective 33.1 discusses protection and restoration of natural resources in Southeast Lee County Community Planning area including wetlands and wildlife. Lee Plan Policy 123.2.4 states, "encourage the protection of viable tracts of sensitive or high-quality natural plant communities within developments." The development is restricting development to the previously disturbed agricultural areas. No impacts are proposed in the wetland areas. Lee Plan policy 123.1.5 encourages restoration of natural habitats to support connectivity between preservation efforts. The proposed project is providing an enhanced indigenous open space requirement and an ingress/egress location for Turkey strand preserve, to continue maintenance for the adjacent preserve.

The FLUCCS map provided by Johnson Engineering indicates areas of existing indigenous vegetation. The following FLUCCS codes are considered indigenous by LDC 10-701 and LDC 10-1 (Exhibit B):

FLUCFCS Code 621: Cypress

This forested wetland habitat is present within the slough on the eastern portion of the subject site. Cypress (*Taxodium* spp.) is the dominant canopy and subcanopy species. Scattered dahoon holly (*Ilex cassine*), cabbage palm (*Sabal palmetto*), and red maple (*Acer rubrum*) are also present in the canopy and subcanopy. Swamp fern (*Telmatoblechnum serrulatum*), Virginia chain fern (*Woodwardia virginica*), and cinnamon fern (*Osmunda cinnamomea*) are the predominant ground cover species. This habitat is proposed to be preserved as part of the overall development plan.

FLUCFCS Code 621E: Cypress, Exotics

This area is consistent with FLUCFCS Code 621 with the additional of minimal (less than 10%) exotic vegetation coverage. When present this consists of Brazilian pepper, earleaf acacia, date palm (*Phoenix* spp.), and West Indian marsh grass. This habitat is not proposed for impact.

FLUFCS Code 621E1: Cypress (1-24% Exotics)

This wetland habitat is consistent with FLUCFCS Code 621E with increased exotic vegetation coverage to 1-24% throughout. This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

FLUCFCS Code 621E2: Cypress (25-49% Exotics)

This wetland habitat is consistent with FLUCFCS Code 621E with increased exotic vegetation coverage to 25-49% throughout. This area also contains climbing cassia (*Senna pendula*) and old-world climbing fern (*Lygodium microphyllum*). This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

FLUCFCS Code 624E2: Cypress – Pine – Cabbage Palm (25-49% Exotics)

A wetland habitat with a canopy comprised of cypress, slash pine, and scattered cabbage palm is present north of Green Meadows Road. Melaleuca (*Melaleuca quinquenervia*) and Brazilian pepper are also present in the canopy and subcanopy. Ground cover observed consists of sawgrass (*Cladium jamaicense*), spadeleaf (*Centella asiatica*), and swamp fern. This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

FLUCFCS Code 643E: Wet Prairie, Exotics

A wet prairie is located in southeast portion of the subject site. This wetland is vegetated by scattered melaleuca, little blue maidencane (*Amphicarpum muhlenbergianum*), dog fennel, and foxtail grass. This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

FLUCFCS Code 621D: Cypress, Drained

Two areas mapped as drained cypress are present directly east of the improved pasture area. Much of the subcanopy vegetation appears to have been previously removed. Ground cover species includes West Indian marsh grass (*Hymenachne amplexicaulis*), smartweed (*Polygonum* spp.), dayflower (*Commelina diffusa*), flatsedges (*Cyperus* spp.), dog fennel, and climbing hempweed (*Mikania scandens*). This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

The applicant is proposing restoration to the preservation area; however, no restoration plan has been submitted at this time. On July 5, 2023, the applicant's response to staff stated that a restoration plan will be provided at the time of the development order (Exhibit C). Staff is requesting a breakdown of the existing indigenous vegetation acreage, and the restoration acreage breakdown.

Staff proposes the following conditions:

Prior to the issuance of the first development order, the development order plans must depict 31.39 acres of indigenous open space.

No development in wetlands regulated by the State of Florida may be commenced without the appropriate state agency permit or authorization. Development orders and development permits authorizing development within wetlands or lands located within the Wetlands future land use category may be issued subject to a condition that construction may not commence until issuance of the required state permits.

Prior to the issuance of the first development order, the applicant must provide a restoration plan of the "E4" areas within the indigenous preserve, including removal of exotics. Development services staff must approve all plans to county standard prior to the issuance of the first development order.

Prior to the issuance of the first development order, the development order plans must include a map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas and native vegetation must be protected by the tree barricades.

Prior to the issuance of the first development order, the management plan must demonstrate hand removal/treatment within saturated areas of the proposed preserve to avoid grade change.

The applicant must submit a vegetation removal permit with a survey point map depicting the preservation and restoration areas and mechanical clearing limits.

Prior to the issuance of the first development order, an indigenous management plan must be provided and approved by Development Services Staff.

The applicant must submit an indigenous monitoring plan for ten years after the initial time zero report.

Prior to Certificate of Completion, if the proposed restoration plantings fail, the developer must provide temporary irrigation approved by Lee County Development Services Staff.

Prior to the issuance of the first development order, development order plans must demonstrate exotic removal and restoration of indigenous habitat to begin concurrently with improvements to land.

Prior to the issuance of the first development order, development order plans must demonstrate a schedule for the indigenous preservation and restoration to be completed within the first five years.

Prior to the issuance of the first development order, landscape plans must depict native species for the required supplemental plantings.

Buffers

The proposed development abuts conservation land and the future Alico Road right-of-way expansion. The required buffers are as follows:

East – The property to the east of the proposed development is under a recorded conservation easement by Florida Rock Properties (Exhibit D). The recorded easement is dedicated to the State of Florida and provides third party rights to the US Army Corp of Engineers and Lee County. The preservation area on the proposed parcel is located along the east property boundary. LDC 10-416(d) states that preservation abutting preservation does not require a buffer. The applicant is providing additional restoration and preservation to enhance the connectivity between the conservation area on the adjacent property. The applicant is demonstrating compliance with LDC 10-416(d).

West – The property to the west of the proposed development is under a recorded conservation easement by Lee County (Exhibit E). The recorded easement is dedicated

to South Florida Water Management District, with third party rights to the U.S Army Corps of Engineers. LDC 10-416(d) requires a 30-foot Type F buffer when community facilities abuts a conservation area. The applicant is requesting a deviation along the northwestern portion of the property line; however, the applicant is demonstrating compliance with the buffer requirement along the southwestern portion of the property. The MCP depicts the required 30-foot Type F buffer along the southwestern property line, and the deviation request is in regard to the northwestern property line to allow a 20-foot buffer with a 8 foot tall fence and a 5-foot double hedge row to be planted at 48" tall and maintained at 60" tall for the remainder of the western boundary. Staff has conditioned the deviation request to increase the final height to be maintained at 72" (in accordance with deviation 1).

North - The property to the west of the proposed development is under a recorded conservation easement by Lee County (Exhibit E). The recorded easement is dedicated to South Florida Water Management District, with third party rights to the U.S Army Corps of Engineers. LDC 10-416(d) requires a 30-foot Type F buffer when community facilities abuts a conservation area. The applicant is requesting a deviation along the northern property boundary to allow a 20-foot buffer with a 8 foot tall fence and a 5-foot double hedge row to be planted at 48" tall and maintained at 60" tall. Staff has conditioned the deviation request to increase the final height to be maintained at 72" (in accordance with deviation 1).

South - The south property line abuts Green Meadow Road and the future Alico Road right-of-way. When community facilities abut a right-of-way, LDC 10-416(d) requires a 15-foot Type D buffer. The applicant is providing a 30-foot Type D enhanced buffer. The applicant is exceeding the buffer requirement by providing an additional 15 feet. The applicant is demonstrating compliance with LDC 10-416(d).

Staff recommends the following buffer conditions to ensure that the depicted buffers will be provided:

Prior to the issuance of the first development order, the development order plans must depict a 30-foot Type D right-of-way buffer along the south property line.

Prior to the issuance of the first development order, the development order plans must depict a 30-foot Type F buffer along the southwest property line. The northwest property line must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48" tall and maintained at 72" tall.

Prior to the issuance of the first development order, the development order plans must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48" tall and maintained at 72" tall along the northern property line.

Deviations

Deviation 1 - Deviation 1 seeks relief from LDC Section 10-416(d)(3), which requires a 30-foot Type F buffer when a community facility abuts a public preserve, to allow a 20-foot buffer with a 8-foot tall fence and a 5-foot double hedge row to be planted at 48" tall and maintained at 60" tall along the northwestern property boundary, as well as the northern property line. The applicant has stated, "the intent of the 30-foot Type F buffer is to reduce development impacts

of noncompatible uses promoting the health, safety and welfare of residents by the reduction of noise and glare through the use of vegetative, visual, and sound barriers that complement the natural environment. The proposed hedge will serve to screen and limit the impact to the conservation lands and wildlife from the associated facility. The security fence will keep wildlife within the conservation areas. Additionally, the proposed Water Reclamation Facility itself will operate with odor abatement technology such as scrubbers and activated carbon filters, use best management practices and meet or exceed all regulatory standard per the LDC to protect from impacts of odor, noise, and glare to adjacent properties that may be generated by the facility.” To ensure the facility is not impactful to the arterial roadway viewshed and compatible with surrounding development patterns, an enhanced 30-foot Type D buffer is proposed along the future Alico Road frontage (except where on-site preserve abuts the future roadway)

Staff recommends approval of Deviation 1 with the following condition to increase the maintained shrub height to 72” or 6 feet:

Prior to the issuance of the first development order, the development order plans must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48” tall and maintained at 72” tall along the northern property line.

Deviation 2 – Deviation 2 seeks relief from LDC Section 10-329 (d)(4) which requires 6:1 lake bank slopes to allow for 4:1 lake bank slopes with enhanced slope protection measures. The developable area of the 112.21 +/- acre site is constrained to 50.6 +/- acres or 45% of developable area. A total of 31.2 +/- acres will be dedicated to the future Alico Road right-of-way. In order to protect existing native vegetation and provide the greatest amount of open space between the facility and adjacent properties, the lake bank slope deviation is being requested. The development dedicates 48.82 +/- acres to open space consisting of more than 2 times the open space required by the LDC. Of those 48.82 acres of open space 31.39 +/- acres are dedicated to wetland preserve that will be enhanced and preserved and which is 2.5 times the on-site indigenous preserve required by the LDC. The 50.6 +/- acres of developable area is further constrained by an existing wireless communication facility that is to remain on the site. The facility itself must also be able to assure sufficient room for additional facility expansions identified on the MCP in order to be able to service future residents of Southeast Lee County. The additional area needed to reach 6:1 bank slopes will further constrain the developable area on the site. Lake bank slopes will be designed with enhanced protection measures, such as turf reinforcement measures, or other erosion mitigation techniques approved by the county. Staff is requesting a cross-section of the 4:1 lake bank slope demonstrating reinforcement for erosion control within the 48-hour letter.

Staff recommends approval of Deviation 2 with the following condition:

Prior to the approval of a development order, a cross-section demonstrating the reinforcement or turf mats must be submitted and signed/sealed by a licensed engineer. The cross-section must be approved by Development Services Lee County Staff.

Prior to the approval of a development order, the applicant must demonstrate compliance to Florida Statute’s surface water quality standards.

Deviation 3 – Deviation 3 seeks relief from LDC Section 10-418(2)(c) to omit the 20-foot-wide planted littoral shelf extending waterward of the control elevation at a depth no greater than 2 feet below the control elevation. the site is heavily constrained to only 50.6 +/- acres of developable area with most of the site's area being dedicated to the future Alico Road right-of-way and wetland preserve. The developable area on the site is further constrained by an existing wireless communication facility that is to remain. The Facility must also have the ability to develop and expand as needed to service Southeast Lee County needs through the provided 3 phase expansion identified on the MCP. The additional area needed to reach provide the 20-foot-wide planted littoral shelf will further constrain the developable area on the site. Staff is recommending approval to deviation 3 since the impacts are internal to development, and the deviation allows the preservation and conservation of vital habitats.

Staff recommends approval of Deviation 3 with the following condition:

Prior to the approval of a development order, the applicant must demonstrate compliance to Florida Statue's surface water quality standards.

Exhibits

- A – Protected Species Survey
- B – FLUCCS Map
- C – Response to Staff
- D – Conservation Easement along the East
- E – Conservation Easement along the North & West

EXHIBIT A

**LEE COUNTY SEAWRF
PROTECTED SPECIES SURVEY**

February 2023

Prepared for:

Lee County Utilities

Prepared by:

JOHNSON
ENGINEERING
2122 Johnson Street
Fort Myers, Florida 33901

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APPENDICES

APPENDIX A	FLUCFCS and Protected Species Survey Map
APPENDIX B	Listed Species Occurrence Map
APPENDIX C	FBB Consultation Key

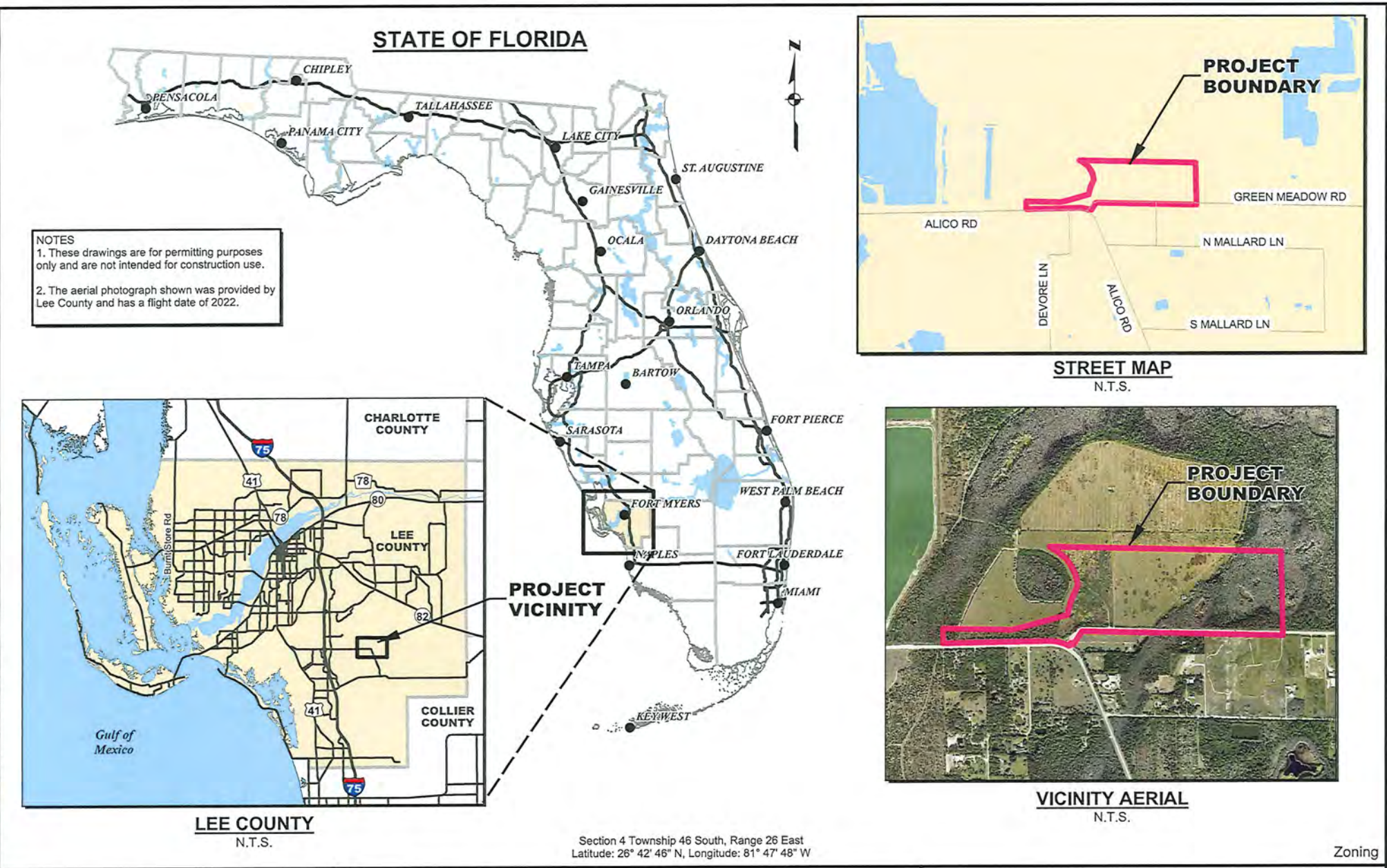
1.0 INTRODUCTION

Lee County Utilities (LCU) requires an additional water reclamation facility (WRF) to serve increasing wastewater flows within the Southeast Lee County Planning Community. The proposed WRF site is located north of the Alico Road and Green Meadow Road intersection and is known as the Southeast Advanced Water Reclamation Facility (SEAWRF). The total project area is ± 112.22 acres and is comprised of three parcels (Folios 10351526, 10582187, & 10351499) and portions of the adjacent right-of-way (ROW), as depicted in **Figure 1-1**.

A protected species survey (PSS) was conducted by Johnson Engineering, Inc. ecologists within the project area on February 17, 2023, to identify the potential presence of protected plant and wildlife species that may impact the future development of the subject site.

This report represents the results of the PSS prepared in accordance with Lee County Land Development Code, Chapter 10, Article 3, Division 8 (Protection of Habitat) and utilizing Florida Fish and Wildlife Conservation Commission (FWC) approved methods for gopher tortoise (*Gopherus polyphemus*) burrow surveys, as provided in the *Gopher Tortoise Permitting Guidelines* (FWC, 2020), as well as U.S. Fish and Wildlife Service (USFWS) approved methods for conducting Florida bonneted bat (*Eumops floridanus*; *FBB*) roost surveys, as provided in the *FBB Consultation Guidelines* (USFWS, 2019).

O:\2018\20181232-002\Environmental\Exhibits\Zoning\Locmap.mxd



Southeast Advanced Water
Reclamation Facility
Lee County, Florida

JOHNSON
ENGINEERING

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2122 JOHNSON STREET
P.O. BOX 1550
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E.B. #642 & L.B. #642

Location Map

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
February 2023	20181232-002	--	As Shown	Figure 1-1

Zoning

2.0 VEGETATION ASSOCIATIONS

Through mapping and classifying the various vegetative habitats occurring onsite, qualified determinations can be made with regards to the potential presence of protected species. The cover and vegetation association types across the subject site were delineated using Lee County 2022 digital aerial photographs, Natural Resources Conservation Service (NRCS) Soil Survey Maps for Lee County (**Figure 2-1**), and field observations. The habitat types were classified according to Levels III and IV of the Florida Land Use, Cover and Forms Classification System (FLUCFCS) [Florida Department of Transportation (FDOT), 1999]. The resulting FLUCFCS Map is provided in **Appendix A**. The approximate acreages for the various FLUCFCS Codes can be found in **Table 2-1**. The habitats were originally classified by Dex Bender in November 2018 and updated by Johnson Engineering, as needed, to reflect current conditions. The following is a brief description of each surveyed FLUCFCS Code.

FLUCFCS Code 211: Improved Pastures

The eastern portion of the agricultural fields is actively being managed and grazed by cattle. Bahia grass (*Paspalum notatum*) is the dominant species. Additional species include smutgrass (*Sporobolus indicus*), cogongrass (*Imperata cylindrica*), goatweed (*Scoparia dulcis*), dog fennel (*Eupatorium capillifolium*), tropical soda apple (*Solanum viarum*), and Richard's flatsedge (*Cyperus richardii*).

FLUCFCS Code 261: Fallow Crop Land

The western portion of the agricultural fields have not been recently maintained and are not currently being used as cattle pasture. Common ground cover species include Bahia grass, cogongrass, paragrass (*Urochloa mutica*), broomsedges (*Andropogon* spp.), Bermuda grass (*Cynodon dactylon*), frog fruit (*Phyla nodiflora*), foxtail grass (*Setaria* spp.), guineagrass (*Panicum maximum*), and dog fennel. The westerly most portion of this area also contains scattered woody vegetation, which includes Brazilian pepper (*Schinus terebinthifolius*), wax myrtle (*Myrica cerifera*), and earleaf acacia (*Acacia auriculiformis*).

FLUCFCS Code 411: Pine Flatwoods

A narrow band of disturbed pine flatwoods is present along the western edge of the fallow pasture. This area contains scattered slash pine (*Pinus elliottii*). Brazilian pepper appears to have been removed from this area in the past. Ground cover consists of dog fennel, Caesar weed (*Urena lobata*), jointvetch (*Aeschynomene* spp.), broomsedges, rattle-box (*Crotalaria* spp.), Brazilian pepper saplings, and scattered saw palmetto (*Serenoa repens*).

FLUCFCS Code 510: Ditch

Ditches are present onsite within the agricultural lands and adjacent to the roadways. These ditches vary in width and depth and are dominated by Brazilian pepper and primrose willow (*Ludwigia peruviana*). Ground cover vegetation is nearly absent but includes torpedo grass (*Panicum repens*) and paragrass along the perimeter.

FLUCFCS Code 619: Exotic Wetland Hardwoods

A wetland dominated by Brazilian pepper and primrose willow is present along the north side of the ditch along Alico Road and portions of Green Meadows Road. Ground cover species present are consistent with disturbed wetland areas.

FLUCFCS Code 621: Cypress

This forested wetland habitat is present within the slough on the eastern portion of the subject site. Cypress (*Taxodium* spp.) is the dominant canopy and subcanopy species. Scattered dahoon holly (*Ilex cassine*), cabbage palm (*Sabal palmetto*), and red maple (*Acer rubrum*) are also present in the canopy and subcanopy. Swamp fern (*Telmatoblechnum serrulatum*), Virginia chain fern (*Woodwardia virginica*), and cinnamon fern (*Osmunda cinnamomea*) are the predominant ground cover species. This habitat is proposed to be preserved as part of the overall development plan.

FLUCFCS Code 621D: Cypress, Drained

Two areas mapped as drained cypress are present directly east of the improved pasture area. Much of the subcanopy vegetation appears to have been previously removed. Ground cover species includes West Indian marsh grass (*Hymenachne amplexicaulis*), smartweed (*Polygonum* spp.), dayflower (*Commelina diffusa*), flatsedges (*Cyperus* spp.), dog fennel, and climbing hempweed (*Mikania scandens*). This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

Table 2-1 Vegetation Associations and Acreages

FLUCFCS Code	Description	Acreage (±)	Jurisdictional Status
211	Improved Pastures	37.05	N
261	Fallow Crop Land	25.43	N
411	Pine Flatwoods	0.94	N
510	Ditch	3.48	SW
619	Exotic Wetland Hardwoods	4.40	W
621	Cypress	7.19	W
621D	Cypress, Drained	1.11	W
621E	Cypress, Exotics	7.44	W
621E1	Cypress (1-24% Exotics)	11.27	W
621E2	Cypress (25-49% Exotics)	3.55	W
624E2	Cypress – Pine – Cabbage Palm (25-49% Exotics)	1.51	W
641E4	Freshwater Marshes (>75% Exotics)	1.67	W
643E	Wet Prairie, Exotics	0.39	W
740	Disturbed Land	1.38	N
742	Borrow Pit	0.09	SW
814	Road Right of Way	5.19	N
822	Communication Facilities	0.13	N
	Total N =	70.12	
	Total SW =	3.57	
	Total W =	38.53	
	Grand Total:	112.22	

Legend:

N = Non-jurisdictional

SW = Surface water

W = Wetland

FLUCFCS Code 621E: Cypress, Exotics

This area is consistent with FLUCFCS Code 621 with the additional of minimal (less than 10%) exotic vegetation coverage. When present this consists of Brazilian pepper, earleaf acacia, date palm (*Phoenix* spp.), and West Indian marsh grass. This habitat is not proposed for impact.

FLUCFCS Code 621E1: Cypress (1-24% Exotics)

This wetland habitat is consistent with FLUCFCS Code 621E with increased exotic vegetation coverage to 1-24% throughout. This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

FLUCFCS Code 621E2: Cypress (25-49% Exotics)

This wetland habitat is consistent with FLUCFCS Code 621E with increased exotic vegetation coverage to 25-49% throughout. This area also contains climbing cassia (*Senna pendula*) and old-world climbing fern (*Lygodium microphyllum*). This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

FLUCFCS Code 624E2: Cypress – Pine – Cabbage Palm (25-49% Exotics)

A wetland habitat with a canopy comprised of cypress, slash pine, and scattered cabbage palm is present north of Green Meadows Road. Melaleuca (*Melaleuca quinquenervia*) and Brazilian pepper are also present in the canopy and subcanopy. Ground cover observed consists of sawgrass (*Cladium jamaicense*), spadeleaf (*Centella asiatica*), and swamp fern. This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

FLUCFCS Code 641E4: Freshwater Marshes (>75% Exotics)

Four freshwater marshes are imbedded within the cypress wetlands. These marshes are dominated by West Indian marsh grass with scattered areas of nut rush (*Scleria* spp.). This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

FLUCFCS Code 643E: Wet Prairie, Exotics

A wet prairie is located in southeast portion of the subject site. This wetland is vegetated by scattered melaleuca, little blue maidencane (*Amphicarpum muhlenbergianum*), dog fennel, and foxtail grass. This habitat is proposed to be preserved as part of the overall development plan and enhanced through exotic removal.

FLUCFCS Code 740: Disturbed Land

This FLUCFCS Code was used to identify areas of disturbed lands outside of the agricultural fields and includes berms associated with ditches. Commonly occurring species include Brazilian pepper, tickseed (*Coreopsis* spp.), ragweed (*Ambrosia artemisiifolia*), and cogongrass.

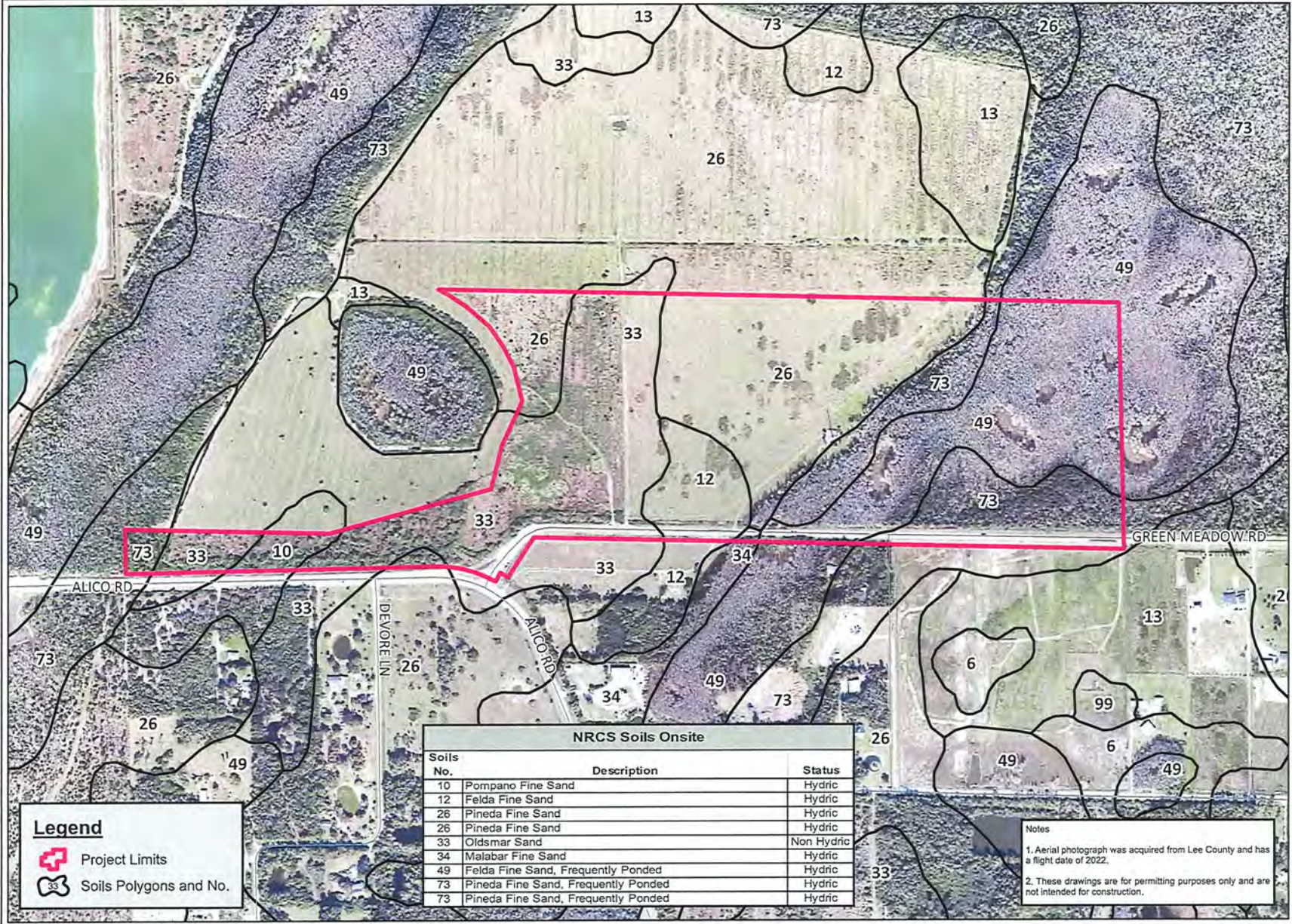
REVISIONS	DATE
DESCRIPTION	
NO.	
DATE:	February 2023
PROJECT NO.	20000000-000
FILE NO.	4-45-20
SCALE:	As Shown

NRCS Soils
Map

Zoning

SHEET NUMBER

Figure 2-1



FLUCFCS Code 742: Borrow Pit

A borrow pond was excavated in the eastern portion of the improved pasture and may have provided fill for the adjacent communication tower and/or serve as a water source for onsite cattle. The area is primarily open water with a narrow fringe of torpedo grass.

FLUCFCS Code 814: Road Right of Way

A portion of Green Meadow Road is present within the eastern portion of the project area and includes the paved areas as well as the regularly mowed shoulder.

FLUCFCS Code 822: Communication Facilities

A communications tower is present on the eastern side of the improved pasture. The area is enclosed by a fence and surrounded by planted shrubs.

3.0 SURVEY METHODOLOGY

The purpose of the survey was to identify and document the presence of plant or wildlife species afforded protection by federal, state, or local regulations. The PSS was conducted in accordance with the Lee County Land Development Code, Chapter 10, Article 3, Division 8 (Protection of Habitat) and is valid in Lee County for five years. The PSS included field surveys and a literature review. Field surveys were conducted utilizing pedestrian belt transects. Transects were performed in all vegetation associations (FLUCFCS) listed by the Lee County Protected Species Ordinance, which may be inhabited by listed flora or fauna. The distance between transects was established to cover a minimum of 80% of each habitat type per Lee County requirements. The PSS was also designed to comply with survey methods outlined in the Gopher Tortoise Permitting Guidelines (FWC, 2020), and FBB Consultation Guidelines (USFWS, 2019). The Protected Species Survey Map in **Appendix A** depicts the approximate survey transect locations. **Table 3-1** lists the times and weather conditions during the field survey.

Literature review sources included Florida's Endangered Species, Threatened Species and Species of Special Concern (FWC, 2022), Florida Natural Areas Inventory (FNAI), USFWS Environmental Conservation Online System (ECOS), as well as the species list referenced in the Lee County Protected Species Ordinance. Based on the literature review, a compilation of federal,

state and/or Lee County protected species was developed. **Table 3-2** lists the species referenced in the Lee County Protected Species Ordinance. A summary of visibility, number, and total length of transects performed, and percent of each habitat covered is provided in **Table 3-3**.

Table 3-1 Date, Times, Weather Conditions and Purpose of Field Survey.

<u>Date¹</u>	<u>Time</u>	<u>Weather Conditions</u>	<u>Purpose</u>	<u>Ecologists</u>
February 17, 2023	8:00am – 1:00pm	Clear, Temperature mid 70's, SE winds 5-10 mph	PSS	KRP, AGN

Legend:

PSS = Protected species survey

KRP = Kyle Philpot

AGN = Gary Nychyk

Table 3-2 Potential Protected Species Based on Habitat

FLUCFCS Code	Descriptions	Potential Protected Species
211	Improved pasture	Florida sandhill crane Florida panther Gopher tortoise* Burrowing owl*
411	Pine Flatwoods	Eastern indigo snake Gopher tortoise Gopher frog Southeastern American kestrel Red-cockaded woodpecker Florida panther Big cypress fox squirrel Florida black bear Fakahatchee burmannia Satinleaf Beautiful paw-paw Florida coontie

Table 3-2 Potential Protected Species Based on Habitat. *Continued.*

FLUCFCS Code	Descriptions	Potential Protected Species
510	Ditch	American alligator Roseate spoonbill Limpkin Little blue heron Reddish egret Snowy egret Tricolored heron Everglades snail kite Everglades mink
621 621D 621E 621E1 621E2 624E2	Cypress Cypress, Drained Cypress, Exotics Cypress (1-24% Exotics) Cypress (25-49% Exotics) Cypress – Pine – Cabbage Palm (25-49% Exotics)	Little blue heron Snowy egret Tricolored heron Gopher frog Arctic peregrine falcon Everglades mink Big cypress fox squirrel American alligator Limpkin Wood stork Florida panther
641 E4 643 E	Freshwater Marches (>75% Exotics) Wet Prairie, Exotics	Wood stork Reddish egret American alligator Limpkin Florida sandhill crane Everglades snail kite Everglades mink
740	Disturbed Land	Gopher tortoise* Burrowing owl*
742	Borrow Pit	American alligator* Roseate spoonbill* limpkin* Little blue heron* Reddish egret* Snowy egret* Tricolored heron* Everglades mink*
814 822	Road Right of Way Communications Facilities	Gopher tortoise* Burrowing owl*

* Based on presence of suitable habitat, although not referenced in Lee County Protected Species Ordinance.

Table 3-3 Summary of Habitat Survey Coverage.

FLUCFCS Code	Total Area¹ (acres)	Number of Transects	Transects Total Length (feet)	Average Visibility (feet)	Percent Covered
211	37.05	28	36,400	40	90
261	25.43	23	29,600	30	80
411	0.94	4	1,100	30	80
510	3.48	1	3,450	40	90
619	4.40	2	5,150	30	80
621	7.19	19	6,300	40	80
621D	1.11	14	1,000	40	80
621E	7.44	13	8,650	30	80
621E1	11.27	24	13,100	30	80
621E2	3.55	23	4,150	30	80
624E2	1.51	3	1,800	30	80
641E4	1.67	11	2,000	30	80
643E	0.39	3	500	30	85
740	1.38	2	1,400	40	90
742	0.09	1	90	40	90
814	5.19	2	5,100	40	90
822	0.13	1	130	40	90

1. Areas surveyed in accordance with Lee County Ordinance No. 89-34 and Lee County Administrative Code No. 13-10.

2. Surveys of the surface waters were conducted from the perimeter.

4.0 RESULTS

No direct signs of listed species utilization were observed within the project area during this specific survey event. A number of non-listed species were observed during the PSS and are outlined in **Table 4-1**. A protected species summary related to this specific survey event is provided in **Table 4-2**. The site is located within several USFWS listed species consultation zones and there are occurrences of listed species within the project vicinity documented in the FWC and USFWS databases. The map in **Appendix B** provides an overview of the project in relation to this information, which is also further discussed in Section 5.0 of this report.

Table 4-1. Non-listed Wildlife Observed during the PSS

	<i>Scientific Name</i>	Common Name
Birds	<i>Quiscalus quiscula</i>	Common grackle
	<i>Mimus polyglottos</i>	Northern mockingbird
	<i>Columbina passerina</i>	Ground dove
	<i>Charadrius vociferus</i>	Killdeer
	<i>Sturnella magna</i>	Eastern meadowlark
	<i>Cathartes aura</i>	Turkey vulture

Table 4-2. Protected Species Summary Sheet

Protected Species	Listing Status	FLUCFCS Area	Present	Absent
<u>Reptiles/Amphibians:</u>				
American alligator	FT (S/A)	510, 621, 621D, 621E, 621E1, 621E2, 624E2, 641E4, 643		X
Eastern indigo snake	FT	411		X
Gopher tortoise	ST	211, 211H, 411, 740, 814, 822		X
Gopher frog	Lee	211, 211H, 411, 740, 814, 822		X
<u>Mammals:</u>				
Everglades mink	Lee	510, 621, 621D, 621E, 621E1, 621E2, 624E2, 641E4, 643E, 742		X
Florida panther	FE	211, 211H, 411, 621, 621D, 621E, 621E1, 621E2, 624E2		X
Big Cypress fox squirrel	ST	411, 621, 621D, 621E, 621E1, 621E2, 624E2		X
<u>Birds:</u>				
Little blue heron	ST	510, 621, 621D, 621E, 621E1, 621E2, 624E2, 742		X
Arctic peregrine falcon	Lee	621, 621D, 621E, 621E1, 621E2, 624E2		X
Florida sandhill crane	ST	211, 211H, 641E4, 643E		X
Burrowing owl	ST	211, 211H, 740, 814, 822		X

Table 4-2. Protected Species Summary Sheet. *Continued.*

Protected Species	Listing Status	FLUCFCS Area	Present	Absent
<u>Birds:</u>				
Wood stork	FT	621, 621D, 621E, 621E1, 621E2, 624E2, 641E4, 643E		X
Limpkin	Lee	510, 621, 621D, 621E, 621E1, 621E2, 624E2, 641E4, 643E, 742		X
Reddish egret	ST	510, 641E4, 643E, 742		X
Roseate spoonbill	ST	510, 742		X
Tricolored heron	ST	510, 621, 621D, 621E, 621E1, 621E2, 624E2, 643E, 742		X
Snowy egret	Lee	510, 621, 621D, 621E, 621E1, 621E2, 624E2, 643E, 742		X
Southeastern American kestrel	ST	411		X
Red-cockaded woodpecker	FE	411		X
Everglades snail kite	FE	510, 624E2, 643E		X
<u>Plants:</u>				
Fakahatchee burmannia	Lee	411		X
Satinleaf	Lee	411		X
Beautiful paw-paw	Lee	411		X
Florida coontie	Lee	411		X

Listing Status:

FE = Federally Endangered

FT = Federally Threatened

FT(S/A) = Federally Threatened (Similarity of Appearance)

Lee = Lee County Protected Species Ordinance

ST = State Threatened

5.0 DISCUSSION

The project site is located within USFWS consultation areas for a number a listed species, as further discussed below and noted on the map in Appendix B. Although the site falls within the consultation area for the scrub jay and Everglades snail kite, the site does not provide suitable habitat for these species and therefore are not discussed herein.

Wading/Marsh Birds

No evidence of wading/marsh bird nesting/rookeries was observed during the survey. Most of the listed wading bird species common in Florida are transitory in nature and can be found foraging and roosting in a wide variety of wetland habitats. Listed wading birds may occasionally utilize wetlands and ditches onsite either seasonally or year-round for foraging when water levels are appropriate. But the development portion of the project site itself does not provide significant nesting/roosting opportunities for listed wading birds.

The site is within the USFWS 18.6-mile core foraging area (CFA) of at least one wood stork (*Mycteria americana*) colony. Although no rookeries are onsite, the project may be required to provide compensation for unavoidable surface water impacts during the State Environmental Resource Permit (ERP) and/or FDEP State 404 application review process, which would compensate for potential loss of wood stork foraging habitat (i.e., onsite ditches; onsite wetlands are not being impacted and therefore will not require mitigation). Typically, wood stork foraging habitat impacts are addressed by the purchase of credits from an approved wetland mitigation or conservation bank.

Bald Eagle (*Haliaeetus leucocephalus*)

Although the bald eagle is no longer a listed species, it is afforded protection in accordance with the Bald and Golden Eagle Protection Act, Migratory Bird Treaty Act, and Lee County Land Development Code Chapter 14, Article II, Division 3 Southern Bald Eagle. The USFWS has established a standard 660' protection zone around a bald eagle nest for this region [USFWS 2007].

No active bald eagle nests were documented on or within 660' of the project area. The closest documented bald eagle nest site is LE-123, which is approximately 2.25 miles south of the project. Future development of the site is not expected to have any effect on the nest.

Gopher tortoise (*Gopherus polyphemus*)

Gopher tortoises are listed as Threatened by FWC and are most often found on well-drained sandy soils in upland habitats with low-growing herbs. The project site was surveyed utilizing methodologies outlined in the FWC Gopher Tortoise Permitting Guidelines [FWC, 2020]. No gopher tortoises or their burrows were observed on or within 25 feet of the project area. In the future, if a gopher tortoise burrow is located within 25' of the development the appropriate FWC permit will be obtained to excavate the burrow(s) prior to the start of clearing to an approved Lee County gopher tortoise recipient site.

Florida Bonneted Bat (*Eumops floridanus*)

Effective November 2013, The USFWS listed the Florida bonneted bat (FBB) as endangered under the Endangered Species Act (ESA) and established an FBB consultation area. In June 2020 and again in 2022, the USFWS established areas proposed to be considered designated critical habitat for the species. The project is within the FBB consultation area but outside the areas proposed to be designated critical habitat. The USFWS published the most recent FBB Consultation Guidelines in October 2019 (Guidelines). The Guidelines summarize what USFWS considers potential roosting habitat for the species. No structures that contain suitable roosting characteristics were observed within the project area.

In September 2021, Johnson Engineering, Inc. conducted an FBB Acoustic Survey for the Alico Road Widening project from Airport Haul Road to the Green Meadow Wellfield which crosses the proposed project area. During this survey, a total of 76,522 recordings were collected, of which none were identified as FBB calls.

The USFWS developed a 2019 “Florida Bonneted Bat Consultation Key” (Key) to assist regulatory agencies in making effect determinations for projects located in the FBB consultation area. The key relies on characteristics such as project location, size, habitat types, and FBB calls recorded to evaluate the potential effects the project may have on the FBB. The September 2021 acoustic survey and lack of suitable roosting structures onsite indicates the project area is not being utilized by FBB. Applying the Key to the project leads through couplets 1a, 2a, 3b, 6b, which results in a determination of “*No Effect*”. **Appendix C** provides the Key with the path taken to arrive at couplet 6b highlighted.

Burrowing owl (*Athene cunicularia*)

Burrowing owls are listed as Threatened by the FWC and utilize open areas to feed on insects, frogs, lizards, and other small animals. Burrowing owls typically dig burrows in low growing herbaceous areas where they generally nest between February 15 through July 10. No burrowing owls or their burrows were observed on or within 33' of the project area. In the future, if a burrowing owl burrow is located within 33' of the development area, the appropriate FWC permit will be obtained, mitigation provided, and the burrow(s) collapsed outside of nesting season when the nest is inactive (i.e., no eggs or flightless young are present).

Florida panther (*Puma concolor coryi*)

The proposed project is located within the USFWS Panther Primary Zone. A Panther Habitat Unit Analysis will occur, in accordance with USFWS guidelines, during the environmental permitting process to determine the appropriate amount of compensatory mitigation required to offset the potential habitat impacts associated with the development.

Additionally, a wildlife crossing associated with the Alico Road Widening Project will be located directly south of the western portion of the project. This wildlife crossing is currently in permitting with the road widening project and will be constructed with the roadway project. Its approximate location is shown on the map in Appendix B.

Big Cypress fox squirrel (*Sciurus niger avicennia*)

The Big Cypress fox squirrel (BCFS) is listed by FWC as Threatened; it is not listed by the USFWS. Preferred BCFS habitat consists of pine flatwoods, mixed hardwood-pine forest, and cypress swamp, with low ground cover. BCFS are known to use several habitat types for foraging, including golf courses, pastures with scattered trees and rural residential areas with wooded lots (Florida Committee on Rare and Endangered Plants and Animals – FCREPA 1992). BCFS build platform nests in slash pines and hardwoods (i.e., oak) and moss and stick nests in cypress and tops of cabbage palms.

During the PSS, ecologists searched for BCFS, their nests, or other signs. No nests or other signs of potential BCFS were observed during the survey within the anticipated development area. A pre-construction survey may be conducted to determine whether any new nest structures have been constructed. Any nest structures located will be inspected using an IBWO wireless camera to

determine their status. Should dependent young, or evidence of listed species utilization be observed in the nest(s), an appropriate buffer will be implemented in coordination with FWC, and no construction will occur within the buffer until the nest is deemed no longer active by a qualified biologist and the appropriate FWC approvals have been obtained.

Red-cockaded woodpecker (*Picoides borealis*)

The red-cockaded woodpecker (RCW) is about seven inches long with a wingspan of ± 15 inches and is listed as Endangered by USFWS. This black and white striped woodpecker has a black cap and nape that encircle large white cheek patches. RCWs typically inhabit open pine forests and are the only woodpeckers that excavate cavities exclusively in living pine trees. RCWs typically choose large, mature pines to excavate their cavity. The PSS revealed no live cavity trees and no indications the property was being used by RCWs. Additionally, the property lacks the open mature pine trees preferred by RCWs. Therefore, no adverse effects to RCWs are anticipated as a result of this project.

Eastern indigo snake (*Drymarchon corais couperi*)

The eastern indigo snake is listed as Threatened by both USFWS and FWC. Eastern indigo snakes utilize a variety of habitat types to complete their life cycles including pine flatwoods, scrub areas, hydric pine flatwoods, wet and dry prairies, agricultural fields, coastal hardwood hammocks, mangrove areas and even human altered areas can be considered habitat for the species (USFWS, 1999). In south Florida, the species is not as dependent on gopher tortoise burrows for overwintering. However, they will use gopher tortoise burrows as underground refugia. In addition, the species will use armadillo burrows, natural ground holes, hollows at the base of trees, ground litter, and debris piles. Steiner et al. (1983) suggest that eastern indigo snakes in south Florida prefer hammock type environments and pine forests.

No eastern indigo snakes were observed during the PSS. However, based on the habitat types referenced in the USFWS "South Florida Multi-Species Recovery Plan", vegetation communities within the project area could provide potential habitat for this species. The proposed project will comply with the USFWS eastern indigo snake protection measures during construction to ensure this species is not directly impacted by the project.

Crested Caracara (*Caracara cheriway*)

The crested caracara is a resident, nonmigratory species that is found in the south-central region of Florida. It is federally listed as Threatened because much of its dry prairie habitat has been developed or modified for agriculture and residential uses. The USFWS recommends a 300-meter primary protection zone and 1,500-meter secondary protection zone outward from any caracara nest tree. The subject site is just within the secondary protection zone of a caracara nest located south of the project area (approximate location is shown in **Appendix B**). Recommended Management Practices for Caracaras (Morrison, 2001) will be implemented, and concurrence sought with the FWC and USFWS during the permitting process for the development.

6.0 REFERENCES

- DexBender. 2018. South County Public Facilities – CFPD Protected Species Assessment. 11 pp.
- Florida Department of Transportation, State Topographic Bureau, Thematic Mapping Section, 1999. Florida Land Use, Cover and Forms Classification System. Procedure No. 550-010-001-a.
- Florida Fish and Wildlife Conservation Commission. 2023. Bald Eagle Nest Locator.
<https://public.myfwc.com/FWRI/EagleNests/nestlocator.aspx>
(Site accessed February 20, 2023)
- Florida Fish and Wildlife Conservation Commission. 2022. Florida's Endangered and Threatened Species.
http://myfwc.com/media/1515251/threatened_endangered_species.pdf
(February 20, 2023)
- Florida Fish and Wildlife Conservation Commission. 2020. Gopher Tortoise Permitting Guidelines. Tallahassee, Florida.
<http://myfwc.com/media/4126898/GT-Permitting-Guidelines.pdf>
- Lee County Land Development Code, Chapter 10, Article 3, Division 8 (Protection of Habitat).
<http://www.municode.com/Resources/gateway.asp?pid=12625&sid=9>.
(Site accessed February 20, 2023)
- Natural Resources Conservation Service. Soil Survey of Lee County, Florida. U.S. Department of Agriculture, Washington, D.C.
- U.S. Fish and Wildlife Service. 2007. National Bald Eagle Management Guidelines. 23 pp.
- U.S. Fish and Wildlife Service Information for Planning and Conservation, Environmental Conservation Online System. 2023.
<https://ecos.fws.gov/ipac/location/index>
(Site accessed February 20, 2023)

APPENDIX A

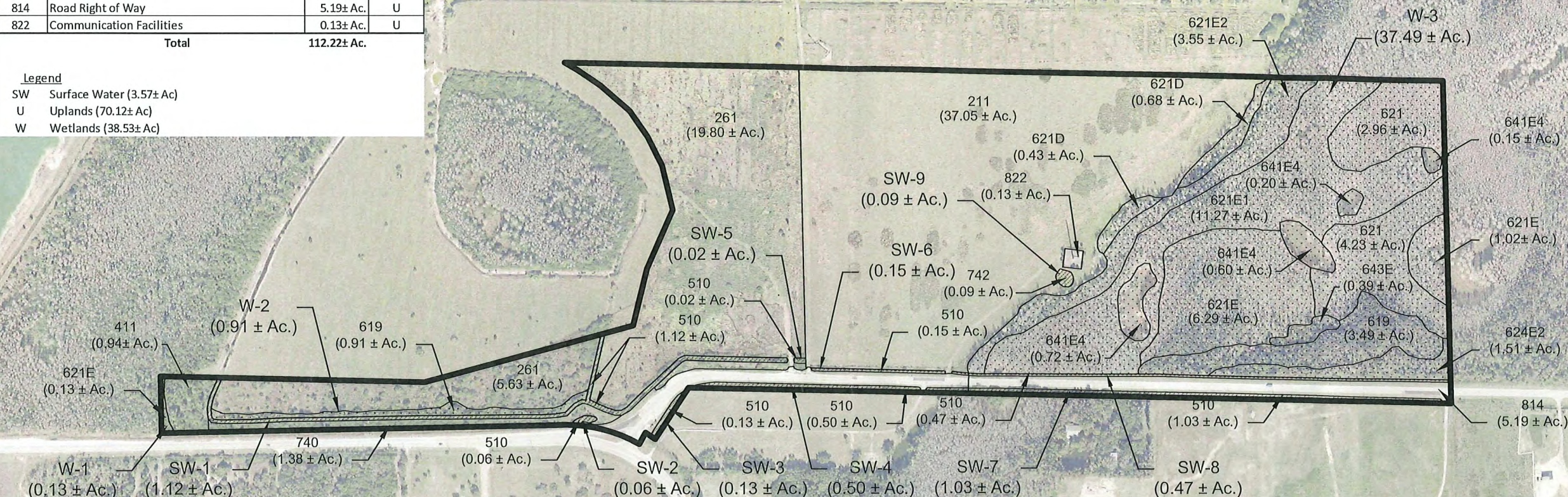
FLUCFCS and PROTECTED SPECIES SURVEY MAP

Surface Waters and Wetlands			
Surface Waters		Wetland	
ID	Acres	ID	Acres
Sw-1	1.12± Ac	W-1	0.13± Ac
Sw-2	0.06± Ac	W-2	0.91± Ac
Sw-3	0.13± Ac	W-3	37.49± Ac
Sw-4	0.50± Ac	Total	38.53± Ac
Sw-5	0.02± Ac		
Sw-6	0.15± Ac		
Sw-7	1.03± Ac		
Sw-8	0.47± Ac		
Sw-9	0.09± Ac		
Total	3.57± Ac		

Legend

Legend

SW	Surface Water (3.57± Ac)
U	Uplands (70.12± Ac)
W	Wetlands (38.53± Ac)



Legend

Wetlands
(38.53± Ac)

Surface Waters
(3.57± Ac)

Notes

1. Aerial photograph was acquired from Lee County and has a flight date of 2022.
2. Nomenclature and delineations as per the Florida Land Use Cover and Forms Classification System (FLUCFCS) FDOT, 1999).
3. These drawings are for permitting purposes only and are not intended for construction.

[illegible]

Existing Conditions

Zoning

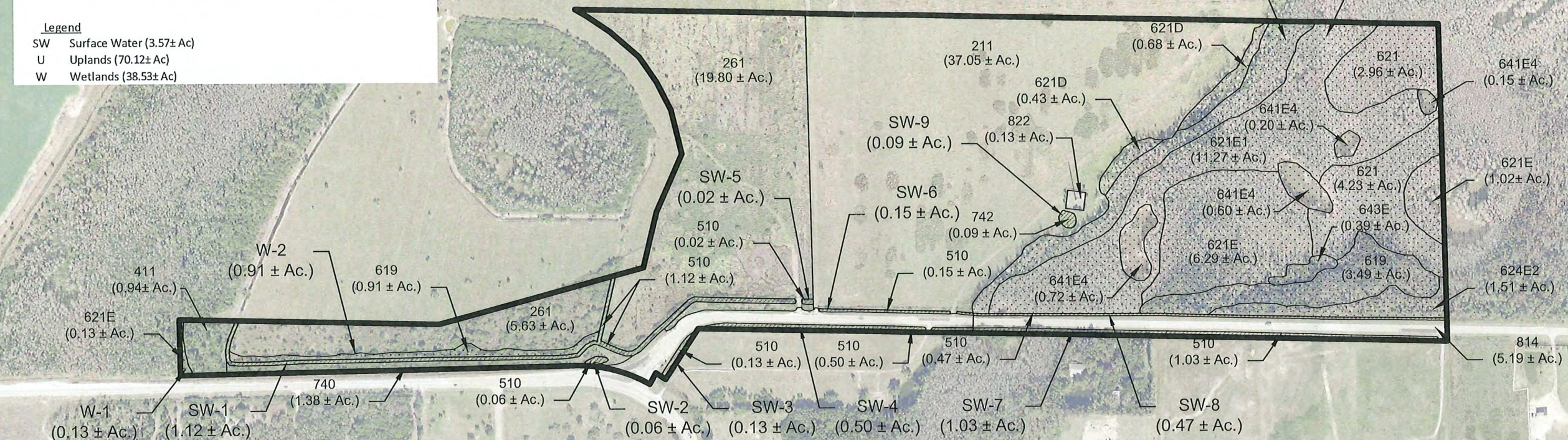
SHEET NUMBER

[illegible]


Existing Conditions FLUCFCS Legend			
FLUCFCS Code	Description	Acres	Status
211	Improved Pastures	37.05± Ac.	U
261	Fallow Crop Land	25.43± Ac.	U
411	Pine Flatwoods	0.94± Ac.	U
510	Ditch	3.48± Ac.	SW
619	Exotic Wetland Hardwoods	4.40± Ac.	W
621	Cypress	7.19± Ac.	W
621 D	Cypress, Drained	1.11± Ac.	W
621 E	Cypress Exotics	7.44± Ac.	W
621 E1	Cypress (1-24% Exotics)	11.27± Ac.	W
621 E2	Cypress (25-49% Exotics)	3.55± Ac.	W
624 E2	Cypress - Pine - Cabbage Palm (25-49% Exotics)	1.51± Ac.	W
641 E4	Freshwater Marshes (>75% Exotics)	1.67± Ac.	W
643 E	Cypress, Exotics	0.39± Ac.	W
740	Disturbed Land	1.38± Ac.	U
742	Borrow Pit	0.09± Ac.	SW
814	Road Right of Way	5.19± Ac.	U
822	Communication Facilities	0.13± Ac.	U
Total		112.22± Ac.	


Surface Waters and Wetlands				
Surface Waters		Wetland		
ID	Acres		ID	Acres
Sw-1	1.12± Ac		W-1	0.13± Ac
Sw-2	0.06± Ac		W-2	0.91± Ac
Sw-3	0.13± Ac		W-3	37.49± Ac
Sw-4	0.50± Ac		Total	38.53± Ac
Sw-5	0.02± Ac			
Sw-6	0.15± Ac			
Sw-7	1.03± Ac			
Sw-8	0.47± Ac			
Sw-9	0.09± Ac			
Total	3.57± Ac			

SW	Surface Water (3.57± Ac)
U	Uplands (70.12± Ac)
W	Wetlands (38.53± Ac)



Legend

 Wetlands
(38.53± Ac)

 Surface Waters
(3.57± Ac)

1. Aerial photograph was acquired from Lee County and has a flight date of 2022.
2. Nomenclature and delineations as per the Florida Land Use Cover and Forms Classification System (FLUCFCS) FDOT, 1999).
3. These drawings are for permitting purposes only and are not intended for construction.



July 05, 2023

Mr. Dirk A. Danley Jr.
Principal Planner
Lee County Department of Community Development, Zoning Section
1500 Monroe Street
Fort Myer, FL 33908

**Re: Southeast Advanced Water Reclamation Facility
DCI2023-00011**

Dear Mr. Danley:

Enclosed please find responses to your insufficiency letter dated *June 20, 2023*. The following information has been provided to assist with the approval process:

1. Insufficiency Comment Response Letter;
2. Revised Boundary Survey;
3. Revised Request Statement & Lee Plan Compliance Narrative;
4. Revised Master Concept Plan;
5. Revised Schedule of Deviations and Justification; and
6. Integrated Surface and Groundwater Model.

Please note an error was found on the Boundary Survey relating to easements and a revised Boundary Survey has been provided.

The following is a list of staff comments with our responses in **bold**:

Planning Review:

1. Please note that the Lee Plan analysis of this application will not be found sufficient until the concurrent Comprehensive Plan Amendment is found sufficient.

RESPONSE: Acknowledged.

Development Services Review:

1. The proposed MCP shows a wet detention area in an existing access easement (E2). Please clarify how this is not contrary to the terms of the easement.

RESPONSE: Please see revised MCP with wet detention area no longer within the existing access easement.

2. The proposed stormwater wet detention area through the fence. Is the line representing the wet detention area to the control elevation or berm? Please clarify.

RESPONSE: Please see revised MCP with no wet detention area through

fence.

3. Please indicate the area of the requested deviations on the MCP.

RESPONSE: See revised MCP with requested deviations depicted.

Environmental Review:

1. Please demonstrate conservation access on the MCP.

RESPONSE: See revised MCP with conservation access to Turkey Strand identified. Access to the eastern on-site preserve area shall be accessed through the same western maintenance access.

2. Please provide an open space chart depicting the amount of open space required and the amount being provided. Please demonstrate the indigenous open space requirement, along with what is being provided. Please note that indigenous is defined in Land Development Code 10-1.

RESPONSE: See updated open space table identifying required and provided open space and indigenous preserve.

3. Are lake deviations from 10-418 listed for specific lakes? During a meeting with the applicant, a 4:1 slope with deviations from 10-418 were only discussed for the west side of the lake along the west property line to provide more buffer material. Please indicate if this is being met.

RESPONSE: Please see revised MCP and Schedule of Deviations and Justification identifying deviations are being requested for all lakes on the site. Lake bank slopes will be designed with enhanced protection measures, such as TRM, or other erosion mitigation technique approved by the county. Deviation #4 has been withdrawn.

4. Within the narrative, the applicant is stating that the wetland preserve will be enhanced. Please indicate if restoration is being proposed for the project. A restoration plan must be submitted at the time of development order submittal.

RESPONSE: The wetland preserve will be enhanced (i.e., restored) through the removal of exotic vegetation and will be maintained in perpetuity. As stated in the application and consistent with the land development code, a restoration plan will be submitted to the County at time of development order submittal.

5. Please provide deviation circles on the MCP for the requested deviations. Deviation 1 and 5 are the only deviations depicted on the MCP.

RESPONSE: See revised MCP with deviations depicted.

Natural Resources Review:

1. Please provide an Integrated Surface and Groundwater Model per Lee Plan policy 33.1.7. Please provide the supporting model files for Staff's review.

RESPONSE: Please see the attached integrated Surface and Groundwater Model and supporting model files have been provided to the County.

If you have questions, please contact me directly at (239) 908-3421 or JMedina@RViPlanning.com

Thank you,

RVi Planning + Landscape Architecture

A handwritten signature in blue ink, appearing to be 'J. Medina', with a stylized flourish at the end.

Josephine Medina, AICP, LEED Green Associate
Project Manager

EXHIBIT D

DEED OF CONSERVATION EASEMENT STANDARD WITH THIRD PARTY BENEFICIARY RIGHTS

Prepared by:
Vulcan Materials Company
PO Box 4667
Jacksonville, FL 32201

Return original or certified recorded document to:

Vulcan Materials Company
Attn: Lori Sanville
PO Box 4667
Jacksonville, FL 32201

THIS DEED OF CONSERVATION EASEMENT is given this 13th, day of January, 2016, by **Florida Rock Properties, Inc.** ("Grantor") whose mailing address is **200 West Forsyth Street, Jacksonville, FL 32201** to **State of Florida** ("Grantee") with third party enforcement rights to **the US Army Corps of Engineers and Lee County, FL** ("Third Party Beneficiary"). As used herein, the term "Grantor" shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Conservation Easement Area" (as hereinafter defined); the term "Grantee" shall include any successor or assignee of Grantee; and the term "Third Party Beneficiary" shall include any successor or assignee of the Third Party Beneficiary.

WITNESSETH

WHEREAS, the Grantor is the fee simple owner of certain lands situated in Lee County, Florida, and more specifically described on the location map in Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, Permit No. **134874-006** ("Permit") and any modifications thereto issued by the Grantee authorizes certain activities which could affect wetlands or other surface waters in or of the State of Florida; and

WHEREAS, Lee County Zoning Resolution Z-12-003 ("Resolution") also authorizes certain activities which could affect wetlands or other surface waters in or of the State of Florida; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit and the Resolution, or other good and valuable consideration provided to Grantor, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes (F.S.), over the area of the Property described on Exhibit "B" ("Conservation Easement Area"), with third party enforcement rights to the Third Party Beneficiary; and

WHEREAS, Grantor grants this Conservation Easement as a condition of the Permit and the Resolution, solely to off-set or prevent adverse impacts to natural resources, fish and wildlife, and wetland functions; and

WHEREAS, Grantor desires to preserve the Conservation Easement Area in perpetuity in its natural condition, or, in accordance with the Permit and Resolution, in an enhanced, restored, or created condition; and

NOW, THEREFORE, in consideration of the issuance of the Permit and Resolution to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration provided to the Grantor, the adequacy and receipt of which are hereby acknowledged, Grantor hereby voluntarily grants, creates, conveys, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the area of the Property described on Exhibit

"B" which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. Recitals. The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. Purpose. It is the purpose of this Conservation Easement to retain land or water areas in their existing, natural, vegetative, hydrologic, scenic, open or wooded condition and to retain such areas as suitable habitat for fish, plants, or wildlife in accordance with Section 704.06, F.S. Those wetland and upland areas included in this Conservation Easement which are to be preserved, enhanced, restored, or created pursuant to the Permit and the Resolution (or any modification thereto) and any Management Plan attached hereto as Exhibit "C" ("Management Plan") which has been approved in writing by the Grantee, shall be retained and maintained in the preserved, enhanced, restored, or created condition required by the Permit (or any modification thereto).

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Conservation Easement Area at reasonable times with any necessary equipment or vehicles to inspect, determine compliance with the covenants and prohibitions contained in this easement, and to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Conservation Easement Area by Grantor at the time of such entry; and

b. To proceed at law or in equity to enforce the provision of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and to require the restoration of such areas or features of the Conservation Easement Area that may be damaged by any activity or use that is inconsistent with this Conservation Easement.

3. Prohibited Uses. Except for activities that are permitted or required by the Permit (or any modification thereto) (which may include restoration, creation, enhancement, maintenance, and monitoring activities, or surface water management improvements) or other activities described herein or in the Management Plan (if any), any activity on or use of the Conservation Easement area inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities are expressly prohibited in or on the Conservation Easement area:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

i. The addition of soil as allowed by the Mitigation and Management Plan for flow way and wetland restoration.

c. Removing, destroying or trimming trees, shrubs, or other vegetation, except:

i. The removal of dead trees and shrubs or leaning trees that could cause damage property is authorized;

ii. The destruction and removal of noxious, nuisance or exotic invasive plant species as listed on the most recent Florida Exotic Pest Plant Council's List of Invasive Species is authorized;

iii. Activities authorized by the Permit or described in the Management Plan or otherwise approved in writing by the Grantee are authorized; and

iv. Activities conducted in accordance with a wildfire mitigation plan developed

with the Florida Forest Service that has been approved in writing by the Grantee are authorized. No later than thirty (30) days before commencing any activities to implement the approved wildfire mitigation plan, Grantor shall notify the Grantee in writing of its intent to commence such activities. All such activities may only be completed during the time period for which the Grantee approved the plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

i. The addition of soil as allowed by the Mitigation and Maintenance Plan for flow way and wetland restoration.

e. Surface use except for purposes that permit the land or water area to remain in its natural, restored, enhanced, or created condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking, clearing, and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas;
and

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. Existing Easement Rights. Notwithstanding anything herein to the contrary (including, but not necessarily limited to the "Prohibited Uses" identified in paragraph 3 above), all rights, uses and activities contemplated by or consistent with any easements or other similar property rights existing as of the date of this Deed of Conservation Easement shall continue and nothing contained herein shall otherwise be construed or interpreted as terminating, restricting, limiting, or otherwise altering the instruments or the rights conveyed therein. Easements and other property rights covered by this paragraph include, but are not necessarily limited to, the following (all recording references are to the Public Records of Lee County, Florida):

a. Grant of Easement to GAC Utilities, Inc., recorded in Official Records Book 933, Page 667, assigned in Official Records Book 1091, Page 2159 and Official Records Book 1172, Page 1186, as modified by instrument recorded in Official Records Book 4280, page 3687.

b. Perpetual Easement Grant to Lee County recorded in Official Records Book 1912, Page 4396.

c. Monitoring Access Easement Grant Agreement in favor of Lee County, recorded in Official Records Book 4280, Page 3681.

d. Easement granted to Florida Power & Light Company recorded in Official Records Book 1577, Page 1505.

e. Easement granted to Florida Power & Light Company recorded in Official Records Book 872, Page 96.

f. Reservations contained in deed recorded in Official Records Book 311, page 873.

g. Perpetual Easement Grant to Lee County recorded in Official Records Book 4280, Page 3691.

h. Easement for utility purposes recorded in Official Records Book 1576, Page 538.

i. Non-exclusive road easement recorded in Official Records Book 1525, Page 2391,

Official Records Book 1541, Page 1154, and Official Records Book 1888, page 1218.

j. Easement granted to Florida Power and Light Co. recorded in Official Records Book 1577, Page 1505.

k. Non-exclusive easements for ingress and egress contained in deeds recorded in Official Records Book 1345, Page 1924, and as subsequently conveyed and as affected by Quit Claim Deed recorded in official Record Book 2584, Page 3986; and Conservation easement recorded in Official records Book 2928, Page 1792.

l. Grant of easement recorded in Official Records Book 1508, page 151.

m. Easement to Florida Power and Light Company recorded in Official Records Book 1561, page 2244.

n. Non-exclusive easement for ingress and egress contained in deed recorded in Official Record Book 1378, page 37, and as subsequently conveyed.

o. Non-exclusive easement recorded in Official Record Book 2007, page 3088.

p. Right of way easements to Lee County Electric Cooperative recorded in Official Records Book 1054, page 766, Official records Book 1047, page 1350, Official Records Book 1233, page 1662.

q. Right of way Agreement to Florida Power and Light Company recorded in Official Record Book 291, page 206, as affected by Quit Claim Deed recorded in Official Record Book 293, page 679, and Supplement to Right of Way Agreement recorded in Official Records Book 780, page 570.

r. Grants of easement recorded in Official Record Book 1749, pages 825 and 826.

s. Right of Way Easement Agreement recorded in Official Records Book 1052, page 1292, and in Official Records Book 1091, Page 1.

t. Waterline easement reserved in deed recorded in Official record Book 1699, page 4416.

u. Deed of Conservation Easement recorded in Official Records Book 3324, Page 2715.

v. Right of way easement to Lee County Electric Cooperative recorded in Deed Book 277, Page 120.

w. Right of Way Agreement to Florida Power and Light Company recorded in Official Record Book 277, Page 302, and Supplement to Right of Way Agreement recorded in Official Record Book 707, Page 38.

x. All outstanding oil, gas and mineral rights and interests.

5. Passive Recreational Facilities. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and that are not inconsistent with any County rule, criteria, the Permit, the Resolution, and the intent and purposes of this Conservation Easement. Passive recreational uses that are not contrary to the purpose of this Conservation Easement may be permitted upon written approval by the State.

a. The Grantor may conduct limited land clearing for the purpose of constructing such pervious facilities as docks, boardwalks or mulched walking trails. Grantor shall submit plans for the construction of proposed facilities to the State and the County for review and written approval prior to the construction.

b. The construction and use of the approved passive recreational facilities shall be subject to the following conditions:

i. Grantor shall minimize and avoid, to the fullest extent possible, impact to any wetland or upland buffer areas within the Conservation Easement Area and shall avoid materially diverting the direction of the natural surface water flow in such area;

ii. Such facilities and improvements shall be constructed and maintained utilizing Best Management Practices;

iii. Adequate containers for litter disposal shall be situated adjacent to such facilities and improvements and periodic inspections shall be instituted by the maintenance entity, to clean any litter from the area surrounding the facilities and improvements;

iv. This Conservation Easement shall not constitute permit authorization for the construction and operation of the passive recreational facilities. Any such work shall be subject to all applicable federal, state, or County permitting requirements.

6. Grantor's Reserved Rights. Grantor reserves all rights as owner of the Conservation Easement Area, including the right to engage or to permit or invite others to engage in all uses of the Conservation Easement Area that are not prohibited herein and which are not inconsistent with the Permit and the Resolution (or any modification thereto), Management Plan, or the intent and purposes of this Conservation Easement. To the extent allowable by law, Grantor reserves all creditable Greenhouse Gas/Carbon Offset credits, by this or any other name, that may be allowed under federal, state or local law for use or transfer to other property or activity; provided, that the use or transfer of these credits will not in any way adversely affect or impair the conservation values of the property under the Conservation Easement.

7. Rights of the Third Party Beneficiary. The Third Party Beneficiary shall have the right to enforce the terms and conditions of this Conservation Easement, including:

a. The right to take action to preserve and protect the environmental value of the Conservation Easement Area;

b. The right to prevent any activity on or use of the Conservation Easement Area that is inconsistent with the purpose of this Conservation Easement, and to require the restoration of areas or features of the Conservation Easement Area that may be damaged by any inconsistent activity or use;

c. The right to enter upon and inspect the Conservation Easement Area in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement; and

d. The right to enforce this Conservation Easement by injunction or proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and the right to require Grantor, or its successors or assigns, to restore such areas or features of the Conservation Easement Area that may be damaged by any inconsistent activity or use or unauthorized activities.

The Grantor, including their successors or assigns, shall provide the Third Party Beneficiary at least 60 days advance notice in writing before any action is taken to amend, alter, release, or revoke this Conservation Easement. No amendment, alteration, release or revocation of this Conservation Easement will be effective unless approved by the Third Party Beneficiary.

8. No Dedication. No right of access by the general public to any portion of the Conservation Easement Area is conveyed by this Conservation Easement.

9. Grantee's and Third Party Beneficiary's Liability. Grantee's and Third Party Beneficiary's liability is limited as provided in Subsection 704.06(10) and Section 768.28, F.S. Additionally, Grantee and Third Party Beneficiary shall not be responsible for any costs or liabilities related to the operation, upkeep, or maintenance of the

Conservation Easement Area.

10. Enforcement. Enforcement of the terms, provisions and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

11. Third Party Beneficiary's Enforcement Rights. The Third Party Beneficiary of this Conservation Easement shall have all the rights of the Grantee under this Conservation Easement, including third party enforcement rights of the terms, provisions and restrictions of this Conservation Easement. Third Party Beneficiary's enforcement of the terms, provisions and restrictions shall be at the discretion of the Third Party Beneficiary, and any forbearance on behalf of the Third Party Beneficiary to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Third Party Beneficiary's rights hereunder. Third Party Beneficiary shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

12. Taxes. When perpetual maintenance is required by the Permit, Grantor shall pay before delinquency any and all taxes, assessments, fees, and charges of whatever description levied on or assessed by competent authority on the Conservation Easement Area, and shall furnish the Grantee with satisfactory evidence of payment upon request.

13. Assignment. Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

14. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

15. Terms and Restrictions. Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Conservation Easement.

16. Written Notice. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

17. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Lee County, Florida.

18. Recordation. Grantor shall record this Conservation Easement in timely fashion in the Official Records of Lee County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Conservation Easement Area.

Grantor hereby covenants with Grantee that Grantor is lawfully seized of said Conservation Easement Area in fee simple; that the Conservation Easement is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement except as otherwise provided in Section 4 hereof; all mortgages and liens on the Conservation Easement area, if any, have been subordinated to this Conservation Easement; that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends record title to the Conservation Easement Area hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Florida Rock Properties, Inc. ("Grantor") has hereunto set its authorized hand this 13th day of January, 2016

☒ A Florida corporation or ☐ _____ (choose one)

By: _____

(Signature)

Name: Thompson S. Baker II

(Print)

Title: CEOD, Florida Rock Properties, Inc.

Signed, sealed and delivered in our presence as witnesses:

By: _____

(Signature)

Name: _____

(Print)

By: _____

(Signature)

Name: _____

(Print)

State of Florida

County of Duval

On this 13th day of January, 2016, before me, the undersigned notary public, personally appeared Thompson S. Baker II, the person who subscribed to the foregoing instrument, as the CEOD (title), of Florida Rock Properties, Inc., a Florida Corporation, and acknowledged that he executed the same on behalf of said corporation and he was duly authorized to do so. He is personally known to me or has produced a _____ (state) driver's license as identification.

IN WHITNESS WHEREOF, I hereunto set my hand and official seal.

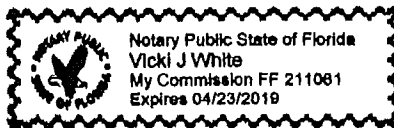
NOTARY PUBLIC, STATE OF FLORIDA

Vicki J White

(Signature)

Vicki J. White

(Name)



My Commission Expires: 4-23-19

EXHIBIT A

LOCATION MAP

-

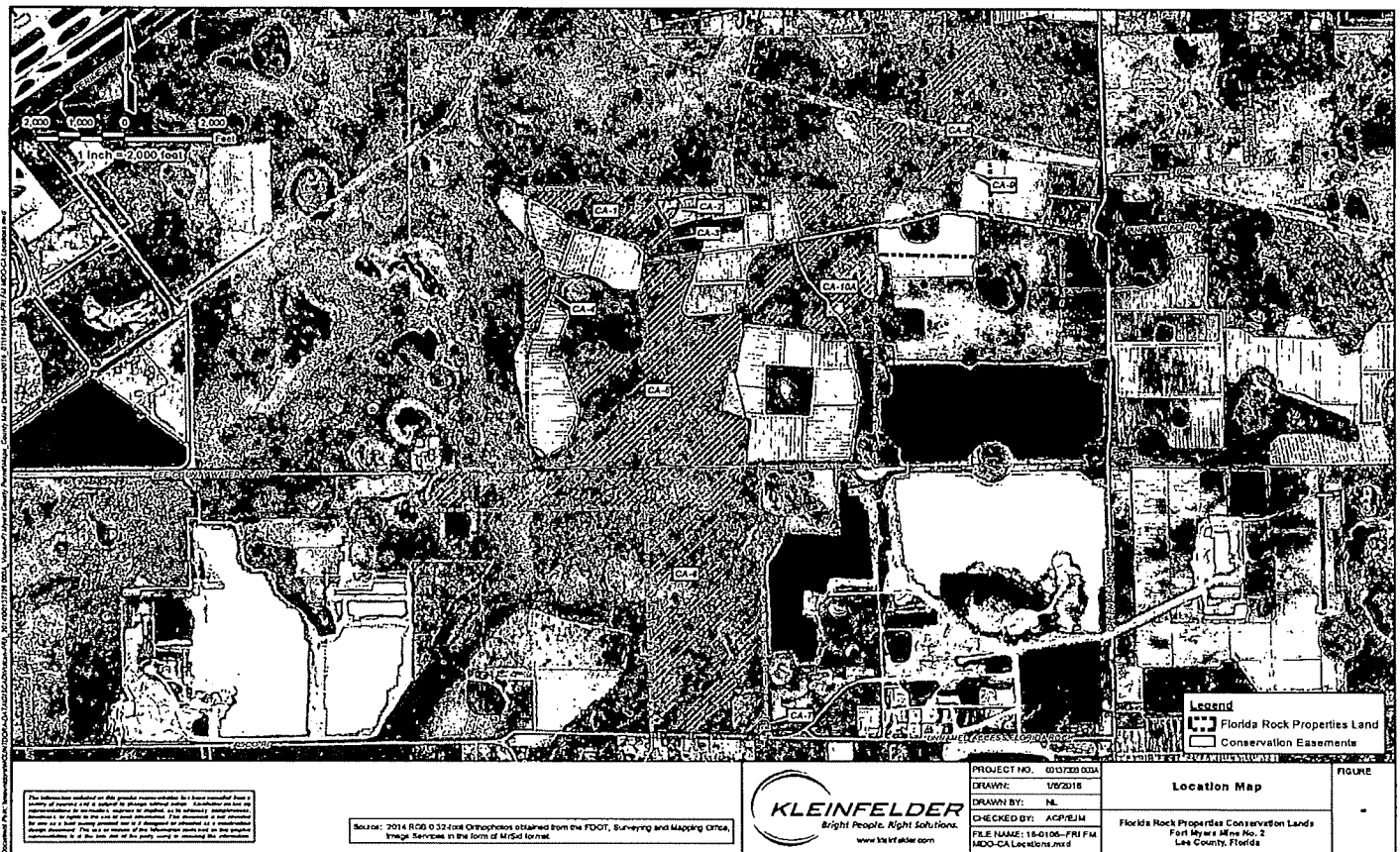
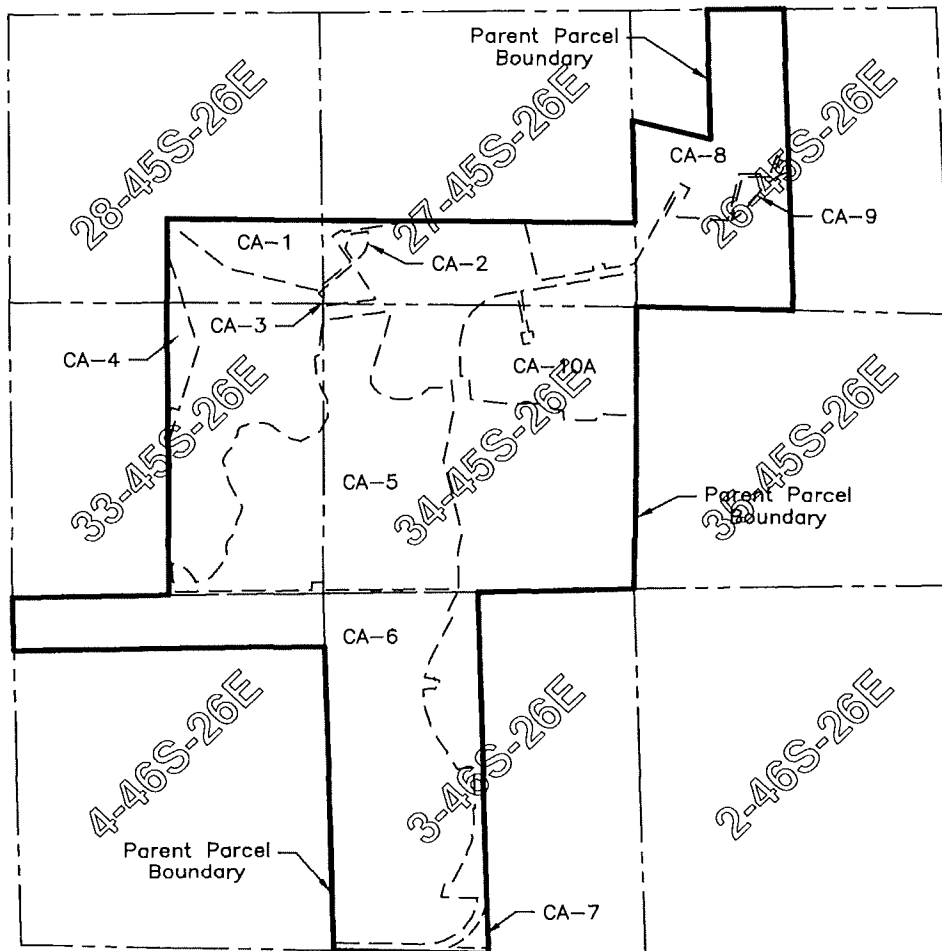


EXHIBIT B

LEGAL DESCRIPTION AND SKETCH OF CONSERVATION EASEMENT AREA

Sketch & Description

Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



Stacy L. Brown P.S.M. No. 6516
 SurvTech Solutions, Inc. L.B. No. 7340

- 1.) Not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper.
- 2.) The bearing structure for this survey is based on a Florida West State Plane grid bearing of N 00°09'43" E for the West Boundary of the SW ¼ of Section 34-45S-26E.
- 3.) THIS IS NOT A BOUNDARY SURVEY.

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 TOMORROW'S TECHNOLOGY



Project No.: 20140021
 Phase: 3
 Drawing Name: 20140021_35K1_FRP
 Field Date: N/A
 Field Book/Page: N/A

Drafted By: T. McClintic
 Date Drafted: 12/07/15
 Revision Date: 12/21/15
 Approved By: S. Brown
 Date Approved: 12/08/15

SURVTECH SOLUTIONS, INC. SURVEYORS AND MAPPERS
 10220 U.S. Highway 92 East, Tampa, FL 33610
 phone: (813)-621-4929, fax: (813)-621-7194, Licensed Business #7340
 email: sbrown@survtechsolutions.com <http://www.survtechsolutions.com>

Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions
 CA-1

A parcel of land lying and being in Sections 27 and 28, Township 45 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at a point marking the Southwest corner of the Southwest 1/4 of Section 34, Township 45 South, Range 26 East, Lee County, Florida; thence coincident with the West boundary of the Southwest 1/4 of said Section 34, N 00°09'43" E a distance of 2612.90 feet to a point marking the Northwest corner of the Southwest 1/4 of said Section 34; thence coincident with the West boundary of the Northwest 1/4 of said Section 34, N 00°09'43" E a distance of 2612.90 feet to a point marking the Northwest corner of said Section 34, said point also being the Southwest corner of said Section 27; thence departing the West boundary of Northwest 1/4 said Section 34 coincident with the West boundary of the Southwest 1/4 of said Section 27, N 00°34'13" W a distance of 339.70 feet to a point coincident with the Northerly boundary of a Perpetual Easement as recorded in Official Records Book 4280, Page 3691 of the Public Records of Lee County, Florida, said point also being the POINT OF BEGINNING; thence departing said West boundary, coincident with said Northerly boundary for the following four (4) courses: 1.) S 48°37'45" W a distance of 149.58 feet; 2.) thence N 75°50'23" W a distance of 1578.04 feet; 3.) thence N 51°20'56" W a distance of 1054.06 feet; 4.) thence S 89°52'29" W a distance of 200.11 feet to a point coincident with the West boundary of the lands described in Official Records Book 1854, Page 892 of the Public Records of Lee County, Florida; thence coincident with said West boundary, N 00°07'50" W a distance of 219.37 feet to a point coincident with the North boundary of said lands; thence departing said West boundary coincident with said North boundary, S 89°38'52" E a distance of 4202.94 feet to a point coincident with the Northerly boundary of the aforesaid Perpetual Easement; thence departing said North boundary coincident with said Northerly boundary for the following five (5) courses: 1.) S 80°21'49" W a distance of 1201.62 feet; 2.) thence N 33°34'21" W a distance of 42.62 feet; 3.) thence S 56°25'39" W a distance of 199.99 feet; 4.) thence S 33°34'21" E a distance of 545.23 feet; 5.) thence S 48°37'45" W a distance of 617.47 feet to the POINT OF BEGINNING.

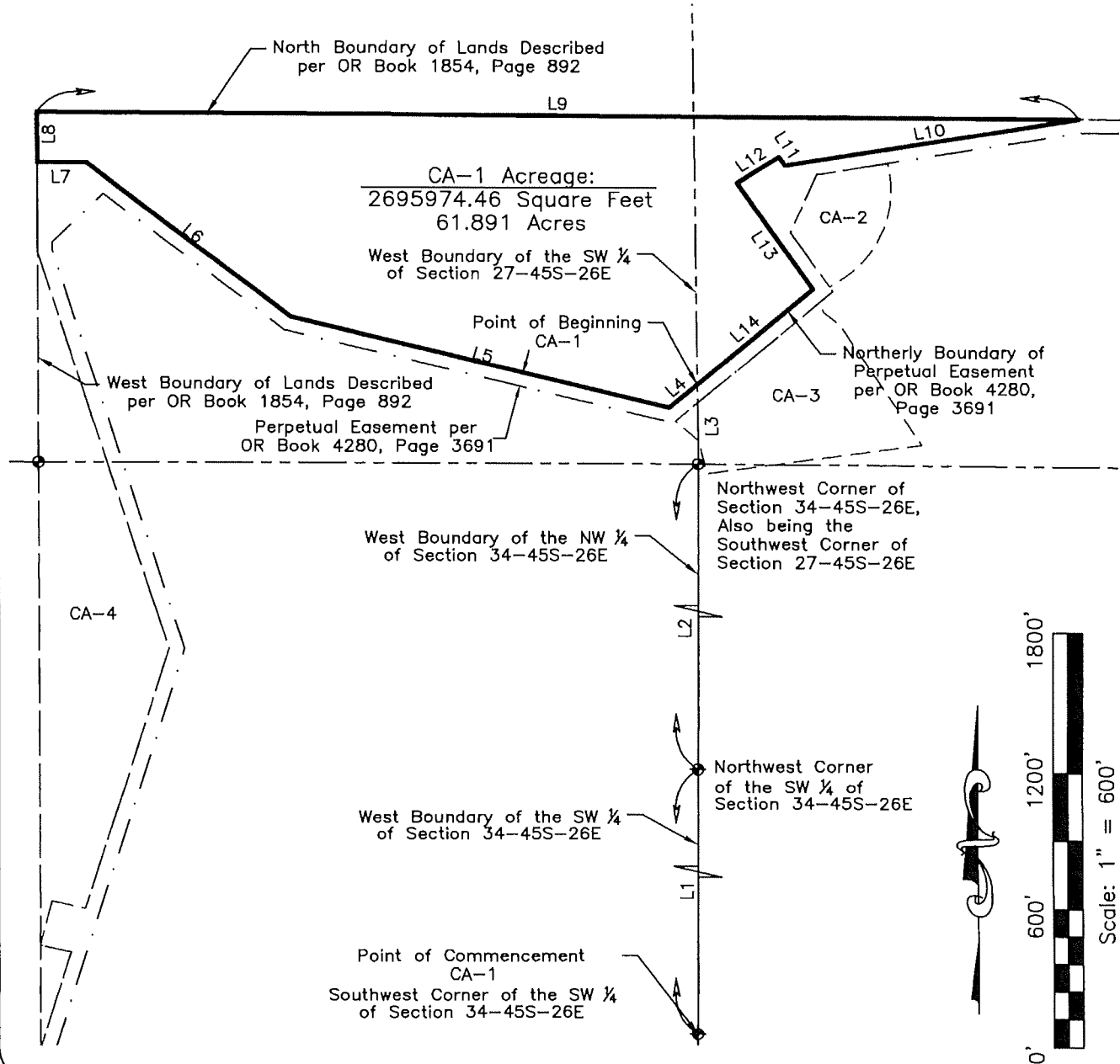
Containing an area of 2695974.46 square feet, 61.891 acres, more or less.

PROJECT NO.: 20140021
 PHASE: JSK1_FRP-CA
 FIELD DATE: N/A



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 email: sbrown@survtechsolutions.com <http://www.survtechsolutions.com>

Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



PROJECT NO.: 20140021
 PHASE: 3SK1_FRP-CA
 FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions
CA-2

A parcel of land lying and being in the Southwest 1/4 of Section 27, Township 45 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at a point marking the Southwest corner of the Southwest 1/4 of Section 34, Township 45 South, Range 26 East, Lee County, Florida; thence coincident with the West boundary of the Southwest 1/4 of said Section 34, N 00°09'43" E a distance of 2612.90 feet to a point marking the Northwest corner of the Southwest 1/4 of said Section 34; thence coincident with the West boundary of the Northwest 1/4 of said Section 34, N 00°09'43" E a distance of 2612.90 feet to a point marking the Northwest corner of said Section 34, said point also being the Southwest corner of said Section 27; thence departing the West boundary of Northwest 1/4 said Section 34 coincident with the West boundary of the Southwest 1/4 of said Section 27, N 00°34'13" W a distance of 989.05 feet; thence departing said West boundary, N 89°25'47" E a distance of 379.29 feet to a point coincident with the Easterly boundary of a Perpetual Easement as recorded in Official Records Book 4280, Page 3691 of the Public Records of Lee County, Florida, said point also being the POINT OF BEGINNING; thence coincident with said Easterly boundary, N 23°23'44" E a distance of 266.99 feet to a point coincident with the Southerly boundary of said Perpetual Easement; thence departing said Easterly boundary, coincident with said Southerly boundary, N 80°21'49" E a distance of 287.34 feet to a point coincident with a non-tangent curve concave to the Northwest, said curve having a radius of 474.98 feet, a delta angle of 74°52'43" and being subtended by a chord bearing S 23°49'00" W for a distance of 577.50 feet; thence coincident with the arc of said curve a distance of 620.74 feet to a point coincident with aforesaid Easterly boundary of said Perpetual Easement; thence coincident with said Easterly boundary, N 33°34'21" W a distance of 282.27 feet to the POINT OF BEGINNING.

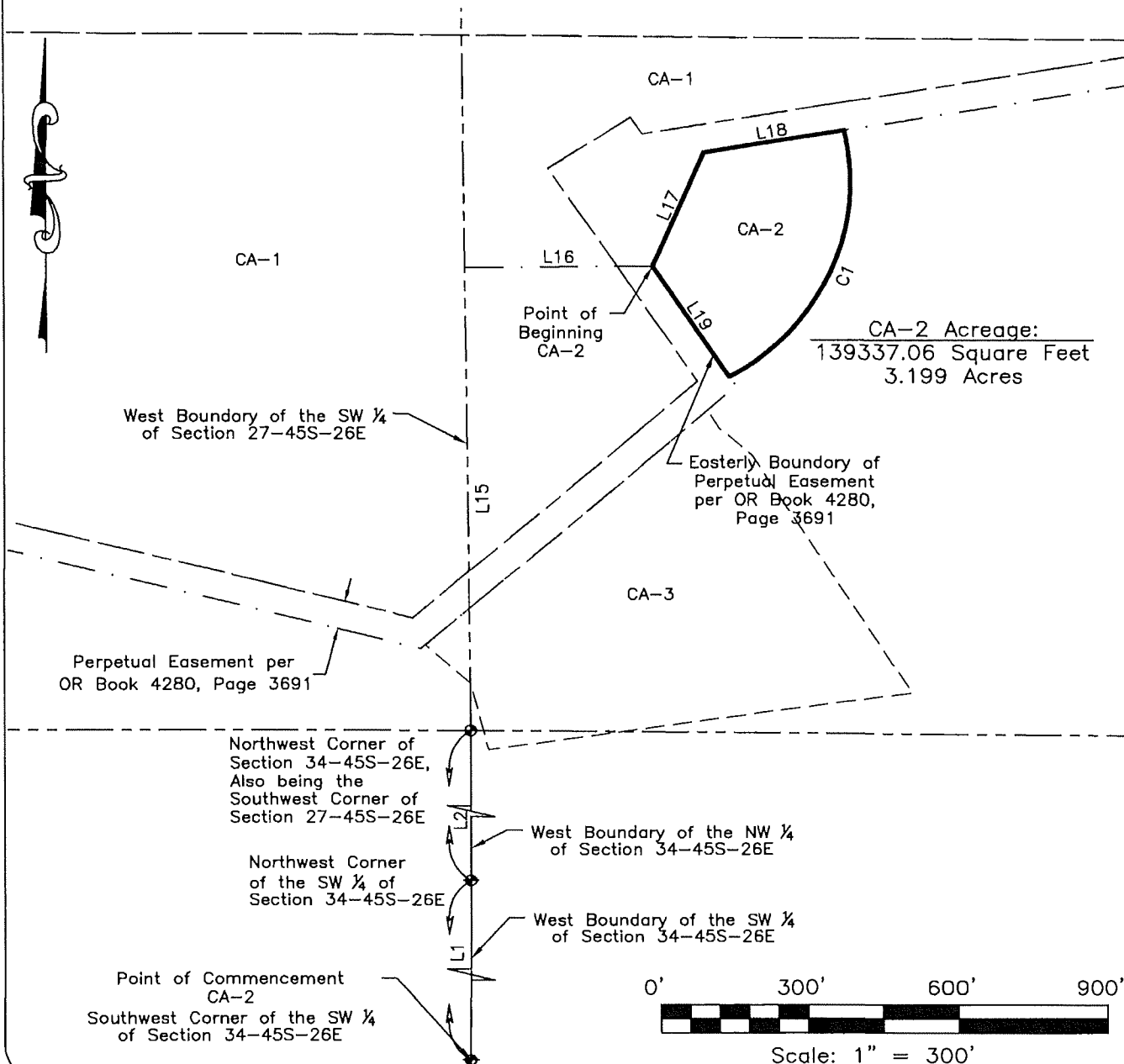
Containing an area of 139337.06 square feet, 3.199 acres, more or less.

PROJECT NO.: 20140021
PHASE: 3SK1_FRP-CA
FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



PROJECT NO.: 20140021
 PHASE: JSK1_FRP-CA
 FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions
CA-3

A parcel of land lying and being in Sections 27, 28 and 34, Township 45 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at a point marking the Southwest corner of the Southwest 1/4 of Section 34, Township 45 South, Range 26 East, Lee County, Florida; thence coincident with the West boundary of the Southwest 1/4 of said Section 34, N 00°09'43" E a distance of 2612.90 feet to a point marking the Northwest corner of the Southwest 1/4 of said Section 34; thence coincident with the West boundary of the Northwest 1/4 of said Section 34, N 00°09'43" E a distance of 2612.90 feet to a point marking the Northwest corner of said Section 34; thence departing said West boundary, coincident with the North boundary of the Northwest 1/4 of said Section 34, S 89°31'26" E a distance of 25.06 feet to the POINT OF BEGINNING; thence departing said North Boundary, N 13°59'51" W a distance of 103.98 feet; thence N 47°39'49" W a distance of 122.26 feet to a point coincident with the Southerly boundary of a Perpetual Easement as recorded in Official Records Book 4280, Page 3691 of the Public Records of Lee County, Florida; thence coincident with said Southerly boundary, N 48°37'45" E a distance of 761.54 feet; thence departing said Southerly boundary, S 30°47'11" E a distance of 45.80 feet; thence S 49°30'22" E a distance of 87.49 feet; thence S 32°21'11" E a distance of 602.98 feet; thence S 81°56'28" W a distance of 867.08 feet; thence N 13°59'51" W a distance of 41.77 feet to the POINT OF BEGINNING.

Containing an area of 382389.17 square feet, 8.778 acres, more or less.

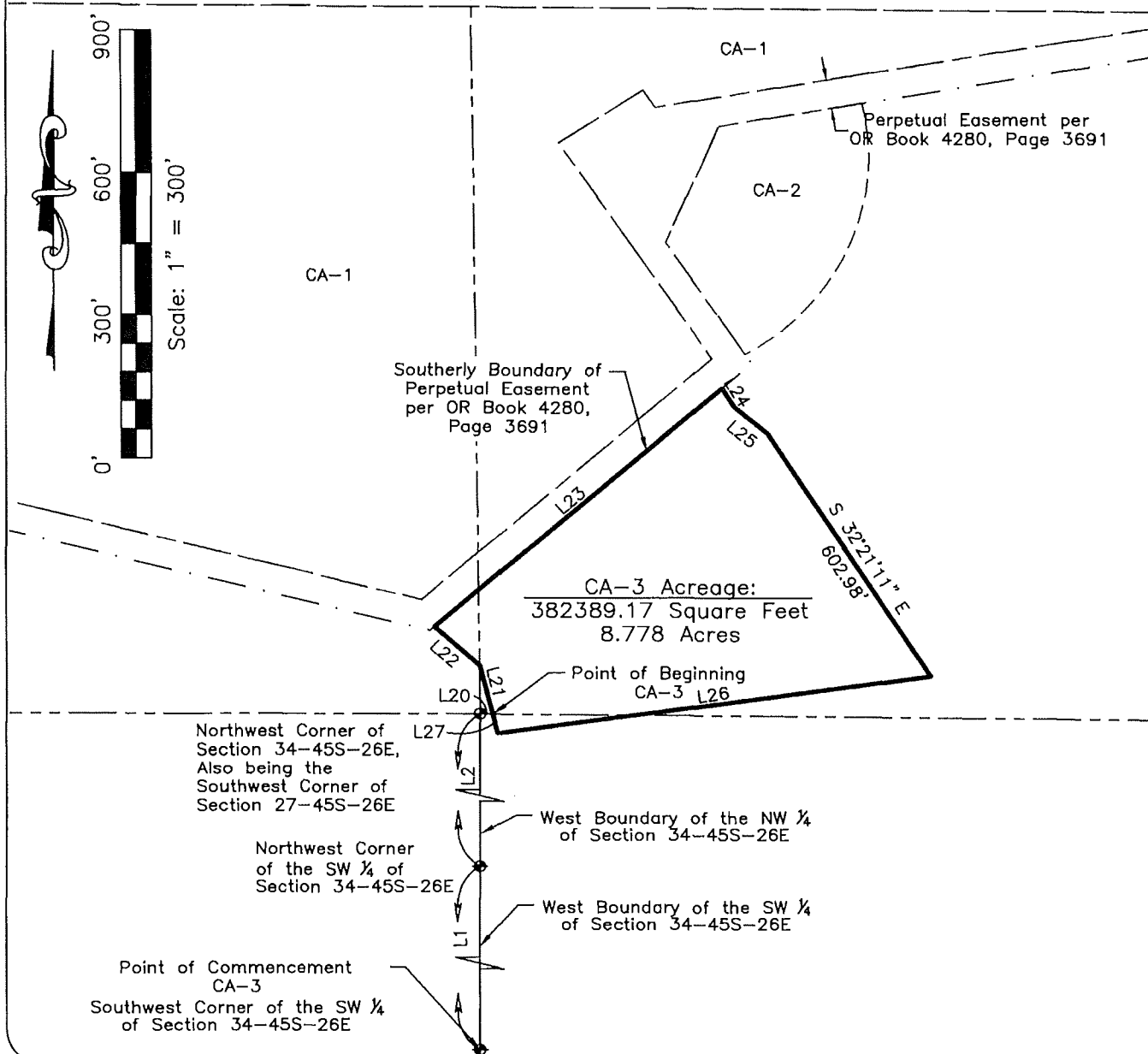
PROJECT NO.: 20140021
PHASE: JSK1_FRP-CA
FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



PROJECT NO.: 20140021
 PHASE: 3SK1_FRP-CA
 FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions

CA-4

A parcel of land lying and being in Sections 28 and 33, Township 45 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at a point marking the Southeast corner of the Southeast 1/4 of Section 33, Township 45 South, Range 26 East, Lee County, Florida; thence coincident with the East boundary of the Southeast 1/4 of said Section 33, N 00°09'43" E a distance of 2612.90 feet to a point marking the Northeast corner of the Southeast 1/4 of said Section 33; thence coincident with the East boundary of the Northeast 1/4 of said Section 33, N 00°09'43" E a distance of 2612.90 feet to a point marking the Northeast corner of said Section 33; thence departing said East boundary, coincident with the North boundary of the Northeast 1/4 of said Section 33, N 89°54'35" W a distance of 2666.09 feet to a point marking the Northwest corner of the Northeast 1/4 of said Section 33, said point being coincident with the West boundary of lands described in Official Records Book 1854, Page 892 of the Public Records of Lee County, Florida, said point also being the POINT OF BEGINNING; thence departing said North boundary coincident with said West boundary, N 00°07'50" W a distance of 895.10 feet to a point coincident with the Westerly boundary of a Perpetual Easement as recorded in Official Records Book 4280, Page 3691 of the Public Records of Lee County, Florida; thence departing said West boundary coincident with said Westerly boundary for the following six (6) courses: 1.) S 17°25'31" E a distance of 1771.10 feet; 2.) thence S 16°46'28" W a distance of 1178.86 feet; 3.) thence N 76°18'30" W a distance of 139.90 feet; 4.) thence S 13°41'30" W a distance of 199.99 feet; 5.) thence S 76°18'30" E a distance of 129.13 feet; 6.) thence S 16°46'28" W a distance of 432.35 feet to a point coincident with the West boundary of lands described in Official Records Book 1854, Page 892 of the Public Records of Lee County, Florida; thence departing said Westerly boundary, coincident with said West boundary, N 00°07'31" W a distance of 2529.14 feet to the POINT OF BEGINNING.

Containing an area of 874660.59 square feet, 20.079 acres, more or less.

PROJECT NO.: 20140021
PHASE: JSK1_FRP-CA
FIELD DATE: N/A



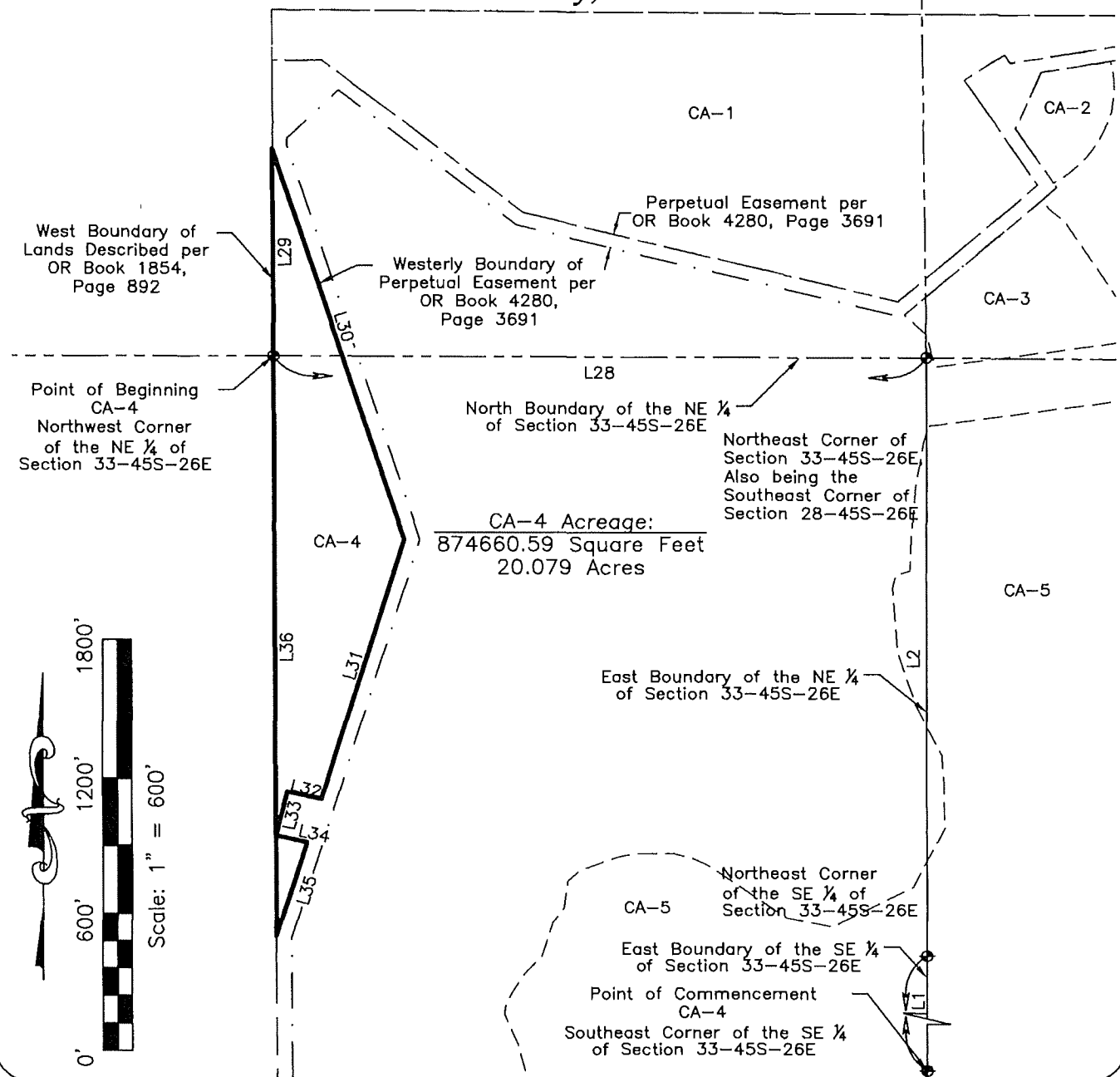
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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



PROJECT NO.: 20140021
 PHASE: 3SK1_FRP-CA
 FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions

CA-5

A parcel of land lying and being in Sections 33 and 34, Township 45 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at a point marking the Southwest corner of the Southwest 1/4 of Section 34, Township 45 South, Range 26 East, Lee County, Florida; thence coincident with the West boundary of the Southwest 1/4 of said Section 34, N 00°09'43" E a distance of 60.00 feet to a point coincident with the Northerly boundary of an easement as recorded in Official Records Book 933, Page 667 of the Public Records of Lee County, Florida, said point also being the POINT OF BEGINNING; thence coincident with said Northerly boundary for the following five (5) courses: 1.) N 00°09'43" E a distance of 140.02 feet; 2.) thence S 89°08'25" W a distance of 200.02 feet; 3.) thence S 00°09'43" W a distance of 140.02 feet; 4.) thence S 89°08'25" W a distance of 2340.36 feet; 5.) thence N 00°19'57" W a distance of 139.44 feet to a point coincident with the Easterly boundary of a Perpetual Easement as recorded in Official Records Book 4280, Page 3691 of the Public Records of Lee County, Florida; thence departing said Northerly boundary coincident with said Easterly boundary, N 23°23'29" W a distance of 100.24 feet; thence continue coincident with said Easterly boundary, N 00°07'47" W a distance of 277.29 feet to a point coincident with a non-tangent curve concave to the Southwest, said curve having a radius of 474.98 feet, a delta angle of 66°14'17" and being subtended by a chord bearing S 49°41'57" E for a distance of 519.04 feet; thence departing said Easterly boundary coincident with the arc of said curve a distance of 549.11 feet; thence N 75°45'25" E a distance of 54.25 feet; thence N 85°29'43" E a distance of 110.91 feet; thence N 64°01'08" E a distance of 54.54 feet; thence N 51°44'37" E a distance of 95.25 feet; thence N 39°09'48" E a distance of 232.79 feet; thence N 31°07'23" E a distance of 106.61 feet; thence N 56°10'21" E a distance of 82.64 feet; thence N 07°20'08" W a distance of 172.45 feet; thence N 03°03'16" E a distance of 52.75 feet; thence N 13°00'36" E a distance of 88.83 feet; thence N 33°27'18" E a distance of 119.75 feet; thence N 18°11'41" E a distance of 181.67 feet; thence N 14°36'28" E a distance of 102.54 feet; thence N 27°18'39" E a distance of 141.12 feet; thence N 14°47'19" E a distance of 125.67 feet; thence N 27°24'46" W a distance of 481.98 feet; thence N 18°23'16" W a distance of 67.10 feet; thence N 06°41'56" W a distance of 70.92 feet; thence N 13°55'54" W a distance of 118.87 feet; thence N 22°32'26" W a distance of 146.82 feet; thence N 07°31'33" E a distance of 32.19 feet; thence N 24°40'18" E a distance of 53.23 feet; thence N 31°21'21" E a distance of 107.26 feet; thence N 42°34'37" E a distance of 107.24 feet; thence N 17°33'53" E a distance of 154.80 feet; thence N 34°58'12" E a distance of 79.63 feet; thence N 06°20'19" E a distance of 42.80 feet; thence N 08°45'34" E a distance of 43.92 feet; thence N 08°43'27" E a distance of 36.22 feet; thence N 47°48'45" E a distance of 63.03 feet; thence N 66°09'45" E a distance of 60.25 feet; thence N 69°43'28" E a distance of 125.82 feet; thence N 81°04'48" E a distance of 71.72 feet; thence S 89°54'20" E a distance of 147.12 feet; thence S 73°07'40" E a distance of 86.83 feet; thence S 63°00'19" E a distance of 65.12 feet; thence S 53°33'53" E a distance of 383.83 feet; thence S 78°25'53" E a distance of 194.17 feet; thence N 62°05'10" E a distance of 210.59 feet; thence N 61°44'44" E a distance of 159.77 feet; thence N 26°37'21" E a distance of 195.32 feet; thence N 30°01'10" E a distance of 85.17 feet; thence N 00°04'32" E a distance of 208.86 feet; thence N 04°47'41" W a distance of 125.26 feet; thence N 26°12'12" W a distance of 235.63 feet; thence N 17°51'54" W a distance of 246.87 feet; thence N 04°05'00" W a distance of 283.66 feet; thence N 15°40'52" E a distance of 56.24 feet; thence N 74°56'43" E a distance of 58.88 feet; thence N 02°57'25" E a distance of 160.89 feet; thence N 04°00'24" E a distance of 204.94 feet; thence N 10°19'58" E a distance of 189.01 feet; thence N 13°39'39" E a distance of 80.14 feet; thence N 81°56'28" E a distance of 1174.48 feet;

CONTINUED ON SHEET 11...

PROJECT NO.: 20140021
 PHASE: 3SK1_FRP-CA
 FIELD DATE: N/A



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SHEET: 10 OF 27

Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions
 CA-5

... CONTINUED FROM SHEET 10

thence S 14°16'05" W a distance of 362.31 feet; thence S 15°24'22" W a distance of 148.77 feet; thence S 23°59'21" W a distance of 210.39 feet; thence S 16°44'10" W a distance of 100.91 feet; thence S 16°40'13" W a distance of 196.34 feet; thence S 14°52'27" W a distance of 222.40 feet; thence S 14°13'44" W a distance of 53.78 feet; thence S 15°14'28" E a distance of 73.96 feet; thence S 32°49'32" E a distance of 54.86 feet; thence S 31°40'11" E a distance of 57.36 feet; thence S 46°56'04" E a distance of 96.56 feet; thence S 59°43'44" E a distance of 162.74 feet; thence S 77°41'08" E a distance of 186.64 feet; thence S 89°38'31" E a distance of 167.68 feet; thence N 70°00'48" E a distance of 180.14 feet; thence N 64°19'52" E a distance of 83.33 feet; thence N 51°25'25" E a distance of 77.69 feet; thence N 47°35'14" E a distance of 84.01 feet; thence N 86°29'38" E a distance of 87.63 feet; thence N 81°06'29" E a distance of 33.78 feet; thence S 88°27'23" E a distance of 46.96 feet; thence N 79°28'18" E a distance of 69.69 feet; thence N 62°06'08" E a distance of 45.42 feet; thence N 48°19'30" E a distance of 37.35 feet; thence N 48°19'30" E a distance of 38.08 feet; thence N 53°55'28" E a distance of 64.30 feet to a point coincident with a non-tangent curve concave to the East, said curve having a radius of 1077.06 feet, a delta angle of 06°21'07" and being subtended by a chord bearing S 03°14'41" E for a distance of 119.35 feet; thence coincident with the arc of said curve a distance of 119.41 feet; thence S 06°25'26" E a distance of 229.35 feet to a point coincident with a tangent curve concave to the West, said curve having a radius of 924.96 feet, a delta angle of 08°01'28" and being subtended by a chord bearing S 02°24'42" E for a distance of 129.44 feet; thence coincident with the arc of said curve a distance of 129.54 feet; thence S 08°27'51" W a distance of 65.16 feet; thence S 10°17'53" W a distance of 253.33 feet; thence S 10°51'38" W a distance of 128.15 feet; thence S 10°38'53" W a distance of 172.96 feet; thence S 09°25'43" W a distance of 91.00 feet; thence S 11°37'27" W a distance of 123.56 feet; thence S 09°01'52" W a distance of 78.56 feet; thence S 20°42'24" W a distance of 64.01 feet; thence S 13°16'22" E a distance of 1339.01 feet; thence S 04°57'49" W a distance of 198.44 feet; thence S 19°16'11" W a distance of 115.02 feet; thence S 00°00'00" E a distance of 709.83 feet to a point coincident with the Northerly boundary of said easement as recorded in Official Records Book 933, Page 667 of the Public Records of Lee County, Florida; thence coincident with said Northerly boundary, S 89°30'47" W a distance of 2308.11 feet to the POINT OF BEGINNING.

Containing an area of 14102072.73 square feet, 323.739 acres, more or less.

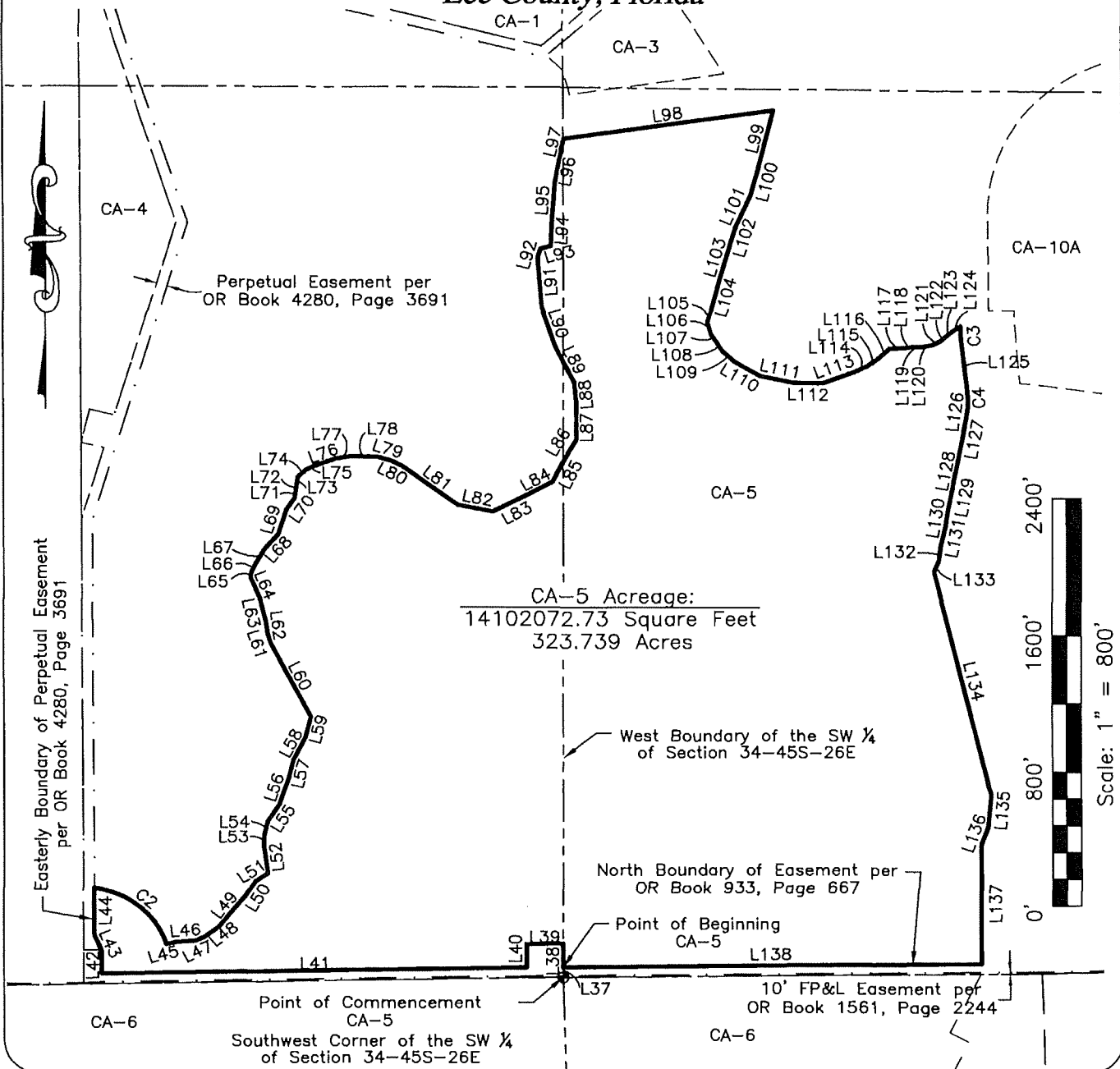
PROJECT NO.: 20140021
 PHASE: 3SK1_FRP-CA
 FIELD DATE: N/A



SURVTECH SOLUTIONS, INC. SURVEYORS AND MAPPERS

10220 U.S. Highway 92 East, Tampa, FL 33610
 phone: (813)-621-4929, fax: (813)-621-7194, Licensed Business #7340
 email: sbrown@survtechsolutions.com <http://www.survtechsolutions.com>

Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



PROJECT NO.: 20140021
PHASE: JSK1_FRP-CA
FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions

CA-6

A parcel of land lying and being in Sections 3 and 4, Township 46 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

BEGIN at the Northwest corner of the Northwest 1/4 of Section 3, Township 46 South, Range 26 East, Lee County, Florida; thence coincident with the North Boundary of the Northwest 1/4 of said Section 3, N 89°30'47" E a distance of 2303.20 feet; thence departing said North Boundary, S 26°36'39" W a distance of 385.09 feet; thence S 61°00'41" E a distance of 120.10 feet; thence S 26°36'40" W a distance of 831.76 feet to a point coincident with a non-tangent curve concave to the East, said curve having a radius of 1439.94 feet, a delta angle of 16°19'37" and being subtended by a chord bearing S 18°55'19" W for a distance of 408.94 feet; thence coincident with the arc of said curve a distance of 410.32 feet; thence S 77°30'24" E a distance of 27.03 feet; thence N 87°27'55" E a distance of 27.90 feet; thence S 79°05'14" E a distance of 72.46 feet; thence N 85°42'42" E a distance of 37.78 feet; thence S 21°54'41" E a distance of 34.71 feet; thence N 66°11'09" E a distance of 33.22 feet; thence S 69°57'17" E a distance of 45.91 feet; thence S 05°20'59" E a distance of 56.47 feet; thence S 63°09'19" W a distance of 46.65 feet; thence N 32°17'09" W a distance of 36.20 feet; thence S 06°49'30" E a distance of 75.19 feet; thence S 30°33'14" W a distance of 35.76 feet; thence N 80°02'01" W a distance of 52.05 feet; thence N 85°13'07" W a distance of 58.58 feet; thence S 70°46'35" W a distance of 54.77 feet; thence S 75°33'44" W a distance of 49.26 feet to a point coincident with a non-tangent curve concave to the East, said curve having a radius of 1439.94 feet, a delta angle of 31°34'09" and being subtended by a chord bearing S 13°47'12" E for a distance of 783.39 feet; thence coincident with the arc of said curve a distance of 793.39 feet; thence S 29°34'16" E a distance of 769.23 feet; thence N 80°39'20" E a distance of 295.29 feet; thence S 01°22'15" E a distance of 755.37 feet; thence S 82°28'10" W a distance of 36.75 feet to a point coincident with a non-tangent curve concave to the West, said curve having a radius of 1559.94 feet, a delta angle of 34°07'20" and being subtended by a chord bearing S 09°31'26" W for a distance of 915.35 feet; thence coincident with the arc of said curve a distance of 929.01 feet; thence S 23°44'25" W a distance of 468.65 feet to a point coincident with a tangent curve concave to the Southeast, said curve having a radius of 1439.94 feet, a delta angle of 02°20'15" and being subtended by a chord bearing S 22°34'17" W for a distance of 58.74 feet; thence coincident with the arc of said curve a distance of 58.74 feet; thence N 88°50'59" W a distance of 127.24 feet to a point coincident with a non-tangent curve concave to the East, said curve having a radius of 1559.94 feet, a delta angle of 09°13'29" and being subtended by a chord bearing S 15°10'21" W for a distance of 250.88 feet; thence coincident with the arc of said curve a distance of 251.15 feet; thence S 88°50'59" E a distance of 626.77 feet to a point coincident with a non-tangent curve concave to the North, said curve having a radius of 924.96 feet, a delta angle of 86°53'50" and being subtended by a chord bearing S 47°49'34" W for a distance of 1272.20 feet; thence coincident with the arc of said curve a distance of 1402.84 feet; thence N 88°43'31" W a distance of 1527.93 feet to a point coincident with the West Boundary of the Southwest 1/4 of said Section 3; thence coincident with said West Boundary, N 01°19'10" W a distance of 3087.90 feet to the Northwest corner of the Southwest 1/4 of said Section 3; thence coincident with the West Boundary of the Northwest 1/4 of said Section 3, N 01°19'26" W a distance of 2286.54 feet; thence departing said West Boundary, S 89°08'25" W a distance of 2662.40 feet; thence continue S 89°08'25" W a distance of 2621.57 feet to a point coincident with the West Boundary of the Northwest 1/4 of said Section 4; thence coincident with said West Boundary, thence N 01°05'50" W a distance of 959.38 feet to the Northwest corner of said Section 4; thence departing said West Boundary, coincident with the North Boundary of the Northwest 1/4 of said Section 4, N 89°08'25" E a distance of 2640.09 feet to the Northeast corner of the Northwest 1/4 of said Section 4; thence coincident with the North Boundary of the Northeast 1/4 of said Section 4, N 89°08'25" E a distance of 2640.09 feet to the POINT OF BEGINNING.

Containing an area of 18591134.70 square feet, 426.794 acres, more or less.

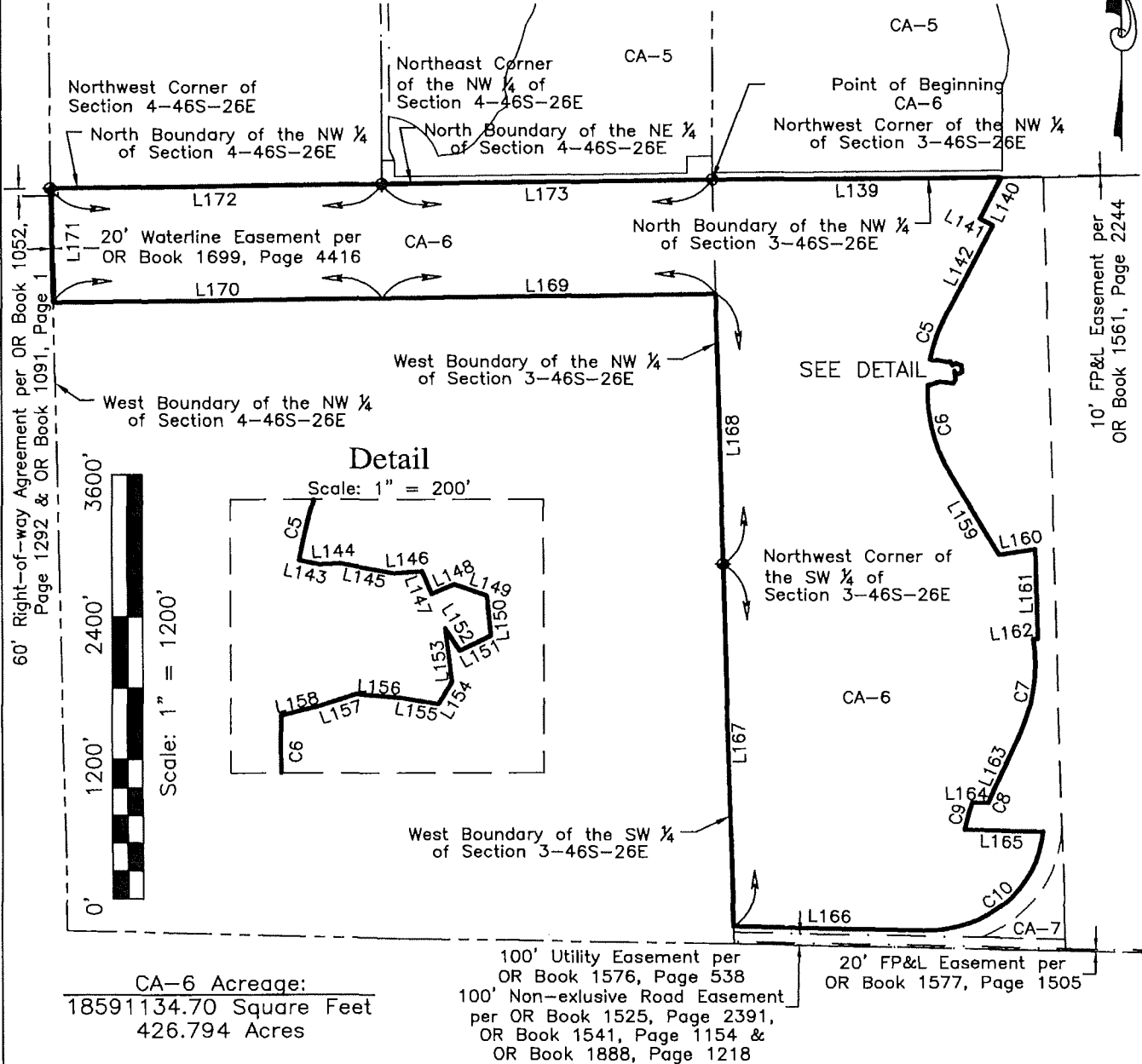
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 FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



PROJECT NO.: 20140021
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Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions
CA-7

A parcel of land lying and being in Sections 3, Township 46 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at the Northwest corner of the Northwest 1/4 of Section 3, Township 46 South, Range 26 East, Lee County, Florida; thence coincident with the West Boundary of the Northwest 1/4 of said Section 3, S 01°19'26" E a distance of 3245.94 feet to a point coincident with the Southwest corner of the Northwest 1/4 of said Section 3; thence coincident with the West Boundary of the Southwest 1/4 of said Section 3, S 01°19'10" E a distance of 3238.05 feet to a point coincident with the Southwest corner of the Southwest 1/4 of said Section 3; thence coincident with the South Boundary of the Southwest 1/4 of said Section 3, S 88°43'31" E a distance of 2646.90 feet to a point coincident with the Southeast corner of the Southwest 1/4 of said Section 3; thence coincident with the East Boundary of the Southwest 1/4 of said Section 3, N 01°22'15" W a distance of 100.10 feet to the POINT OF BEGINNING; thence departing said East Boundary, N 88°43'31" W a distance of 668.40 feet to a point coincident with a non-tangent curve concave to the Northwest, said curve having a radius of 1074.96 feet, a delta angle of 67°44'11" and being subtended by a chord bearing N 32°29'50" E for a distance of 1198.11 feet; thence coincident with the arc of said curve a distance of 1270.84 feet to a point coincident with aforesaid East Boundary of the Southwest 1/4 of Section 3; thence coincident with said East Boundary, S 01°22'15" E a distance of 1025.67 feet to the POINT OF BEGINNING.

Containing an area of 194060.90 square feet, 4.455 acres, more or less.

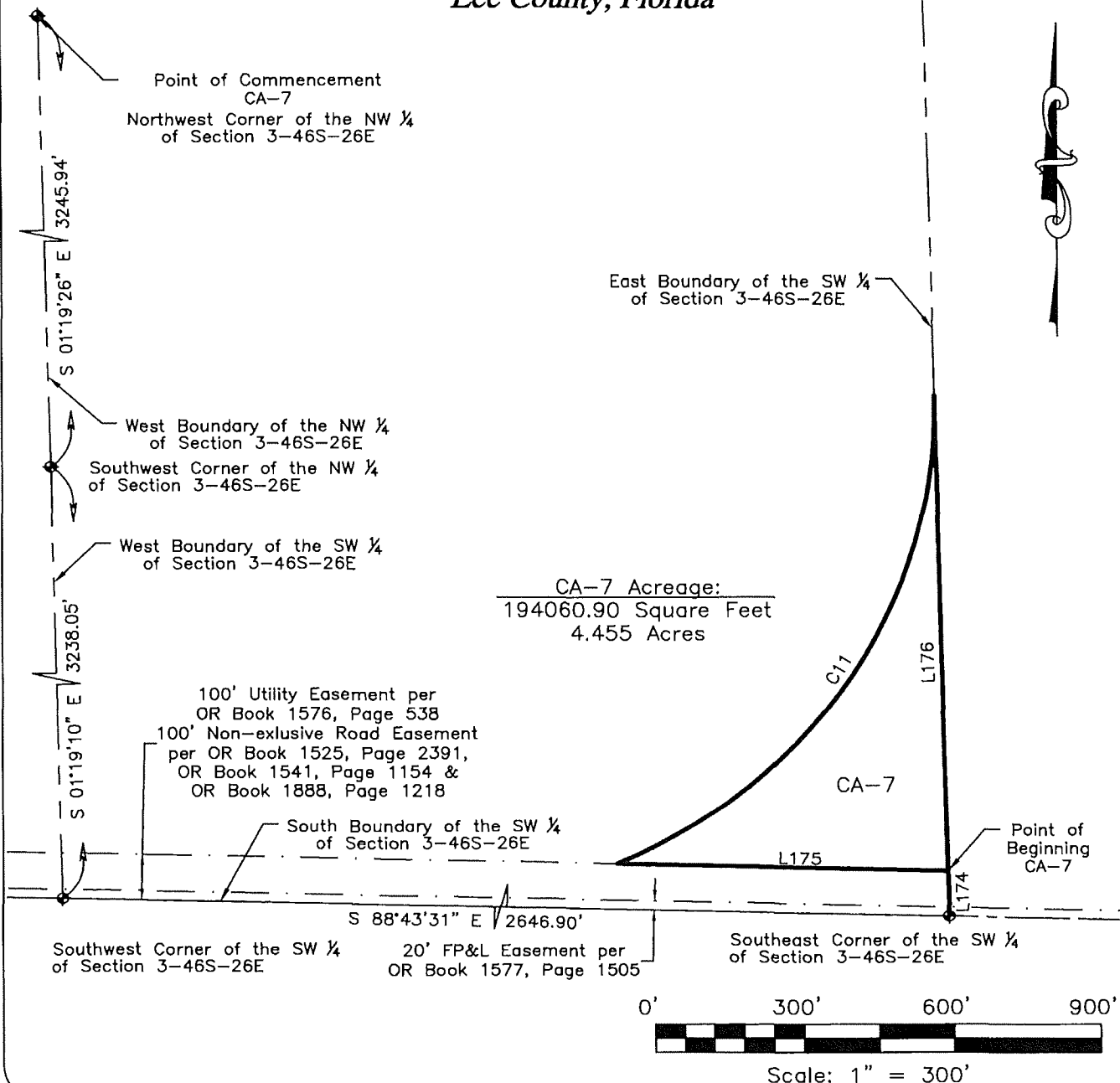
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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



PROJECT NO.: 20140021
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 FIELD DATE: N/A



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Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions
 CA-8

A parcel of land lying and being in Sections 26 and 27, Township 45 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at a point marking the Southwest corner of the Southwest 1/4 of Section 26, Township 45 South, Range 26 East, Lee County, Florida; thence coincident with the West boundary of the Southwest 1/4 of said Section 26, N 01°01'34" W a distance of 1499.94 feet to a point coincident with the West boundary of lands described in Official Records Book 1854, Page 892 of the Public Records of Lee County, Florida, said point being the POINT OF BEGINNING; thence continue coincident with the West boundary of the Southwest 1/4 of said Section 26 and coincident with the West boundary of said lands, N 01°01'34" W a distance of 1162.64 feet to the a point marking the Northwest corner of the Southwest 1/4 of said Section 26; thence coincident with the West Boundary of the Northwest 1/4 of said Section 26 and continuing coincident with the West boundary of said lands, N 01°01'41" W a distance of 666.73 feet to a point coincident with the Southerly boundary of a 330 foot wide Florida Power & Light Easement as recorded in Official Records Book 872, Page 96 of the Public Records of Lee County, Florida; thence departing said West boundaries coincident with said Southerly boundary, S 75°33'56" E a distance of 1359.72 feet; thence departing said Southerly boundary, N 01°15'53" W a distance of 2348.72 feet to a point coincident with the North boundary of the lands described in Official Records Book 1854, Page 892 of the Public Records of Lee County, Florida, said point also being coincident with the North boundary of the Northwest 1/4 of said Section 26; thence coincident with said North Boundaries, N 89°22'41" E a distance of 1300.84 feet; thence departing said North boundaries, S 01°29'50" E a distance of 2702.84 feet to a point coincident with the Northerly boundary of a Perpetual Easement as recorded in Official Records Book 4280, Page 3691 of the Public Records of Lee County, Florida; thence coincident with said Northerly boundary for the following ten (10) courses: 1.) N 75°33'56" W a distance of 198.45 feet; 2.) thence S 20°10'36" W a distance of 344.00 feet; 3.) thence S 88°36'44" W a distance of 527.02 feet; 4.) thence S 13°08'19" W a distance of 852.25 feet; 5.) thence N 85°29'28" W a distance of 1061.60 feet; 6.) thence N 27°55'18" E a distance of 423.31 feet; 7.) thence S 62°04'42" E a distance of 139.99 feet; 8.) thence N 27°55'18" E a distance of 199.99 feet; 9.) thence N 62°04'42" W a distance of 199.99 feet; 10.) thence S 27°55'18" W a distance of 1617.80 feet; thence departing said Northerly boundary, S 79°46'11" W a distance of 506.43 feet to a point coincident with the Northerly boundary of aforesaid Perpetual Easement; thence coincident with said Northerly boundary for the following three (3) courses: 1.) N 10°15'23" W a distance of 93.51 feet; 2.) thence S 79°44'37" W a distance of 199.99 feet; 3.) thence S 10°15'23" E a distance of 93.42 feet; thence departing said Northerly boundary, S 79°46'11" W a distance of 956.43 feet to a point coincident with the Easterly boundary of aforesaid Perpetual Easement; thence coincident with said Easterly Boundary, N 11°51'24" W a distance of 1062.24 feet to a point coincident with the North boundary of lands described in Official Records Book 1854, Page 892 of the Public Records of Lee County, Florida; thence departing said Easterly boundary coincident with said North boundary, S 89°38'52" E a distance of 1859.58 feet to the POINT OF BEGINNING.

Containing an area of 7828353.00 square feet, 179.714 acres, more or less.

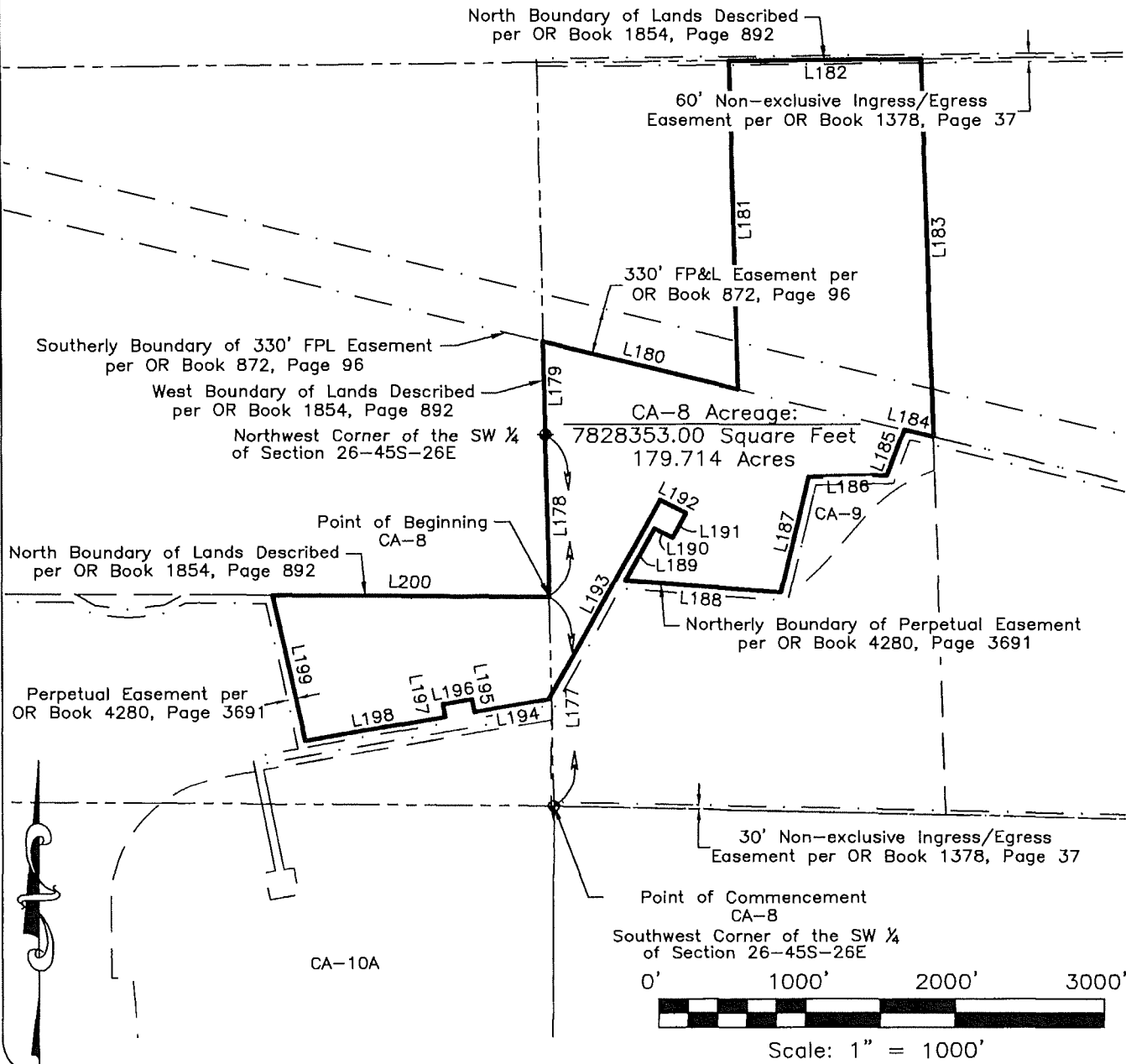
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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



PROJECT NO.: 20140021
 PHASE: 3SK1_FRP-CA
 FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions

CA-9

A parcel of land lying and being in Section 26, Township 45 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at a point marking the Southwest corner of the Southwest 1/4 of Section 26, Township 45 South, Range 26 East, Lee County, Florida; thence coincident with the South boundary of the Southwest 1/4 of said Section 26, S 88°38'54" E a distance of 2648.33 feet to a point coincident with the East boundary of the Southwest 1/4 of said Section 26; thence coincident with said East boundary, N 01°29'50" W a distance of 2473.56 feet to a point coincident with a non-tangent curve concave to the Southeast, said curve having a radius of 1074.96 feet, a delta angle of 30°55'54" and being subtended by a chord bearing S 54°28'12" W for a distance of 573.30 feet, said point also being the POINT OF BEGINNING; thence departing said East Boundary, coincident with the arc of said curve a distance of 580.32 feet; thence S 39°00'16" W a distance of 418.44 feet to a point coincident with a tangent curve concave to the Northwest, said curve having a radius of 924.96 feet, a delta angle of 20°10'18" and being subtended by a chord bearing S 49°05'25" W for a distance of 323.97 feet; thence coincident with the arc of said curve a distance of 325.64 feet to a point coincident with the Southerly boundary of a Perpetual Easement as recorded in Official Records Book 4280, Page 3691 of the Public Records of Lee County, Florida; thence coincident with said Southerly boundary for the following four (4) courses: 1.) N 13°08'19" E a distance of 785.97 feet; 2.) thence N 88°36'44" E a distance of 521.39 feet; 3.) thence N 20°10'36" E a distance of 330.53 feet; 4.) thence S 75°33'56" E a distance of 161.31 feet to a point coincident with aforesaid East boundary of the Southwest 1/4 of Section 26; thence departing said Southerly boundary, coincident with said East Boundary, S 01°29'50" E a distance of 177.63 feet to the POINT OF BEGINNING.

Containing an area of 283392.91 square feet, 6.506 acres, more or less.

PROJECT NO.: 20140021
PHASE: 3SK1_FRP-CA
FIELD DATE: N/A



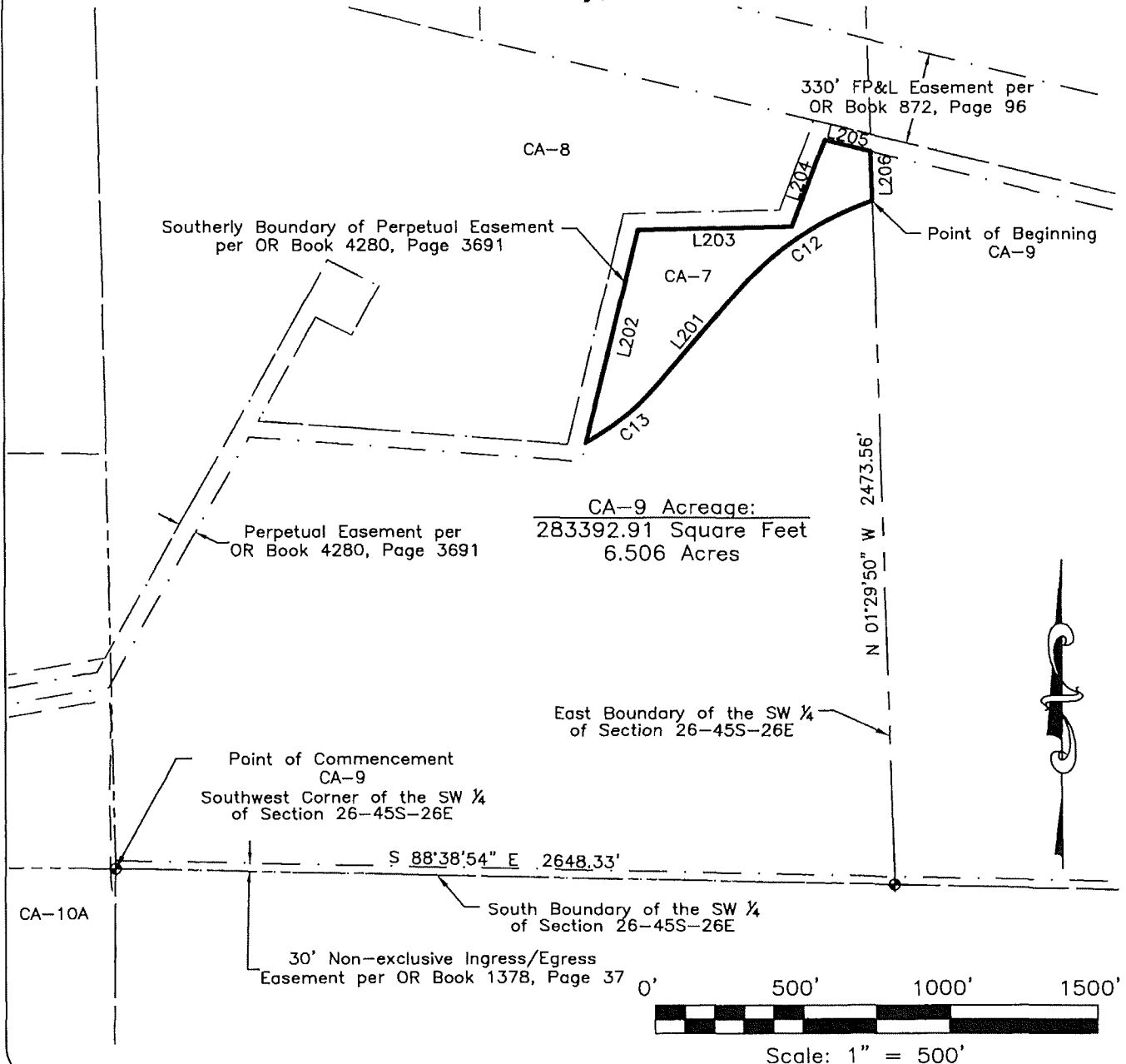
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Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Legal Description: As Written by SurvTech Solutions

CA-10A

A parcel of land lying and being in Sections 27 and 34, Township 45 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at a point marking the Southeast corner of the Southeast 1/4 of Section 34, Township 45 South, Range 26 East, Lee County, Florida; thence coincident with the East boundary of the Southeast 1/4 of said Section 34, N 00°50'24" E a distance of 2547.60 feet to a point marking the Northeast corner of the Southeast 1/4 of said Section 34; thence coincident with the East boundary of the Northeast 1/4 of said Section 34, N 00°27'51" E a distance of 524.30 feet to the POINT OF BEGINNING; thence departing said East Boundary, N 70°33'10" W a distance of 183.39 feet; thence N 87°02'21" W a distance of 439.77 feet; thence S 75°02'59" W a distance of 63.09 feet; thence S 13°55'22" E a distance of 46.00 feet; thence S 16°52'05" W a distance of 57.89 feet; thence S 88°44'19" W a distance of 84.31 feet; thence N 88°37'53" W a distance of 161.47 feet; thence S 89°14'20" W a distance of 111.41 feet; thence S 87°42'04" W a distance of 128.62 feet; thence N 70°15'35" W a distance of 52.33 feet; thence N 07°35'39" W a distance of 68.39 feet; thence N 00°38'25" E a distance of 63.98 feet; thence N 46°33'07" W a distance of 50.78 feet; thence N 79°59'47" W a distance of 115.55 feet; thence N 67°25'35" W a distance of 288.77 feet; thence S 85°44'17" W a distance of 381.99 feet; thence N 86°15'34" W a distance of 148.96 feet; thence N 83°08'03" W a distance of 197.36 feet; thence N 82°07'43" W a distance of 202.50 feet; thence N 82°53'16" W a distance of 148.89 feet; thence N 84°39'30" W a distance of 81.43 feet; thence N 04°27'59" W a distance of 427.55 feet; thence S 89°44'19" W a distance of 140.18 feet; thence N 00°15'41" W a distance of 561.46 feet to a point coincident with a tangent curve concave to the Southeast, said curve having a radius of 924.96 feet, a delta angle of 80°01'52" and being subtended by a chord bearing N 39°45'15" E for a distance of 1189.49 feet; thence coincident with the arc of said curve a distance of 1291.99 feet; thence N 79°46'11" E a distance of 216.13 feet to a point coincident with the Southerly boundary of a Perpetual Easement as recorded in Official Records Book 4280, Page 3691 of the Public Records of Lee County, Florida; thence coincident with said Southerly boundary for the following seven (7) courses: 1.) S 10°15'23" E a distance of 744.90 feet; 2.) thence S 79°44'37" W a distance of 70.00 feet; 3.) thence S 10°15'23" E a distance of 199.99 feet; 4.) thence N 79°44'37" E a distance of 199.99 feet; 5.) thence N 10°15'23" W a distance of 199.99 feet; 6.) thence S 79°44'37" W a distance of 70.00 feet; 7.) thence N 10°15'23" W a distance of 744.87 feet; thence departing said Southerly boundary, N 79°46'11" E a distance of 1966.50 feet; thence S 04°24'14" E a distance of 77.02 feet; thence S 01°22'47" W a distance of 209.60 feet; thence S 01°47'23" W a distance of 77.81 feet; thence S 01°40'35" E a distance of 101.57 feet; thence S 00°07'54" E a distance of 52.25 feet; thence S 00°54'16" W a distance of 95.31 feet; thence S 04°54'30" E a distance of 79.28 feet; thence S 18°34'43" E a distance of 35.49 feet to a point coincident with aforesaid East boundary of the Northeast 1/4 of Section 34; thence coincident with said East boundary, S 00°27'51" E a distance of 1910.87 feet to the POINT OF BEGINNING.

Containing an area of 6288216.28 square feet, 144.358 acres, more or less.

PROJECT NO.: 20140021
 PHASE: JSK1_FRP-CA
 FIELD DATE: N/A



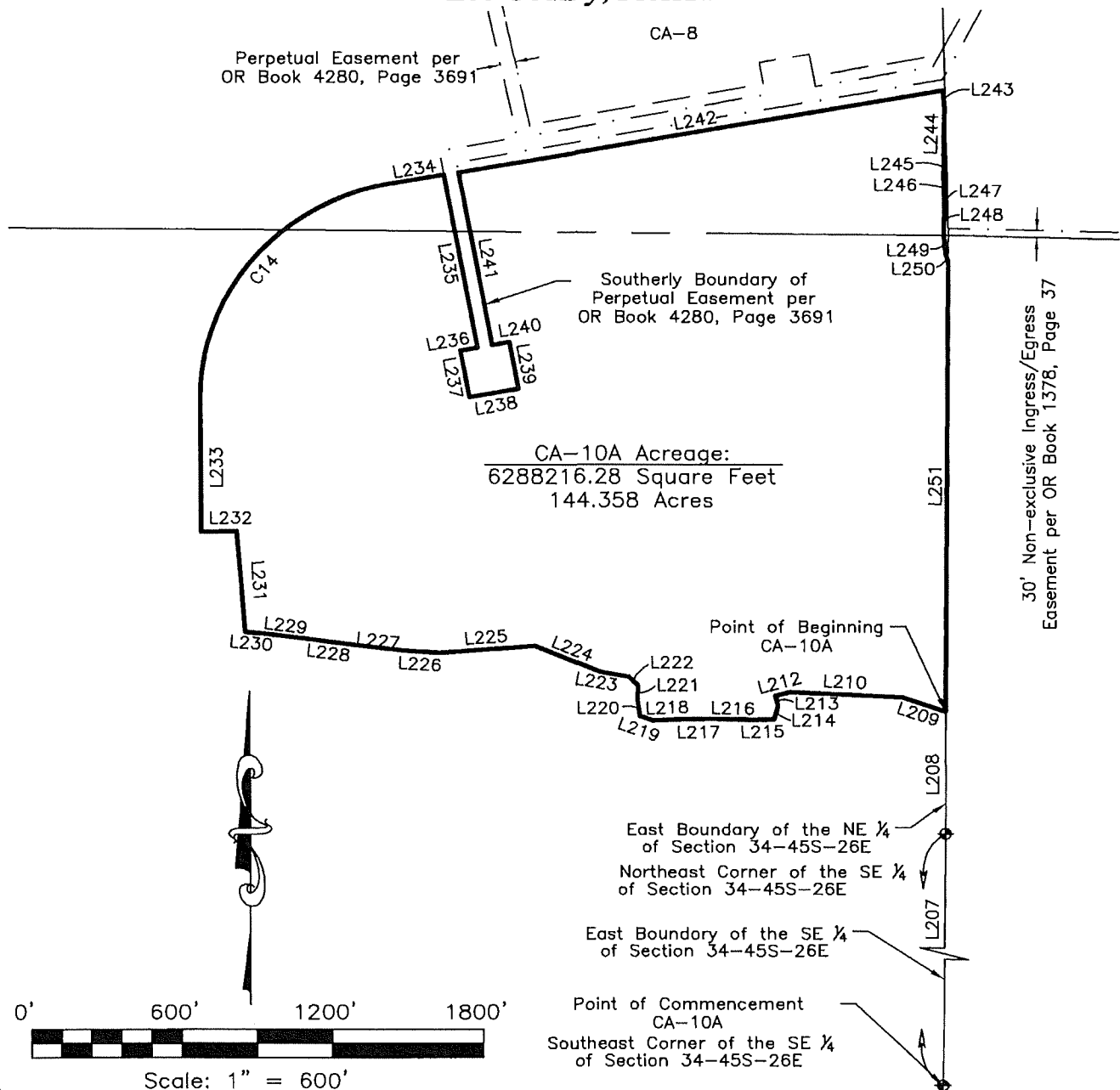
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 FIELD DATE: N/A



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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

LINE	BEARING	DISTANCE
L1	N 00°09'43" E	2612.90'
L2	N 00°09'43" E	2612.90'
L3	N 00°34'13" W	339.70'
L4	S 48°37'45" W	149.58'
L5	N 75°50'23" W	1578.04'
L6	N 51°20'56" W	1054.06'
L7	S 89°52'29" W	200.11'
L8	N 00°07'50" W	219.37'
L9	S 89°38'52" E	4202.94'
L10	S 80°21'49" W	1201.62'
L11	N 33°34'21" W	42.62'
L12	S 56°25'39" W	199.99'
L13	S 33°34'21" E	545.23'
L14	S 48°37'45" W	617.47'
L15	N 00°34'13" W	989.05'
L16	N 89°25'47" E	379.29'
L17	N 23°23'44" E	266.99'
L18	N 80°21'49" E	287.34'
L19	N 33°34'21" W	282.27'
L20	S 89°31'26" E	25.06'
L21	N 13°59'51" W	103.98'
L22	N 47°39'49" W	122.26'
L23	N 48°37'45" E	761.54'
L24	S 30°47'11" E	45.80'
L25	S 49°30'22" E	87.49'
L26	S 81°56'28" W	867.08'
L27	S 13°59'51" E	41.77'
L28	N 89°54'35" W	2666.09'
L29	N 00°07'50" W	895.10'
L30	S 17°25'31" E	1771.10'
L31	S 16°46'28" W	1178.86'
L32	N 76°18'30" W	139.90'
L33	S 13°41'30" W	199.99'
L34	S 76°18'30" E	129.13'
L35	S 16°46'28" W	432.35'
L36	N 00°07'31" W	2529.14'
L37	N 00°09'43" E	60.00'
L38	N 00°09'43" E	140.02'
L39	S 89°08'25" W	200.02'
L40	S 00°09'43" W	140.02'
L41	S 89°08'25" W	2340.36'
L42	N 00°19'57" W	139.44'
L43	N 23°23'29" W	100.24'
L44	N 00°07'47" W	277.29'
L45	N 75°45'25" E	54.25'
L46	N 85°29'43" E	110.91'
L47	N 64°01'08" E	54.54'
L48	N 51°44'37" E	95.25'
L49	N 39°09'48" E	232.79'
L50	N 31°07'23" E	106.61'

LINE	BEARING	DISTANCE
L51	N 56°10'21" E	82.64'
L52	N 07°20'08" W	172.45'
L53	N 03°03'16" E	52.75'
L54	N 13°00'36" E	88.83'
L55	N 33°27'18" E	119.75'
L56	N 18°11'41" E	181.67'
L57	N 14°36'28" E	102.54'
L58	N 27°18'39" E	141.12'
L59	N 14°47'19" E	125.67'
L60	N 27°24'46" W	481.98'
L61	N 18°23'16" W	67.10'
L62	N 06°41'56" W	70.92'
L63	N 13°55'54" W	118.87'
L64	N 22°32'26" W	146.82'
L65	N 07°31'33" E	32.19'
L66	N 24°40'18" E	53.23'
L67	N 31°21'21" E	107.26'
L68	N 42°34'37" E	107.24'
L69	N 17°33'53" E	154.60'
L70	N 34°58'12" E	79.63'
L71	N 06°20'19" E	42.80'
L72	N 08°45'34" E	43.92'
L73	N 08°43'27" E	36.22'
L74	N 47°48'45" E	63.03'
L75	N 66°09'45" E	60.25'
L76	N 69°43'28" E	125.82'
L77	N 81°04'48" E	71.72'
L78	S 89°54'20" E	147.12'
L79	S 73°07'40" E	86.83'
L80	S 63°00'19" E	65.12'
L81	S 53°33'53" E	383.83'
L82	S 78°25'53" E	194.17'
L83	N 62°05'10" E	210.59'
L84	N 61°44'44" E	159.77'
L85	N 26°37'21" E	195.32'
L86	N 30°01'10" E	85.17'
L87	N 00°04'32" E	208.86'
L88	N 04°47'41" W	125.26'
L89	N 26°12'12" W	235.63'
L90	N 17°51'54" W	246.87'
L91	N 04°05'00" W	283.66'
L92	N 15°40'52" E	56.24'
L93	N 74°56'43" E	58.88'
L94	N 02°57'25" E	160.89'
L95	N 04°00'24" E	204.94'
L96	N 10°19'58" E	189.01'
L97	N 13°39'39" E	80.14'
L98	N 81°56'28" E	1174.48'
L99	S 14°16'05" W	362.31'
L100	S 15°24'22" W	148.77'

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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

LINE	BEARING	DISTANCE
L101	S 23°59'21" W	210.39'
L102	S 16°44'10" W	100.91'
L103	S 16°40'13" W	196.34'
L104	S 14°52'27" W	222.40'
L105	S 14°13'44" W	53.78'
L106	S 15°14'28" E	73.96'
L107	S 32°49'32" E	54.86'
L108	S 31°40'11" E	57.36'
L109	S 46°56'04" E	96.56'
L110	S 59°43'44" E	162.74'
L111	S 77°41'08" E	186.64'
L112	S 89°38'31" E	167.68'
L113	N 70°00'48" E	180.14'
L114	N 64°19'52" E	83.33'
L115	N 51°25'25" E	77.69'
L116	N 47°35'14" E	84.01'
L117	N 86°29'38" E	87.63'
L118	N 81°06'29" E	33.78'
L119	S 88°27'23" E	46.96'
L120	N 79°28'18" E	69.69'
L121	N 62°06'08" E	45.42'
L122	N 48°19'30" E	37.35'
L123	N 48°19'30" E	38.08'
L124	N 53°55'28" E	64.30'
L125	S 06°25'26" E	229.35'
L126	S 08°27'51" W	65.16'
L127	S 10°17'53" W	253.33'
L128	S 10°51'38" W	128.15'
L129	S 10°38'53" W	172.96'
L130	S 09°25'43" W	91.00'
L131	S 11°37'27" W	123.56'
L132	S 09°01'52" W	78.56'
L133	S 20°42'24" W	64.01'
L134	S 13°16'22" E	1339.01'
L135	S 04°57'49" W	198.44'
L136	S 19°16'11" W	115.02'
L137	S 00°00'00" E	709.83'
L138	S 89°30'47" W	2308.11'
L139	N 89°30'47" E	2303.20'
L140	S 26°36'39" W	385.09'
L141	S 61°00'41" E	120.10'
L142	S 26°36'40" W	831.76'
L143	S 77°30'24" E	27.03'
L144	N 87°27'55" E	27.90'
L145	S 79°05'14" E	72.46'
L146	N 85°42'42" E	37.78'
L147	S 21°54'41" E	34.71'
L148	N 66°11'09" E	33.22'
L149	S 69°57'17" E	45.91'
L150	S 05°20'59" E	56.47'

LINE	BEARING	DISTANCE
L151	S 63°09'19" W	46.65'
L152	N 32°17'09" W	36.20'
L153	S 06°49'30" E	75.19'
L154	S 30°33'14" W	35.76'
L155	N 80°02'01" W	52.05'
L156	N 85°13'07" W	58.58'
L157	S 70°46'35" W	54.77'
L158	S 75°33'44" W	49.26'
L159	S 29°34'16" E	769.23'
L160	N 80°39'20" E	295.29'
L161	S 01°22'15" E	755.37'
L162	S 82°28'10" W	36.75'
L163	S 23°44'25" W	468.65'
L164	N 88°50'59" W	127.24'
L165	S 88°50'59" E	626.77'
L166	N 88°43'31" W	1527.93'
L167	N 01°19'10" W	3087.90'
L168	N 01°19'26" W	2286.54'
L169	S 89°08'25" W	2662.40'
L170	S 89°08'25" W	2621.57'
L171	N 01°05'50" W	959.38'
L172	N 89°08'25" E	2640.09'
L173	N 89°08'25" E	2640.09'
L174	N 01°22'15" W	100.10'
L175	N 88°43'31" W	668.40'
L176	S 01°22'15" E	1025.67'
L177	N 01°01'34" W	1499.94'
L178	N 01°01'34" W	1162.64'
L179	N 01°01'41" W	666.73'
L180	S 75°33'56" E	1359.72'
L181	N 01°15'53" W	2348.72'
L182	N 89°22'41" E	1300.84'
L183	S 01°29'50" E	2702.84'
L184	N 75°33'56" W	198.45'
L185	S 20°10'36" W	344.00'
L186	S 88°36'44" W	527.02'
L187	S 13°08'19" W	852.25'
L188	N 85°29'28" W	1061.60'
L189	N 27°55'18" E	423.31'
L190	S 62°04'42" E	139.99'
L191	N 27°55'18" E	199.99'
L192	N 62°04'42" W	199.99'
L193	S 27°55'18" W	1617.80'
L194	S 79°46'11" W	506.43'
L195	N 10°15'23" W	93.51'
L196	S 79°44'37" W	199.99'
L197	S 10°15'23" E	93.42'
L198	S 79°46'11" W	956.43'
L199	N 11°51'24" W	1062.24'
L200	S 89°38'52" E	1859.58'

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Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

LINE	BEARING	DISTANCE
L201	S 39°00'16" W	418.44'
L202	N 13°08'19" E	785.97'
L203	N 88°36'44" E	521.39'
L204	N 20°10'36" E	330.53'
L205	S 75°33'56" E	161.31'
L206	S 01°29'50" E	177.63'
L207	N 00°50'24" E	2547.60'
L208	N 00°27'51" E	524.30'
L209	N 70°33'10" W	183.39'
L210	N 87°02'21" W	439.77'
L211	Omitted	N/A
L212	S 75°02'59" W	63.09'
L213	S 13°55'22" E	46.00'
L214	S 16°52'05" W	57.89'
L215	S 88°44'19" W	84.31'
L216	N 88°37'53" W	161.47'
L217	S 89°14'20" W	111.41'
L218	S 87°42'04" W	128.62'
L219	N 70°15'35" W	52.33'
L220	N 07°35'39" W	68.39'
L221	N 00°38'25" E	63.98'
L222	N 46°33'07" W	50.78'
L223	N 79°59'47" W	115.55'
L224	N 67°25'35" W	288.77'
L225	S 85°44'17" W	381.99'

LINE	BEARING	DISTANCE
L226	N 86°15'34" W	148.96'
L227	N 83°08'03" W	197.36'
L228	N 82°07'43" W	202.50'
L229	N 82°53'16" W	148.89'
L230	N 84°39'30" W	81.43'
L231	N 04°27'59" W	427.55'
L232	S 89°44'19" W	140.18'
L233	N 00°15'41" W	561.46'
L234	N 79°46'11" E	216.13'
L235	S 10°15'23" E	744.90'
L236	S 79°44'37" W	70.00'
L237	S 10°15'23" E	199.99'
L238	N 79°44'37" E	199.99'
L239	N 10°15'23" W	199.99'
L240	S 79°44'37" W	70.00'
L241	N 10°15'23" W	744.87'
L242	N 79°46'11" E	1966.50'
L243	S 04°24'14" E	77.02'
L244	S 01°22'47" W	209.60'
L245	S 01°47'23" W	77.81'
L246	S 01°40'35" E	101.57'
L247	S 00°07'54" E	52.25'
L248	S 00°54'16" W	95.31'
L249	S 04°54'30" E	79.28'
L250	S 18°34'43" E	35.49'
L251	S 00°27'51" W	1910.87'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	474.98'	620.74'	577.50'	S 23°49'00" W	74°52'43"
C2	474.98'	549.11'	519.04'	S 49°41'57" E	66°14'17"
C3	1077.06'	119.41'	119.35'	S 03°14'41" E	6°21'07"
C4	924.96'	129.54'	129.44'	S 02°24'42" E	8°01'28"
C5	1439.94'	410.32'	408.94'	S 18°55'19" W	16°19'37"
C6	1439.94'	793.39'	783.39'	S 13°47'12" E	31°34'09"
C7	1559.94'	929.01'	915.35'	S 09°31'26" W	34°07'20"
C8	1439.94'	58.74'	58.74'	S 22°34'17" W	2°20'15"
C9	1559.94'	251.15'	250.88'	S 15°10'21" W	9°13'29"
C10	924.96'	1402.84'	1272.20'	S 47°49'34" W	86°53'50"
C11	1074.96'	1270.84'	1198.11'	N 32°29'50" E	67°44'11"
C12	1074.96'	580.32'	573.30'	S 54°28'12" W	30°55'54"
C13	924.96'	325.64'	323.97'	S 49°05'25" W	20°10'18"
C14	924.96'	1291.99'	1189.49'	N 39°45'15" E	80°01'52"

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Sketch & Description
Florida Rock Properties Conservation Areas
Sections 26, 27, 28, 33 & 34, Township 45 South, Range 26 East
Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Existing Easement Rights:

- a. Grant of Easement to GAC Utilities, Inc., recorded in Official Records Book 933, Page 667 (Conveyed April 23, 1973), assigned in Official Records Book 1091, Page 2159 (Conveyed June 11, 1975) and Official Records Book 1172, Page 1186 (Conveyed December 8, 1976), as modified by instrument recorded in Official Records Book 4280, page 3687 (Conveyed April 27, 2004). Does not affect subject property. Rights released per Official Records Book 4280, Page 3687.
- b. Perpetual Easement Grant to Lee County recorded in Official Records Book 1912, Page 4396 (Recorded April 29, 1987). Blanket in nature, not plotted.
- c. Monitoring Access Easement Grant Agreement in favor of Lee County, recorded in Official Records Book 4280, Page 3681 (Conveyed April 27, 2004). Affects subject property, blanket in nature over Sections 26, 27, 28, 33, 34, 35 & 36, Township 45 South, Range 26 East and Sections 31 & 32, Township 45 South, Range 27 East. Not Plotted.
- d. Easement granted to Florida Power & Light Company recorded in Official Records Book 1577, Page 1505 (Conveyed January 18, 1982). Does not affect subject property. Easement depicted hereon for informational purposes.
- e. Easement granted to Florida Power & Light Company recorded in Official Records Book 872, Page 96 (Conveyed October 31, 1972). Affects subject property (CA-8) as depicted hereon.
- f. Reservations contained in deed recorded in Official Records Book 311, page 873 (Conveyed July 30, 1965). Affects subject property, blanket in nature over Sections 27, 28, 33 & 34, Township 45 South, Range 26 East. Not plotted.
- g. Perpetual Easement Grant to Lee County recorded in Official Records Book 4280, Page 3691 (Conveyed April 27, 2004). Does not affect subject property. Easement depicted hereon for informational purposes.
- h. Easement for utility purposes recorded in Official Records Book 1576, Page 538 (Conveyed January 18, 1982). Does not affect subject property. Easement depicted hereon for informational purposes.
- i. Non-exclusive road easement recorded in Official Records Book 1525, Page 2391 (Conveyed June 4, 1981), Official Records Book 1541, Page 1154 (Conveyed August 24, 1981), and Official Records Book 1888, page 1218. Does not affect subject property. Easement depicted hereon for informational purposes.
- j. Easement granted to Florida Power and Light Co. recorded in Official Records Book 1577, Page 1505 (Conveyed January 18, 1982). Does not affect subject property. Easement depicted hereon for informational purposes.
- k. Non-exclusive easements for ingress and egress contained in deeds recorded in Official Records Book 1345, Page 1924 (Conveyed April 17, 1979), and as subsequently conveyed and as affected by Quit Claim Deed recorded in official Record Book 2584, Page 3986 (Conveyed December 23, 1994); and Conservation easement recorded in Official records Book 2928, Page 1792 (Conveyed November 1, 1996). Does not affect subject property.
- l. Grant of easement recorded in Official Records Book 1508, page 151 (Conveyed August 19, 1980). Does not affect subject property.
- m. Easement to Florida Power and Light Company recorded in Official Records Book 1561, page 2244 (Conveyed October 30, 1981). Does not affect subject property. Easement depicted hereon for informational purposes.

CONTINUED ON SHEET 27...

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Florida Rock Properties Conservation Areas
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Sections 3 & 4, Township 46 South, Range 26 East
Lee County, Florida

Existing Easement Rights: (Continued from Sheet 26)

- n. Non-exclusive easement for ingress and egress contained in deed recorded in Official Record Book 1378, page 37 (Conveyed September 20, 1979), and as subsequently conveyed. Affects subject property (CA-8) as depicted hereon.
- o. Non-exclusive easement recorded in Official Record Book 2007, page 3088 (Conveyed August 2, 1988). Does not affect subject property.
- p. Right of way easements to Lee County Electric Cooperative recorded in Official Records Book 1054, page 766 (Conveyed September 9, 1974), Official records Book 1047, page 1350 (Conveyed July 16, 1974), Official Records Book 1233, page 1662 (Conveyed October 12, 1977). Does not affect subject property.
- q. Right of way Agreement to Florida Power and Light Company recorded in Official Record Book 291, page 206 (Conveyed January 8, 1965), as affected by Quit Claim Deed recorded in Official Record Book 293, page 679 (Conveyed March 23, 1965), and Supplement to Right of Way Agreement recorded in Official Records Book 780, page 570 (Conveyed February 9, 1972). Does not affect subject property.
- r. Grants of easement recorded in Official Record Book 1749, pages 825 and 826 (Conveyed September 25, 1984). Does not affect subject property.
- s. Right of Way Easement Agreement recorded in Official Records Book 1052, page 1292 (Conveyed June 19, 1974), and in Official Records Book 1091, Page 1 (Conveyed June 19, 1974). Affects subject property (CA-6) as depicted hereon.
- t. Waterline easement reserved in deed recorded in Official record Book 1699, page 4416 (Conveyed November 28, 1983). Affects subject property (CA-6) as depicted hereon.
- u. Deed of Conservation Easement recorded in Official Records Book 3324, Page 2715 (Conveyed November 6, 2000). Does not affect subject property.
- v. Right of way easement to Lee County Electric Cooperative recorded in Deed Book 277, Page 120 (Conveyed October 24, 1957). Does not affect subject property.
- w. Right of Way Agreement to Florida Power and Light Company recorded in Official Record Book 277, Page 302 (Conveyed September 15, 1964), and Supplement to Right of Way Agreement recorded in Official Record Book 707, Page 38 (Conveyed June 9, 1971). Does not affect subject property.

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EXHIBIT C
MANAGEMENT PLAN

**FORT MYERS MINE NO. 2
LEE COUNTY INDIGENOUS PRESERVE
MANAGEMENT PLAN**

OCTOBER 2015

Prepared for:

**Florida Rock Industries, Inc.
PO Box 4667
Jacksonville, FL 32201-4667**

Prepared by:



3919 Riga Blvd.
Tampa, Florida 33619
(KLF #137399)

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**FORT MYERS MINE NO. 2
LEE COUNTY INDIGENOUS PRESERVE
MANAGEMENT PLAN
SEPTEMBER 2015**

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TABLES

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EXHIBITS

Exhibit A:	Mitigation and Maintenance Phase Plan
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**FORT MYERS MINE NO. 2
LEE COUNTY INDIGENOUS PRESERVE
MANAGEMENT PLAN**

1.0 INTRODUCTION

The following outlines the Lee County indigenous preserve management plan for the Florida Rock Industries, Inc. Fort Myers Mine No. 2 located in Sections 26, 27, 28, 33, 34, 35, and 36, Township 45 South, Range 26 East; Sections 28, 31, 32, and 33, Township 45 South, Range 27 East; and Sections 3 and 4, Township 46 South, Range 26 East, Lee County. The Lee County preserves include the "Western Slough" located in Sections 26, 27, 28, 33, 34, and 35; Township 45 South; Range 26 East and Sections 3 and 4, Township 46 South, Range 26 East; the "Eastern Conservation Lands" located in Section 36, Township 45 South, Range 26 East and Sections 31 and 32, Township 45 South, Range 27 East; and other areas labeled "Preserve" on the Master Concept Plan.

Management activities for the Western Slough include the removal of exotics from the slough and adjacent uplands. Management activities for the Eastern Conservation Lands include the removal of exotics from wetlands and uplands, as well as, wetland creation and upland restoration within existing farm fields. A total of 436.5 acres of lake and reclaimed shoreline within Sections 31 and 32 will be made part of the Eastern Conservation Lands at post-mining. Management activities for the Preserve areas include the removal of exotics from wetlands and uplands. Agriculture is not an approved post-mining land use and therefore no agriculture will be allowed.

2.0 METHOD AND FREQUENCY OF PRUNING AND TRIMMING

Exotic removal is scheduled to begin after applicable permits and approvals have been attained. Due to the size of the Lee County preserves, the removal of exotics will be phased and conducted over a period of 19 years in accordance with Exhibit A. The initial exotic removal within the Western Slough and the adjacent Preserve areas will be conducted over a period of five years from Years 1 through 5. The initial exotic removal of the Eastern Conservation Lands and the adjacent Preserve areas will be conducted over a period of four years from Years 11 through 14. Wetland creation and upland restoration, which involves grading of existing farm fields and installation of native plants within the Eastern Conservation Lands, will also occur in Years 11 through 14. Exotic maintenance of each phase will be conducted for a period of five years following the initial removal of exotics. Shoreline reclamation that includes creation of marsh habitat within Sections 31 and 32 of the Eastern Conservation Lands will be constructed upon completion of mining activities in those areas.

Exotic vegetation will be removed within all areas not impacted by the mining activity including areas not considered mitigation areas.

Following the completion of the initial exotic removal, regular inspections of the Lee County preserves will occur. Inspections will occur annually for a period of five years. During these

inspections, the preserve areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotics species will be identified for treatment. Annual maintenance will be conducted following the above-described inspections. Exotic maintenance within each phase of the preserves will be conducted annually in accordance with Exhibit A.

The management activities will be completed in accordance with the Florida Department of Environmental Protection (FDEP) and U.S. Army Corps of Engineers (Corps) permits for Fort Myers Mine No. 2.

3.0 REMOVAL AND CONTROL OF EXOTIC AND NUISANCE PLANTS

Prohibited invasive exotics will be eradicated from the Lee County preserves (Table 1). The selective removal of exotics will include one or more of the following methods: (1) cut exotics within 12 inches of ground elevation, hand remove cut vegetation, and treat remaining stump with approved herbicide; (2) girdle standing melaleuca (*Melaleuca quinquenervia*)/Australian pine (*Casuarina equisetifolia*) with diameter at breast height (DBH) greater than 6 inches and apply approved herbicide to cambium; (3) foliar application of approved herbicide to melaleuca/Australian pine saplings and Brazilian pepper (*Schinus terebinthifolius*)/downy rose myrtle (*Rhodomyrtus tomentosus*); and (4) foliar application of approved herbicide or hand pulling of exotic seedlings.

Table 1. Prohibited Invasive Exotic Vegetation

Common Name	Scientific Name
Air potato	<i>Dioscorea alata</i>
Australian pines	All <i>Casuarina</i> species
Bishopwood	<i>Bischofia javanic</i>
Brazilian pepper	<i>Schinus terebinthifolius</i>
Carrotwood	<i>Cupaniopsis anacardioides</i>
Chinese tallow	<i>Sapium sebiferum</i>
Cork tree	<i>Thespesia populnea</i>
Cuban laurel fig	<i>Ficus microcarpa</i>
Downy rose myrtle	<i>Rhodomyrtus tomentosus</i>
Earleaf acacia	<i>Acacia auriculiformis</i>
Japanese climbing fern	<i>Lygodium japonicum</i>
Java plum	<i>Syzygium cumini</i>
Melaleuca	<i>Melaleuca quinquenervia</i>
Murray red gum	<i>Eucalyptus camaldulensis</i>
Old world climbing fern	<i>Lygodium microphyllum</i>
Rose apple	<i>Syzygium jambos</i>
Rosewood	<i>Dalbergia sissoo</i>
Tropical soda apple	<i>Solanum viarum</i>

Table 1. (Continued)

Common Name	Scientific Name
Wedelia	<i>Wedelia trilobata</i>
Weeping fig	<i>Ficus benjamina</i>
Woman's tongue	<i>Albizia lebbbeck</i>

4.0 ADDITIONAL MANAGEMENT ACTIVITIES

4.1 Eastern Conservation Lands – Wetland Creation

A total of 20.87 acres of wetlands will be created from existing farm fields within the Eastern Conservation Lands in Years 11 and 12. Wetland creation will consist of three areas in accordance with the FDEP and Corps permits for Fort Myers Mine No. 2. The existing farm fields, including the ditches and berms, will be contoured to four inches below the final grades and a four inch layer of wetland topsoil will then be added to the contoured site in order to obtain final wetland grades. Wetland topsoil will be excavated from pre-approved donor sites within the FDEP and Corps permitted wetland impact areas. An as-built survey of the graded site will be performed to ensure the desired elevations have been obtained. After review and approval of the final grades, the area will be planted as shown in Table 2.

Table 2. Planting Schedule for Wetland Creation Areas

Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Instructions (On Center)
Arrowhead	<i>Sagittaria lancifolia</i>	12 in.	4 in.	3 ft.
Bulrush	<i>Scirpus validus</i>	12 in.	4 in.	3 ft.
Carolina willow	<i>Salix caroliniana</i>	12 in.	1 gal.	5 ft.
Cordgrass	<i>Spartina bakeri</i>	12 in.	4 in.	3 ft.
Fireflag	<i>Thalia geniculata</i>	12 in.	4 in.	3 ft.
Gulfdune paspalum	<i>Paspalum monostachyum</i>	12 in.	4 in.	3 ft.
Maidencane	<i>Panicum hemitomon</i>	12 in.	4 in.	3 ft.
Pickerelweed	<i>Pontederia cordata</i>	12 in.	4 in.	3 ft.
Sawgrass	<i>Cladium jamaicense</i>	12 in.	4 in.	3 ft.
Spatardock	<i>Nuphar advena</i>	24 in.	1 gal.	25 ft.
Spikerush	<i>Eleocharis interstincta</i>	12 in.	4 in.	3 ft.
Spikerush	<i>Eleocharis geniculata</i>	12 in.	4 in.	3 ft.

The goal of the wetland creation activities will be the construction of herbaceous wetlands in the Eastern Conservation Lands to establish additional wading bird habitat on-site. The created wetlands will be graded to varying depths to allow the concentration of prey for wading birds at alternating times of the year as water levels recede and rise. In addition, a willow island

surrounded by deeper water habitat will be created in one of the wetland creation areas to encourage the establishment of wading bird rookery sites.

4.2 Eastern Conservation Lands – Upland Restoration

A total of 149.48 acres of existing farm fields within the Eastern Conservation Lands will be restored to native uplands in Years 11 through 14. Restoration will include backfilling ditches and contouring the existing farm fields to the grades in accordance with the FDEP and Corps permits for Fort Myers Mine No. 2. The graded uplands will be contoured to aid sheet flow to existing and created wetlands. An as-built survey of the graded uplands will be performed to ensure the desired elevations have been obtained. After review and approval of the final grades, the area will be seeded with native grass seed to stabilize the soil and then planted as shown in Table 3. The native grass species for soil stabilization will be dependent on availability at the time of seeding.

Table 3. Planting Schedule for Upland Restoration Areas

Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Instructions (On Center)
Slash pine	<i>Pinus elliottii</i>	Seedling	–	15 ft.
Saw palmetto	<i>Serenoa repens</i>	12 in.	1 gal.	15 ft.
Wire grass	<i>Aristida stricta</i>	12 in.	4 in.	15 ft.

4.3 Western Slough and Eastern Conservation Lands – Agriculture Use and Prescribed Fire

All agricultural uses including the use of livestock in conservation easement areas will cease upon issuance of a Mining Operation Permit (MOP) for the adjacent mining. Prescribed fire may be implemented as a management tool for the uplands within the preserves. A detailed prescribed fire management plan will be developed as needed.

5.0 DEBRIS REMOVAL

Cuttings will be removed from the site or left on the site. If left on the site, smaller cuttings will be stacked butt end to the ground into a nearly vertical position (i.e., teepee method). Larger cuttings will be cut and stacked side by side into an area approximately six feet on a side. Cuttings will be stacked perpendicular to the previous layer up to a height of approximately four feet (i.e., log cabin method).

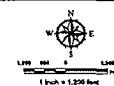
6.0 PROTECTED SPECIES MANAGEMENT PLANS

Prior to the issuance of a Mining Development Order and MOP for all or a portion of the property, a protected species survey will be conducted in accordance with the provisions of the Land Development Code (LDC) and submitted for review and approval by Division of Environmental Sciences (DES). The protected species survey will include the adjoining preserves adjacent to the lake excavation. The approved survey will be valid for five years. A protected species management plan per LDC 10-474 will be prepared and submitted for review and approval

by the DES or its successor for any protected species found on the parcel during the protected species survey or during operation of the mine.

7.0 MONITORING REPORTS

Monitoring reports for each mitigation/maintenance phase, including a narrative documenting the conditions of the Lee County preserves, along with photographic documentation will be submitted to DES staff. A monitoring report for each phase will be submitted prior to Development Order approval to document existing conditions within that phase. Prior to the Certificate of Compliance (CC) approval, subsequent monitoring reports for each phase will be completed to document ecological management activities that have occurred. If review of the monitoring reports reveal death or significant decline to preserve vegetation, then revision of the management plan may be required.



unimpaired, hardly easily but this map is correct, and
 shows the information required by the requirements of the Law

KLEINFELDER

RECEIVED JANUARY 11 1966

LONDON: HODDER & STOUGHTON, 1960.
Pp. 214. 10s. 6d. (hbk). 5s. 6d. (pbk).
No. 2 in the series 'The World of the Future'.

NOTES:

- FUTURE RESERVE: TO THE EXTENT ALLOWABLE BY LAW, GRANTOR RESERVES ALL CREDITABLE GREENHOUSE GAS CREDITS, BY THIS OR ANY OTHER NAME, THAT MAY BE ALLOWED UNDER FEDERAL, STATE OR LOCAL LAW, TO BE TRANSFERRED TO THEIR PROJECT OR ACTIVITIES, PROVIDED THAT THE TRANSFER OF SUCH CREDITS SHALL NOT BE IN ANY MANNER ADVERSELY AFFECT OR IMPAIR THE CONSERVATION VALUES OF THE PROPERTY UNDER THE CONSERVATION EASEMENT.
- THE PHASES ON THIS PLAN MAY BE CHANGED BY SUBMITTING AN UPDATED PLAN TO THE AGENCIES. PHASES MAY CHANGE BASED ON AUSTIN CITY OWNERS ON-SITE MITIGATION NEEDS OR BY REQUEST OF LEE COUNTY.
- PASSARELLA AND ASSOCIATES, INC. DEFINED ALL MITIGATION PLAN DETAILS

[illegible]

- Indicates total erosion removal (Western Slope)
- Indicates grading, planting, and total erosion removal (Eastern Conservation Lands)
- Indicates annual maintenance

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EXHIBIT E

DEED OF CONSERVATION EASEMENT THIRD PARTY BENEFICIARY RIGHTS TO USACE

Prepared by:

Lee County
PO Box 398
Fort Myers, Florida 33902-0398

STRAP Number: 04-46-26-00-00001.0000

THIS DEED OF CONSERVATION EASEMENT is given this 7th day of March, 2017, by Lee County, a political subdivision of the State of Florida ("Grantor") whose mailing address is PO Box 398 Fort Myers, FL 33902 to South Florida Water Management District ("Grantee") with third party enforcement rights to the U. S. Army Corps of Engineers ("Third Party Beneficiary"). As used herein, the term "Grantor" shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Conservation Easement Area" (as hereinafter defined); the term "Grantee" shall include any successor or assignee of Grantee; and the term "Third Party Beneficiary" shall include any successor or assignee of the Third Party Beneficiary.

WITNESSETH

WHEREAS, the Grantor is the fee simple owner of a 556.2424± acre parcel of land located in Section 4, Township 46 South, Range 26 East, in Lee County, Florida; and

WHEREAS, Permit No. 36-07992-P ("Permit") and any modifications thereto issued by the Grantee authorizes certain activities which could affect wetlands or other surface waters in or of the State of Florida; and

WHEREAS, the U.S. Army Corps of Engineers Permit No. SAJ-2007-05662 (NWP-WDD) (Corps Permit) authorizes certain activities in the waters of the United States and requires this site protection instrument over the lands identified in Exhibit "A" as mitigation for such activities; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit or other good and valuable consideration provided to Grantor, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes (F.S.), over the area of the Property described on Exhibit "A" ("Conservation Easement Area"); and

WHEREAS, Grantor grants this Conservation Easement as a condition of the Permit, solely to off-set or prevent adverse impacts to natural resources, fish and wildlife, and wetland functions; and

WHEREAS, Grantor desires to preserve the Conservation Easement Area in perpetuity in its natural condition, or, in accordance with the Permit, in an enhanced, restored, or created condition; and

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration provided to the Grantor, the adequacy and receipt of which are hereby acknowledged, Grantor hereby voluntarily grants, creates, conveys, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the Conservation Easement Area which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.



The scope, nature, and character of this Conservation Easement shall be as follows:

1. Recitals. The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. Purpose. It is the purpose of this Conservation Easement to retain land or water areas in their existing, natural, vegetative, hydrologic, scenic, open or wooded condition and to retain such areas as suitable habitat for fish, plants, or wildlife in accordance with Section 704.06, F.S. Those wetland and upland areas included in this Conservation Easement which are to be preserved, enhanced, restored, or created pursuant to the Permit (or any modification thereto) and any Management Plan attached hereto as Exhibit "C" ("Management Plan") which has been approved in writing by the Grantee, shall be retained and maintained in the preserved, enhanced, restored, or created condition required by the Permit (or any modification thereto).

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Conservation Easement Area at reasonable times with any necessary equipment or vehicles to inspect, determine compliance with the covenants and prohibitions contained in this easement, and to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Conservation Easement Area by Grantor at the time of such entry; and

b. To proceed at law or in equity to enforce the provision of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and to require the restoration of such areas or features of the Conservation Easement Area that may be damaged by any activity or use that is inconsistent with this Conservation Easement.

3. Prohibited Uses. Except for activities that are permitted or required by the Permit (or any modification thereto) (which may include restoration, creation, enhancement, maintenance, and monitoring activities, or surface water management improvements) or other activities described herein or in the Management Plan (if any), any activity on or use of the Conservation Easement area inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities are expressly prohibited in or on the Conservation Easement Area (except as authorized or required by the Permit (or any modification thereof) or in a Management Plan which has been approved in writing by the Grantee):

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removing, destroying or trimming trees, shrubs, or other vegetation, except:

i. The removal of dead trees and shrubs or leaning trees that could cause damage property is authorized;

ii. The destruction and removal of noxious, nuisance or exotic invasive plant species as listed on the most recent Florida Exotic Pest Plant Council's List of Invasive Species is authorized;

iii. Activities authorized by the Permit or described in the Management Plan or otherwise approved in writing by the Grantee are authorized; and

iv. Activities conducted in accordance with a wildfire mitigation plan developed with the Florida Forest Service that has been approved in writing by the Grantee are authorized. No later than thirty (30) days before commencing any activities to implement the approved wildfire mitigation plan,

Grantor shall notify the Grantee in writing of its intent to commence such activities. All such activities may only be completed during the time period for which the Grantee approved the plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural, restored, enhanced, or created condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking, clearing, and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas;
and

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. Grantor's Reserved Rights. Grantor reserves all rights as owner of the Conservation Easement Area, including the right to engage or to permit or invite others to engage in all uses of the Conservation Easement Area that are not prohibited herein and which are not inconsistent with the Permit (or any modification thereto), Management Plan, or the intent and purposes of this Conservation Easement.

5. Rights of the U.S. Army Corps of Engineers ("Corps"). The Corps, as a third-party beneficiary, shall have the right to enforce the terms and conditions of this Conservation Easement, including:

a. The right to take action to preserve and protect the environmental value of the Conservation Easement Area;

b. The right to prevent any activity on or use of the Conservation Easement Area that is inconsistent with the purpose of this Conservation Easement, and to require the restoration of areas or features of the Conservation Easement Area that may be damaged by any inconsistent activity or use;

c. The right to enter upon and inspect the Conservation Easement Area in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement; and

d. The right to enforce this Conservation Easement by injunction or proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and the right to require Grantor, or its successors or assigns, to restore such areas or features of the Conservation Easement Area that may be damaged by any inconsistent activity or use or unauthorized activities.

The Grantor, including their successors or assigns, shall provide the Corps at least 60 days advance notice in writing before any action is taken to amend, alter, release, or revoke this Conservation Easement. The Grantee shall provide reasonable notice and an opportunity to comment or object to the release or amendment to the U.S. Army Corps of Engineers. The Grantee shall consider any comments or objections from the U.S. Army Corps of Engineers when making the final decision to release or amend this Conservation Easement.

6. No Dedication. No right of access by the general public to any portion of the Conservation Easement Area is conveyed by this Conservation Easement.

7. Grantee's and Third Party Beneficiary's Liability. Grantee's liability is limited as provided in Subsection 704.06(10) and Section 768.28, F.S. Additionally, Grantee and Third Party Beneficiary shall not be responsible for any costs or liabilities related to the operation, upkeep, or maintenance of the Conservation Easement Area.

8. Enforcement. Enforcement of the terms, provisions and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

9. Third Party Beneficiary's Enforcement Rights. The Third Party Beneficiary of this Conservation Easement shall have all the rights of the Grantee under this Conservation Easement, including third party enforcement rights of the terms, provisions and restrictions of this Conservation Easement. Third Party Beneficiary's enforcement of the terms, provisions and restrictions shall be at the discretion of the Third Party Beneficiary, and any forbearance on behalf of the Third Party Beneficiary to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Third Party Beneficiary's rights hereunder. Third Party Beneficiary shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

10. Taxes. When perpetual maintenance is required by the Permit, Grantor shall pay before delinquency any and all taxes, assessments, fees, and charges of whatever description levied on or assessed by competent authority on the Conservation Easement Area, and shall furnish the Grantee with satisfactory evidence of payment upon request.

11. Assignment. Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

12. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

13. Terms and Restrictions. Grantor shall insert the terms and restrictions of this Conservation Easement (or incorporate the terms and restrictions by reference) in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Conservation Easement.

14. Written Notice. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

15. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in LEE County, Florida.

16. Recordation. Grantor shall record this Conservation Easement in timely fashion in the Official Records of LEE County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.

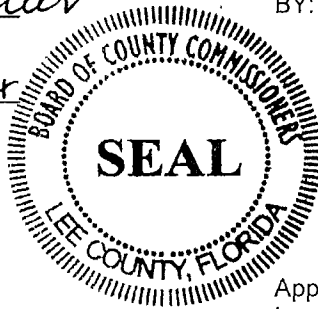
TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Conservation Easement Area.

Grantor hereby covenants with Grantee that Grantor is lawfully seized of said Conservation Easement Area in fee simple; that the Conservation Easement is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; all mortgages and liens on the Conservation Easement area, if any, have been subordinated to this Conservation Easement; that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends record title to the Conservation Easement Area hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has hereunto set its authorized hand this 7th day of
March, 2017.

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

LINDA DOGGETT, CLERK
BY: Michelle Miller
Signature
Michelle Miller
[Type or Print Name]
Deputy Clerk



BY: John Manning
Signature
John Manning, Chair
[Type or Print Name]
Chair/Vice-Chair

Approved as to form for the Reliance of
Lee County only:

John DeGuz
Lee County Attorney's Office

Attached Exhibits:

Exhibit "A" - Legal Description and Sketch of Conservation Easement Area



E.F. Gaines Surveying Services, Inc.

EXHIBIT "A"

Page 1 of 2

DESCRIPTION

of a 556.424 +/- acre parcel of land located in
Section 4, Township 46 South, Range 26 East, Lee County, Florida

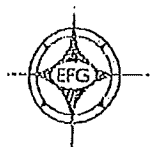
(Wild Turkey Strand Remainder Parcel)

All that part of Section 4, Township 46 South, Range 26 East, Lee County, Florida being more particularly described as follows:

BEGINNING at the southwest corner of said Section 4;
thence along the west line of the southwest one-quarter of said Section 4 N01°08'46"W for 3137.91 feet to the west one-quarter corner of said Section 4;
thence along the west line of the northwest one-quarter of said Section 4 N01°08'56"W for 2189.73 feet to a line which lies 959.405 feet southerly of, as measured at right angles to, and parallel with the north line of the northwest one-quarter of said Section 4;
thence along said parallel line N89°08'27"E for 2641.64 feet to a line which lies 959.405 feet southerly of, as measured at right angles to, and parallel with the north line of the northeast one-quarter of said Section 4;
thence along said parallel line N89°08'19"E for 2641.64 feet to the east line of the northeast one-quarter of said Section 4;
thence along said east line S01°19'24"E for 2286.64 feet to the east one-quarter corner of said Section 4;
thence along the east line of the southeast one-quarter of said Section 4 S01°19'13"E for 1917.79 feet to a line which lies 1319.318 feet northerly of, as measured at right angles to, and parallel with the south line of said Section 4;
thence along said parallel line N88°43'42"W for 3611.39 feet;
thence S60°00'26"E for 59.77 feet;
thence S56°07'08"E for 114.44 feet;
thence S49°07'04"E for 159.47 feet;
thence S34°43'47"E for 127.36 feet;
thence S26°44'22"E for 133.22 feet;
thence S13°52'02"E for 187.39 feet;
thence S22°58'21"W for 164.29 feet;
thence S25°53'39"W for 99.18 feet;
thence S13°57'46"W for 135.93 feet;
thence S13°37'39"W for 102.68 feet;
thence S74°54'46"W for 887.61 feet to the south line of said Section 4;

Continued on Page 2 of 2

5235 Ramsey Way, Suite 10, Fort Myers, Florida 33907
Phone: 239-418-0126 • Fax: 239-418-0127 • www.EFGaines.com



E.F. Gaines Surveying Services, Inc.

EXHIBIT "A"

Page 2 of 2

thence along said south line 4 N88°43'42"W for 1086.09 feet to the Point of Beginning of the parcel herein described.

Bearings are based on the south line of said Section 4 being S88°43'42"E.
Subject to easements, restrictions and reservations of record;
Containing 556.424 acres, more or less;

Prepared by:

E.F. Gaines Surveying Services, Inc.


Elizabeth F. Gaines, PSM FL Lic. No. 4576

Not valid unless signed and sealed (embossed) by the surveyor named above

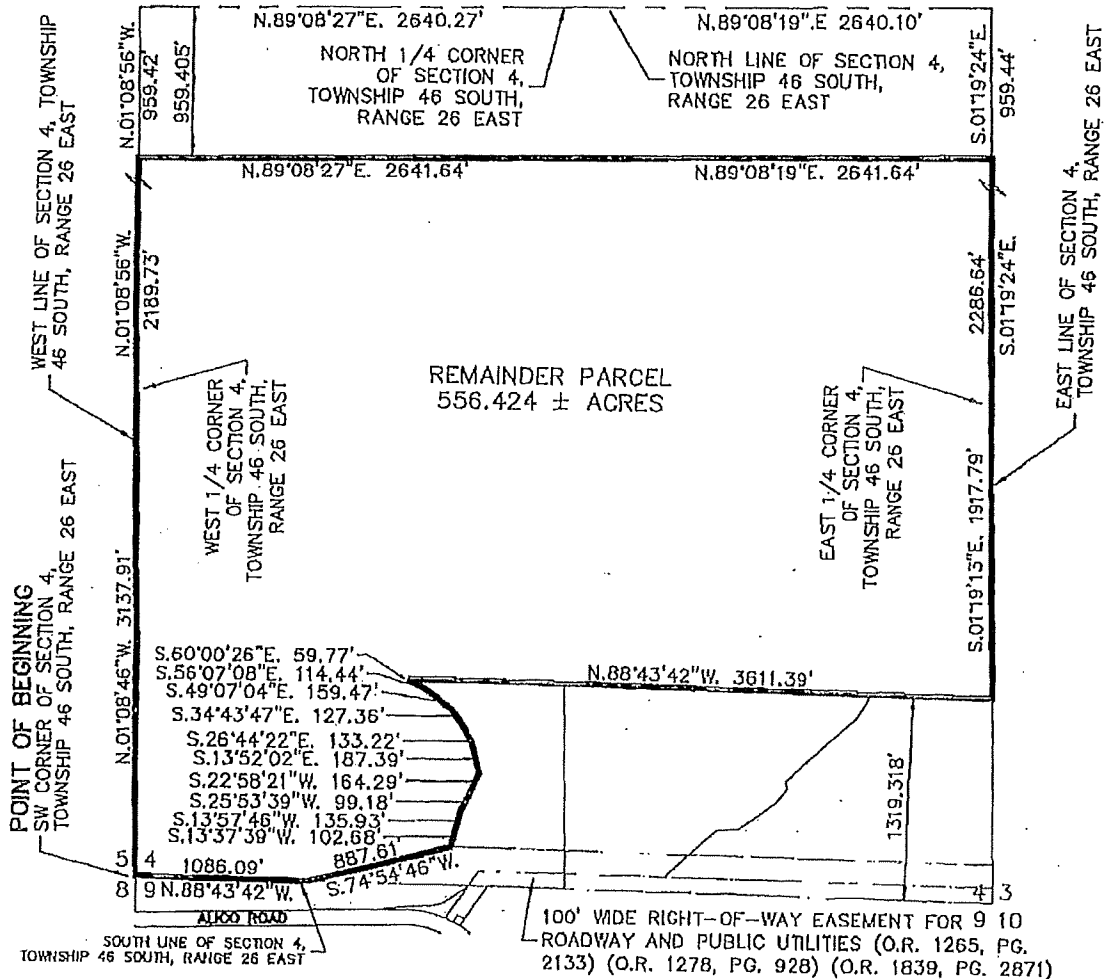
Date: February 11, 2010
See EFGaines Drawing No. 0324-005-01 for Sketch

5235 Ramsey Way, Suite 10, Fort Myers, Florida 33907
Phone: 239-418-0126 • Fax: 239-418-0127 • www.EFGaines.com

Application No. 070918-15

NOTES:

1. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR ZONING, EASEMENTS, RIGHTS-OF-WAY, OWNERSHIP, RESTRICTIONS OR SETBACKS.
2. BEARINGS ARE BASED ON THE SOUTH LINE OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST BEING S88°43'42"E.
3. DISTANCES ARE IN FEET AND DECIMALS THEREOF.
4. THIS SKETCH IS NOT A BOUNDARY SURVEY.
5. SEE ATTACHED FOR LEGAL DESCRIPTION.



THIS IS A SKETCH TO ACCOMPANY A LEGAL DESCRIPTION (SEE ATTACHED) OF A PARCEL OF LAND LOCATED IN SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA. THIS SKETCH WAS PREPARED FOR THE BENEFIT OF LEE COUNTY DEPARTMENT OF PUBLIC WORKS.

PREPARED BY:

Elizabeth F. Gaines
ELIZABETH F. GAINES, PSM FL LICENSE NO. LS 4576

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF THE ABOVE NAMED FLORIDA PROFESSIONAL SURVEYOR AND MAPPER.

E.F. Gaines Surveying Services, Inc.

5235 Ramsey Way, Suite 10
Fort Myers, Florida 33907

Phone: 239-418-0126 Fax: 239-418-0127

CLIENT: LEE COUNTY PUBLIC WORKS DEPT

DATE OF FIELD WORK: N/A

DATE OF DRAWING: 2/11/2010

SCALE: 1"=1000'

DRAWING FILE: 0324-005-1

REVISIONS/DATE:

SHEET 1 OF 1

EXHIBIT 11A1

ATTACHMENT N

Date: September 8, 2023

To: Dirk Danley Jr., Principal Planner

From: Nic DeFilippo, Senior Environmental Planner
239.533.8983
ndefilippo@leegov.com

Subject: DCI2023-00011
Natural Resources Staff Report and Conditions for Southeast Water Reclamation Facility
Community Facilities Planned Development (CFPD)
STRAP# 04-46-26-00-00001.0010

The request is to rezone 112± acres from AG-2 to Community Facilities Planned Development (CFPD) to allow for the development of an Advanced Water Reclamation Facility. The property is located within the Southeast Lee County Planning Community and is comprised of three future land use categories Public Facilities, Wetlands and Density Reduction/Groundwater Resource (DR/GR). Approximately 36± acres of the site is subject to a companion Comprehensive Plan Amendment (CPA) to change the future land use category from DR/GR to Public Facilities. Prior to approval of the proposed land use change, the Lee County Board of County Commissioners must make a formal finding that no significant impacts on present or future water resources will result from changing the future land use category per Lee Plan policies 2.3.1 and 2.3.2. The attached Natural Resources memorandum, dated September 6, 2023, provided as part of the review of CPA2023-00003 recommends that the Board of County Commissioners make this formal finding after review of the Surface Water and Groundwater Impacts/Benefits Analysis and integrated surface and groundwater model prepared by Johnson Engineering, see Attachment 1.

POLICY 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) future land use category includes upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed.

1. New land uses in these areas that require rezoning or a development order must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels utilizing hydrologic modeling, the incorporation of increased storage capacity, and inclusion of green infrastructure. The modeling must also show that no adverse impacts will result to properties located upstream, downstream, as well as adjacent to the site. Offsite mitigation may be utilized, and may be required, to demonstrate this compatibility. Evidence as to historic levels must be submitted as part of the rezoning application and updated, if necessary, as part of the mining development order application.

POLICY 33.1.7: Impacts of proposed land disturbances on surface and groundwater resources will be analyzed using integrated surface and groundwater models that utilize site-specific data to assess potential adverse impacts on water resources and natural systems within Southeast Lee County. Lee County Division of Natural Resources will determine if the appropriate model or models are being utilized, and assess the design and outputs of the modeling to ensure protection of Lee County's natural resources.

In compliance with Lee Plan policies 1.4.5 (1) and 33.1.7 the applicant provided an integrated surface and groundwater model demonstrating that the proposed development will maintain surface and

groundwater levels at their historic levels. The model demonstrated that the proposed development would not adversely impact properties upstream, downstream, or adjacent to the subject property.

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

POLICY 125.1.4: Developments which have the potential of lowering existing water quality below state and federal water quality standards will provide standardized appropriate monitoring data.

The proposed development's stormwater runoff from the developed area of the property will be collected through swales and catch basins and routed to onsite stormwater ponds which temporarily detain stormwater runoff to provide water quality treatment and attenuation benefits. A control structure will limit the discharge of water from the ponds into the adjacent wetlands to the west. The stormwater will then continue within the western slough, following existing drainage patterns. This proposed stormwater management system is consistent with Lee Plan policy 125.1.3. Lee Plan Objective 60.3 identifies both the Six Mile Cypress and DR/GR as critical areas for surface water management. Lee Plan policy 125.1.2 states new development and additions to existing development must not degrade surface and ground water quality. Lee Plan policy 125.1.4 states developments which have the potential of lowering existing water quality below state and federal water quality standards will provide standardized appropriate monitoring data. To address consistency with Lee Plan policies 125.1.2 and 125.1.4 the applicant has provided a draft surface water and groundwater quality monitoring plan. Staff recommends the following conditions to demonstrate compliance with the above Lee Plan policies.

Prior to local development order approval, the Water Quality Monitoring Plan for Southeast Advanced Water Reclamation Facility (dated August 2023) must be provided for review and approval by Lee County Division of Natural Resources.

Attachments:

1. Natural Resources Memorandum dated September 6, 2023
2. Water Quality Monitoring Plan for Southeast Advanced Water Reclamation Facility dated August 2023

MEMORANDUM
FROM
PUBLIC WORKS
Natural Resources Division

TO:

Brandon Dunn
Manager, Planning Section

DATE:

September 06, 2023

FROM:

Phil Gillogly, P.E.
Operations Manager,
Department of Natural
Resources



SUBJECT: CPA2023-00003 Southeast Advanced Water Reclamation Facility (SEAWRF)

Natural Resources staff has reviewed the information provided by the applicant. The subject property is a disturbed site which was previously used for row crops and cattle pasture. The proposed SEAWRF will be constructed on the upland portions of the property and the wetlands to the east will remain undeveloped.

The applicant is requesting an amendment to the Lee Plan that includes removal of the subject property from the DR/GR future land use category. Lee Plan Policy 2.3.1 is directly related to this request and is stated below:

POLICY 2.3.1: All proposed changes to the Future Land Use Map in critical areas for future potable water supply (Lehigh Acres as described in Policy 54.1.9 and all land in the DR/GR land use category) will be subject to a special review by the staff of Lee County. This review will analyze the proposed land uses to determine the short-term and long-term availability of irrigation and domestic water sources, and will assess whether the proposed land uses would cause any significant impact on present or future water resources. If the Board of County Commissioners wishes to approve any such changes to the Future Land Use Map, it must make a formal finding that no significant impacts on present or future water resources will result from the change. (Ord. No. 92-47, 94-30, 00-22, 02-02, 14-10, 18-05)

To address these requirements the applicant submitted a Surface Water and Groundwater Impacts/Benefits Analysis prepared by Johnson Engineering dated July 21, 2023. The analysis looked at the existing conditions and uses onsite compared to the proposed use. Currently, the property is permitted to utilize 335 million gallons of water from the water table aquifer from four wells and 0.94 million gallons from the Mid-Hawthorne aquifer. The water reclamation facility will be connected to potable water supply and any irrigation will utilize reclaimed water from the plant. This elimination of groundwater use will have a positive impact on the groundwater resource within the DR/GR.

Additionally, onsite stormwater management facilities will be required to meet the South Florida Water Management (SFWMD) and Florida Department of Environmental Protection (FDEP) environmental resource permit criteria which includes maximum peak discharge rates, water quality treatment, flood protection, evaluation of offsite impacts, and evaluation of wetland impacts. The proposed stormwater management system will store more water onsite than the current state of the property. The modeling also shows no significant change to offsite water levels.

Based on the analysis provided, and the proposed water quality monitoring plan, the Division of Natural Resources staff finds that no significant impacts on present or future water resources will result from the proposed amendment. The Division of Natural Resources staff recommends that the Board of County Commissioners make a formal finding that no significant impacts on present or future water resources will result from changing the Future Land Use Category, as required in Lee Plan Policy 2.3.1.

This memo does not intend to relieve the applicant from complying with any part of the Lee Plan. The applicant may be required to confirm their findings through additional data and a detailed numerical modeling process at a later stage of plan development. Upon receipt of further information during the plan development stage, staff reserves the right to review and disagree with any or all of the water resources analysis. Lee County staff also reserves the right to deny the application for plan amendment or subsequent applications for zoning changes or development if it is found that the project as proposed is not consistent with the Lee Plan.

**WATER QUALITY MONITORING PLAN
FOR
SOUTHEAST ADVANCED WATER RECLAMATION FACILITY**

August 2023

Prepared for:

 **LEE COUNTY**
SOUTHWEST FLORIDA
LEE COUNTY UTILITIES
1500 Monroe Street
Fort Myers, FL 33901

Prepared by:

JOHNSON
ENGINEERING
2122 Johnson Street
Fort Myers, Florida 33901
E B 642

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1	Location of Monitoring Stations

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1	Water Monitoring Parameters

1.0 INTRODUCTION

Lee County is proposing to construct a new southeast advanced water reclamation facility (SEAWRF) to help serve existing and future wastewater flows in the southeast Lee County service area. The proposed site is on 112.2 acres of property located north of the intersection of Alico Road and Green Meadow Road in Lee County, Florida. The property contains a mix of uplands, wetlands, and ditches. The proposed SEAWRF will be constructed on the upland portion of the property. The eastern wetlands on the property will remain undeveloped. The project will include a deep injection well for effluent disposal. Monitoring of the injection well system will be carried out in accordance with all relevant legal requirements, as required by Florida Department of Environmental Protection (FDEP). This water quality management plan does not include monitoring for the deep well injection systems since the FDEP will oversee monitoring.

1.1 Purpose

This Water Quality Monitoring Plan is being initiated to monitor water level and water quality conditions at the project site. This plan includes sampling locations, frequency, reporting and evaluations of the water level and water quality within the SEAWRF project site. This Water Quality Monitoring Plan includes the following work elements:

- Locations of surface water and groundwater monitoring sites
- Water level monitoring plan
- Water quality monitoring plan
- Quality assurance measures
- Analysis and reporting
- Contingencies and corrective actions

1.2 Hydrology / Hydrogeology

The property's topography slopes generally from north to south or northeast to southwest, and this pattern directs the water flow in the same direction. The upland portion of the

site has undergone prior clearing and leveling to facilitate agricultural activities, including irrigated row crops and more recently, pastureland. Elevations in the upland area range from 24.0 to 24.5 feet NAVD 88.

Beneath the project site, three main aquifers contribute to the groundwater resources: the Surficial (water table), Intermediate (including Sandstone and Mid-Hawthorn), and the Floridian (including Lower Hawthorn and Suwannee) aquifers. The surficial and intermediate aquifers typically hold fresh groundwater with chloride concentrations generally below 250 milligrams per liter (mg/l), adhering to the secondary maximum contaminant level for drinking water. In general, the surface water and surficial aquifer flow of water is from the north to the south. The

2.0 MONITORING PLAN

2.1 Baseline Monitoring

Once the water monitoring stations are constructed, baseline water quality testing will be conducted. Pre-Construction background water quality samples will be collected from groundwater monitoring sites located at extreme opposites of the site, specifically in the northeast and southwest vicinity of the project area (refer to Figure 1 for station locations). The groundwater monitoring sites will be sampled a minimum 30 days prior to the start of construction. Additionally, the surface water outfall at the southwest corner of the property will undergo monitoring. The water sampling sites will be designated as follows:

- Northeast groundwater monitoring station
- Southwest groundwater monitoring station
- Southwest surface water outfall monitoring station

The wells will be constructed into the surficial aquifer. The wells will PVC screen wells with a screen depth from approximately 3 feet below natural ground to a depth of approximately 13 feet below natural ground or as determined by the site-specific geology to not penetrate a confining unit but maintain a water level within the well year-round.

The diameter of the wells will be no larger than 4-inches in diameter. The northeast groundwater monitoring station will serve mainly as a background monitoring site since it will be hydraulically upstream of the development. The surface water management lakes will be interconnected and flow towards the southwest lake prior to discharging offsite. The treatment of wastewater at the SEAWRF begins at the northwest portion of the site at the headworks where initial screening of the wastewater occurs. The final stage of treatment occurs at the eastern portion of the site where the effluent is chlorinated prior to storage within the aboveground storage tanks. A spill at the headworks or a wastewater force main break poses the greatest risk of an impact the surface water and therefore the groundwater monitoring and surface water outfall monitoring sites are appropriately sited to detect a contamination from the SEAWRF.

The parameters to be included in the monitoring process encompass temperature, pH, specific conductivity, nutrients, dissolved oxygen, chlorides, Chlorophyll a, and total dissolved solids. Reporting both groundwater and surface water will be required every 3 months.



Figure 1: Location of Monitoring Stations

2.2 Water Quality Monitoring

Annual reporting of water quality monitoring data is required and shall encompass a comprehensive report, including a comparison of state water quality standards, graphical representations of parameters, conclusive findings, and recommended actions. Additionally, the results must be submitted in a format approved by the Division of Natural Resources (LCDNR). The annual report will be based on the calendar year (January through December) and submitted within 90 days after lab results have been received for the final quarter sampling event.

Monitoring stations at SEAWRF will undergo quarterly sampling for selected laboratory analysis. After a period of five (5) years from the date of certification of construction of the stormwater management system, the applicant or its successor may request modifications to the Plan, subject to compliance with state water quality standards. Any request to reduce the frequency of surface monitoring will be subject to approval by the LCDNR.

Table 1: Water Monitoring Parameters

Water Monitoring Parameter	Minimum Detection Level (MDL)	Units	Monitoring Frequency
Ammonia as Nitrogen	0.014	mg/L	Quarterly
Background Specific Conductance	NA	µmhos/cm	Quarterly
Biochemical Oxygen Demand (BOD)	0.3	mg/L	Quarterly
Chlorophyll a (corrected for pheophytin)	0.5	mg/M3	Quarterly
Copper	1.0	µg/L	Quarterly
DO	0.1	mg/L	Quarterly
E. coli	1	MNP/100mL	Quarterly
Enterococci	1	MNP/100mL	Quarterly
Hardness	0.5	mg/L	Quarterly
Iron	0.4	mg/L	Quarterly
Nitrite + Nitrate as Nitrogen	0.01	mg/L	Quarterly
Orthophosphate	0.004	mg/L	Quarterly
pH	NA	unit	Quarterly
Specific Conductance	2	µmhos/cm	Quarterly
Temperature	NA	degree Celsius	Quarterly

Total Dissolved Solids	0.5	mg/L	Quarterly
Total Kjeldahl Nitrogen	0.05	mg/L	Quarterly
Total Nitrogen	0.05	mg/L	Quarterly
Total Phosphorus	0.006	mg/L	Quarterly
Total Suspended Solids (TSS)	6	mg/L	Quarterly
Turbidity	0.2	NTU	Quarterly
Water Table Elevation	NA	feet NAVD	Quarterly
Zinc	0.005	mg/L	Quarterly

2.3 Quality Assurance

Water samples will be collected and handled following protocols contained in FDEP Quality Assurance Rule F.A.C. 62-160 and adopted as the “Department of Environmental Protection Standard Operating Procedures for Field Activities DEP-SOP-001/01” effective 7/30/2014 (or most current). The samples will be collected from the monitor sites, and one field cleaned equipment blank will be taken during each sampling event for quality assurance purposes. Chain of custody forms and laboratory analysis reports will be provided to LCDNR in corresponding quarterly reports. To ensure accuracy, water samples will undergo testing by a certified laboratory under the National Environmental Laboratory Accreditation Program, using approved test methods and QA testing requirements (i.e., blanks, sample duplicates, surrogates, matrix spikes, etc.) as contained in F.A.C 62-160 QA Rules.

2.4 Data Analysis

The obtained laboratory analysis results for water samples will be promptly submitted to the LCDNR in a comma-delimited electronic format and/or other preferred format, within 30 days of receiving them from the laboratory. These results will then be compared to relevant target levels, if applicable, and parameters lacking numeric target levels will be assessed for trends. Comprehensive statistical analyses will be conducted on both surface water and groundwater laboratory results. As more data is accumulated, a 95% confidence interval and standard deviation values will be continually calculated and updated after each sampling event. In case any analytical result falls outside the 95% confidence interval, thorough assessment will be conducted to identify potential

anomalous data. Any variations due to seasonal factors will be considered, and the data will be segregated into seasonal sets. For each set, linear regression analysis will be conducted separately, following the above parameter.

2.5 Reporting

The Applicant will submit Quarterly Monitoring Reports to the LCDNR, providing water level and water quality data for each sampling event. Results of each quarterly water quality sampling will be shared with the LCDNR within 30 days. Data will be presented in LCDNR's comma-delimited electronic format and/or another preferred format. Reports will include cumulative results, conclusions, and recommendations. Any concerns regarding water level or water quality will be addressed in collaboration with the LCDNR for potential modifications to monitoring parameters, frequency, and reporting. The purpose of the quarterly reports is to provide a basic review of the data to date and determination if parameters of concern exist. The annual report will include the comprehensive complete data analysis.

3.0 CONTINGENCIES AND CORRECTIVE ACTIONS

If water level or water quality concerns are identified, whether through exceeding target levels or statistical trend analyses, immediate action will be taken within seven days. A thorough review and assessment of onsite and offsite activities and conditions will be conducted, and if necessary, additional samples will be collected. The LCDNR will be notified within 48 hours of any required corrective actions.

Moreover, a comprehensive notification process will be established to inform impacted residents and relevant authorities in case of any abnormality or exceedance of state water quality standards. The two most likely relevant authorities are the FDEP and the LCDNR. The FDEP will be notified using the FDEP website portal and instructions found at <https://floridadep.gov/pollutionnotice>. The LCDNR will be notified per the instruction at <https://www.leegov.com/naturalresources/NPDES/cleanwaterviolations>. All property owners within one mile will be notified by written letter via the United States Postal Service. Any other concerned citizens can be notified by the FDEP by subscribing to the FDEP's notification

system at <https://prodenv.dep.state.fl.us/DepPNP/reports/addSubscriber>. To address the possibility of contaminated water entering the water management system and its potential adverse impacts on surrounding areas and surface water systems, a contingency plan will be in place. The contingency plan will also cover leaching, treatment of contaminated stormwater, and corrective actions during major storm events. A preliminary contingency plan will be prepared, submitted, and approved by the LCDNR prior to the issuance of a Lee County Development Order Permit. The preliminary contingency plan will be updated and finalized based on the final design and construction of the SEAWRF and prior to certification of the Lee County Development Order Permit.

The Applicant will actively collaborate with the LCDNR to identify the root causes and explore potential modifications needed for monitoring parameters, frequency, and reporting to effectively address onsite concerns and activities. This collaborative approach will ensure prompt and effective responses to any identified issues.

ATTACHMENT O

TRAFFIC CIRCULATION ANALYSIS
FOR
LEE COUNTY UTILITIES
SOUTHEAST ADVANCED WATER RECLAMATION FACILITY
(SEAWRF)

MAY 2023

Prepared for:



Post Office Box 398
Fort Myers, Florida 33902-0398

Prepared by:

JOHNSON
ENGINEERING

2122 Johnson Street
Fort Myers, Florida 33901
(239) 334-0046
EB 642



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dnQualifier=A01410C0000017BA7E083
5B00005CA8, cn=Joshua J Hildebrand
Date: 2023.05.12 09:30:27 -04'00'

Joshua J. Hildebrand, P.E., PTOE
Florida License No. 73952

Date

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APPENDICES

Appendix A	ITE Trip Generation
Appendix B	24-Hour Bi-Directional Traffic Counts
Appendix C	Peak Hour Turning Movement Counts
Appendix D	2022 Lee County Concurrency Report
Appendix E	Lee County Level of Service Tables
Appendix F	Alico Road Extension Traffic Technical Memorandum, prepared by Kisinger Campo & Associates dated March 2022

FIGURES

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Figure 4-1	Data Collection Map
Figure 4-2	A.M. Peak Hour Existing Trips
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Figure 5-1	Project Percent Trip Distributions
Figure 5-2	A.M. Peak Hour Project Trips
Figure 5-3	P.M. Peak Hour Project Trips

TABLES

Table 3-1	ITE Trip Generation Summary
Table 6-1	Area of Influence
Table 7-1	Summary of 2028 Level of Service Analysis
Table 7-2	Summary of 2045 Level of Service Analysis

1.0 INTRODUCTION

The purpose of this traffic circulation analysis is to assess the potential transportation impacts associated with the addition of a future Water Reclamation Facility in Lee County. The current zoning of the proposed site is Agricultural (AG-2) and is being requested to be rezoned to Community Facilities Planned Development (CFPD). This traffic circulation analysis is in accordance with Lee County Administrative Code (AC) 13-17 and determines the short range 5-year (2025) horizon and long range 20-year (2040) horizon roadway impacts associated with the change in Future Land Use designation from DR/GR to Public Facilities.

2.0 SITE ACCESS

The project site is located on Green Meadow Road, which is currently a two-lane undivided roadway that begins at the eastern end of Alico Road in Lee County (see **Figure 2-1**).

This segment is currently under design for the future extension and widening of Alico Road to a four-lane divided collector from Alico Road to S.R. 82, replacing the current segment of Green Meadow Road in front of the proposed project site. Alico Road is anticipated to have a posted speed limit and design speed of 45-mph within the project vicinity. Construction of the extension and widening is anticipated to occur in two phases. Phase 1 includes the widening of Alico Road from Airport Haul Road through Green Meadow Road, approximately 1-mile east of the Alico Road intersection. Phase 2 includes the extension of Alico Road from Green Meadow Road to S.R. 82. While both are currently under design, Phase 1 construction is anticipated to occur within 5 years and Phase 2 occurring shortly afterwards.



Figure 2-1: Project Location Map

3.0 TRIP GENERATION

The A.M. peak hour, P.M. peak hour, and daily trip generations for the project were estimated using trip generation rates and equations from the Institute of Transportation Engineers (ITE) *Trip Generation* (11th Edition) for the Wastewater Treatment Buildings.

The ITE trip generation estimates are summarized in **Table 3-1** and included in **Appendix A**.

Table 3-1: ITE Trip Generation Summary

Land Use	Size (sqft)	Trip Generation ⁽¹⁾	A.M. Peak Hour			P.M. Peak Hour			Daily
			In	Out	Total	In	Out	Total	
Wastewater Treatment Facility (LUC 170 - Utility)	25,000	AM: 2.33	51	7	58	6	26	32	166
		PM: $\text{Ln}(\text{T})=0.81\text{Ln}(\text{X})+0.86$							
		Weekday: $\text{Ln}(\text{T})=0.74\text{Ln}(\text{X})+2.73$							
Total			51	7	58	6	26	32	166

Footnote:

(1) ITE Trip Generation (11th Edition)

4.0 DATA COLLECTION

To establish base traffic conditions and existing trip distributions, data was obtained from the sources listed herein (see **Figure 4-1** for the data collection map).

4.1 Roadway Directional Volumes

Twenty-four-hour machine traffic data collection counts were recorded during peak season beginning on Thursday, January 26, 2023 through Wednesday, February 1, 2023 at one location on Alico Road (see **Appendix B**). The counts were collected to serve as a base traffic condition for the roadway traffic analysis.

4.2 Turning Movement Counts

Turning movement counts were recorded on Thursday, January 26, 2023 from 7:00 A.M. to 9:00 A.M and 4:00 P.M. to 6:00 P.M. at the intersection of Alico Road and Green Meadow Road (see **Appendix C**) to help establish traffic patterns. A summary of the A.M. and P.M. peak hour turning movement counts are shown in **Figure 4-2** and **Figure 4-3**, respectively.



Figure 4-1: Data Collection Map

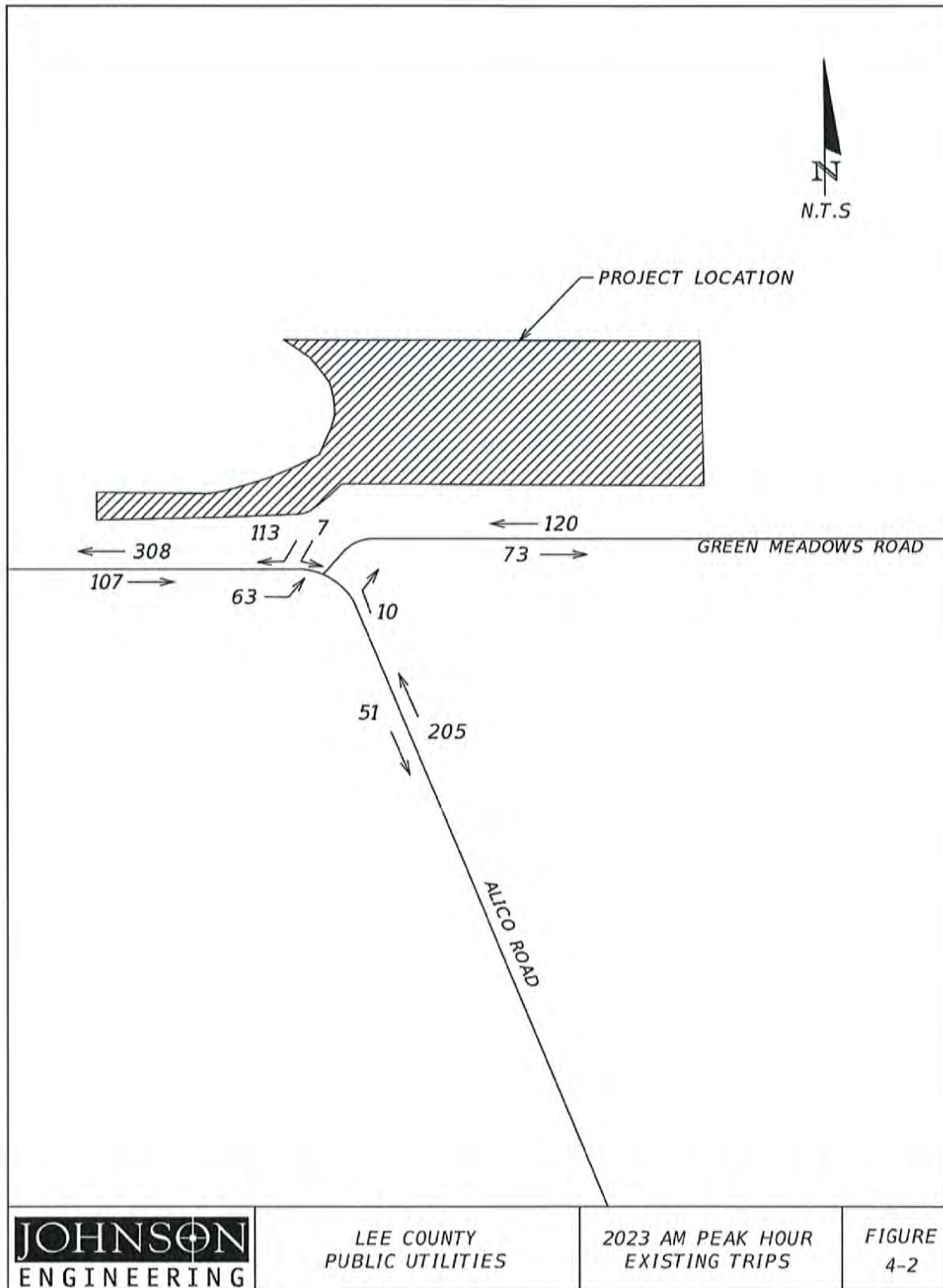


Figure 4-2: 2023 A.M. Peak Hour Existing Trips

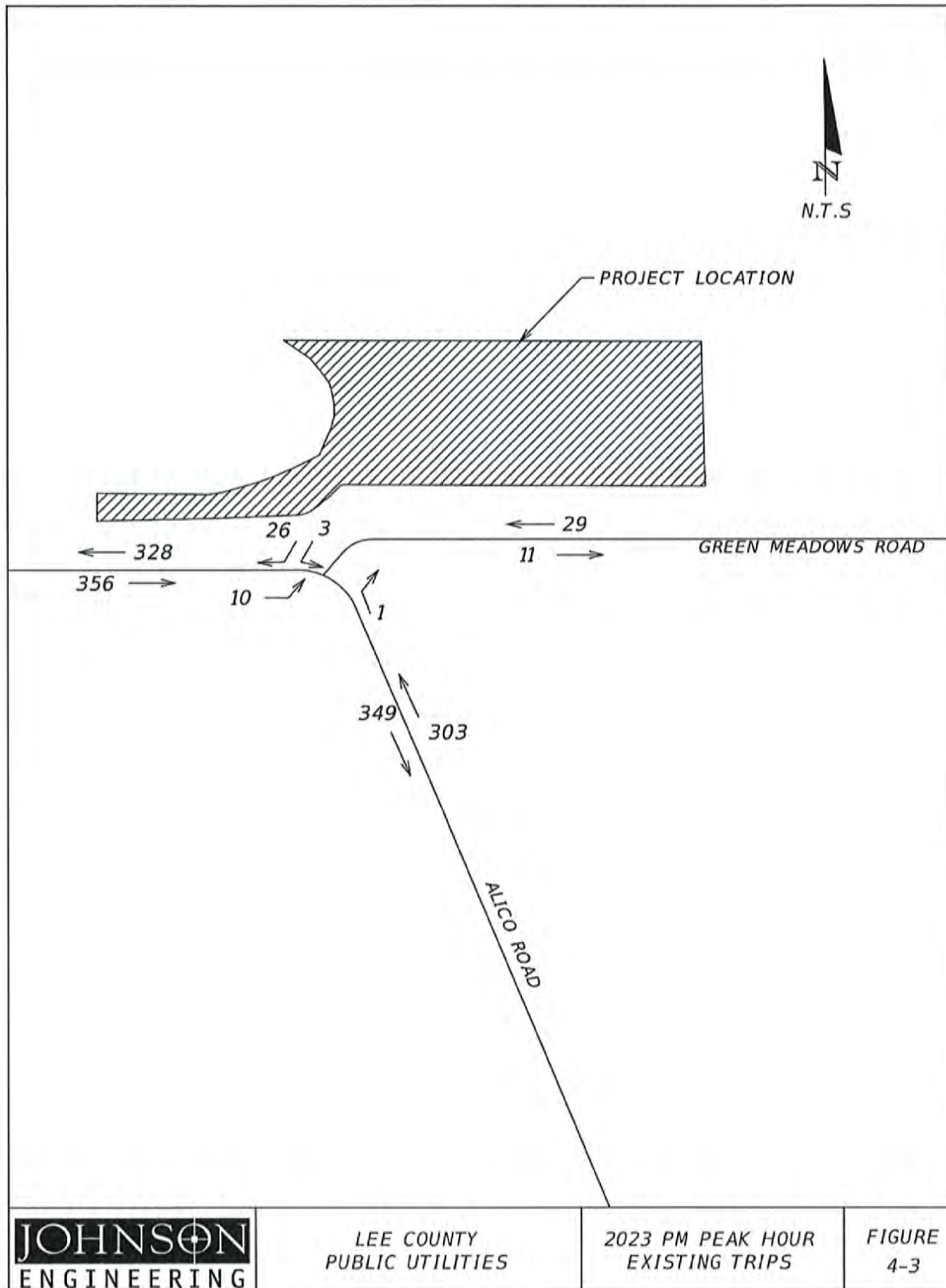


Figure 4-3: 2023 P.M. Peak Hour Existing Trips

5.0 TRIP DISTRIBUTION AND TRIP ASSIGNMENT

The project A.M. and P.M. peak hour turning movements were estimated from the collected traffic data (see Section 4.0). **Figure 5-1** depicts the estimated percent distributions for the project traffic. Based on the estimated percent distributions of project traffic, the estimated project trips for the A.M. peak hour and P.M. peak hour are depicted in **Figure 5-2** and **Figure 5-3**. Anticipated distributions assume the Alico Road Extension Phase 2 has not been completed.

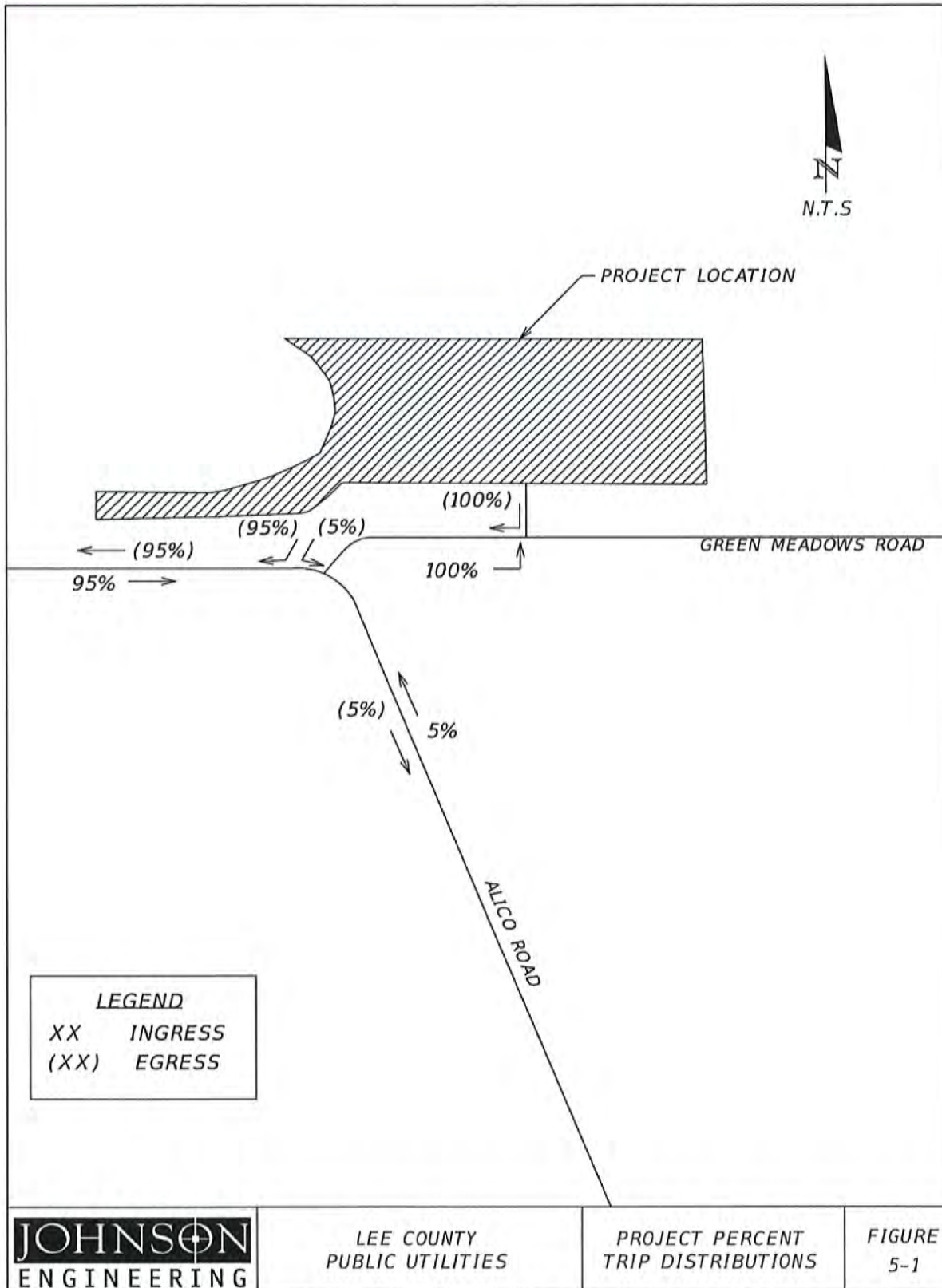


Figure 5-1: Project Percent Trip Distributions

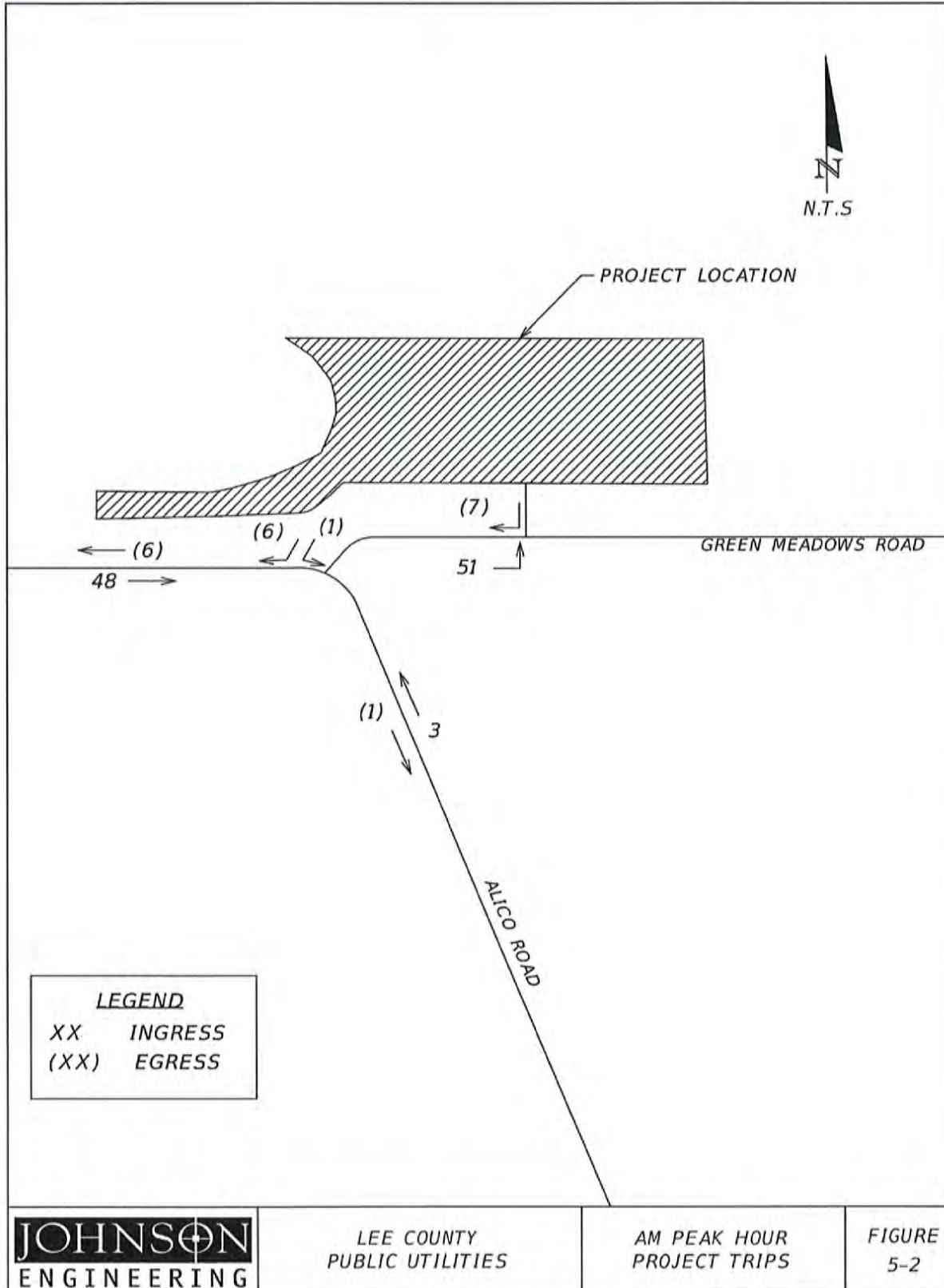


Figure 5-2: A.M. Peak Hour Project Trips

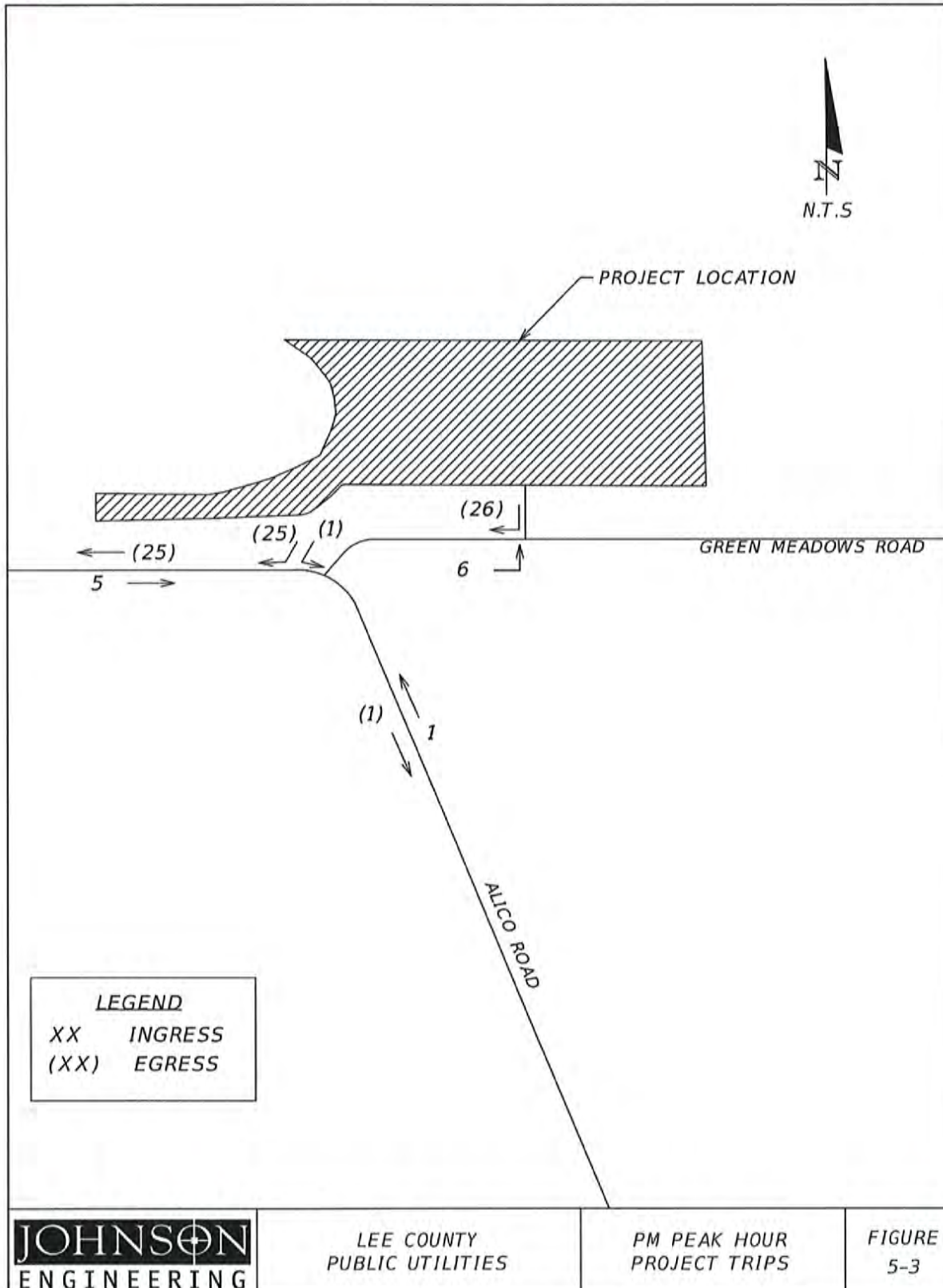


Figure 5-3: P.M. Peak Hour Project Trips

6.0 AREA OF INFLUENCE

The area of influence analyzed was based on the 25,000-sqft of wastewater treatment facility. The area of influence includes all county and state-maintained arterials and collectors within a 3-mile radius of the project site. Additionally, after the distribution of project trips, any roadway segment that is outside of the 3-mile radius, with 10% impact or more, was analyzed, consistent with Lee County requirements. Lee County maintained arterials and collectors and state arterials within the area of influence, according to the Lee County 2022 Concurrency Report (excerpt available in **Appendix D**) and the Lee County Level of Service Tables (**Appendix E**), are provided in **Table 6-1**.

Table 6-1: Area of Influence

Roadway	Segment	Performance Standard (Peak Hour Directional Volume)		Estimated Project Trips Peak Hour Peak Direction	Percent Impact (%)
		LOS	Capacity		
Alico Road	Ben Hill Griffin Boulevard to Green Meadow Road	E	2,940 ⁽¹⁾	48	1.6%
Alico Road	Green Meadow Road to Corkscrew Road	E	1,100	3	0.3%

Footnotes:

(1) Estimated from Lee County Level of Service Tables

7.0 LEVEL OF SERVICE (LOS) ANALYSIS

A link LOS analysis was conducted for all county and state-maintained arterials and collectors within a 3-mile radius of the project site for the short term 5-year horizon (2028) and long term (2045) horizon at project maximum build-out. Additionally, any roadway segment that is outside of the 3-mile radius, that has a 10% impact or more, was also analyzed for the short term 5-year horizon (2028) and long term (2045) horizon at project maximum build-out. The project trips were applied to the 5-year horizon (2028) conditions and the long-term horizon (2045) conditions.

The 5-year horizon was based on current Lee County Concurrency standards assuming the construction of the Alico Road project has not been completed. The 2028 traffic volumes were estimated using a 2% growth rate from the Lee County Concurrency 2026 volumes, see **Table 7-1**. The 2045 long term horizon roadway capacity was estimated from the Lee County Level of Service Tables (**Appendix E**) based on the ultimate build-out of Alico Road Phase 1 and Phase 2. The 2045 directional volumes were estimated from the Alico Road Extension Traffic Technical Memorandum, prepared by Kisinger Campo & Associates dated March 2022 (see **Appendix F** for excerpts and **Table 7-2**).

Table 7-1: Summary of 2028 Level of Service Analysis

Roadway	Segment	Performance Standard (Peak Hour Directional Volume) ⁽¹⁾		2026 Peak Hour Peak Direction from Lee County Concurrency ⁽¹⁾		2028 Estimated Roadway Peak Hour Peak Direction		2028 Estimated Roadway Peak Hour Peak Direction + Project	
		LOS	Capacity	LOS	Volume	LOS	Volume	LOS	Volume
Alico Road	Ben Hill Griffin Boulevard to Green Meadow Drive	E	2,940 ⁽²⁾	C	808	C	841	C	889
Alico Road	Green Meadow Drive to Corkscrew Road	E	1,100	B	224	B	233	B	236

Footnote:

- (1) Obtained from 2022 Lee County Concurrency Report
(2) Estimated from Lee County Level of Service Tables

Table 7-2: Summary of 2045 Level of Service Analysis

Roadway	Segment	Performance Standard (Peak Hour Directional Volume)		2045 Peak Hour Peak Direction ⁽²⁾		2045 Peak Hour Peak Direction + Project	
		LOS	Capacity	LOS	Volume	LOS	Volume
Alico Road	Ben Hill Griffin Boulevard to Green Meadow Drive	E	2,940 ⁽¹⁾	E	2,030	E	2,078
Alico Road	Green Meadow Drive to Corkscrew Road	E	1,100	B	550	B	553

Footnotes:

- (1) Estimated from Lee County Level of Service Tables
(2) Estimated from Alico Road Extension Traffic Technical Memorandum

8.0 CONCLUSIONS

Based on the link LOS analysis for 2028 and 2045 traffic within the area of study, Alico Road is anticipated to operate within the LOS performance standards with the addition of project trips.

APPENDIX A
ITE TRIP GENERATION

Land Use: 170

Utility

Description

A utility is a free-standing building that can house office space, a storage area, and electromechanical or industrial equipment that support a local electrical, communication, water supply or control, or sewage treatment utility.

Additional Data

The technical appendices provide supporting information on time-of-day distributions for this land use. The appendices can be accessed through either the ITETripGen web app or the trip generation resource page on the ITE website (<https://www.ite.org/technical-resources/topics/trip-and-parking-generation/>).

The sites were surveyed in the 1980s, the 1990s, the 2000s, and the 2010s in California, Delaware, Oregon, and Texas.

Source Numbers

422, 443, 538, 876

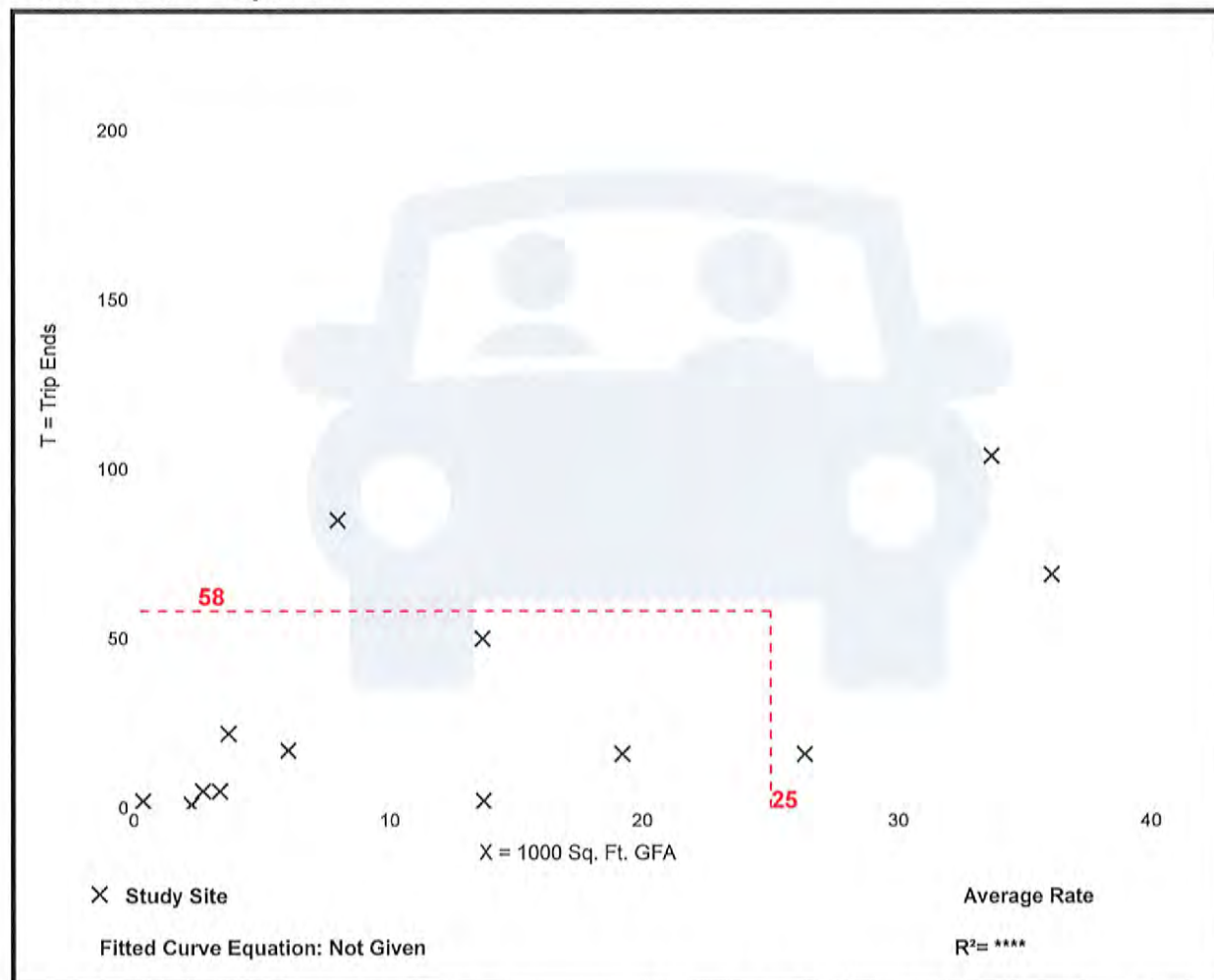
Utility (170)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
 On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 7 and 9 a.m.
 Setting/Location: General Urban/Suburban
 Number of Studies: 13
 Avg. 1000 Sq. Ft. GFA: 13
 Directional Distribution: 87% entering, 13% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
2.33	0.15 - 10.67	2.34

Data Plot and Equation



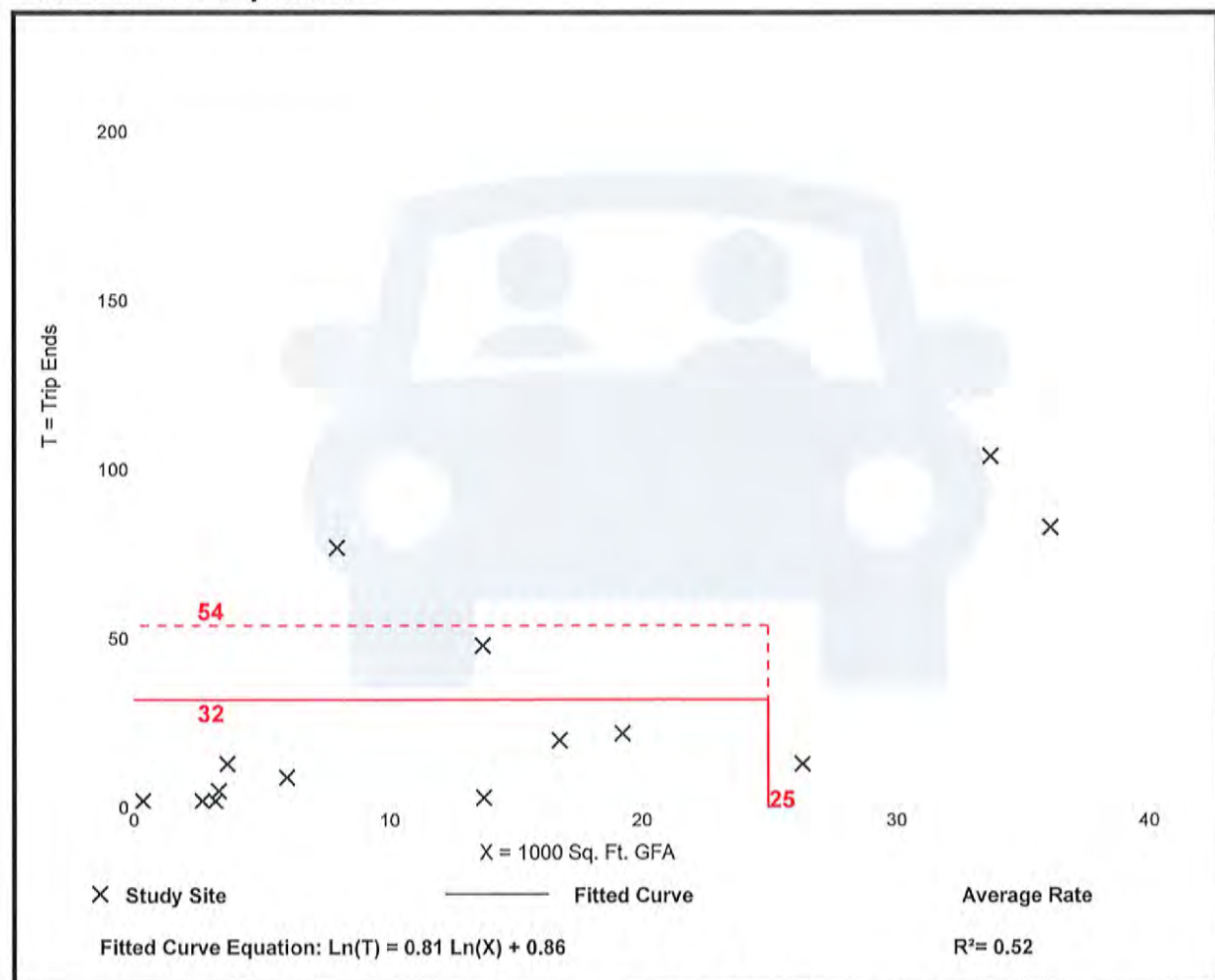
Utility (170)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
 On a: Weekday,
 Peak Hour of Adjacent Street Traffic,
 One Hour Between 4 and 6 p.m.
 Setting/Location: General Urban/Suburban
 Number of Studies: 14
 Avg. 1000 Sq. Ft. GFA: 13
 Directional Distribution: 18% entering, 82% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
2.16	0.22 - 9.67	2.00

Data Plot and Equation



Utility (170)

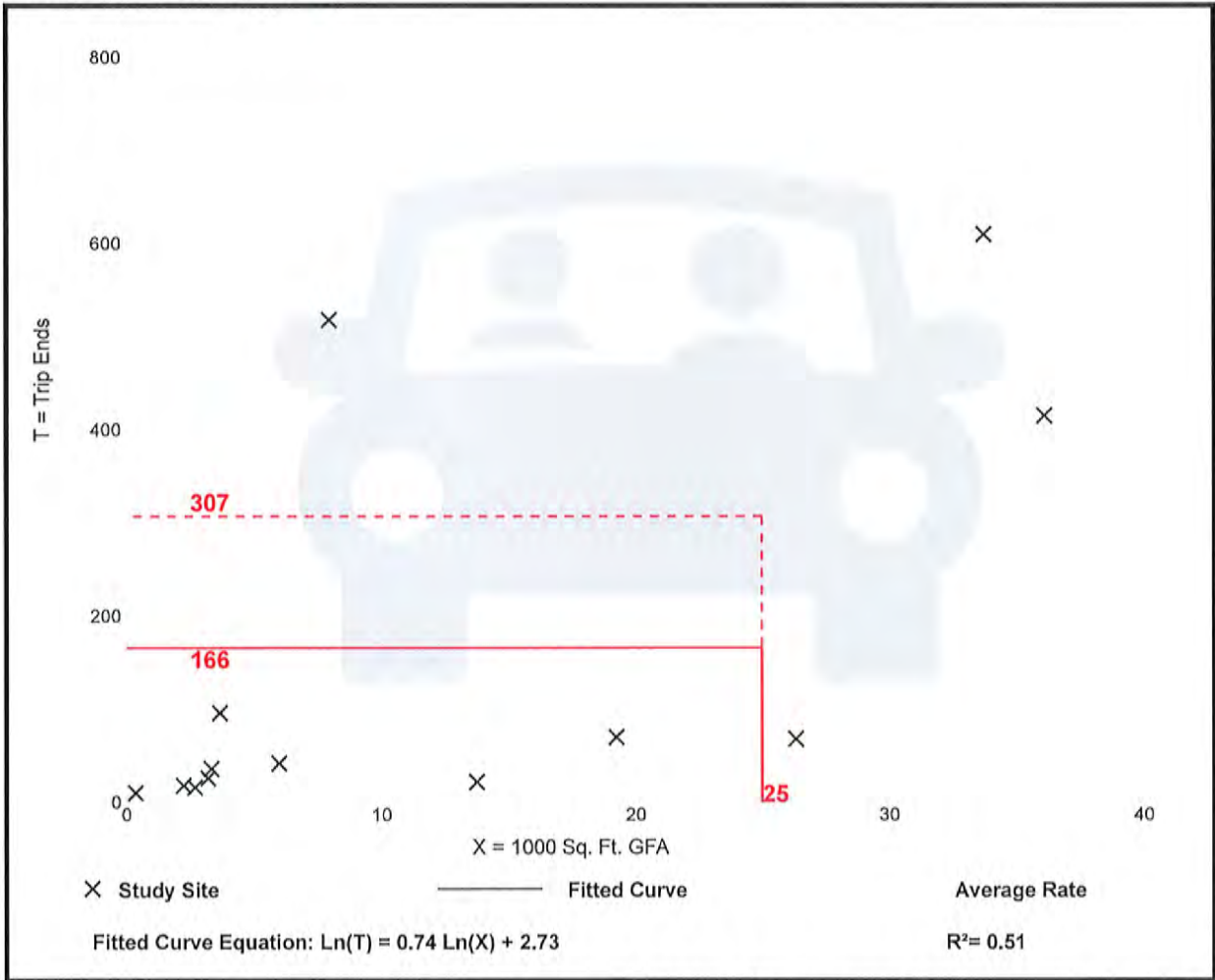
Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 13
Avg. 1000 Sq. Ft. GFA: 12
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
12.29	1.60 - 65.03	14.32


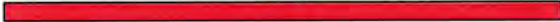












Data Plot and Equation



APPENDIX B

























24-HOUR BI-DIRECTIONAL TRAFFIC COUNTS




















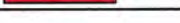


























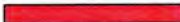



Time	1/25/2023 Wednesday	Eastbound	Westbound	Combined Total	
12:00 AM		*	*	0	
01:00		*	*	0	
02:00		*	*	0	
03:00		*	*	0	
04:00		*	*	0	
05:00		*	*	0	
06:00		*	*	0	
07:00		*	*	0	
08:00		*	*	0	
09:00		*	*	0	
10:00		492	84	576	
11:00		676	382	1058	
12:00 PM		510	537	1047	
01:00		535	496	1031	
02:00		495	555	1050	
03:00		438	388	826	
04:00		392	364	756	
05:00		379	274	653	
06:00		256	186	442	
07:00		166	56	222	
08:00		100	60	160	
09:00		58	28	86	
10:00		42	20	62	
11:00		19	16	35	
Total		4558	3446	8004	
Percent		56.9%	43.1%		



























Time	1/26/2023 Thursday	Eastbound	Westbound	Combined Total	
12:00 AM		34	10	44	
01:00		16	18	34	
02:00		31	47	78	
03:00		78	57	135	
04:00		178	107	285	
05:00		365	285	640	
06:00		374	622	996	
07:00		379	976	1355	
08:00		406	624	1030	
09:00		478	484	962	
10:00		463	512	975	
11:00		444	510	954	
12:00 PM		500	532	1032	
01:00		448	466	914	
02:00		387	443	830	
03:00		420	353	773	
04:00		401	332	733	
05:00		400	318	718	
06:00		276	166	442	
07:00		169	76	245	
08:00		105	48	153	
09:00		80	32	112	
10:00		46	11	57	
11:00		24	16	40	
Total		6492	7045	13537	
Percent		48.0%	52.0%		

Time	1/27/2023 Friday	Eastbound	Westbound	Combined Total	
12:00 AM		31	16	47	
01:00		20	33	53	
02:00		50	42	92	
03:00		75	52	127	
04:00		185	116	301	
05:00		350	304	654	
06:00		348	634	982	
07:00		361	786	1147	
08:00		413	606	1019	
09:00		433	558	991	
10:00		410	508	918	
11:00		509	478	987	
12:00 PM		430	542	972	
01:00		472	468	940	
02:00		398	480	878	
03:00		382	368	750	
04:00		402	294	696	
05:00		340	254	594	
06:00		247	169	416	
07:00		144	74	218	
08:00		129	51	180	
09:00		87	56	143	
10:00		57	34	91	
11:00		48	31	79	
Total		6321	6954	13275	
Percent		47.6%	52.4%		

Time	1/28/2023 Saturday	Eastbound	Westbound	Combined Total	
12:00 AM		26	9	35	
01:00		14	5	19	
02:00		17	11	28	
03:00		19	26	45	
04:00		28	34	62	
05:00		90	46	136	
06:00		104	164	268	
07:00		111	174	285	
08:00		144	218	362	
09:00		166	256	422	
10:00		202	258	460	
11:00		242	284	526	
12:00 PM		240	234	474	
01:00		188	168	356	
02:00		208	170	378	
03:00		220	154	374	
04:00		229	162	391	
05:00		196	174	370	
06:00		187	114	301	
07:00		108	66	174	
08:00		106	57	163	
09:00		92	54	146	
10:00		58	43	101	
11:00		58	48	106	
Total		3053	2929	5982	
Percent		51.0%	49.0%		













Time	1/29/2023 Sunday	Eastbound	Westbound	Combined Total	
12:00 AM		22	34	56	
01:00		17	15	32	
02:00		14	4	18	
03:00		11	12	23	
04:00		7	10	17	
05:00		14	16	30	
06:00		16	43	59	
07:00		32	57	89	
08:00		52	84	136	
09:00		78	96	174	
10:00		112	154	266	
11:00		126	130	256	
12:00 PM		132	152	284	
01:00		158	141	299	
02:00		240	141	381	
03:00		167	124	291	
04:00		159	106	265	
05:00		124	116	240	
06:00		155	102	257	
07:00		93	50	143	
08:00		79	44	123	
09:00		52	25	77	
10:00		32	25	57	
11:00		18	12	30	
Total		1910	1693	3603	
Percent		53.0%	47.0%		

Time	1/30/2023 Monday	Eastbound	Westbound	Combined Total	
12:00 AM		9	9	18	
01:00		12	6	18	
02:00		24	8	32	
03:00		77	46	123	
04:00		197	132	329	
05:00		317	246	563	
06:00		408	582	990	
07:00		351	958	1309	
08:00		514	638	1152	
09:00		488	580	1068	
10:00		446	536	982	
11:00		472	517	989	
12:00 PM		450	544	994	
01:00		446	455	901	
02:00		452	495	947	
03:00		416	417	833	
04:00		412	331	743	
05:00		354	316	670	
06:00		260	149	409	
07:00		155	62	217	
08:00		85	44	129	
09:00		64	20	84	
10:00		35	12	47	
11:00		23	6	29	
Total		6467	7109	13576	
Percent		47.6%	52.4%		

Time	1/31/2023 Tuesday	Eastbound	Westbound	Combined Total	
12:00 AM		22	15	37	
01:00		18	18	36	
02:00		32	34	66	
03:00		103	80	183	
04:00		195	130	325	
05:00		364	268	632	
06:00		419	628	1047	
07:00		410	1031	1441	
08:00		446	668	1114	
09:00		508	550	1058	
10:00		466	523	989	
11:00		470	596	1066	
12:00 PM		462	473	935	
01:00		438	528	966	
02:00		466	524	990	
03:00		399	436	835	
04:00		416	330	746	
05:00		397	282	679	
06:00		290	138	428	
07:00		150	73	223	
08:00		107	46	153	
09:00		81	15	96	
10:00		32	14	46	
11:00		25	9	34	
Total		6716	7409	14125	
Percent		47.5%	52.5%		



Time	2/1/2023 Wednesday	Eastbound	Westbound	Combined Total	
12:00 AM		14	13	27	
01:00		26	20	46	
02:00		29	36	65	
03:00		87	64	151	
04:00		190	120	310	
05:00		386	252	638	
06:00		402	720	1122	
07:00		457	964	1421	
08:00		517	717	1234	
09:00		540	622	1162	
10:00		524	620	1144	
11:00		531	600	1131	
12:00 PM		566	555	1121	
01:00		496	582	1078	
02:00		456	554	1010	
03:00		422	475	897	
04:00		409	332	741	
05:00		370	288	658	
06:00		292	182	474	
07:00		142	64	206	
08:00		114	62	176	
09:00		68	31	99	
10:00		37	14	51	
11:00		32	12	44	
Total		7107	7899	15006	
Percent		47.4%	52.6%		

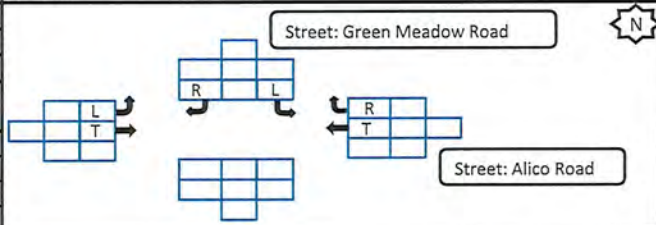
Time	2/2/2023 Thursday	Eastbound	Westbound	Combined Total	
12:00 AM		16	16	32	
01:00		22	20	42	
02:00		40	39	79	
03:00		82	65	147	
04:00		196	128	324	
05:00		322	258	580	
06:00		381	672	1053	
07:00		350	933	1283	
08:00		472	533	1005	
09:00		440	532	972	
10:00		413	510	923	
11:00		150	179	329	
12:00 PM		*	*	0	
01:00		*	*	0	
02:00		*	*	0	
03:00		*	*	0	
04:00		*	*	0	
05:00		*	*	0	
06:00		*	*	0	
07:00		*	*	0	
08:00		*	*	0	
09:00		*	*	0	
10:00		*	*	0	
11:00		*	*	0	
Total		2884	3885	6769	
Percent		42.6%	57.4%		
Grand Total		45508	48369	93877	
Percent		48.5%	51.5%		
ADT		ADT: 11,533		AADT: 11,533	

APPENDIX C

PEAK HOUR TURNING MOVEMENT COUNTS

SUMMARY OF VEHICLE MOVEMENTS																	Total
LOCATION: Alico Road & Green Meadow Road									<div>1/26/2023</div> <div><div>Street: Green Meadow Road</div><div><div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><div></div><div></div><div></div></div><div><di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SUMMARY OF VEHICLE MOVEMENTS																	
LOCATION: Alico Road & Green Meadow Road										1/26/2023							
COUNTY: Lee										<div><div>Street: Green Meadow Road</div><div><div><div><div>L</div><div>T</div><div>R</div></div><div><div><div>R</div><div>T</div><div>L</div></div><div><div><div>R</div><div>T</div><div>L</div></div></div><div>Street: Alico Road</div></div><div>N</div></div></div></div>							
OBSERVER: JAB																	
WEATHER: 70 deg. and overcast																	
ROAD CONDITION: Dry																	
REMARKS: School bus stopped at 4:20pm																	
VEHICLE MOVEMENTS																	
TIME	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				Total
BEGIN	L	T	R	Ped.	L - TRUCK	L - CAR	R - TRUCK	R - CAR	L - TRUCK	L - CAR	T - TRUCK	T - CAR	T - TRUCK	T - CAR	R - TRUCK	R - CAR	
4:00 PM					2	1	3	8	1	1	8	79	6	72	0	1	182
4:15 PM					0	0	3	10	1	1	6	76	5	55	0	1	158
4:30 PM					0	1	0	9	1	5	11	79	10	44	0	0	160
4:45 PM					0	0	0	5	0	2	4	78	4	61	1	0	155
5:00 PM					0	2	0	11	0	0	4	72	3	108	0	0	200
5:15 PM					0	0	0	1	0	2	2	96	9	63	0	0	173
5:30 PM					0	1	0	2	0	2	1	95	3	52	0	0	156
5:45 PM					0	1	0	7	0	2	6	87	0	39	0	0	142
TOTAL	0	0	0	0	2	6	6	53	3	15	42	662	40	494	1	2	1326
PK. HOUR TOTAL	0	0	0	0	0	3	0	26	1	9	21	325	26	276	1	0	688
P.H.F.	0	0	0	0	0	0.38	0.00	0.59	0.25	0.45	0.48	0.85	0.65	0.64	0.25	0.00	0.86

SUMMARY OF VEHICLE MOVEMENTS																	Total
LOCATION: Alico Road & Green Meadow Road										1/26/2023							
COUNTY: Lee																	
OBSERVER: Marina																	
WEATHER:																	
ROAD CONDITION:																	
REMARKS:																	
VEHICLE MOVEMENTS																	
TIME	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				
BEGIN	L	T	R	Ped.	L - TRUCK	L - CAR	R - TRUCK	R - CAR	L - TRUCK	L - CAR	T - TRUCK	T - CAR	T - TRUCK	T - CAR	R - TRUCK	R - CAR	
7:00 AM					0	0	30	3	16	2	9	2	24	9	6	0	101
7:15 AM					1	1	28	0	11	1	5	3	15	7	1	1	74
7:30 AM					3	0	30	3	11	2	9	3	15	3	0	1	80
7:45 AM					0	2	17	2	19	1	9	4	21	4	1	0	80
8:00 AM					0	0	8	4	10	3	13	2	22	13	1	0	76
8:15 AM					0	0	15	3	12	0	22	4	12	0	0	3	71
8:30 AM					0	0	11	1	12	0	6	5	7	4	0	0	46
8:45 AM					2	0	15	1	14	1	10	2	26	4	2	2	79
TOTAL	0	0	0	0	6	3	154	17	105	10	83	25	142	44	11	7	607
PK. HOUR TOTAL	0	0	0	0	4	3	105	8	57	6	32	12	75	23	8	2	335
P.H.F.	0	0	0	0	0.33	0.38	0.88	0.67	0.75	0.75	0.89	0.75	0.78	0.64	0.33	0.50	0.83

SUMMARY OF VEHICLE MOVEMENTS																	Total
LOCATION: Alico Road & Green Meadow Road										<div>1/26/2023</div> <div><div>Street: Green Meadow Road</div><div><div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><div></div><div></div></div><div><div></div><div></div><div></div><div></div><di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APPENDIX D

2022 LEE COUNTY CONCURRENCY REPORT



PUBLIC FACILITIES LEVEL OF SERVICE AND CONCURRENCY REPORT

2022 - INVENTORY AND PROJECTIONS



November, 2022

Infrastructure Planning Section
Department of Community Development

Table 21 b): Link-Level Service Volumes and LOS Table

Table 21 b) 1 of 7

LEE COUNTY ROAD LINK VOLUMES (County- and State-Maintained Roadways)														
Link No.	NAME	ROADWAY LINK		F. Class	ROAD TYPE	PERFORMANCE STANDARD		2021 100TH HIGHEST HOUR			FUTURE FORECAST (2026)			Notes
		FROM	TO			LOS	DIRECTIONAL CAPACITY	LOS	VOL	V/C	LOS	VOL	V/C	
00100	A & W BULB RD	GLADIOLUS DR	MCGREGOR BLVD	Maj. Col	2LN	E	860	C	342	0.40	C	360	0.42	
00200	ALABAMA RD	SR 82	MILWAUKEE BLVD	M. Art	2LN	E	990	C	265	0.27	C	279	0.28	
00300	ALABAMA RD	MILWAUKEE BLVD	HOMESTEAD RD	M. Art	2LN	E	990	C	349	0.35	C	367	0.37	
00400	ALEXANDER BELL BLVD	SR 82	MILWAUKEE BLVD	M. Art	2LN	E	990	D	561	0.57	D	590	0.60	
00500	ALEXANDER BELL BLVD	MILWAUKEE BLVD	LEELAND HEIGHTS	M. Art	2LN	E	990	D	561	0.57	D	654	0.66	Shadow Lakes
00590	ALICO RD	US 41	DUSTY RD	P. Art	4LD	E	1,980	B	1,171	0.59	B	1,230	0.62	
00600	ALICO RD	DUSTY RD	LEE RD	P. Art	6LD	E	2,960	B	1,171	0.40	B	1,532	0.52	Alco Business Park
00700	ALICO RD	LEE RD	THREE OAKS PKWY	P. Art	6LD	E	2,960	B	1,171	0.40	B	1,419	0.48	Three Oaks Regional Center
00800	ALICO RD	THREE OAKS PKWY	I-75	P. Art	6LD	E	2,960	B	2,428	0.82	B	2,552	0.86	EEPCO Study
00900	ALICO RD	I-75	BEN HILL GRIFFIN BLVD	P. Art	6LD	E	2,960	B	1,278	0.43	B	1,425	0.48	EEPCO Study
01000	ALICO RD	BEN HILL GRIFFIN BLVD	GREEN MEADOW DR	Maj. Col	2LN	E	1,100	C	395	0.36	E	808	0.73	4 Ln constr 2018, EEPCO Study*
01050	ALICO RD	GREEN MEADOW DR	CORKSCREW RD	Maj. Col	2LN	E	1,100	B	131	0.12	B	224	0.20	EEPCO Study
01200	BABCOCK RD	US 41	ROCKEFELLER CIR	Min. Col	2LN	E	860	C	55	0.06	C	162	0.19	old count
01400	BARRETT RD	PONDELLA RD	PINE ISLAND RD (US 78)	Maj. Col	2LN	E	860	C	103	0.12	C	116	0.14	old count projection(2009)
01500	BASS RD	SUMMERLIN RD	GLADIOLUS DR	Maj. Col	4LN	E	1,790	C	564	0.32	C	822	0.46	
01600	BAYSHORE RD (SR 78)	BUS 41	NEW POST RD/HART RD	State	4LD	D	2,100	C	1,975	0.94	D	2,076	0.99	
01700	BAYSHORE RD (SR 78)	HART RD	SLATER RD	State	4LD	D	2,100	C	1,821	0.87	F	2,152	1.02	
01800	BAYSHORE RD (SR 78)	SLATER RD	I-75	State	4LD	D	2,100	C	1,222	0.58	C	1,441	0.69	
01900	BAYSHORE RD (SR 78)	I-75	NALLE RD	State	2LN	D	924	C	741	0.80	F	941	1.02	
02000	BAYSHORE RD (SR 78)	NALLE RD	SR 31	State	2LN	D	924	C	741	0.80	F	941	1.02	
02100	BEN HILL GRIFFIN PKWY	CORKSCREW RD	FGCU ENTRANCE	P. Art	4LD	E	2,000	B	1,361	0.68	B	1,763	0.88	
02200	BEN HILL GRIFFIN PKWY	FGCU BOULEVARD S	COLLEGE CLUB DR	P. Art	4LD	E	2,000	B	1,361	0.68	B	1,430	0.72	
02250	BEN HILL GRIFFIN PKWY	COLLEGE CLUB DR	ALICO RD	P. Art	6LD	E	3,000	A	1,123	0.37	A	1,215	0.41	
26950	BEN HILL GRIFFIN PKWY	ALICO RD	TERMINAL ACCESS RD	Controlled xs	4LD	E	1,980	A	980	0.49	A	1,030	0.52	
02300	BETH STACEY BLVD	23RD ST	HOMESTEAD RD	Maj. Col	2LN	E	860	C	340	0.40	C	565	0.66	
02400	BONITA BEACH RD	HICKORY BLVD	VANDERBILT DR	P. Art	4LD	E	1,900	C	736	0.39	C	774	0.41	Constrained In City Plan *
02500	BONITA BEACH RD	VANDERBILT DR	US 41	P. Art	4LD	E	1,900	C	1,433	0.75	C	1,506	0.79	Constrained In City Plan
02600	BONITA BEACH RD	US 41	OLD 41	P. Art	4LD	E	1,860	C	1,427	0.77	C	1,500	0.81	Constrained, old count projection(2010)
02700	BONITA BEACH RD	OLD 41	IMPERIAL ST	P. Art	6LD	E	2,800	C	1,908	0.68	C	2,005	0.72	Constrained In City Plan(2010)
02800	BONITA BEACH RD	IMPERIAL ST	W OF I-75	P. Art	6LD	E	2,800	C	2,091	0.75	C	2,197	0.76	Constrained In City Plan
02900	BONITA BEACH RD	E OF I-75	BONITA GRAND DR	M. Art	4LD	E	2,020	B	626	0.31	B	658	0.33	Constrained In City Plan
02950	BONITA BEACH RD	BONITA GRANDE DR	Logan Boulevard	M. Art	4LD	E	2,020	B	626	0.31	B	658	0.33	Constrained In City Plan
03100	BONITA GRANDE DR	BONITA BEACH RD	ETERRY ST	Maj. Col	2LN	E	860	D	692	0.80	E	782	0.91	old count projection(2009)
03200	BOYSCOUT RD	SUMMERLIN RD	US 41	P. Art	6LN	E	2,520	E	1,847	0.73	E	1,941	0.77	
03300	BRANTLEY RD	SUMMERLIN RD	US 41	Maj. Col	2LN	E	860	C	287	0.33	C	302	0.35	
03400	BRIARCLIFF RD	US 41	TRIPLE CROWN CT	Maj. Col	2LN	E	860	C	158	0.18	C	166	0.19	
03500	BROADWAY RD (ALVA)	SR 80	North RIVER RD	Maj. Col	2LN	E	860	C	280	0.33	C	294	0.34	old count projection(2009)
03700	BUCKINGHAM RD	SR 82	GUNNERY RD	P. Art	2LN	E	990	D	491	0.50	D	516	0.52	
03730	BUCKINGHAM RD	GUNNERY RD	ORANGE RIVER BLVD	P. Art	2LN	E	990	C	395	0.40	C	415	0.42	
03800	BUCKINGHAM RD	ORANGE RIVER BLVD	SR 80	P. Art	2LN	E	990	D	644	0.65	F	1,057	1.07	Buckingham 345 & Portico
03900	BURNT STORE RD	SR 78	VAN BUREN PKWY	Controlled xs	4LD	E	2,950	B	828	0.28	B	870	0.29	
04000	BURNT STORE RD	VAN BUREN PKWY	COUNTY LINE	Controlled xs	2LN	E	1,140	C	528	0.46	C	626	0.55	
04200	BUS 41 (N TAMIAHI TR, CITY LIMITS (N END EDISON BRG))		PONDELLA RD	State	6LD	D	3,171	C	1,715	0.54	C	2,082	0.66	
04300	BUS 41 (N TAMIAHI TR, PONDELLA RD)		SR 78	State	6LD	D	3,171	C	1,715	0.54	C	2,082	0.66	
04400	BUS 41 (N TAMIAHI TR, SR 78)		LITTLETON RD	State	4LD	D	2,100	C	994	0.47	C	1,245	0.59	
04500	BUS 41 (N TAMIAHI TR, LITTLETON RD)		US 41	State	4LD	D	2,100	C	596	0.28	C	795	0.38	
04600	CAPE CORAL BRIDGE	DEL PRADO BLVD	MCGREGOR BLVD	P. Art	4LB	E	4,000	D	3,097	0.77	D	3,255	0.81	
04700	CAPTIVA DR	BLIND PASS	SOUTH SEAS	Maj. Col	2LN	E	860	C	267	0.31	C	302	0.35	Constrained, old count(2010)

County-Maintained Collector Roadway - Unincorporated Lee County

State-Maintained Arterial Roadway - Unincorporated Lee County

County-Maintained Collector Roadway - Incorporated Lee County

County Maintained Controlled Access Arterial Facility

County-Maintained Arterial Roadway - Unincorporated Lee County

County Maintained Expressway

County-Maintained Arterial Roadway - Incorporated Lee County

APPENDIX E

LEE COUNTY LEVEL OF SERVICE TABLES

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Uninterrupted Flow Highway						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	130	420	850	1,210	1,640
2	Divided	1,060	1,810	2,560	3,240	3,590
3	Divided	1,600	2,720	3,840	4,860	5,380

Arterials						
Class I (40 mph or higher posted speed limit)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	140	800	860	860
2	Divided	*	250	1,840	1,960	1,960
3	Divided	*	400	2,840	2,940	2,940
4	Divided	*	540	3,830	3,940	3,940

Class II (35 mph or slower posted speed limit)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	330	710	780
2	Divided	*	*	710	1,590	1,660
3	Divided	*	*	1,150	2,450	2,500
4	Divided	*	*	1,580	3,310	3,340

Controlled Access Facilities						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	160	880	940	940
2	Divided	*	270	1,970	2,100	2,100
3	Divided	*	430	3,050	3,180	3,180

Collectors						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	310	660	740
1	Divided	*	*	330	700	780
2	Undivided	*	*	730	1,440	1,520
2	Divided	*	*	770	1,510	1,600

Note: the service volumes for I-75 (freeway), bicycle mode, pedestrian mode, and bus mode should be from FDOT's most current version of LOS Handbook.

APPENDIX F

**ALICO ROAD EXTENSION TRAFFIC TECHNICAL MEMORANDUM,
PREPARED BY KISINGER CAMPO & ASSOCIATES
DATED MARCH 2022**



Lee County
Southwest Florida

Alico Road Extension

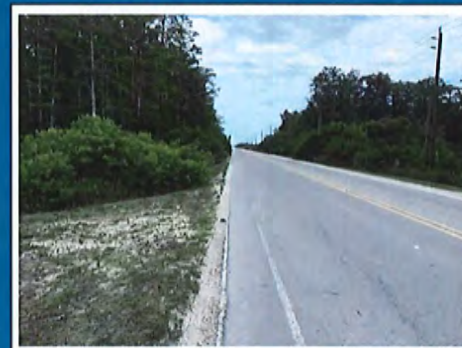
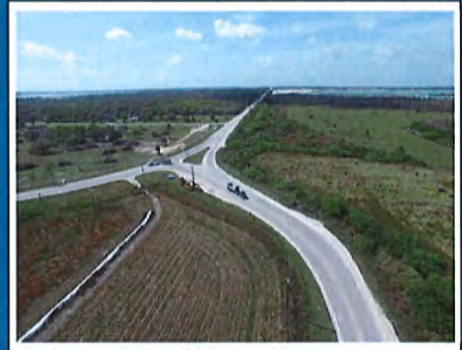
Traffic Technical Memorandum

Prepared by:

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201 N Franklin St Ste 400

March 2022



5.1. Future Year Turning Movement Volumes

The traffic design factors presented in **Section 2.3** were used to compute future year peak hour volumes. The FDOT TURNS5 tool was used to help in estimating future years turning movement counts. Output worksheets from TURNS5 can be found in **Appendix J**. The peak hour intersection turning movement volumes were checked for reasonableness and manually adjusted where necessary and appropriate. Directional AM peak hour volumes were obtained from the reciprocal movement PM peak hour volumes and vice versa. Intersection turning movement volumes were balanced with those of the adjacent intersections such that no addition or deletion of traffic volumes is needed to build the network simulation model. Figures 5.5, 5.6, and 5.7 depict the AM and PM turning movement volumes for the Design Year 2045 No-Build, Opening Year 2025, and Design Year 2045 Build, respectively, along Alico Road. Figures 5.8, 5.9, and 5.10 depict the AM and PM turning movement volumes for the Design Year 2045 No-Build, Opening Year 2025, and Design Year 2045 Build, respectively, along Sunshine Boulevard.

Figure 5.5 Alico Road Design Year 2045 No-Build Turning Movement Volumes

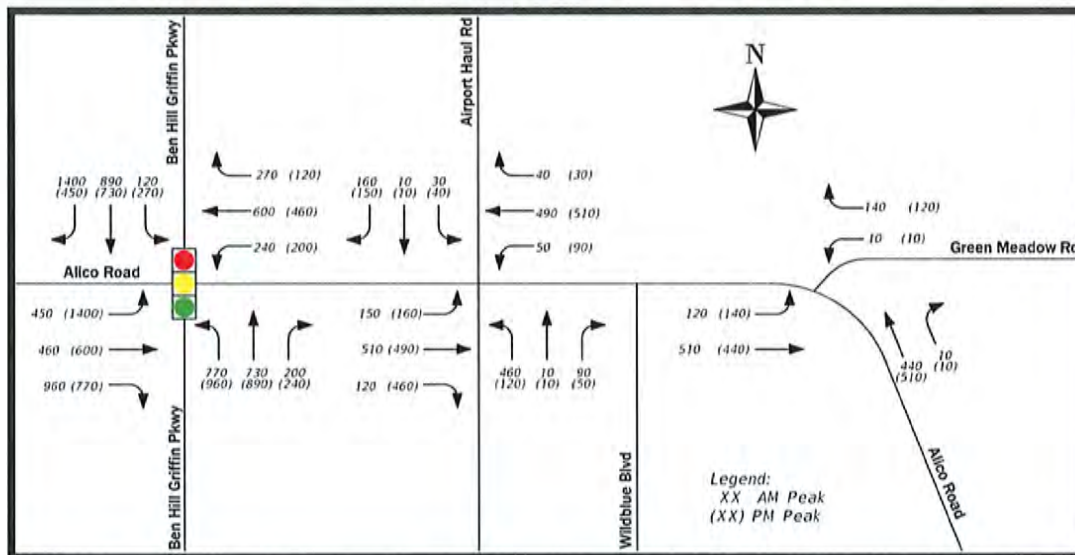


Figure 5.6 Alico Road Opening Year 2025 Build Turning Movement Volumes

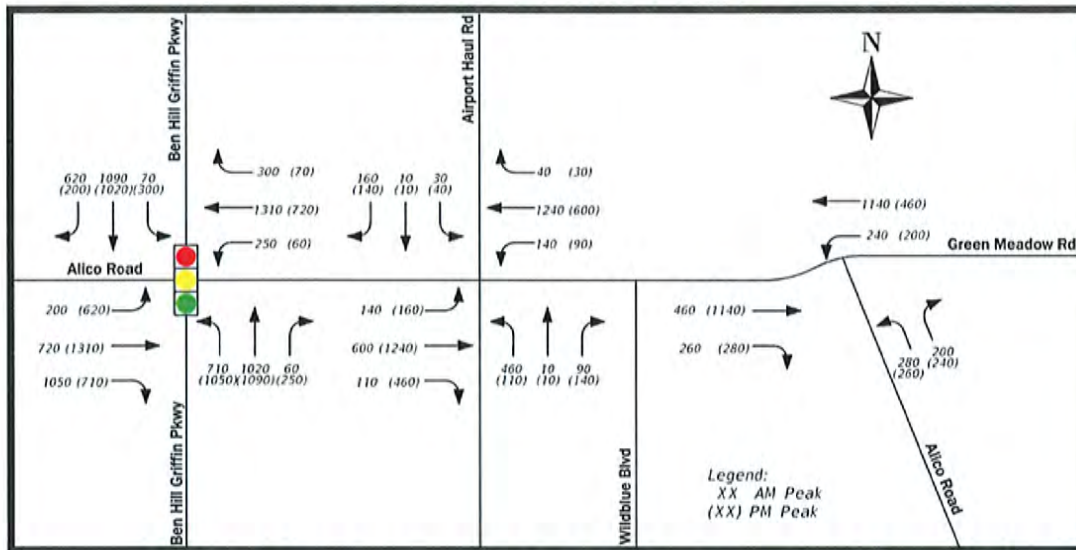


Figure 5.7 Alico Road Design Year 2045 Build Turning Movement Volumes

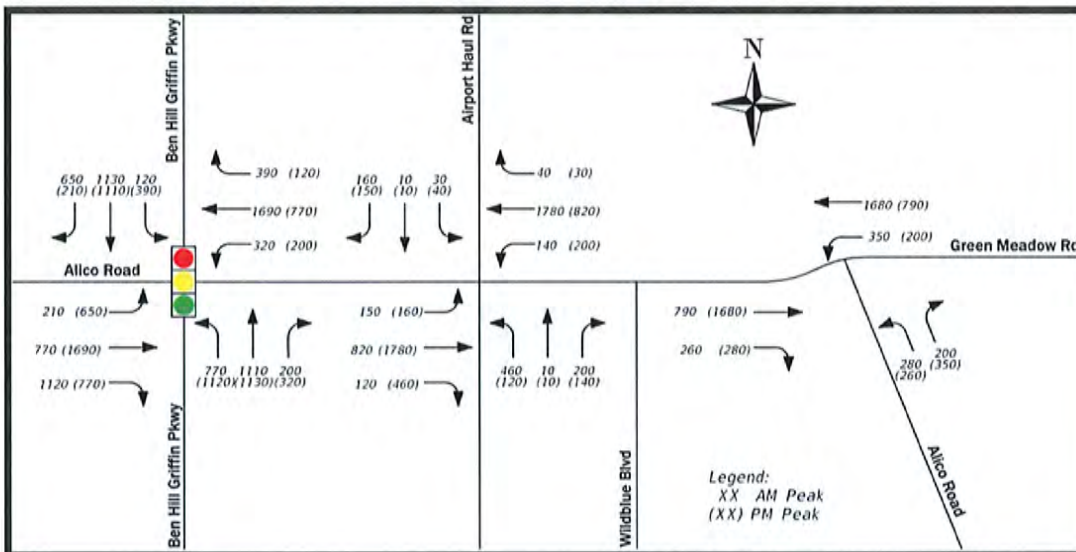


Figure 5.8 Sunshine Blvd Design Year 2045 No-Build Turning Movement Volumes

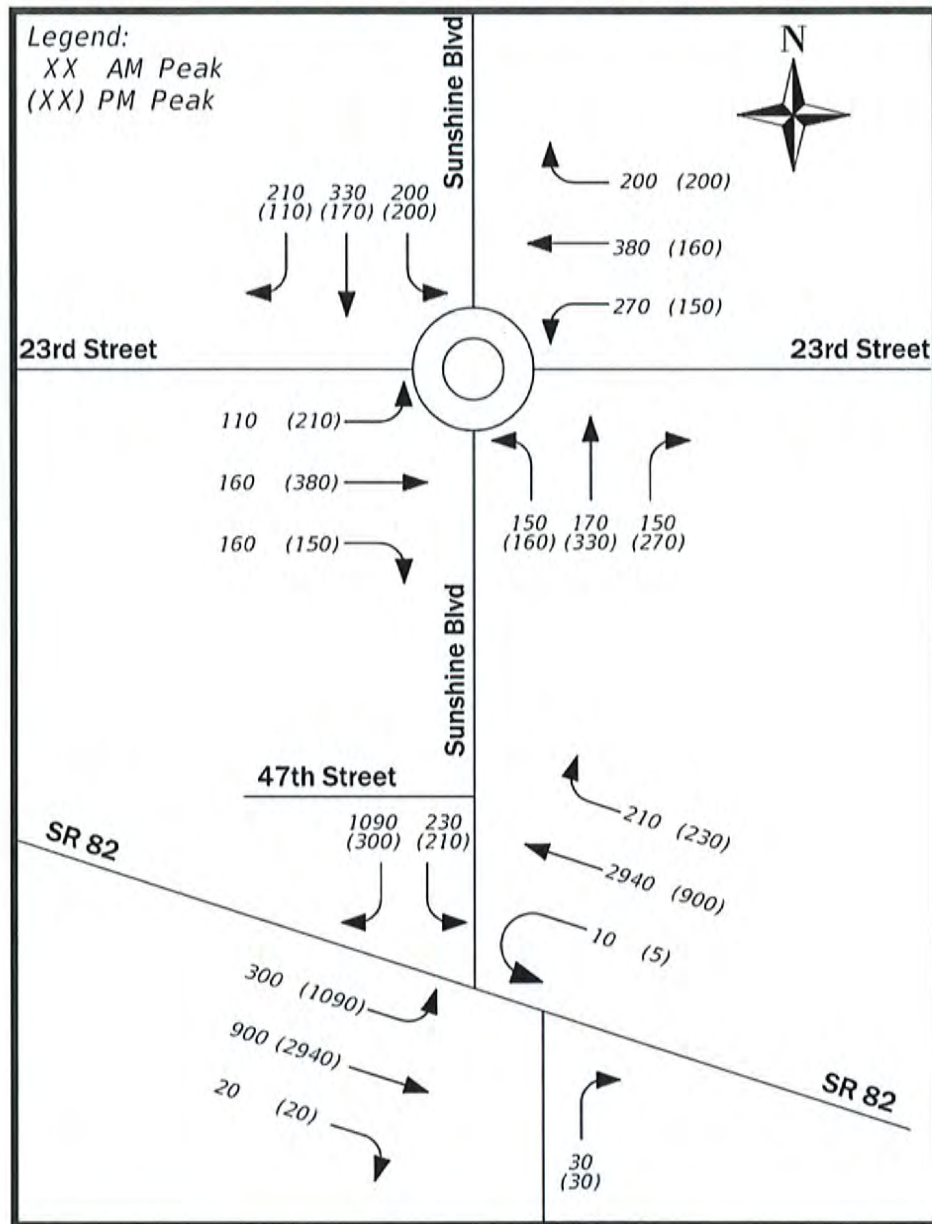


Figure 5.9 Sunshine Blvd Opening Year 2025 Build Turning Movement Volumes

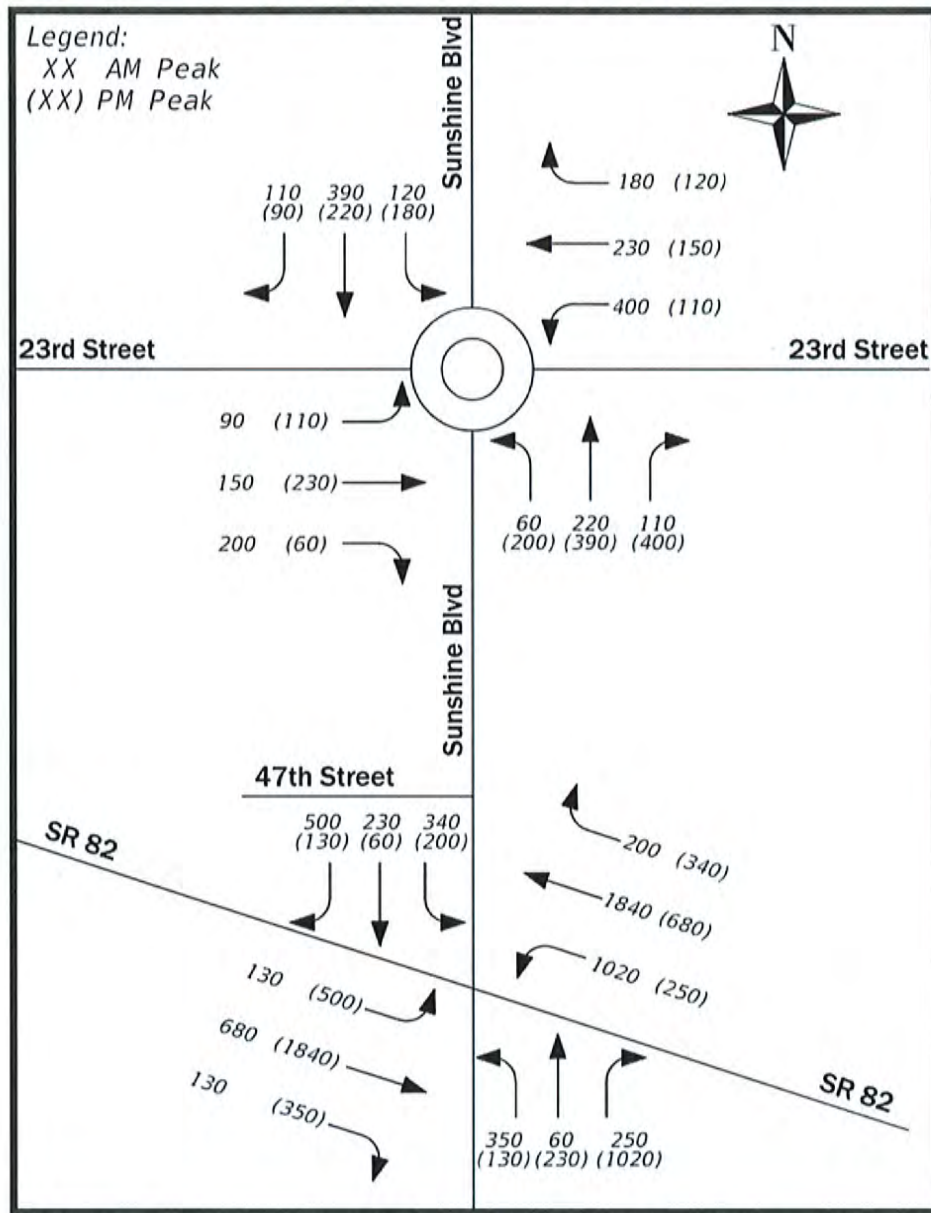
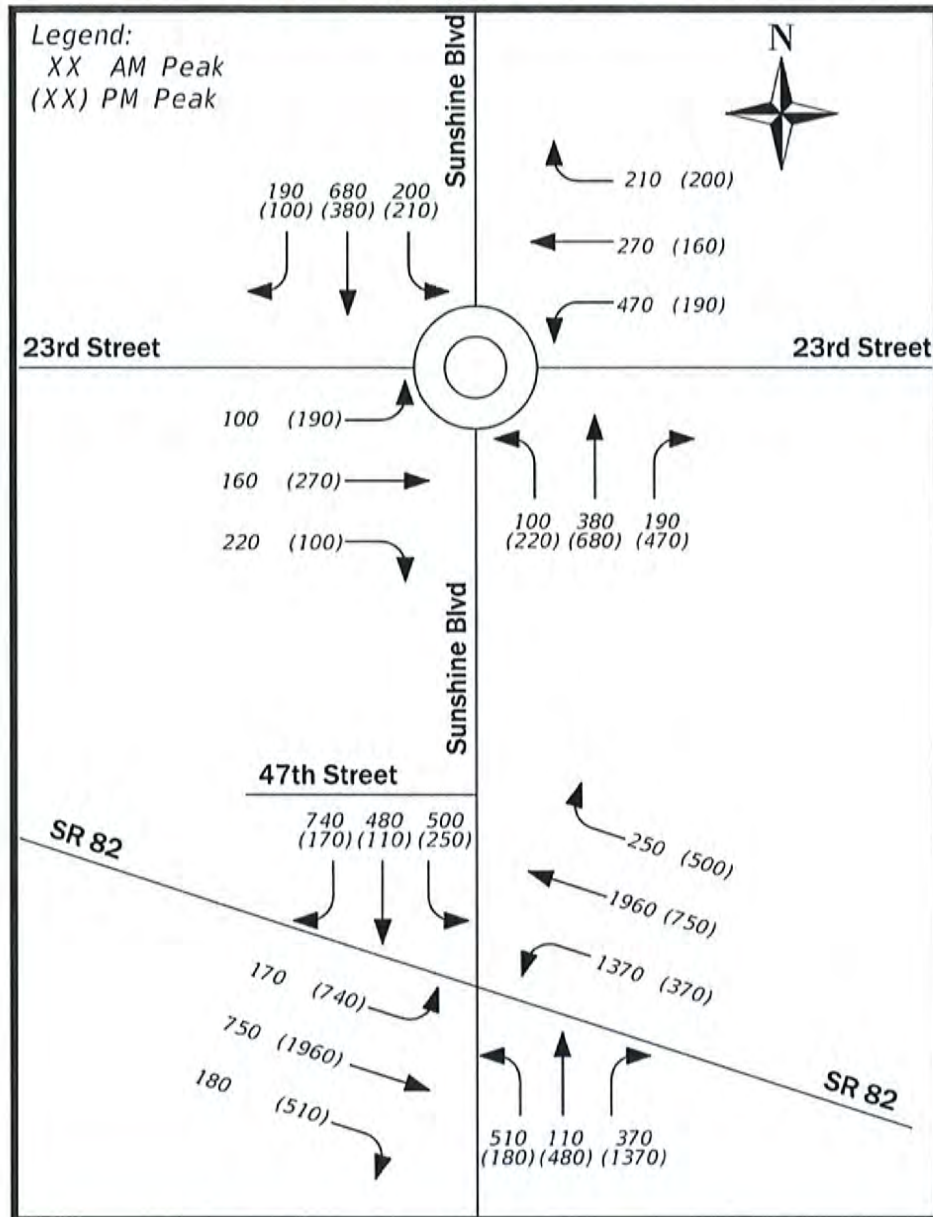


Figure 5.10 Sunshine Blvd Design Year 2045 Build Turning Movement Volumes



6. Design Year 2045 LOS Analysis

Design Year 2045 level of service (LOS) analysis was conducted based on the methodology outlined in the Highway Capacity Manual, 6th Edition using Synchro 11 and the Highway Capacity Software (HCS) for the signalized and unsignalized intersection LOS analysis. Delays and LOS for roundabout intersections were calculated using SIDRA INTERSECTION 8 software for the AM and PM peak hour volumes.

Alternative One geometry is the No-Build scenario. The Alternative One Design Year 2045 arterial LOS for each segment of Alico Road and Sunshine Boulevard is shown in Table 6.1. The arterial analysis shows that all the segments are expected to operate at an acceptable LOS except Alico Road between the I-75 ramps and Sunshine Boulevard between SR 82 and 40th Street. The 2045 AM and PM peak hour LOS for the Alternative One geometry for each intersection is presented in Table 6.2. The Design Year 2045 analysis shows that the Ben Hill Griffin Parkway and Airport Haul Road intersections along Alico Road and the SR 82 and 23rd Street intersections along Sunshine Boulevard are expected to operate at an unacceptable LOS with the existing geometry. At the current two-way stop-controlled intersections at Airport Haul Road and SR 82, the minor road delay in the Design Year 2045 is too high that HCS cannot accurately depict the delay. Therefore, a maximum delay of 300 seconds was used. **Appendix D** includes copies of the Synchro, HCS, and SIDRA LOS output spreadsheets.

Table 6.1 Design Year 2045 Arterial LOS – Alternative One

Segment	Northbound/Eastbound				Southbound/Westbound			
	AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
Alico Road	Volume	LOS	Volume	LOS	Volume	LOS	Volume	LOS
West of I-75 SB Ramp	1230	C	2130	D	N/A			
I-75 SB Ramp to I-75 NB Ramp	1700	C	2480	D	3320	E	2510	E
I-75 NB Ramp to Ben Hill Griffin Pkwy	1870	D	2770	D	2770	C	1870	C
Ben Hill Griffin Pkwy to Airport Haul Rd	780	B	1110	B	1110	B	780	C
Airport Haul Rd to Green Meadow Rd	630	C	580	C	580	C	630	C
East of Green Meadow Rd	520	C	450	C	450	C	520	C
Sunshine Boulevard	Volume	LOS	Volume	LOS	Volume	LOS	Volume	LOS
SR 82 to 40 th Street	510	E	1320	E	1320	E	510	E
40 th Street to 23 rd Street	470	D	760	D	760	D	470	D
North of 23 rd Street	480	D	740	D	740	D	480	D

Signalized (Synchro Results)

Table 6.2 Design Year 2045 Intersection LOS – Alternative One

Intersection	AM Peak Hour		PM Peak Hour	
	LOS	Delay (sec/veh)	LOS	Delay (sec/veh)
Alico Road at Ben Hill Griffin Parkway	E	66.9	F	114.4
Alico Road at Airport Haul Road	F	>300	F	>300
Alico Road at Green Meadow Road	B	12.2	B	12.5
Sunshine Boulevard at SR 82	F	>300	F	>300
Sunshine Boulevard at 23 rd Street	F	166.6	F	115.8

6.1. Proposed Geometry

Alternative Two geometry consists of the new four-lane Alico Road extension from the Alico Road at Green Meadow Road intersection to the SR 82 at Sunshine Boulevard intersection. Alternative Two also consists of widening Alico Road from two to four lanes from Airport Haul Road to Green Meadow Road and Sunshine Boulevard from two to four lanes from SR 82 to 40th Street. Figures 6.1 and 6.2 show the Alternative Two lane geometry along Alico Road and Sunshine Boulevard. Intersection improvements in Alternative Two include a T intersection with a continuous green westbound movement at Alico Road and Green Meadow Road (Figure 6.3) and a partial displaced left turn (continuous flow) intersection at SR 82 and Sunshine Boulevard (Figure 6.4).

Figure 6.1 Alico Road Alternative Two Geometry

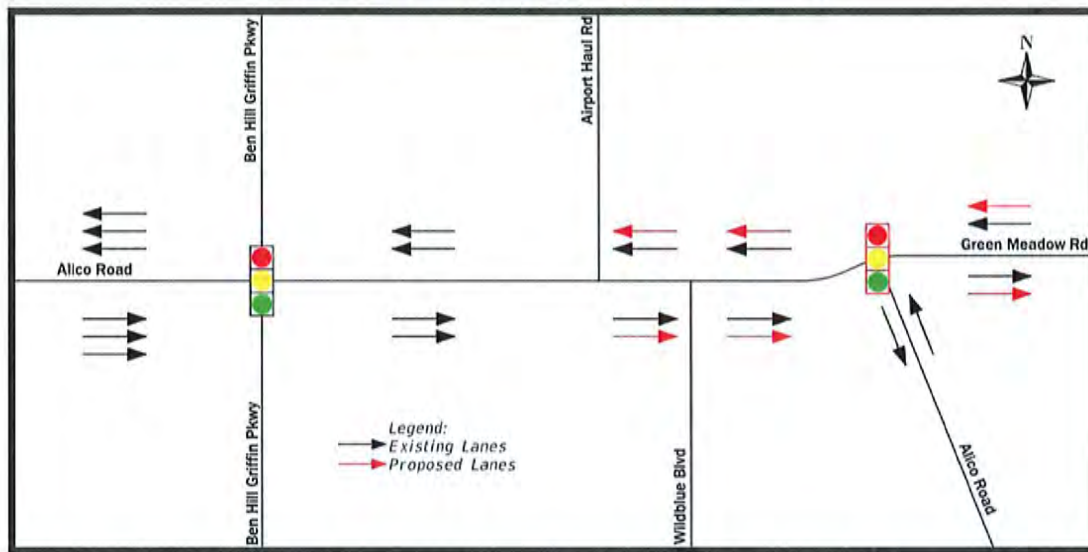


Figure 6.2 Sunshine Boulevard Alternative Two Geometry

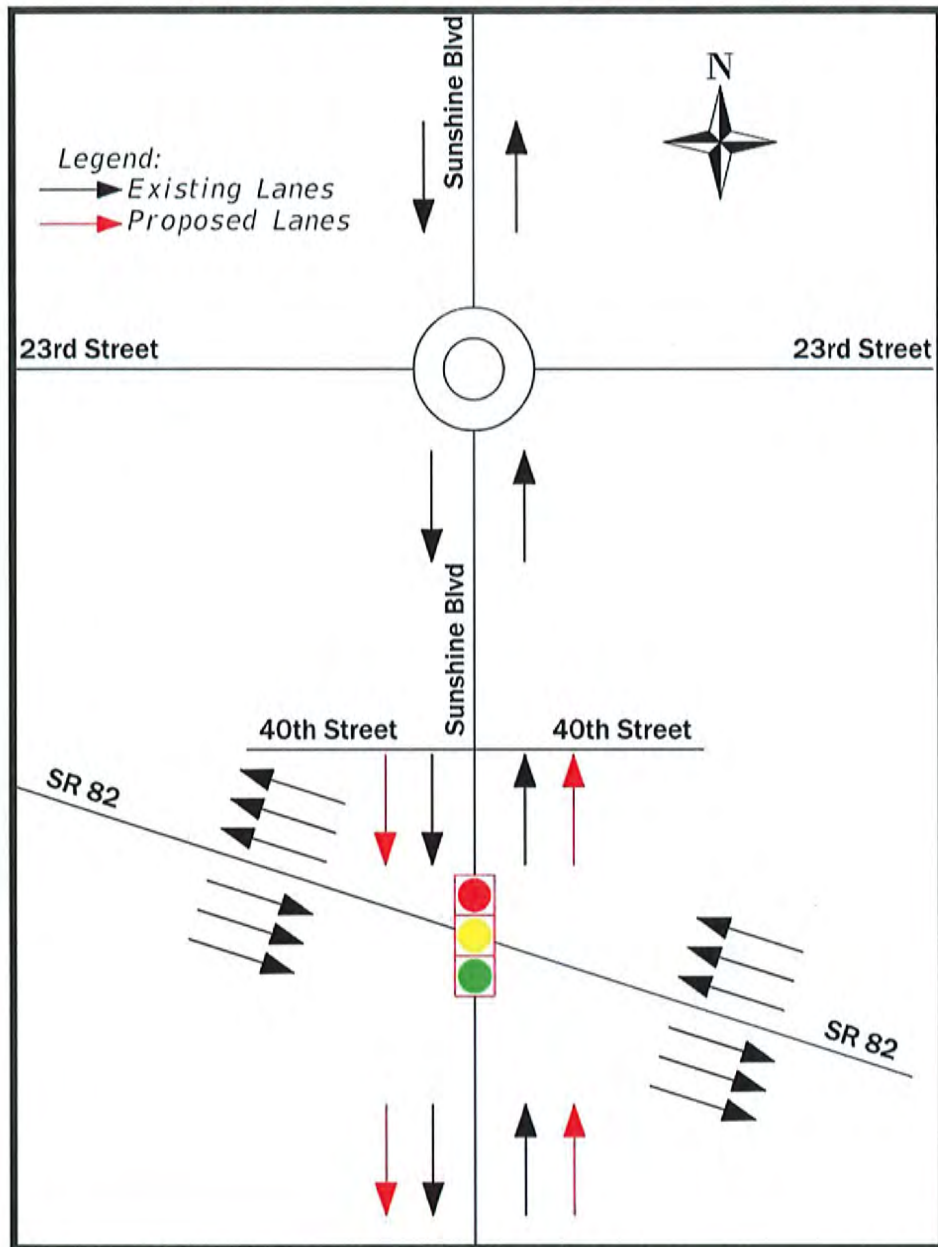


Figure 6.3 Alico Road at Green Meadow Road Proposed Geometry

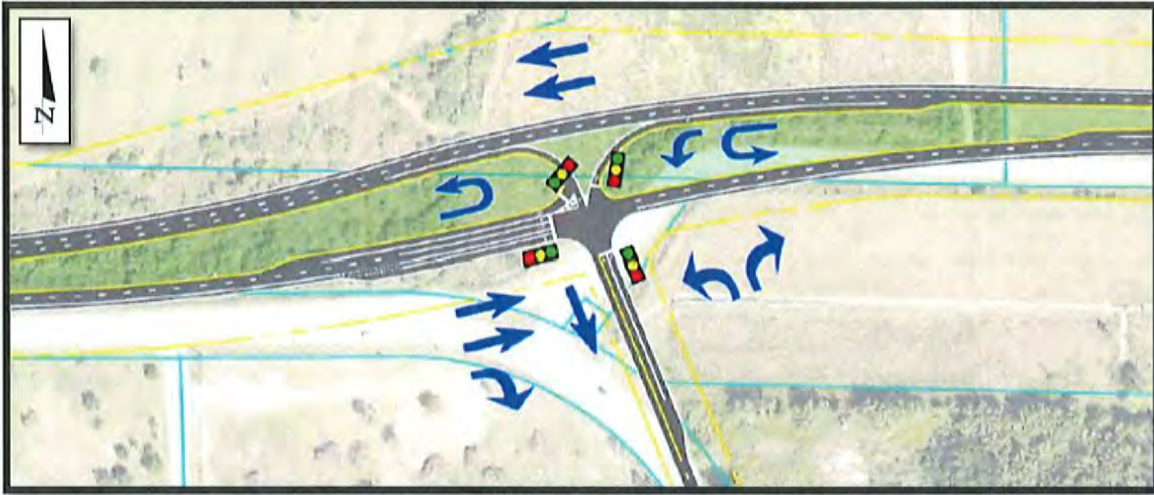
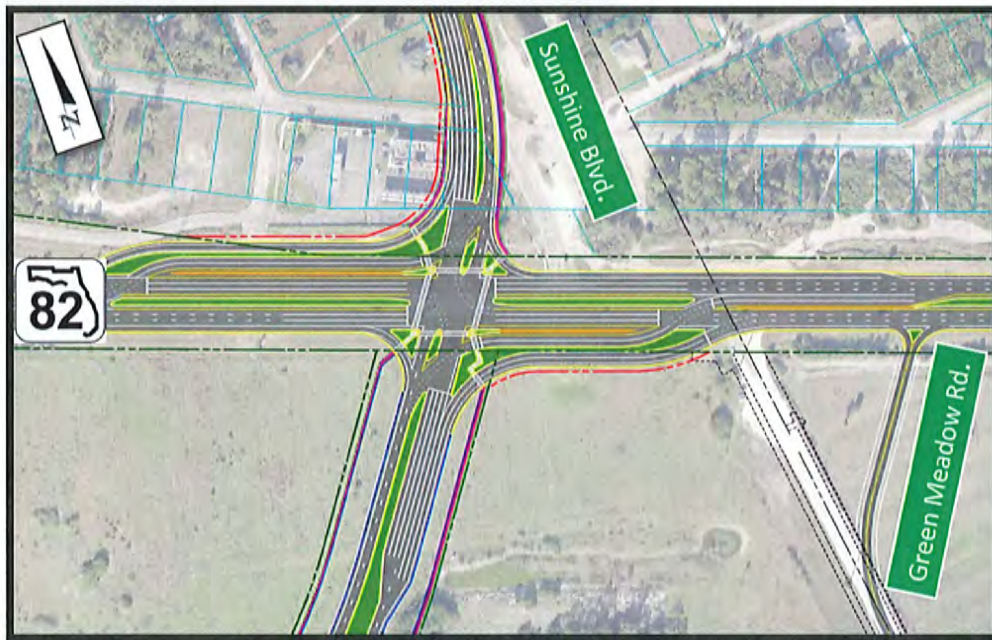


Figure 6.4 SR 82 at Sunshine Boulevard Proposed Geometry



The Alternative Two Opening Year 2025 arterial LOS for each segment of Alico Road and Sunshine Boulevard is shown in Table 6.3. The arterial analysis shows that all the segments except three in Alternative Two are expected to operate at an acceptable LOS. The Opening Year 2025 AM and PM peak hour LOS for the Alternative Two geometry for each intersection is presented in Table 6.4. The Opening Year 2025 analysis shows that the Ben Hill Griffin Parkway and Airport Haul Road intersections along Alico Road and the Sunshine Boulevard at 23rd Street intersection are expected to operate at an unacceptable LOS with the Alternative Two geometry. **Appendix D** includes copies of the Synchro, HCS, and SIDRA LOS output spreadsheets.

Table 6.3 Opening Year 2025 Arterial LOS – Alternative Two

Segment	Northbound/Eastbound				Southbound/Westbound			
	AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
	Volume	LOS	Volume	LOS	Volume	LOS	Volume	LOS
Alico Road								
West of I-75 SB Ramp	1330	C	2000	D	N/A			
I-75 SB Ramp to I-75 NB Ramp	1800	C	2350	C	3190	E	2610	D
I-75 NB Ramp to Ben Hill Griffin Pkwy	1970	D	2640	F	2640	D	1970	C
Ben Hill Griffin Pkwy to Airport Haul Rd	850	B	1860	C	1860	B	850	B
Airport Haul Rd to Green Meadow Rd	720	A	1420	C	1420	C	720	A
East of Green Meadow Rd	N/A				480	C	500	C
Green Meadow Rd to SR 82 (Extension)	660	A	1380	B	1380	B	660	A
Sunshine Boulevard	Volume	LOS	Volume	LOS	Volume	LOS	Volume	LOS
SR 82 to 40 th Street	390	A	1070	B	1070	B	390	A
40 th Street to 23 rd Street	390	E	990	E	990	E	390	E
North of 23 rd Street	490	C	620	C	620	C	490	C

Signalized (Synchro Results)

Table 6.4 Opening Year 2025 Intersection LOS – Alternative Two

Intersection	AM Peak Hour		PM Peak Hour	
	LOS	Delay (sec/veh)	LOS	Delay (sec/veh)
Alico Road at Ben Hill Griffin Parkway	F	88.7	F	101.6
Alico Road at Airport Haul Road	F	>300	F	>300
Alico Road at Green Meadow Road	B	16.1	C	27.5
Sunshine Boulevard at SR 82	D	36.3	D	45.6
Sunshine Boulevard at 23 rd Street	F	109.2	F	122.6

The Alternative Two Design Year 2045 arterial LOS for each segment of Alico Road and Sunshine Boulevard is shown in Table 6.5. The arterial analysis shows that all the segments are expected to operate at an acceptable LOS except Alico Road between the I-75 ramps and Ben Hill Griffin Parkway and Sunshine Boulevard between 40th Street and north of 23rd Street. The Design Year 2045 AM and PM peak hour LOS for the Alternative Two geometry for each intersection is presented in Table 6.6. The Design Year 2045 analysis shows that the Ben Hill Griffin Parkway and Airport Haul Road intersections along Alico Road and the Sunshine Boulevard at 23rd Street intersection are expected to operate at an unacceptable LOS with the Alternative Two geometry. **Appendix D** includes copies of the Synchro, HCS, and SIDRA LOS output spreadsheets.

Table 6.5 Design Year 2045 Arterial LOS – Alternative Two

Segment	Northbound/Eastbound				Southbound/Westbound			
	AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
Alico Road	Volume	LOS	Volume	LOS	Volume	LOS	Volume	LOS
West of I-75 SB Ramp	1460	C	2470	D	N/A			
I-75 SB Ramp to I-75 NB Ramp	1930	C	2820	D	3660	F	2740	D
I-75 NB Ramp to Ben Hill Griffin Pkwy	2100	D	3110	F	3110	D	2100	C
Ben Hill Griffin Pkwy to Airport Haul Rd	1090	B	2400	D	2400	C	1090	B
Airport Haul Rd to Green Meadow Rd	1050	B	1960	D	1960	D	1050	B
East of Green Meadow Rd	N/A				480	C	610	C
Green Meadow Rd to SR 82 (Extension)	990	B	2030	C	2030	C	990	B
Sunshine Boulevard	Volume	LOS	Volume	LOS	Volume	LOS	Volume	LOS
SR 82 to 40 th Street	530	A	1720	C	1720	C	530	A
40 th Street to 23 rd Street	670	E	1370	E	1370	E	670	E
North of 23 rd Street	690	E	1070	E	1070	E	690	E

Signalized (Synchro Results)

Table 6.6 Design Year 2045 Intersection LOS – Alternative Two

Intersection	AM Peak Hour		PM Peak Hour	
	LOS	Delay (sec/veh)	LOS	Delay (sec/veh)
Alico Road at Ben Hill Griffin Parkway	F	124.8	F	167.5
Alico Road at Airport Haul Road	F	>300	F	>300
Alico Road at Green Meadow Road	B	19.1	D	34.9
Sunshine Boulevard at SR 82	D	42.6	D	46.8
Sunshine Boulevard at 23 rd Street	F	>300	F	>300

Alternative Three consists of the improvements included in Alternative Two as well as additional widening along Alico Road and Sunshine Boulevard and lanes at the intersections of Alico Road at Ben Hill Griffin Parkway and Sunshine Boulevard at 23rd Street. Alternative Three consists of widening Alico Road from four to six lanes from Ben Hill Griffin Parkway to Airport Haul Road and Sunshine Boulevard from two to four lanes from SR 82 to north of 23rd Street. Figures 6.5 and 6.6 show the Alternative Three segment and intersection lane geometry along Alico Road. Figures 6.7 and 6.8 show the Alternative Three segment lane geometry along Sunshine Boulevard and intersection lane geometry at Sunshine Boulevard and 23rd Street.

Figure 6.5 Alico Road Alternative Three Segment Geometry

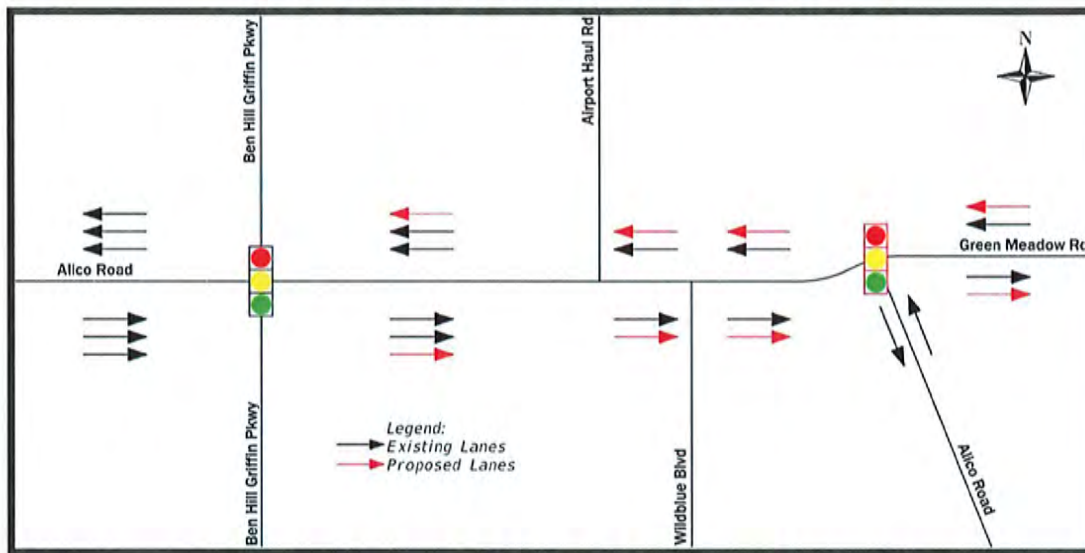


Figure 6.6 Alico Road Alternative Three Intersection Geometry

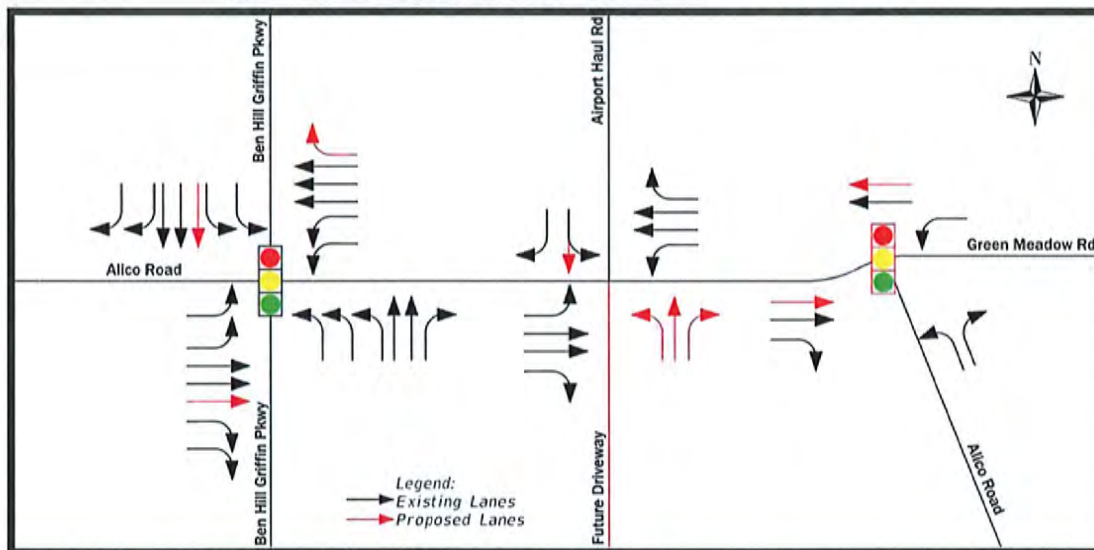


Figure 6.7 Sunshine Boulevard Alternative Three Segment Geometry

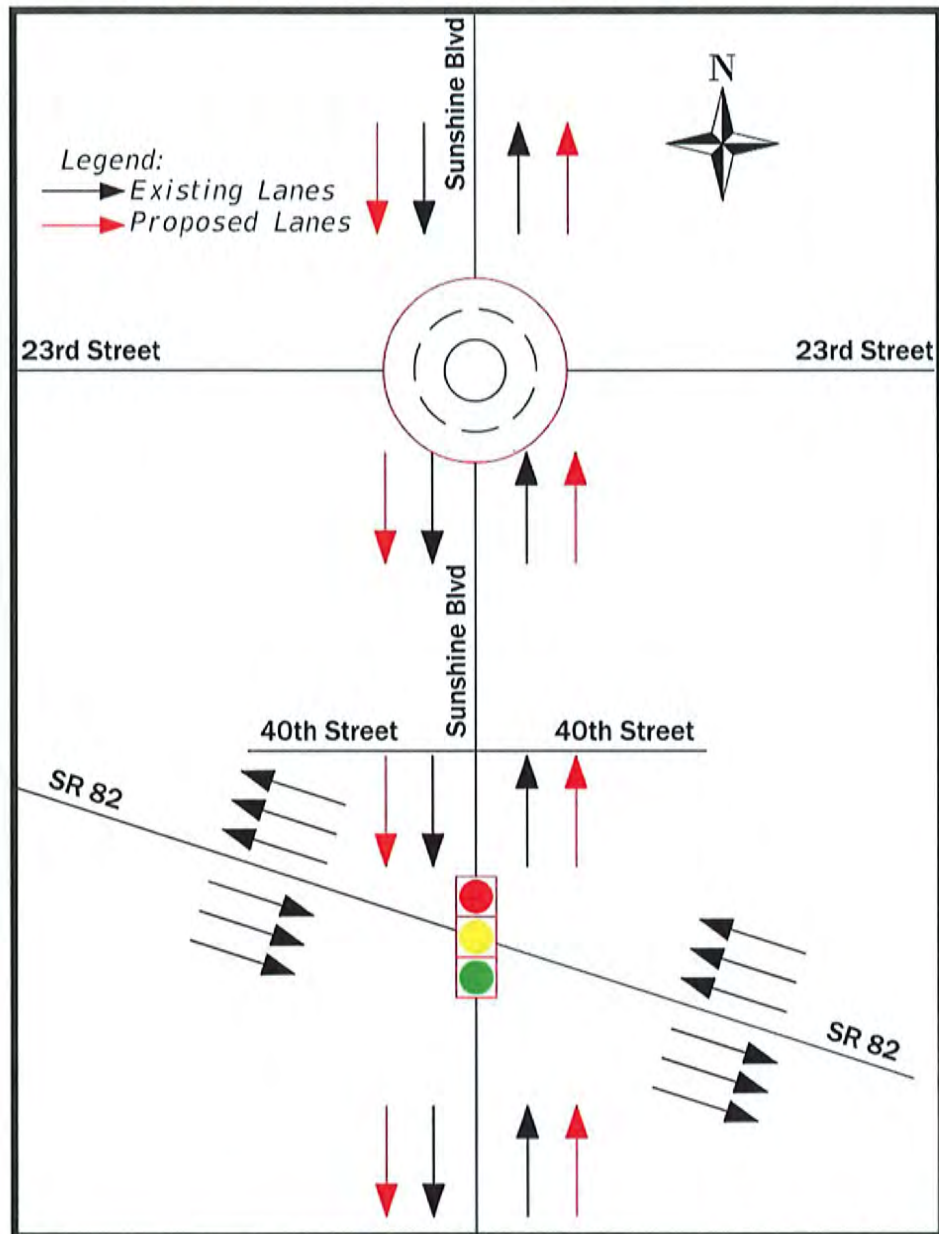
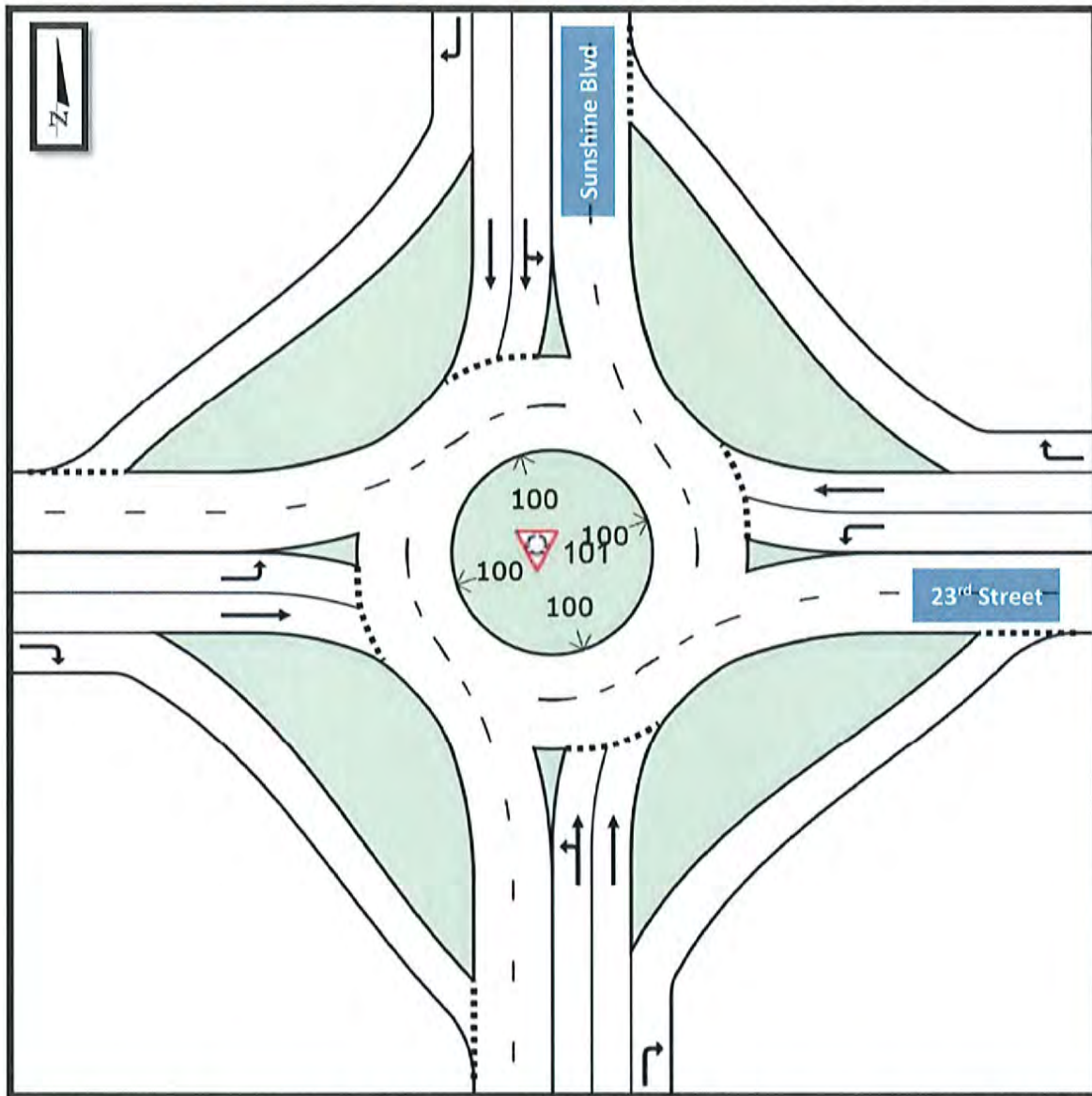


Figure 6.8 Sunshine Boulevard at 23rd Street Alternative Three Geometry



The Alternative Three Design Year 2045 arterial LOS for each segment of Alico Road and Sunshine Boulevard is shown in Table 6.7. The arterial analysis shows that all the segments are expected to operate at an acceptable LOS except Alico Road between the northbound I-75 ramp and Ben Hill Griffin Parkway. The Design Year 2045 AM and PM peak hour LOS for the Alternative Three geometry for each intersection is presented in Table 6.8. The Design Year 2045 analysis shows that the Ben Hill Griffin Parkway and Airport Haul Road intersections along Alico Road and the Sunshine Boulevard at 23rd Street intersection are expected to operate at an unacceptable LOS with the Alternative Three geometry. **Appendix D** includes copies of the Synchro, HCS, and SIDRA LOS output spreadsheets.

Table 6.7 Design Year 2045 Arterial LOS – Alternative Three

Segment	Northbound/Eastbound				Southbound/Westbound			
	AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
Alico Road	Volume	LOS	Volume	LOS	Volume	LOS	Volume	LOS
West of I-75 SB Ramp	1460	C	2470	D	N/A			
I-75 SB Ramp to I-75 NB Ramp	1930	B	2820	D	3660	D	2740	D
I-75 NB Ramp to Ben Hill Griffin Pkwy	2100	D	3110	E	3110	D	2100	C
Ben Hill Griffin Pkwy to Airport Haul Rd	1090	A	2400	C	2400	C	1090	B
Airport Haul Rd to Green Meadow Rd	1050	B	1960	D	1960	D	1050	B
East of Green Meadow Rd	N/A				480	C	610	C
Green Meadow Rd to SR 82 (Extension)	990	B	2030	C	2030	C	990	B
Sunshine Boulevard	Volume	LOS	Volume	LOS	Volume	LOS	Volume	LOS
SR 82 to 40 th Street	530	A	1720	C	1720	C	530	A
40 th Street to 23 rd Street	670	A	1370	C	1370	C	670	A
North of 23 rd Street	690	A	1070	B	1070	B	690	A

Signalized (Synchro Results)

Table 6.8 Design Year 2045 Intersection LOS – Alternative Three

Intersection	AM Peak Hour		PM Peak Hour	
	LOS	Delay (sec/veh)	LOS	Delay (sec/veh)
Alico Road at Ben Hill Griffin Parkway	E	65.9	F	85.5
Sunshine Boulevard at 23 rd Street	E	37.5	C	18.5

Based on the traffic projections and LOS analysis, the extension of Alico Road from the Alico Road at Green Meadow Road intersection to the SR 82 at Sunshine Boulevard intersection is recommended to be a four-lane roadway in the Opening Year 2025. This segment is not expected to exceed the capacity of a four-lane roadway until the future year 2062 based on the known access point density and number of signalized intersections along the corridor. However, if more access points with signalized intersections are added along the roadway after the Opening Year 2025, this segment is expected to reach four-lane capacity sooner than the future year 2062.

With the extension of Alico Road from Green Meadow Road to SR 82, adjacent roadway segments and intersections are expected to exceed the existing capacity in the Design Year 2045. The segment of Alico Road from Airport Haul Road to Green Meadow Road is currently a two-lane roadway. This segment is expected to require widening from two to four lanes by the Opening Year 2025. The segment of Alico Road from Ben Hill Griffin Parkway to Airport Haul Road is currently a four-lane roadway. This segment is expected to require widening from four to six lanes by the future year 2048. However, similar to the new

extension segment, if more access points with signalized intersections are added along the roadway after the Opening Year 2025, this segment is expected to reach four-lane capacity sooner than the future year 2048. Table 6.9 summarizes the existing, proposed, and future lanes along the project limits and the years widening is needed by.

The segment of Sunshine Boulevard from SR 82 to 23rd Street is currently a two-lane roadway. This segment is expected to require widening from two to four lanes by the Opening Year 2025. The segment of Sunshine Boulevard north of 23rd Street is currently a two-lane roadway. This segment is expected to require widening from two to four lanes by the future year 2036.

Table 6.9 Lane Geometry Summary

Segment	Existing Lanes	Proposed Lanes	Year Needed	Future Lanes	Year Needed
Alico Road					
West of I-75 SB Ramp	6-Lane	6-Lane	N/A	6-Lane	N/A
I-75 SB Ramp to I-75 NB Ramp	6-Lane	6-Lane	N/A	6-Lane	N/A
I-75 NB Ramp to Ben Hill Griffin Pkwy	6-Lane	6-Lane	N/A	6-Lane	N/A
Ben Hill Griffin Pkwy to Airport Haul Rd	4-Lane	4-Lane	N/A	6-Lane	2048
Airport Haul Rd to Green Meadow Rd	2-Lane	4-Lane	2025	4-Lane	N/A
East of Green Meadow Rd	2-Lane	2-Lane	N/A	2-Lane	N/A
Green Meadow Rd to SR 82 (Extension)	N/A	4-Lane	2025	6-Lane	2062
Sunshine Boulevard					
SR 82 to 40 th Street	2-Lane	4-Lane	2025	4-Lane	N/A
40 th Street to 23 rd Street	2-Lane	4-Lane	2025	4-Lane	N/A
North of 23 rd Street	2-Lane	4-Lane	2036	4-Lane	N/A

The intersections of Alico Road at Green Meadow Road and SR 82 at Sunshine Boulevard are expected to require significant improvements with the addition of the new roadway extension. The existing geometry at both intersections will no longer be feasible to serve the projected traffic volumes. Therefore, FDOT ICE analysis has been conducted for the intersections of Alico Road at Green Meadow Road and SR 82 at Sunshine Boulevard to determine the most preferred and feasible intersection alternative. The initial results include CAP-X analysis to determine the alternatives with the best traffic operations. Since traffic patterns change dramatically at the intersection with the new extension, the 2025 Opening Year turning movement volumes were used to analyze the intersection. The best two operating alternatives for the Alico Road at Green Meadow Road intersection were a Continuous Green T and a traffic signal. The best three operating alternatives for the SR 82 at Sunshine Boulevard intersection were a full Displaced Left Turn, a Quadrant Roadway N-W, and a Partial Displaced Left Turn E-W. These initial results are depicted in Figures 6.9 and 6.10 and included in **Appendix K**. The AM and PM peak hour LOS for the proposed intersection alternatives at both intersections is presented in Table 6.10.

Figure 6.9 Alico Road at Green Meadow Road CAP-X Results

TYPE OF INTERSECTION	Overall V/C Ratio	V/C Ranking	Multimodal Score	Pedestrian Accommodations	Bicycle Accommodations	Transit Accommodations
Continuous Green T S	0.68	1	4.4	Fair	Fair	Excellent
Traffic Signal	0.74	2	7.2	Good	Good	Excellent
Signalized Restricted Crossing U-Turn E-W	0.85	3	9.4	Excellent	Excellent	Good
1NS X 2EW	1.11	4	8.3	Good	Excellent	Excellent
2 X 2	1.11	4	8.3	Good	Excellent	Excellent
2NS X 1EW	2.09	6	8.3	Good	Excellent	Excellent
Unsignalized Restricted Crossing U-Turn E-W	2.12	7	6.7	Good	Good	Good
1 X 1	2.27	8	10.0	Excellent	Excellent	Excellent
All-Way Stop Control	2.66	9	10.0	Excellent	Excellent	Excellent
Two-Way Stop Control E-W	453.20	10	5.6	Fair	Good	Excellent

Figure 6.10 SR 82 at Sunshine Boulevard CAP-X Results

TYPE OF INTERSECTION	Overall V/C Ratio	V/C Ranking	Multimodal Score	Pedestrian Accommodations	Bicycle Accommodations	Transit Accommodations
Displaced Left Turn	0.63	1	4.8	Fair	Fair	Good
Quadrant Roadway N-W	0.70	2	4.4	Fair	Fair	Fair
Partial Displaced Left Turn E-W	0.71	3	4.8	Fair	Fair	Good
Quadrant Roadway S-W	0.75	4	4.4	Fair	Fair	Fair
Quadrant Roadway S-E	0.79	5	4.4	Fair	Fair	Fair
Quadrant Roadway N-E	0.80	6	4.4	Fair	Fair	Fair
Signalized Restricted Crossing U-Turn E-W	0.86	7	6.3	Good	Good	Fair
Partial Median U-Turn E-W	0.94	8	6.3	Good	Good	Fair
Traffic Signal	0.95	9	4.8	Fair	Fair	Good
Median U-Turn E-W	0.96	10	6.3	Good	Good	Fair

The Alico Road at Green Meadow Road intersection is expected to require a traffic signal to provide an acceptable LOS at the intersection. Three alternatives were evaluated at this intersection including a traditional traffic signal, a Continuous Green T intersection, and a Continuous Green T intersection with a northbound left-turn flyover ramp. Each alternative is expected to provide an acceptable LOS at the intersection in the Design Year 2045.

The SR 82 at Sunshine Boulevard intersection is expected to exceed the capacity of a traditional signalized intersection with the Opening Year 2025 traffic volumes. Therefore, more innovative and unique intersection designs were evaluated to provide an acceptable LOS in the Design Year 2045 including a full

and a partial displaced left turn (continuous flow) intersection. Both the partial and full displaced left turn intersection designs are expected to provide an acceptable LOS in the Design Year 2045. The full displaced left turn provides slightly less delays than the partial displaced left turn.

Table 6.10 Proposed Intersection LOS

Intersection	Year	Alternative	AM Peak Hour		PM Peak Hour	
			LOS	Delay (sec/veh)	LOS	Delay (sec/veh)
Alico Rd at Green Meadow Rd	2025	Traffic Signal	C	25.7	C	30.7
		NB Left-turn Flyover	A	6.3	A	9.7
		Continuous Green T	B	16.1	C	27.5
	2045	Traffic Signal	D	31.3	D	45.5
		NB Left-turn Flyover	A	6.6	B	17.2
		Continuous Green T	B	19.1	D	34.9
SR 82 at Sunshine Blvd	2025	Traffic Signal	E	62.0	E	61.6
		Partial Displaced Left Turn	D	36.3	D	45.6
		Full Displaced Left Turn	D	35.9	D	44.2
	2045	Traffic Signal	F	145.6	F	116.8
		Partial Displaced Left Turn	D	42.6	D	46.8
		Full Displaced Left Turn	D	39.6	D	45.7

6.2. Turn Lane Lengths

With the proposed intersection geometry along the Alico Road extension, new turn lanes are being added. According to the FDOT Design Manual Chapter 212.6, the total deceleration distance is based on the design speed. The design speed limit along Alico Road and Sunshine Boulevard is 45 mph and along SR 82 is 55 mph. The resulting distance is added to the queue length to result in the required turn-lane length. The queue lengths for each location were chosen from the highest length from the Synchro AM and PM models. The minimum queue length was determined to be 50 feet, two vehicle lengths. The total deceleration distances, queue lengths, and total required turn-lane lengths are presented in Table 6.11.

Table 6.11 Turn Lane Lengths

Intersection	Approach	Total Deceleration Distance (Feet)	Queue Length (Feet)			Required Length (Feet)	
			Left Turn	Through	Right Turn	Left Turn	Right Turn
Alico Rd at Green Meadow Rd	Northbound	185	425	325		610	510
	Eastbound	185	N/A	850	200	N/A	385*
	Westbound	185	350	continuous green		535	N/A
SR 82 at Sunshine Blvd	Northbound	185	350	275	50	535	235*
	Southbound	185	325	475	50	510	235*
	Eastbound	350	400	525	125	750	475*
	Westbound	350	775	500	250	1125	600

*The left-turn and right-turn storage lanes lengths will need to exceed the through lane queue length for the turn lanes to remain accessible.

6.3. Safety (Crash) Analysis

The majority of the crashes along Alico Road occurred at the intersections of Airport Haul Road (about 34.62% of total) and Green Meadow Road (about 30.77% of total). Based on the five-year historical trends and crash types, the horizontal curve geometry at the Green Meadow Road intersection is determined to be the major resulting factor of the crashes. The lack of median east of Innovation Lane and excessive speeds leading to run off the road crashes are also determined to be resulting factors of many crashes. These crashes would be reduced with the proposed widening and intersection geometry improvements discussed in **Section 6.1**.

Tables 6.12 and 6.13 summarize the reduction of crashes using the crash modification factors (CMF) included in the proposed geometry. CMF from the USDOT/FHWA CMF Clearinghouse were applied for the appropriate improvements within the study area. **Appendix E** includes copies of the CMF details. The CMF were selected for the conversion of a two-lane roadway to a four-lane divided roadway and flattening a horizontal curve.

The total crashes along Alico Road east of Innovation Lane from the five-year study are expected to be reduced by 28.8% with the conversion of the two-lane roadway to four-lane divided roadway.

Table 6.12 Projected Number of Crashes in 5 Years along Alico Rd east of Innovation Ln

Segment	Existing Crashes	Two-Lane to Four-Lane	
		CMF	Projected Crashes
East of Innovation Lane	9	0.712	6.41

The total crashes for the intersection of Alico Road at Green Meadow Road from the five-year study are expected to be reduced by 68.5% by eliminating the horizontal curve.

Table 6.13 Projected Number of Crashes in 5 Years for Alico Rd at Green Meadow Rd

Intersection	Existing Crashes	Flatten Horizontal Curve	
		CMF	Projected Crashes
Green Meadow Road	8	0.315	2.52

7. Conclusions and Recommendations

Below is a summary of recommended improvements within the study area.

The Alico Road Extension is recommended based on the future land use and growth in the project area. The extension will serve as a major southwest to northeast connector in the surrounding project area and is expected to provide considerable relief to the adjacent roadway segments. Currently, Ben Hill Griffin Parkway and Daniels Parkway are the only main arterials used to travel between Estero and Lehigh Acres. The extension will provide an alternative travel route to accommodate this significant traffic demand. Traffic volumes are expected to reduce along Daniels Parkway, Ben Hill Griffin Parkway, and SR 82 by approximately 27%, 18%, and 8%, respectively. This reduction in traffic volumes along these roadways are expected to delay any needed improvements to the roadways and intersections.

Based on the traffic projections and LOS analysis, the extension of Alico Road from the Alico Road at Green Meadow Road intersection to the SR 82 at Sunshine Boulevard intersection is recommended to be a four-lane roadway in the Opening Year 2025. This segment is not expected to exceed the capacity of a four-lane roadway until the future year 2062 based on the known access point density and number of signalized intersections along the corridor. However, if more access points with signalized intersections are added along the roadway after the Opening Year 2025, this segment is expected to reach four-lane capacity sooner than the future year 2062.

With the extension of Alico Road from Green Meadow Road to SR 82, adjacent roadway segments and intersections are expected to exceed the existing capacity in the Design Year 2045. The segment of Alico Road from Ben Hill Griffin Parkway to Airport Haul Road is currently a four-lane roadway. This segment is expected to require widening from four to six lanes by the future year 2048. However, similar to the new extension segment, if more access points with signalized intersections are added along the roadway after the Opening Year 2025, this segment is expected to reach four-lane capacity sooner than the future year 2048. The segment of Alico Road from Airport Haul Road to Green Meadow Road is currently a two-lane roadway. This segment is recommended to be widened from two to four lanes by the Opening Year 2025.

The segment of Sunshine Boulevard from SR 82 to 23rd Street is currently a two-lane roadway. This segment is recommended to be widened from two to four lanes by the Opening Year 2025. The segment of Sunshine Boulevard north of 23rd Street is currently a two-lane roadway. This segment is recommended to be widened from two to four lanes by the future year 2036. Further analysis of this segment is recommended in the future since the traffic volumes along this segment are very much dependent on the potential future extension of Sunshine Boulevard to SR 80.

Table 7.1 provides a summary of the recommended lane geometry of each roadway segment.

Table 7.1 Lane Geometry Recommendations

Segment	Existing Lanes	Recommended Lanes	Year Needed
Alico Road			
West of I-75 SB Ramp	6-Lane	6-Lane	N/A
I-75 SB Ramp to I-75 NB Ramp	6-Lane	6-Lane	N/A
I-75 NB Ramp to Ben Hill Griffin Pkwy	6-Lane	6-Lane	N/A
Ben Hill Griffin Pkwy to Airport Haul Rd	4-Lane	4-Lane	N/A
Airport Haul Rd to Green Meadow Rd	2-Lane	4-Lane	2025
East of Green Meadow Rd	2-Lane	2-Lane	N/A
Green Meadow Rd to SR 82 (Extension)	N/A	4-Lane	2025
Sunshine Boulevard			
SR 82 to 40 th Street	2-Lane	4-Lane	2025
40 th Street to 23 rd Street	2-Lane	4-Lane	2025
North of 23 rd Street	2-Lane	4-Lane	2036

The intersections of Alico Road at Green Meadow Road and SR 82 at Sunshine Boulevard are expected to require significant improvements with the addition of the new roadway extension. The existing geometry at both intersections will no longer be feasible to serve the projected traffic volumes.

The Alico Road at Green Meadow Road intersection is expected to require a traffic signal to provide an acceptable LOS at the intersection. A Continuous Green T intersection is recommended based on the lower delays compared to the traffic signal alternative and lower cost compared to the flyover ramp alternative. Due to the high truck traffic expected to continue to travel east and west through this intersection, a Continuous Green T intersection is recommended to provide zero delays for vehicles traveling westbound through the intersection. A Continuous Green T intersection will also improve the safety at the intersection and the approaches.

The SR 82 at Sunshine Boulevard intersection is expected to exceed the capacity of a traditional signalized intersection with the Opening Year 2025 traffic volumes. Therefore, a partial displaced left turn (continuous flow) intersection is recommended to provide an acceptable LOS in the Design Year 2045. Although, the full displaced left turn alternative provides slightly less delays than the partial displaced left turn alternative, the partial displaced left turn alternative is recommended to reduce construction and right-of-way costs. The partial displaced left turn alternative will provide a highly efficient operating intersection similar to the one newly constructed at SR 82 and Daniels Parkway.

The intersections of Alico Road at Ben Hill Griffin Parkway and Sunshine Boulevard at 23rd Street are expected to require capacity improvements. Further evaluation of both intersections is recommended to provide acceptable LOS in the Design Year 2045.

The additional westbound right-turn lane, eastbound through lane, and southbound through lane are recommended at the Alico Road and Ben Hill Griffin Parkway intersection to improve capacity.

At the intersection of Sunshine Boulevard and 23rd Street, further evaluation between a roundabout and signalization is recommended.

ATTACHMENT P



DEPARTMENT OF COMMUNITY DEVELOPMENT

Memo

To: Dirk A Danley Jr., Planner, Principal

From: Md Rakibul Alam, Senior Transportation Planner

Date: Sep 13, 2023

Subject: Southeast Water Reclamation Facility (DCI2023-00011) Transportation-Related Analysis

Proposed Development

This application requests approval to rezone approximately 112 acres from Agricultural (AG-2) to Community Facilities Planned Development (CFPD)TFC-2 to CPD to allow for the development of a public wastewater treatment facility, referred to herein as the Southeast Advanced Water Reclamation Facility (SEAWRF).

Site Location

The subject site is located at the beginning of Green Meadow Road, which is currently a two-lane undivided roadway that begins at the eastern end of Alico Road in Lee County.

Site Access

Access to the development is via one (1) proposed full-access driveway connection to Green Meadow Rd (local street).

Trip Generation Review

The trip generation for the proposed development was determined by referencing the Institute of Transportation Engineer's (ITE) Trip Generation 11th Edition Report. Table 1 outlines the proposed project's trip generation for weekday A.M. and P.M. peak hour traffic volumes.

Table 1: Trip Generation

Land Use	Weekday A.M Peak Hour			Weekday P.M Peak Hour			Daily (2-Way)
	In	Out	Total	In	Out	Total	
Wastewater Treatment Facility (LUC 170 - Utility)	51	7	58	6	26	32	166

Roadway Section & Intersection Traffic Operation Level of Service Analysis

The level of service (LOS) analysis for the roadway segments and intersections is not required for this proposed development according to AC-13-17 because the project trip generation for AM & PM peak hours is less than 100 trips.

Conclusion

The proposed project will not have a detrimental impact on the surrounding roadway system.



Department of Community Development
Development Services Section

MEMORANDUM

Date: 9/18/2023

To: Dirk Danley Jr, AICP

From: Ally Hall

Subject: DCI2023-00011, Southeast Water Reclamation Facility

The applicant is proposing to rezone 112 +/- acres from Agricultural (AG-2) to Community Facilities Planned Development (CFPD) to allow for the development of an Advanced Water Reclamation Facility and supportive infrastructure. Development Services has reviewed the Master Concept Plan (MCP) and requested deviations with respect to Chapter 10 technical standards detailed in Land Development Code (LDC) and offers the following comments:

1. Deviation (5) seeks relief from LDC Section 10-291(3) which requires commercial or industrial development of more than ten acres to provide more than one means of ingress or egress for the development to allow for only one means of ingress or egress from the facility.

Staff recommends **APPROVAL** of the deviation **SUBJECT** to the following condition:

The developer must record a notice to all future property owners, in the public record, prior to issuance of a local development order allowing construction of the access to the development. The notice must detail the emergency access plan and provide information as to where a copy of this plan may be obtained from the developer or developer's successor.

The proposed deviation will serve to address Lee County DOT's concerns with the operational concerns that would be created by secondary access to this site. Within the Lee County DOT's letter of support it is identified that a secondary access will impact the planned surface water management filter marsh that serves as the primary treatment area for the section of the Alico Road Connector project along this development. This filter marsh area's secondary function is to interconnect the surface water management flows between the eastern and western sloughs that have been severed over the years creating drainage and flooding concerns for the neighboring residents. Operational concerns from the secondary access arise due to it being in the influence of the Green T intersection that is being built at the Alico Road/Green Meadow Road intersection to maximize eastbound traffic flow. Additionally, the Alico Connector Right of Way is being designed as such to provide enhanced landscaping along with the filter marsh area in an effort to provide a more concentrated visual screen of the SEAWRF site, so providing a second break in the screening even for an emergency only access could impact the visual buffering that has been designed. The nature of the development is largely industrial and will have a limited number of staff on site so impact is expected to be negligible. The Applicant has also received letters of no objection from the San Carlos Fire Chief, the Lee County Public Safety Director and the Lee County Sheriff's Office and the granting of this deviation will uphold public health, safety, and welfare.

Please contact me if you have any further questions.

ATTACHMENT R

From: [Price, Robert](#)
To: [Avoglia, Michael](#); [Alexis Crespo](#); [Sweigert, Rebecca](#); [Erik Howard](#); [Laura Herrero](#); [Molina, Luis](#)
Cc: [Miller, Vincent](#); nellmann.perez-garcia@jacobs.com; [Kentv. Kerstin/TPA](#); [Beddow, Bill/SWE](#); [Josephine Medina](#)
Subject: RE: CIP 7467 SEAWRF: Rezone / Wild Turkey Strand Coordination
Date: Thursday, May 4, 2023 3:24:54 PM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)
[image020.png](#)

Lee County DOT supports a deviation from the requirement in the Land Development Code to provide two driveways to a commercial development over 10 acres for LCU to provide a single access to the site. Providing a secondary access to the facility will impact our planned surface water management filter marsh that serves as the primary treatment area for this section of the Alico Road Connector project. This filter marsh area's secondary function is to interconnect the surface water management flows between the eastern and western sloughs that have been severed over the years creating drainage and flooding concerns for the neighboring residents. The second access would also create operational concerns because it is in the influence of the Green T intersection that is being built at the Alico Road/Green Meadow Road intersection to maximize eastbound traffic flow. Additionally, the Alico Connector Right of Way is being designed as such to provide enhanced landscaping along with the filter marsh area in an effort to provide a more concentrated visual screen of the SEAWRF site, so providing a second break in the screening for an emergency only access could impact the visual buffering that has been designed.



Robert L. Price, PE | Deputy Director

Department of Transportation

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web: www.leegov.com

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From: Avoglia, Michael <MAvoglia@leegov.com>

Sent: Thursday, May 4, 2023 2:54 PM

To: Alexis Crespo <acrespo@rviplanning.com>; Sweigert, Rebecca <RSweigert@leegov.com>; Erik Howard <elh@johnsoneng.com>; Laura Herrero <lbh@johnsoneng.com>; Molina, Luis <LMolina@leegov.com>; Price, Robert <RPrice@leegov.com>

Cc: nelliann.perez-garcia@jacobs.com; Kenty, Kerstin/TPA <Kerstin.Kenty@jacobs.com>; Beddow, Bill/SWF <Bill.Beddow@jacobs.com>; Josephine Medina <jmedina@rviplanning.com>

Subject: RE: CIP 7467 SEAWRF: Rezone / Wild Turkey Strand Coordination

Alexis, Good Afternoon, Rob Price, Luis, Paul (our Deputy Director) & myself met to discuss the second access, best we came up with is widen the existing access for future construction traffic and emergency use with a two in two out scenario for the ingress and egress.

The second driveway will create issues for Alico Roadway traffic design & stormwater quality. Rob will send an email we can use for backup to the deviation request /resubmittal.

Thanks for your assistance.



Michael Avoglia, PMP
Senior Project Manager
Lee County Utilities Engineering
1500 Monroe Steet, Third Floor,
Fort Myers FL 33901

1(239) 533-8725 Office
1(239) 707-1062 Mobile
MAvoglia@leegov.com Email

From: Alexis Crespo <acrespo@rviplanning.com>

Sent: Thursday, May 4, 2023 1:36 PM

To: Avoglia, Michael <MAvoglia@leegov.com>; Sweigert, Rebecca <RSweigert@leegov.com>; Erik Howard <elh@johnsoneng.com>; Laura Herrero <lbh@johnsoneng.com>; Molina, Luis <LMolina@leegov.com>

Cc: nelliann.perez-garcia@jacobs.com; Kenty, Kerstin/TPA <Kerstin.Kenty@jacobs.com>; Beddow, Bill/SWF <Bill.Beddow@jacobs.com>; Josephine Medina <jmedina@rviplanning.com>

Subject: [EXTERNAL] RE: CIP 7467 SEAWRF: Rezone / Wild Turkey Strand Coordination

Rob Price with LCDOT phoned me this morning. He is asking that we eliminate the western emergency only access point. He is concerned this will add to drainage issues he has in that section of the roadway design, and is also cautioning us that the neighborhood will want as few access points as possible for general traffic purposes and also to allow more of the frontage to remain undeveloped and heavily buffered.

He also noted the 660' separation would apply to spacing from the main access, so we'd need another deviation.

*****Please note my new RVi email address*****

Alexis Crespo, AICP
Vice President of Planning



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From: Avoglia, Michael <MAvoglia@leegov.com>

Sent: Thursday, May 4, 2023 12:59 PM

To: Sweigert, Rebecca <RSweigert@leegov.com>; Erik Howard <elh@johnsoneng.com>; Laura Herrero <lbh@johnsoneng.com>; Molina, Luis <LMolina@leegov.com>

Cc: nelliann.perez-garcia@jacobs.com; Kenty, Kerstin/TPA <Kerstin.Kenty@jacobs.com>; Beddow, Bill/SWF <Bill.Beddow@jacobs.com>; Alexis Crespo <acrespo@rviplanning.com>; Josephine Medina <jmedina@rviplanning.com>

Subject: RE: CIP 7467 SEAWRF: Rezone / Wild Turkey Strand Coordination

Agree, I think we should go with Exhibit 2. Thanks All

Thanks for your assistance.



Michael Avoglia, PMP
Senior Project Manager
Lee County Utilities Engineering
1500 Monroe Street, Third Floor,
Fort Myers FL 33901

1(239) 533-8725 **Office**
1(239) 707-1062 **Mobile**
MAvoglia@leegov.com **Email**

From: Sweigert, Rebecca <RSweigert@leegov.com>

Sent: Thursday, May 4, 2023 9:28 AM

To: Erik Howard <elh@johnsoneng.com>; Laura Herrero <lbh@johnsoneng.com>; Avoglia, Michael <MAvoglia@leegov.com>; Molina, Luis <LMolina@leegov.com>

Cc: nelliann.perez-garcia@jacobs.com; Kenty, Kerstin/TPA <Kerstin.Kenty@jacobs.com>; Beddow, Bill/SWF <Bill.Beddow@jacobs.com>; Alexis Crespo <acrespo@rviplanning.com>; jmedina@rviplanning.com

Subject: RE: CIP 7467 SEAWRF: Rezone / Wild Turkey Strand Coordination

Erik, I don't see a fatal flaw in either option.

Thanks
Becky



Becky Sweigert | Principal Environmental Planner
Community Development – Planning Section
1500 Monroe Street, Fort Myers, FL 33901
office: (239) 533-8552
email: rsweigert@leegov.com
web: www.leegov.com

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From: Erik Howard <elh@johnsoneng.com>

Sent: Wednesday, May 3, 2023 4:17 PM

To: Sweigert, Rebecca <RSweigert@leegov.com>; Laura Herrero <lbh@johnsoneng.com>; Avoglia, Michael <MAvoglia@leegov.com>; Molina, Luis <LMolina@leegov.com>

Cc: nelliann.perez-garcia@jacobs.com; Kenty, Kerstin/TPA <Kerstin.Kenty@jacobs.com>; Beddow, Bill/SWF <Bill.Beddow@jacobs.com>; Alexis Crespo <acrespo@rviplanning.com>; jmedina@rviplanning.com

Subject: [EXTERNAL] CIP 7467 SEAWRF: Rezone / Wild Turkey Strand Coordination

Coordinating the adjacent projects helps to maximize benefits to each project and prevents having a swale between the two projects with wasted space.

Attached are two options. Each option benefits Site 90 relatively the same.

Exhibit 1 puts the fence landscaping on level ground.

Exhibit 2 puts the fence and landscaping on a slope. This option gives the most area to SEAWRF

Does Environmental (Becky and Laura) see any fatal flaw with either option?

Does LCU mind a fence on the slope of the berm?

Alexis, Any issues?

Erik L. Howard, P.E., P.S.M.
JOHNSON ENGINEERING, INC.

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Fort Myers, Florida 33901
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San Carlos Park Fire Protection and Rescue Service District

19591 Ben Hill Griffin Parkway • Fort Myers, Florida 33913-8989

Emergency **911**
Office **239.267.7525**
Fax **239.267.7505**

May 10, 2023

Josephine Medina, AICP
RVI Planning
28100 Bonita Grande Dr. #305
Bonita Springs, FL 34135

Re: Review of Deviation from LDC- Southeast Advanced Water Reclamation Facility (SEAWRF)

Ms. Medina,

The San Carlos Park Fire Protection and Rescue Service District is in receipt of your letter requesting a review of a deviation in the Land Development Code relating to the SEAWRF. During the review of the Master concept plan you provided for the proposed site, the fire district agrees there is no reason to object to the request to allow for a single point of access to the facility.

Per our discussion via the Teams meeting attended at 0:900 on May 10, the fire district and your group agreed to work collectively to address any response and mitigation concerns the fire district finds during the construction phase, prior to issuing our final Certificate of Occupancy.

We find no objection to the proposed project deviation, should the plan change, we would require a new review of the project and requested deviations.

Please feel free to contact me at (239) 267.7525 if you require additional information. Trusting this meets with your approval, I remain,

Yours in Service,

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

David Cambareri, Fire Chief
San Carlos Park Fire District



Lee County
Southwest Florida

Board of County Commissioners

Kevin Ruane
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District Two

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District Three

Brian Hamman
District Four

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Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing
Examiner

May 5, 2023

Josephine Medina, AICP
RVI Planning
28100 Bonita Grande Dr, Suite 305
Bonita Springs, FL 34135

Re: Review of Deviation from LDC – SEAWRF

Ms. Medina,

I am in receipt of your letter requesting a review of a deviation in the Land Development Code for the Southeast Advanced Water Reclamation Facility. The property is on the north side of Alico Road and Green Meadow Road, south of the existing water treatment plant. The project is proposed to be an Advanced Water Reclamation Facility.

I have reviewed the Master Concept Plans you provided for the project. Lee County DOT has advised that a secondary access will be disruptive to the flowways on the property and the planned filter marsh on the subject parcel.

The Department of Public Safety consents to this deviation.

Should the plans change, a new analysis of this deviation would be required.

Sincerely,

Benjamin Abes
Director, Public Safety

Carmine Marceno
Sheriff



"Proud to Serve"

**State of Florida
County of Lee**

May 8, 2023

Josephine Medina
RVI Planning + Landscape Architecture
28100 Bonita Grande Drive, Suite 305
Bonita Springs, FL 34135

Ms. Medina,

The Lee County Sheriff's Office has reviewed your letter of no objection request for the Southeast Advanced Water Reclamation Facility, which would allow for a single point of entry for the 112 +/- acre project located north of Green Meadow Road and Alico Road.

This Agency evaluated your request solely on its ability to provide law enforcement service to the project. Based on that criterion, this proposed change would not affect our ability to provide law enforcement services to the project and surrounding area.

Respectfully,

A handwritten signature in blue ink, appearing to read "Chris Reeves".

Chris Reeves
Major, Patrol Bureau



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