



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING AGENDA

Wednesday, February 7, 2024

9:30AM

DCI2020-00005
Z-23-036

Red Jacket Country Lakes IPD

DCI2021-00001
Z-22-028

Orange River RPD – Remand Hearing

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, February 7, 2024 in the Board Chambers at 2120 Main St., Ft. Myers, FL, to review the written recommendations made by the Hearing Examiner and make a final decision on the cases below.

DCI2020-00005 / Red Jacket Country Lakes IPD

Request to rezone 6.86± acres from Agricultural (AG-2) to Industrial Planned Development (IPD) to allow for 95,300 square feet of warehousing, including mini-warehouses with associated accessory and ancillary uses.

Located at 5500 Country Lakes Dr., Fort Myers Shores Planning Community, Lee County, FL.

DCI2021-00001 / Orange River RPD – Remand Hearing

Request to rezone 129.6± acres from Residential Planned Development (RPD) to RPD to increase the number of residential dwelling units from 160 to 258.

Located at 11400 and 11270 Orange River Blvd., Buckingham Planning Community, Lee County FL.

Copies of the Hearing Examiner's recommendation may be obtained or the file reviewed at the Zoning Section, 1500 Monroe St., Ft. Myers, FL. Telephone 239-533-8585 for additional information.

If you did not appear before the Hearing Examiner or otherwise become a participant for that case in which you wish to testify, the law does not permit you to address the Board of County Commissioners.

Statements before the Board of County Commissioners regarding the zoning case will be strictly limited to testimony presented to the Hearing Examiner, testimony concerning the correctness of the findings of fact or conclusions of law contained in the record, or to allege the discovery of new, relevant information which was not available at the time of the hearing before the Hearing Examiner.

Any document that a participant of record intends to submit must have been submitted as part of the Record in the hearing before the Hearing Examiner or the document is relevant new evidence that was not known or could not have been reasonably discovered by the participant at the time of the hearing before the Hearing Examiner. All other documents will not be accepted by the Board. To ensure compliance with these regulations, copies of documents not submitted as part of the record before the Hearing Examiner must be provided to the Applicant and County Staff (JPrincing@leegov.com) not less than 2 days before the date of the zoning hearing.

If a participant decides to appeal a decision made by the Board of County Commissioners with respect to any matter considered at this hearing, a verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

In accordance with the Americans with Disabilities Act, Lee County will not discriminate against qualified individuals with disabilities in its services, programs, or activities. To request an auxiliary aid or service for effective communication or a reasonable modification to participate, contact Joan LaGuardia, (239) 533-2314, ADArequests@leegov.com or Florida Relay Service 711. Accommodation will be provided at no cost to the requestor. Requests should be made at least five business days in advance.

DCI2020-00005
RED JACKET
COUNTRY LAKES
IPD

Staff Summary

CASE NUMBER & NAME: DCI2020-00005 / Red Jacket Country Lakes IPD

REQUEST: Request to rezone 6.86± acres from Agricultural (AG-2) to Industrial Planned Development (IPD) to allow for 95,300 square feet of warehousing, including mini-warehouses with associated accessory and ancillary uses.

RESOLUTION NUMBER: Z-23-036

LOCATION: 5500 Country Lakes Drive, Fort Myers Shores Planning Community, Lee County, FL

OWNER: W HITE LAWRENCE E TRUST

APPLICANT: Red Jacket Development Group

AGENT: Brian Smith
EnSite Inc.
2401 First Street, Ste. 201
Fort Myers, FL 33901

HEARING EXAMINER RECOMMENDATION: Approval, subject to the conditions and deviations set forth in Exhibit A

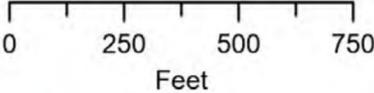
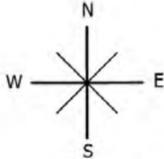
PARTICIPANT: (1) Debi Grover

DCI2020-00005

Aerial



 Subject Property



Summary of Hearing Examiner Recommendation

RED JACKET COUNTRY LAKES IPD

Applicant seeks to rezone vacant acreage north of Lockett Road to support a mini-warehousing facility.

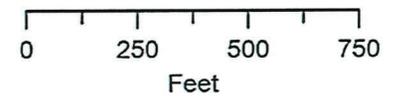
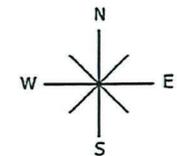
Detailed recommendation follows

DCI2020-00005

Future Land Use



-  Subject Property
-  Urban Community
-  Industrial Interchange

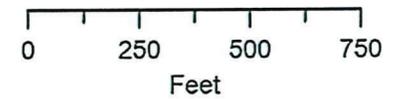
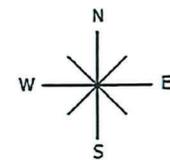


DCI2020-00005

Aerial



 Subject Property



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2020-00005

Regarding: RED JACKET COUNTRY LAKES IPD

Location: East of Country Lakes Drive, North of Lockett Road
Fort Myers Shores Planning Community
(District 5)

Hearing Date: November 9, 2023
Record Closed: December 1, 2023

I. **Request**

Rezone 6.86± acres from Agricultural (AG-2) to Industrial Planned Development (IPD) to allow 95,300 square feet of warehousing/mini-warehousing with accessory uses.

The property's legal description is set forth in Exhibit A.

II. **Hearing Examiner Recommendation**

Approval, subject to the conditions and deviations set forth in Exhibit B.

III. **Discussion**

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the Red Jacket IPD application.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.² Specifically, the Hearing Examiner must find the request compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources, and urban services.³ The Hearing Examiner may take judicial notice of previous

¹ LDC §34-145(d)(1)(a); LDC §34-145(d)(4)(a).

² LDC §34-145(d)(3).

³ LDC §34-145(d)(4).

Board decisions.⁴ The Hearing Examiner's recommendation must be based on competent and substantial evidence.⁵

Discussion supporting the recommendation of approval follows below.

Synopsis of Request and Zoning History

The request seeks to rezone 6.86± acres to IPD in the Caloosahatchee Shores Planning Community. The property is located north of Lockett Road, east of I-75. The parcel remains vacant.

Applicant seeks to develop a mini-warehouse facility on the site. The proposed MCP depicts six storage/open space areas along the perimeter with internal drive isles.⁶ Site design also includes Code required buffers and an eight-foot wall adjacent to residential lands. Building heights are limited to 30 feet.

Staff recommended approval, subject to conditions.

Zoning Review Criteria

Before recommending approval for rezoning to the Board, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC 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.⁷

⁴ Lee Co. Admin. Code 2-6, §2.3.D(4)(b).

⁵ Lee Co. Admin. Code 2-6, §3.3.A(2); LDC §34-83(a)(4)(a)(1)(a).

⁶ See MCP.

⁷ LDC §34-145(d)(4)(a)(1).

If the request involves planned development zoning, the Hearing Examiner must also find:

- H. The proposed use or mix of uses is appropriate at the proposed location;
- I. Recommended conditions provide sufficient safeguards to the public interest and reasonably relate to impacts on the public's interest expected from the proposed development; and
- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.⁸

Character of the Area

Surrounding properties are predominantly zoned for industrial use or recreational vehicles/mobile homes.⁹ Lands to the north retain agricultural zoning.



⁸ LDC §34-145(d)(4)(a)(2).

⁹ See Staff Report Attachment B: Maps; Applicant Ex. 2 (slide 7).

Lee Plan Consistency and Compatibility

Planned developments must be consistent with the Lee Plan.¹⁰ Rezoning requests must be compatible with existing/planned uses in the surrounding area.¹¹ Planned developments must be located to minimize negative effects of proposed uses on neighboring properties.¹²

The property is within the Caloosahatchee Shores Planning Community and the Urban Community land use category.¹³

The Caloosahatchee Shores community envisions a more rural character.¹⁴ Community planning principles encourage commercial development serving residents.¹⁵ The request achieves Planning Community objectives by providing storage opportunities for area residents.

Urban Community properties are characterized by a mix of relatively intense commercial and residential lands.¹⁶ This category also permits limited light industrial uses.¹⁷ The proposed self-storage use supports nearby residential communities consistent with Urban Community directives.

The proposed plan of development constitutes infill near the Lockett Road corridor.¹⁸ Commercial/industrial uses line Country Lakes Drive with mobile home/recreational vehicle developments to the north and east. Site design buffers adjacent residential lands with an opaque wall and landscaping.¹⁹

Zoning actions for industrial land uses must be consistent with the Lee Plan's Economic Element.²⁰ The request brings dormant property into service and supports storage needs of area residents.

The requested IPD is consistent with the Lee Plan and compatible with the surrounding area.

¹⁰ LDC §34-411(a).

¹¹ LDC §34-145(d)(4)(a).

¹² LDC §34-411(c) and (i).

¹³ Lee Plan Maps 1A-B, 2A, Policy 1.1.4.

¹⁴ Lee Plan Goal 21.

¹⁵ Lee Plan Objective 21.2.

¹⁶ Lee Plan Policy 1.1.4.

¹⁷ *Id.*

¹⁸ Lee Plan Objectives 2.1, 2.2, Policies 2.1.1, 2.2.1.

¹⁹ LDC §10-416(d)(4) requires a Type E buffer between industrial and residential land uses. See *a/so* MCP, Post-Hearing Written Submittal dated Nov. 14, 2023.

²⁰ Lee Plan Goal 158, Objective 158.2, Policy 7.1.10, 158.2.2.

Environmental Features

Planned development design should reflect creative use of open space.²¹ Developers must make an effort to protect and preserve natural site features.²²

The proposed development exceeds LDC open space requirements.²³ Site design provides adequate buffers from adjacent properties to minimize off-site impacts.²⁴

The MCP denotes dry retention areas to manage stormwater.²⁵ Stormwater management will be further addressed by conditions of approval and South Florida Water Management District permitting.²⁶

The site is comprised of pine flatwoods.²⁷ Environmentally critical/sensitive areas are within an indigenous preserve area along the eastern and southern boundaries.²⁸

Transportation/Traffic

Planned developments must have access to roads with sufficient capacity to support proposed intensity.²⁹ Existing regulations or conditions of approval must address expected impacts on transportation facilities.³⁰

The project has a single access to Country Lakes Drive.³¹ Country Lakes Drive is a county maintained major collector intersecting with Lockett Road to the south.³²

Applicant demonstrated surrounding roads offer sufficient capacity to support development intensity.³³ Applicant's traffic engineer testified that project traffic

²¹ LDC §34-411(h).

²² LDC §34-411(g).

²³ Lee Plan Goal 77, Objective 77.2. The LDC requires 20% open space, Applicant is providing 30%. See MCP, Joint Post-Hearing Written Submittal dated Nov. 14, 2023.

²⁴ See Staff Report (pg. 2-3). Applicant withdrew deviation requests, so the project now provides Code-compliant buffers. LDC §10-416(d)(4).

²⁵ See Staff Report (Attachment I & L); Condition 4. Roughly 15% of the site is indigenous preserve.

²⁶ Smith Testimony (Transcript pg. 25-26). Condition 5 requires drainage calculations of development impact on existing ditches along the site's western and northern boundaries.

²⁷ Smith Testimony (Transcript pg. 16); Applicant Ex. 1 (slide 12).

²⁸ See Staff Report (Attachment E).

²⁹ LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

³⁰ LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

³¹ See Applicant Ex. 1 (slide 14); Staff Report (pg. 3, Attachment G). The site originally required an access easement, but Applicant obtained direct access to Country Lakes Drive prior to hearing. Smith Testimony (Transcript pg. 25).

³² *Id.*

³³ See Staff Report (pg. 3, Attachments G & J).

will not alter levels of service on affected roadways.³⁴ Applicant must address site related impacts at the development order stage.³⁵

Public Services and Infrastructure

Public services are the facilities, capital improvements, and infrastructure necessary to support development.³⁶ The Lee Plan requires evaluation of urban services during the rezoning process.³⁷

A host of urban services and infrastructure serve the property including roads, potable water, sanitary sewer, police, fire, and emergency medical services.³⁸

LDC Compliance/Deviations

Planned developments must comply with the LDC or seek deviations. “Deviations” are departures from LDC regulations.³⁹

The property is located in the Caloosahatchee Shores Planning Community. Consequently, site design must adhere to community design standards including lighting, landscaping, parking, architecture, and signs.⁴⁰ Deviations from these criteria must comply with LDC variance standards.⁴¹

Applicant seeks no deviations with the requested rezoning.⁴²

³⁴ Bykau Testimony; Staff Report (Attachment J); Applicant Ex. 1 (slide 14). In evaluating transportation impacts, planners examine projected traffic conditions at build out taking into consideration a combination of historical growth rates for the area and approved development.

³⁵ Site related improvements include capital improvements and right-of-way dedications for direct access improvements to the project. Improvements may include site driveways, road, turn lanes, deceleration or acceleration lanes, etc. Lee Plan Objective 39.1, Policy 39.1.1.

³⁶ Lee Plan Glossary. Public services include public water/sewer, paved streets/roads, public transit, parks/recreation facilities, urban levels of police, fire and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries, and community centers.

³⁷ Lee Plan Policy 2.2.1.

³⁸ Applicant’s Ex. 1 (slide 6); Staff Report (pg. 2); Lee Plan Standards 4.1.1, 4.1.2, Policy 2.2.1. Tice Fire Protection and Rescue District with EMS substation is 1.3 miles away. A Sheriff’s station is 3.5 miles from the site. Lee County Utilities offers water and sewer service. Staff Report (Attachment H).

³⁹ LDC §34-2.

⁴⁰ Lee Plan Policy 21.1.1.

⁴¹ Lee Plan Policy 21.1.2.

⁴² Applicant sought two deviations but withdrew them subsequent to hearing. The original CPD application did not include deviation requests. The change to IPD, however, triggered two deviation requests relating to buffers. The Lee Plan requires variance analysis for buffer deviations in the Caloosahatchee Shores Planning Community. Lee Plan Policy 21.1.2. The record was left open at the conclusion of hearing to allow the parties to supplement the record to justify the deviations. Joint Post Hearing submissions indicate Applicant’s withdrawal of the deviation requests. See Staff Ex.2.

Conditions

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property as specified in the development regulations. Conditions must plausibly relate to the impacts anticipated from proposed development and must be pertinent to mitigation of those impacts on public health, safety, and welfare.⁴³

The IPD will be subject to several conditions of approval. The conditions relate to impacts anticipated from the project.⁴⁴ The Hearing Examiner recommends:

1. Revisions to conditions to improve clarity and comply with State law;⁴⁵ and
2. Deletion of conditions that restate LDC standards and criteria applicable to the project pursuant to Condition 1.

Public

Applicant held the LDC mandated community meeting for rezoning within Caloosahatchee Shores.⁴⁶

At hearing, an adjoining landowner sought clarification on the buffer and visual impact to her property.⁴⁷

Conclusion

The Hearing Examiner concurs with staff's analysis that the requested IPD meets LDC approval criteria.

IV. Findings and Conclusions

The Hearing Examiner makes the following findings and conclusions based on the testimony and evidence in the record:

- A. *As conditioned herein*, the proposed IPD zoning district:
1. Complies with the Lee Plan. See, Lee Plan Goals 2, 4, 7, 21, 158, Objectives 1.1, 2.1, 2.2, 4.1, 7.1, 21.1, 21.2, 158.2, and Policies

⁴³ LDC §34-932(b).

⁴⁴ LDC §34-83(b)(4)a.3.

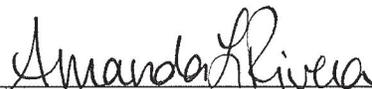
⁴⁵ F.S. §125.022(5-6) (2023).

⁴⁶ See Staff Report (Attachment L). Applicant held a virtual community meeting on February 3, 2022.

⁴⁷ See Grover Testimony (Transcript pg. 35). The majority of concerns dealt with issues addressed at the development order stage rather than during rezoning. LDC §33-1482 requires another community meeting prior to development order approval, offering another opportunity for neighbors to review proposed development plans with greater specificity.

- 1.1.4, 1.7.6, 2.1.1, 2.2.1, 4.1.1, 7.1.1, 7.1.2, 7.1.3, 7.1.6, 158.2.2;
Lee Plan Maps 1A-B, 2A, Table 1(b);
 2. Complies with the LDC and other County regulations. See, LDC Chapters 10, 33, and 34;
 3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.4, 2.1.1, 2.1.2, 2.2.1, 7.1.1, 7.1.2, 7.1.3; LDC §34-411(c), (i), and (j);
 4. Provides sufficient access to support the proposed development intensity, with expected impacts on transportation facilities addressed by existing County regulations or conditions of approval;
 5. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goal 21, 77, Objective 4.1, and LDC §34-411(h); and
 6. Will be served by urban services. See, Lee Plan Glossary, Maps 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1; Policies 2.2.1, 7.1.4, and Standard 4.1.1; LDC §34-411(d).
- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC §34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.4, 2.1.1, 7.1.1, 7.1.3, 7.1.4, 7.1.6.
- D. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See LDC Chapters 10, §§33-1480 *et. seq.*, and 34.
- E. As conditioned herein, the deviations:
1. Enhance the objectives of the planned development; and
 2. Promote the intent of the LDC to protect public health, safety, and welfare. See §34-377(b)(4).

Date of Recommendation: January 8, 2024.



Amanda L. Rivera
Deputy Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

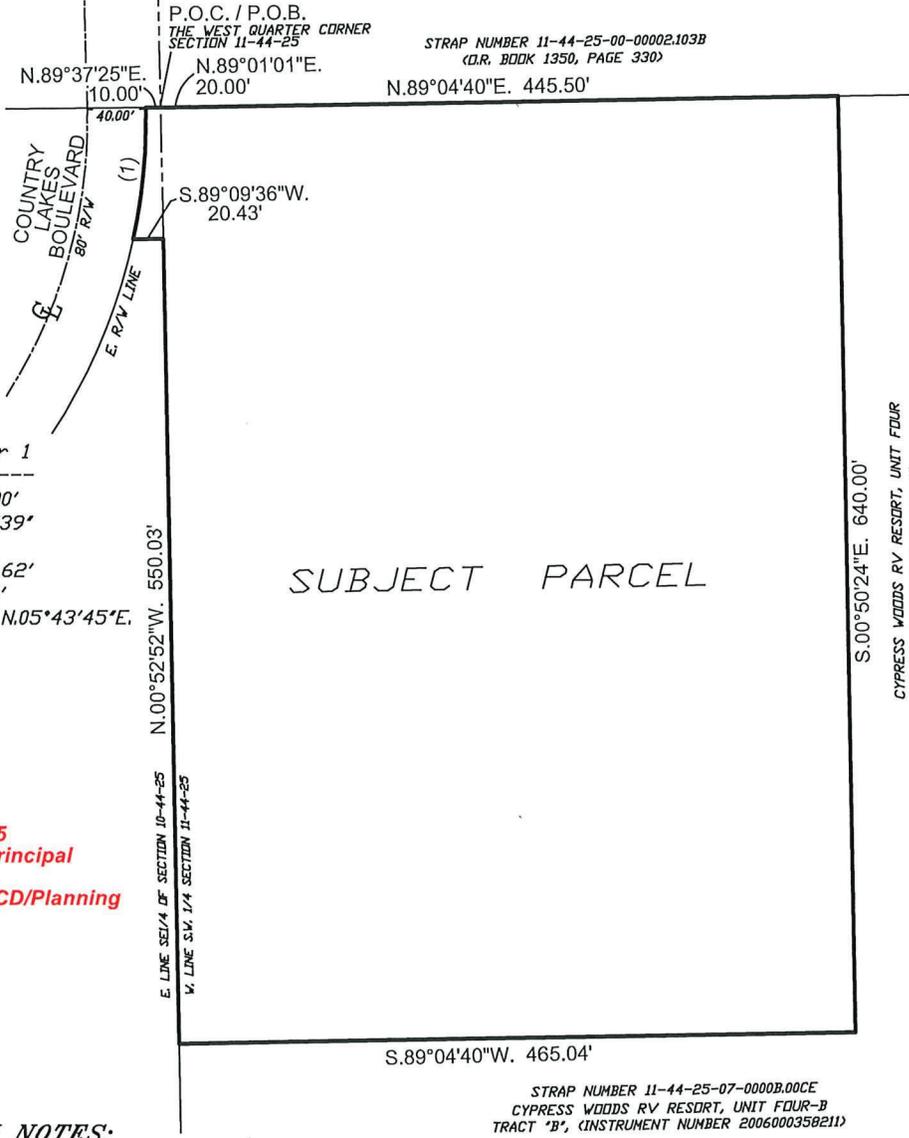
- Exhibit A Legal Description and Vicinity Map
- Exhibit B Recommended Conditions and Deviations
- Exhibit C Exhibits Presented at Hearing
- Exhibit D Hearing Participants
- Exhibit E Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

SEE SHEET 2 OF 2 (EXHIBIT 'A')
FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

SKETCH TO ACCOMPANY DESCRIPTION
**PARCEL OF LAND LYING IN A
PORTION OF SECTION 10 AND 11,**
TOWNSHIP 44 SOUTH, RANGE 25 EAST,
PUBLIC RECORDS OF LEE COUNTY, FLORIDA
'NOT A BOUNDARY SURVEY'



Curve number 1

Radius= 390.00'
Delta= 13°20'39"
Arc= 90.83'
Tangent= 45.62'
Chord= 90.63'
Chord Brg.= N.05°43'45"E.

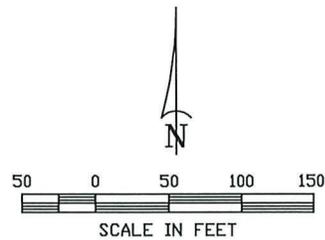
SUBJECT PARCEL

REVIEWED
DCI2020-00005
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/27/2023

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST LINE OF SECTION 11, AS BEING "ASSUMED" AS N.00°50'24"W.
2. FIELD NOTES IN SECTION 11-44-25.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.
7. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2 x 14", 100 SCALE DRAWING.

STRAP NUMBER 11-44-25-07-0000B.00CE
CYPRESS WOODS RV RESORT, UNIT FOUR-B
TRACT 'B', (INSTRUMENT NUMBER 2006000358211)



LEGEND:

- P.U.E. PUBLIC UTILITY EASEMENT
- D.E. DRAINAGE EASEMENT
- O.R. OFFICIAL RECORDS BOOK
- (1) CURVE NUMBER
- L1 LINE NUMBER
- R/W RIGHT-OF-WAY
- ℄ CENTERLINE
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING

DRAWN: PMM	CHECK: FBH	SCALE: 1"=100'	PROJ. # CWNWPH-CLB E
SKETCH DATE 12/09/2022		FILE NO. 44-25-11	SHT.- 1 OF - 3
FLORIDA CERTIFICATE OF AUTHORIZATION LB6921			

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD, S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH:

DESCRIPTION:

A TRACT OR PARCEL OF LAND LYING IN SECTION 10 AND SECTION 11, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, SAID TRACT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 11, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, FOR A POINT OF BEGINNING; THENCE RUN N.89°01'01"E. FOR 20.00 FEET; THENCE RUN N.89°04'40"E. FOR 445.50 FEET; THENCE RUN S.00°50'24"E. FOR 640.00 FEET; THENCE RUN S.89°04'40"W. FOR 465.04 FEET; THENCE RUN N.00°52'52"W. ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 11, FOR 550.03 FEET; THENCE RUN S.89°09'36"W. TO A POINT OF CUSP OF CURVATURE, LYING ALONG THE EASTERLY RIGHT OF WAY LINE OF COUNTRY LAKES BOULEVARD (80 FEET WIDE), FOR 20.43 FEET; THENCE RUN ALONG SAID EASTERLY RIGHT OF WAY LINE AND THE ARC OF A CURVE CONCAVE TO THE WEST FOR 90.83 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, RADIUS OF 390.00 FEET, A CENTRAL DELTA ANGLE OF 13°20'39", A CHORD THAT BEARS N.05°43'45"E., AND A CHORD DISTANCE OF 90.63 FEET; THENCE RUN N.89°37'25"E. TO THE AFORESAID WEST QUARTER CORNER OF SECTION 11, FOR 10.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 298,983.27 SQUARE FEET, OR 6.86 ACRES, MORE OR LESS.

REVIEWED
DCI2020-00005
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/27/2023

SHEET 2 OF 2

Phillip M	Digitally signed by
Mould, P.S.M.	Phillip M Mould,
6515 State of	P.S.M. 6515 State
Florida	of Florida
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	14:52:33 -05'00'

PHILLIP M MOULD LS6515 12/09/2022

DCI2020-00005

Zoning



 Subject Property

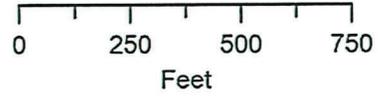
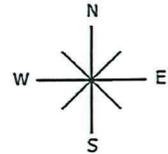


Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

1. Master Concept Plan (MCP)/Development Parameters

- a. MCP. Development must be substantially consistent with the one-page MCP entitled “Country Lakes Drive Master Concept Plan” last revised November 9, 2023, except as modified herein.
- b. Lee Plan and LDC. Development must comply with the Lee County LDC at time of local development order approval. Subsequent changes to the MCP or this resolution may require additional zoning approval.
- c. Development Parameters. This IPD allows a maximum of 95,300 square feet of warehousing floor area with maximum building heights of 30 feet.

2. Uses And Site Development Regulations

a. Schedule of Uses

Accessory Uses and Structures

Administrative offices (Limited to 1,200 square feet)

Entrance gates and gatehouse

Essential services

Essential service facilities: Group I

Excavation: Water retention

Fences and walls

Parking lot: Accessory

Signs

Storage:

Indoor only

Storage, open

Warehouse:

Mini- warehouse

Private

Public

b. Site Development Regulations

Minimum Lot Area: 6.86 Acres

Minimum Lot Width: 640 feet

Minimum Lot Depth: 460 feet

Minimum Setbacks:

Street:	25 feet
Side (North):	25 feet
Side (South):	30 feet
Rear (East):	30 feet

Minimum Open Space:	30%
Maximum Building Height:	30 feet
Maximum Lot Coverage	40%

3. Transportation Condition

The IPD is allowed a maximum calculated development intensity with respect to new trip generation utilizing the development scenario of 95,300ft² mini-warehouse use based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of local development order.

4. Environmental Conditions

- a. Development order plans must depict:
 - i. 2.11 acres of open space.
 - ii. 1.11 acres of indigenous preservation.
 - a. A 25-foot-wide Type-E buffer along the northern, eastern, and southern property lines.
 - b. Shrub and tree specifications must be measured from the grade of the proposed storage building.
 - c. Architectural drawings depicting no doors, windows, or mechanical equipment along the rear of the storage buildings.
- b. Developer must submit a map depicting the location of mechanical and hand-removal methods of exotic vegetation removal prior to issuance of a vegetation removal permit. Mechanical clearing is limited to non-indigenous areas. Native vegetation must be protected by tree barricades.

5. Natural Resources Condition

The development order application must include drainage calculations demonstrating the proposed development will not decrease the conveyance capacity of offsite flows.

6. Agricultural Uses

Agricultural uses are prohibited without further rezoning approval.

7. Development Permits

County development permits do not create rights to obtain permits from state/federal agencies. Further, County development permits do not create liability on the part of the County if Applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or undertakes actions in

violation of state/federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

Exhibits to Conditions:

B1 Master Concept Plan last revised November 9, 2023

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Chahram Badamtchian, Senior Planner, date received October 25, 2023 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Written Submissions:* Memorandum from Chahram Badamtchian to Amanda L. Rivera, Deputy Hearing Examiner, dated November 14, 2023 (1 page – 8.5"x11" and 11"x 17")

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Cindy Leal with En-Site, to Maria Perez, with copies to Brian Smith, Terry Cramer, Chahram Badamtchian, Hearing Examiner, dated Monday, November 6, 2023, 10:25 AM (6 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for County Lakes IPD Rezoning, DCI2020-00005, Hearing Examiner, November 9, 2023 (multiple pages – 8.5"x11")[color]

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Chahram Badamtchian

Applicant Representatives:

1. Yury Bykau, P.E.
2. Terry B. Cramer III, Esq.
3. Cindy C. Leal Brizuela, MURP
4. Brian R. Smith

Public Participants:

1. Debi Grover

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

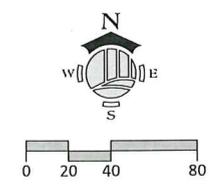
The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.
- C. Participants may not submit documents to the Board of County Commissioners unless they were marked as Exhibits by the Hearing Examiner. Documents must have the Exhibit number assigned at hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.



Red Jacket Dev. Group
625 Waltham Ave.
Orlando, FL 32809

COUNTRY LAKES DRIVE
MASTER SITE PLAN

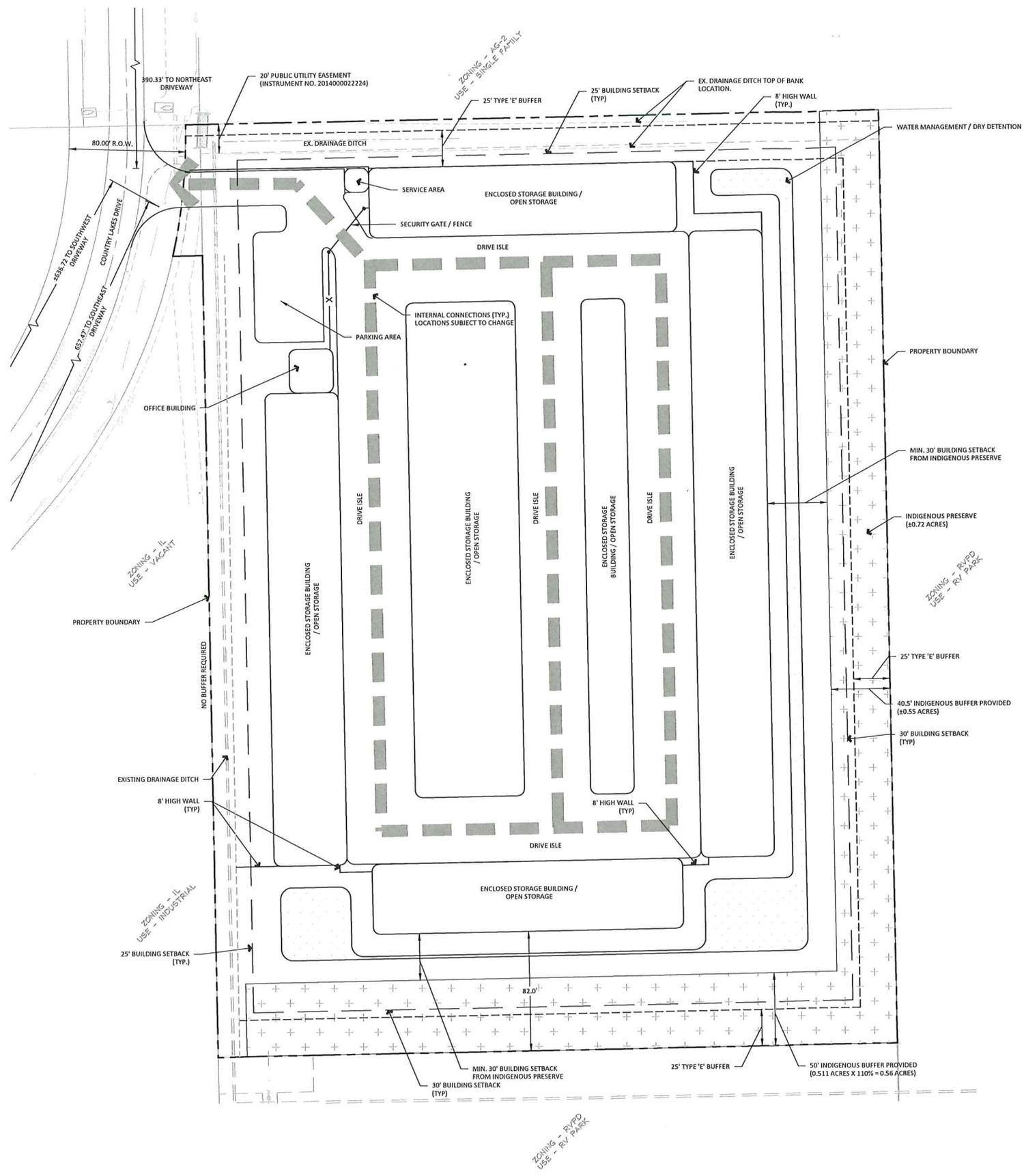


TABLE A

OPEN SPACE CALCULATIONS:

TOTAL PROJECT AREA	±6.86 AC.
INDUSTRIAL OPEN SPACE REQUIREMENT (20%)	
REQUIRED: (20% OF TOTAL)	±1.37 AC.
MIN. PROVIDED:	±2.11 AC.
*INDIGENOUS PRESERVE:	±1.11 AC.
OTHER	±1.00 AC.
*INDIGENOUS PRESERVE:	
REQUIRED (50% OF REQUIRED OPEN SPACE)	±0.68 AC.
PROVIDED:	±1.11 AC.

NOTES:
THE INTERNAL MECHANISMS OF THE SITE, SUCH AS WATER MANAGEMENT, ARE ALSO SUBJECT TO OTHER AGENCY PERMITTING REQUIREMENT. ALL OUTDOOR LIGHTING MUST COMPLY WITH SECTION 34-625.

LEGEND:

- WATER MANAGEMENT / OPEN SPACE / DRY DETENTION
* DRY DETENTION SHALL BE PLANTED PER LDC SECTION 33-1494
- INDIGENOUS PRESERVATION
- VEHICULAR CIRCULATION / PARKING DRIVES

SETBACKS	PROPOSED
NORTH	25'
EAST	30'
SOUTH	30'
WEST	25'
HEIGHT OF BUILDINGS.	30' MAX.
OPEN SPACE.	20%
MAX LOT COVERAGE	40%

REVISIONS

NO.	DATE	DESCRIPTION
R1	9-28-20	PEER COUNTY COMMENTS
R2	04-14-23	PEER COUNTY COMMENTS
R3	07-31-23	ACREAGE UPDATE
R4	09-26-23	PEER IPD VRS CPD
R5	10-19-23	PEER IPD VRS CPD
R6	11-09-23	LANDSCAPE BUFFER CHANGE

DATE: 4-8-20
PROJECT NO. 1371-02
FILE NO. CONCEPT.dwg
SCALE: SEE PLAN

MCP
D-7-M.2

MCP-1

**DCI2020-00005, Red Jacket/Country Lakes Drive Industrial Rezone
Conditions and Deviations**

A. Conditions

1. MASTER CONCEPT PLAN/DEVELOPMENT PARAMETERS

The development of this project must be consistent with the one-page Master Concept Plan entitled “Country Lakes Drive Master Concept Plan” dated 09/26/2023 except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (LDC) at time of local Development Order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

This planned development will allow a maximum of 95,300 square feet of warehousing floor area with a maximum building height of 30 feet.

2. USES AND SITE DEVELOPMENT REGULATIONS

a. Schedule of Uses

Accessory Uses and Structures

Administrative offices (Limited to 1,200 square feet)

~~New accessory buildings~~

Animals:

Clinic

Kennel

~~Control center (including Humane Society)~~

~~Broadcast studio, commercial radio and television~~

~~Building materials sales~~

~~Communication facility, wireless~~

~~Contractors and builders:~~

~~Group I, II and III~~

Entrance gates and gatehouse

~~Emergency operations center~~

~~EMS, fire or sheriff's station~~

Essential services

Essential service facilities:

Group I

Excavation:

Water retention

Fences and walls

Parks

~~Group I and II~~

Parking lot:

Accessory

~~Park and ride~~

~~Place of worship~~

~~Religious facilities~~
~~Research and development laboratories:~~
~~Group II~~
 Signs
 Storage:
 Indoor only
 Storage, open
~~Transportation services:~~
~~Group II and III~~
 Warehouse:
 Mini- warehouse
 Private
 Public
~~Wholesale establishment:~~
~~Groups I, III and IV~~

b. Site Development Regulations

Minimum Lot Area:	6.86 Acres
Minimum Lot Width:	640 feet
Minimum Lot Depth:	460 feet

Minimum Setbacks	
Street	25 feet
Side (North)	25 feet
Side (South)	30 feet
Rear (East)	30 feet

Minimum Open Space:	30%
Maximum Building Height:	30 feet
Maximum Lot Coverage	40%

3. Transportation Condition:

Regardless of any land use density/intensity conversion allowed per the Land Development Code or zoning condition specific to this development, the development is allowed a maximum calculated development intensity with respect to new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of local development order: 95,300-SF mini-warehouse use.

4. Environmental Conditions:

- a) The development order plans must depict 2.12 acres of open space.
- b) The development order plans must depict 1.02 acres of indigenous preservation.
- c) Prior to the issuance of a vegetation removal permit, the developer 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.

d) Prior to the issuance of a local development order, the development order plans must depict the following:

1. A 30-foot-wide Type-F buffer along the southern and eastern property lines; and
2. A 25-foot-wide Type-E buffer along the northern property line; and
3. The specifications of the shrubs and trees must be measured from the grade of the proposed storage building; and
4. Architectural drawings depicting no doors, windows, and/or mechanical equipment along the rear of the storage buildings; and
5. An eight (8)-foot-high opaque wall must be provided along the northern property line for the portions of the buffer where there is no building to act as a buffer wall.

5. Natural Resources Condition:

Prior to issuance of local development order, supporting drainage calculations must be provided to demonstrate that the proposed development will not decrease the conveyance capacity of offsite flows.

6. Agricultural Uses:

Currently there is no agricultural activity or agricultural tax exemption on this property. No agricultural uses shall be established on the property in the future without rezoning it to allow for such uses.

B. DEVIATIONS:

Deviation 1: A deviation from LDC section 10-416(d)(4) where a type "E" landscape buffer is required between industrial uses and existing residential uses, to allow a type "F" buffer along the eastern and southern property boundaries.

This deviation is approved subject to Condition 4.d. A 30-foot-wide type F buffer combined with the existing vegetation, will provide adequate buffer to the properties to the east and south.

Deviation 2: A deviation from LDC section 10-416(d)(4) where a type "E" landscape buffer is required between industrial uses and existing residential uses, to allow any portion of the wall requirement to be met by a building face along the northern perimeter of the site.

This deviation is approved subject to Condition 4.d.4. Back of the proposed building, as conditioned, will act as the buffer wall as supplemented by the 8-foot-high opaque wall required by Condition 4.d.4; therefore, a freestanding wall is not necessary.

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

TYPE OF CASE: PLANNED DEVELOPMENT/DCI
CASE NUMBER: DCI2020-00005
HEARING EXAMINER DATE: November 9, 2023

APPLICATION SUMMARY

Applicant: Red Jacket Development Group in reference to Red Jacket/Country Lakes Drive Industrial Rezone.

Request: Request to rezone 6.86± Acres from Agricultural (AG-2) to Industrial Planned Development (IPD) to allow for 95,300 square feet of warehousing, including mini-warehouses with associated accessory and ancillary uses.

Location: The subject property is located on the east side of Country Lakes Drive, surrounded to the south and east by Cypress Woods Resort in Caloosahatchee Shores Planning Community. The applicant indicates the STRAP number is 11-44-25-00-00014.0000.

SUMMARY

Staff recommends APPROVAL of the request to rezone the subject property from Agricultural (AG-2) to Industrial Planned Development (IPD) with conditions listed in Attachment C.

The conditions have been prepared to address the proposed development and its consistency with the Lee County Comprehensive Plan (Lee Plan), compatibility with surrounding land uses, and the future infrastructure needs to support the development.

The applicant proposes two deviations with this request. Staff recommends approval of the deviations subject to conditions.

CHARACTER OF THE AREA

Country Lakes Drive north of Lockett Road is mostly developed with industrial uses. Properties abutting the east side of Country Lakes Drive and south of the subject property are for the most part zoned Light Industrial (IL). On the west side of the road the properties along the same area are zoned IL and Industrial Planned Development (IPD). Properties to the east and south of the site are zoned Recreational Vehicle and Mobile Home Planned Development (RVPD/MHPD). Properties to the north of the subject property are zoned Mobile Home (MH-1) and Agricultural (AG-2).

ANALYSIS

The applicant is proposing to rezone the subject property from Agricultural (AG-2) to Industrial Planned Development (IPD) to allow development of the site with a mini-storage/public warehousing use.

As required by the Land Development Code Section 33-1482, the applicant conducted an advertised public informational meeting within the Caloosahatchee Planning Community on June 9, 2020, and provided staff with the synopsis on the meeting (Attachment I).

Lee Plan:

The property is within the Urban Community (Policy 1.1.4) Future Land Use category. The proposed rezoning request is appropriate for the Future Land Use designation. The proposed intensity, as well as the requested uses, are in keeping with the Urban Community Future Land Use category. The proposed rezoning will allow 95,300 square feet of self-storage space with a maximum building height of 30 feet.

The subject request promotes contiguous growth patterns, contains urban sprawl and minimizes the costs of services. Adequate public services exist, and water and sewer are available to the site. The property has direct frontage on Country Lakes Drive, which is a collector road.

As an infill development, the proposed development promotes contiguous and compact growth patterns, limits urban sprawl and minimizes the costs of services. Adequate public services exist to serve this development. The property proposes direct access to Country Lakes Drive. Therefore, the request is consistent with Objectives 2.1 and 2.2 and Policies 2.1.1 and 2.2.1 of the Lee Plan.

Water and sanitary sewer service from Lee County Utilities is available to the site and the site will be connected to those services. Staff finds the request consistent with Standards 4.1.1 and 4.1.2 of the Lee Plan (Attachment "H").

The applicant proposes to develop the site with a self-storage use. Provisions are made for pedestrians, automobile traffic, and parking (Attachment "D"). The requested Planned Development, as conditioned, is consistent with Policy 7.1.2 of the Lee Plan.

There are limited compatibility issues as most properties surrounding this site are used for industrial and residential uses. The proposed development will have a building along the south and east sides, where it abuts residential development with no openings to act as an opaque wall. In addition, a 30-foot-wide landscape buffer will adequately buffer this site from the adjoining residential dwellings. The requested rezoning, as conditioned, is consistent with Policy 7.1.1 of the Lee Plan.

In compliance with Policy 21.1.2, which restricts deviations from landscaping, buffering and signage requirements, no such deviation is requested. The requested rezoning is consistent with Policy 21.1.2 of the Lee Plan.

Urban Services:

Public transportation: Currently there is no bus services in the vicinity of the subject property.

Fire protection is provided by the Tice Fire Protection and Rescue District, located at 9351 Workmen Way, 1.3 miles from the subject property (Fire Station #201). This fire station also contains an EMS substation (Medic 26).

A Sheriff's station is located at 2501-2675 Ortiz Avenue, 3.5 miles from the subject property.

Water and sewer services from Lee County Utilities are available to the site and the site will be connected to those services.

ENVIRONMENTAL

Environmental Zoning staff has reviewed this request and recommended approval subject to conditions (Attachment "E"). Conditions have been modified, as appropriate and have been imported into the staff recommendations (Attachment "C").

TRANSPORTATION

Development Services reviewed this project on behalf of Lee County Department of Transportation and recommended approval subject to conditions. This development will generate 10 A.M. weekday peak hour and 16 total P.M. weekday peak hour trips a day. Country Lakes Road to the north and south of the subject property function at a Level of Service (LOS) C and will function at the same level of service with or without this project in year 2025 (Attachment G).

NATURAL RESOURCES

There are drainage ditches along the north and west property boundaries of this site, each of which conveys offsite flows. The site plan is not showing any impacts to the exiting ditch; however, the applicant has stated that "there may be some alterations proposed". To ensure that these drainage ditches continue to provide the same or improved conveyance capacity a condition is added to the recommendation for approval of this project (Attachment F).

DEVIATIONS

The applicant is proposing two deviations:

Deviation 1: A deviation from LDC section 10-416(d)(4) where a type "E" landscape buffer is required between industrial uses and existing residential uses, to allow a type "F" buffer along the eastern and southern property boundaries.

Deviation 2: A deviation from LDC section 10-416(d)(4) where a type "E" landscape buffer is required between industrial uses and existing residential uses, to allow any portion of the wall requirement to be met by a building face along the northern perimeter of the site.

FINDING AND CONCLUSION

Based upon an analysis of the application and the standards for approval of planned development rezonings, as required by the Land Development Code Section 34-145(d)4, staff finds the request, as conditioned:

- a) Complies with Lee Plan as discussed in the Lee Plan analysis section of this report, specifically Lee Plan Objectives 2.1 and 2.2, Policies 1.1.4, 2.1.1, 2.2.1, 7.1.1, 7.1.2, and 21.1.2, and Standards 4.1.1 and 4.1.2;
- 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 and the expected impacts on existing or planned transportation facilities will be mitigated through existing County regulations or conditions of approval;
- e) Will not adversely affect environmentally critical or sensitive areas and natural resources;
- f) Will be served by urban services, defined in the Lee Plan;

- g) The proposed mix of uses, as amended by staff, is appropriate at the proposed location; and
- h) 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
- i) The approved deviations, as conditioned:
 - 1) Enhance the achievement of the objectives of the planned development; and
 - 2) Preserve and promote the general intent of this Code to 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, Development Regulations and Deviations
- D. Master Concept Plan
- E. Memorandum from Environmental Staff
- F. Memorandum from Natural Resources Division
- G. Memorandum from Regulatory Planning concerning Transportation Analysis
- H. Letter of availability for water and sewer
- I. Public Informational Meeting Notes
- J. Traffic Impact Statement
- K. Application and Applicant's Narrative
- L. Legal Description

DCI2021-00001
ORANGE RIVER
RPD
REMAND
HEARING

Staff Summary

CASE NUMBER & NAME: DCI2021-00001 / Orange River RPD

REQUEST: Request to rezone 129.6± acres from Residential Planned Development (RPD) to RPD to increase the number of residential dwelling units from 160 to 258.

RESOLUTION NUMBER: Z-22-028

LOCATION: 11400 and 11270 Orange River Blvd., Buckingham Planning Community, Lee County, FL

OWNER: 11400 Orange River LLC c/o: Gerard Alexander Property Holdings, LLC

APPLICANT: 11400 Orange River LLC c/o: Gerard Alexander Property Holdings, LLC

AGENT
Carl Barraco
Barraco and Associates
2271 McGregor Blvd.
Fort Myers, FL 33909

HEARING EXAMINER
RECOMMENDATION: Approval, subject to conditions and deviations set forth in Exhibit B

PARTICIPANTS: (61)

Spoke at Original Hearing only

Kara Alfaro
Ken Carmichael
Pamela Chaplow
Bert Cline
Lisa Coffey
David Cortez
Susan Fero
Sarah Fisher
Michael Goals
Porfirio Gutierrez, Jr.
Mike Hansen
Patricia Heaphy
Claudia Klees
Karl Kropp
Barbara Kudrow
Brenda Lewis
Jennifer Maillard
Phillippe Maillard
John Marcantonio
Gerald Martinez
Kelly Mastriana
Gwen McCann
Dennis McLlrot

Bill McLlrot
Tom McLlrot
Dixie McLoon
Thomas Oommen
Shane Parker
Kristi Patrick
Richard Paul
Judie Piccola
Sandy Portella
Beverly Ritchie
Jean Roth
Michael Saboda
Corey Wilkes

Spoke at Remand Hearing only

Debbie Dargan
Manny Flint
Patricia Klees
Thomas McKibans
Robert Murray
Maillard Philippe
Gary Stilwell
Edwin Yerdon

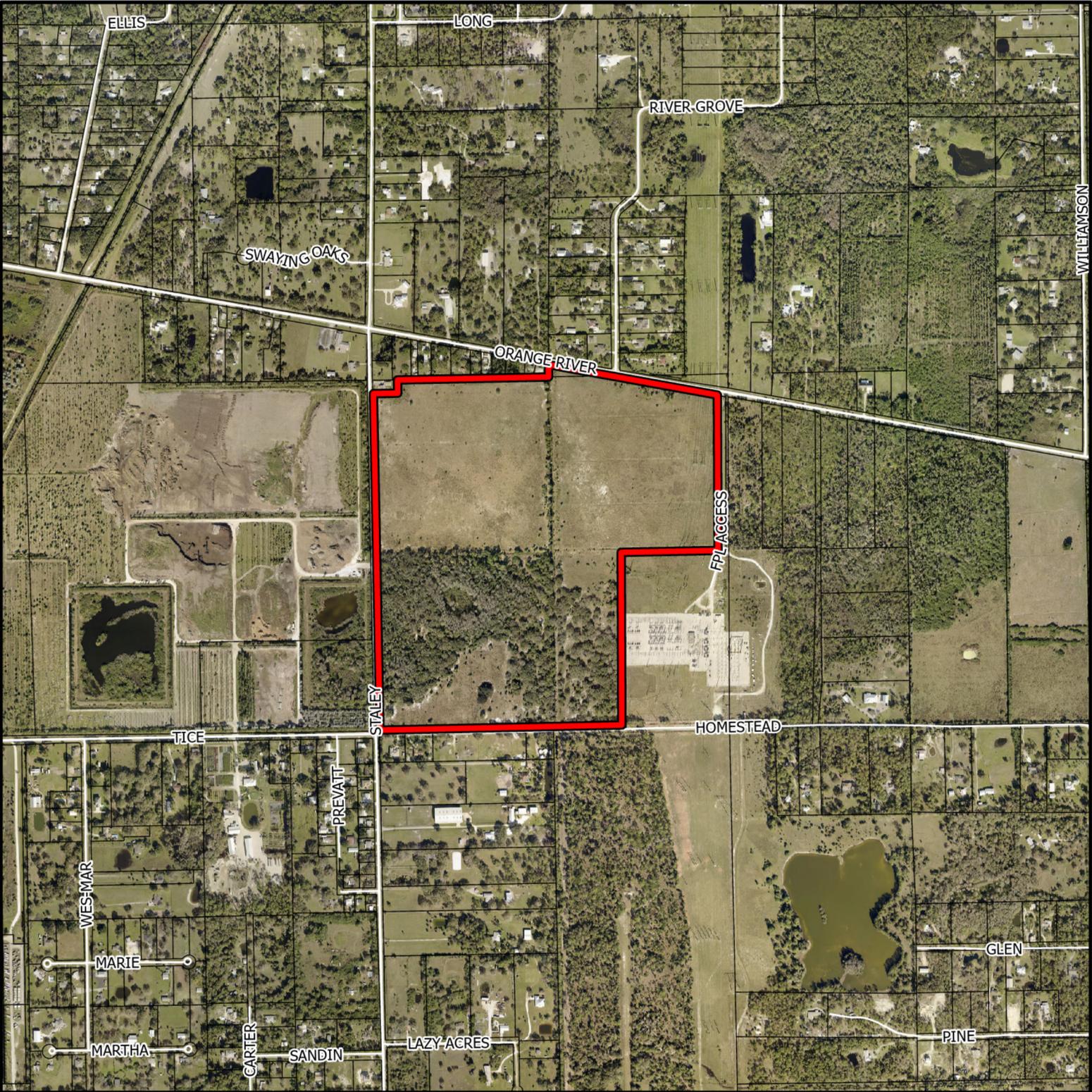
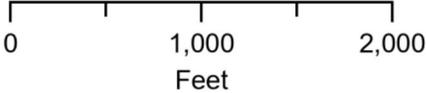
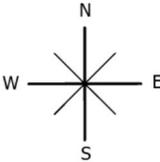
Spoke at Both Hearings

Don Blackburn
Betsy Burdette
Bill Burdette
Keith Campbell
Cheryl Fischer
Jeff Grey
Lauren Hunt
David Hutto
Nancy Hutto
Don Lewis
Terri Lodge
Lauren McIntyre
Kathleen Padgett
Beverly Reid
Julie Ward
John W. Wilkes, Sr.
Sandra Wilkes

DCI2021-00001

Aerial

 Subject Property



Summary of Hearing Examiner Recommendation

ORANGE RIVER RPD REMAND

The Board remanded the proposed Orange River RPD with instructions to reconsider proposed lot size/dimensions and Lee Plan Policy 5.1.5.¹ Staff offered comparisons to the Buckingham 345 RPD, a residential community developing adjacent to the Rural Community Preserve. Applicant offered two site plans for consideration; the second is supported by Staff.² The Hearing Examiner finds all three alternatives consistent with the Lee Plan.

The Lee Plan articulates an intent to keep Buckingham's character distinct from residential patterns elsewhere. The challenge is to create transitions on a site *surrounded* by the Rural Community Preserve.³ In these circumstances, the Board may impose special conditioning to protect the public interest.⁴

The County's land development regulations suggest that when a proposed project is surrounded by land uses with lower density, the design emphasis must *separate and protect* the project and its environs.⁵ The Revised and Alternate site plans offered by the Applicant meet this standard.

As development pressure mounts in rural areas, design features along property frontage are vital to protecting and maintaining rural ambience. Special conditioning to protect the public interest might include supplementing perimeter buffers with undulating berms and specific vegetation palettes.⁶

¹ The Hearing Examiner considered existing development regulations as "the floor" during her evaluation because it is not possible to reduce existing development entitlements without running afoul of the Bert J. Harris Jr Property Rights law. The Hearing Examiner requested the parties submit/present an analysis of average lot sizes and dimensions in the Buckingham Planning Community. The parties explained lot sizes range from .2 to ten acres but did not provide a community wide average.

² Staff and Applicant requested additional time post hearing to refine conditions governing lot size and dimension.

³ There is an added challenge in balancing Lee Plan directives for Buckingham that include diversifying housing choices, protecting environmental resources, and preserving rural ambience. Goals 5, 20, Policies 135.1.9, 160.1.3. Buckingham Goal 20 specifically points to achieving that diversification by maintaining and enhancing the historic and rural character of the community. Although community plan allows for clustering of residential development, closer examination of the policy suggests the proposed typical "suburban" model of narrow lots with minimal side setbacks between dwellings may not be wholly consistent with the character of the surrounding rural preserve community.

⁴ See LDC §34-932; The Lee Plan authorizes special conditions to address unique aspects of a parcel to protect public interest. The parcel is unique; surrounded by the Rural Preserve but not within its boundaries because of development entitlements predating Board adoption of the Rural Preserve. The Board has the authority under its land development regulations to impose conditions minimizing the impact of proposed lot sizes and maximizing the aesthetic qualities of the community.

⁵ LDC §34-411(k). See also Lee Plan Policy 5.1.5 (planned developments must include conditions to minimize or eliminate potential impacts).

⁶ Horse Creek has an undulating berm adjacent to Orange River Boulevard.

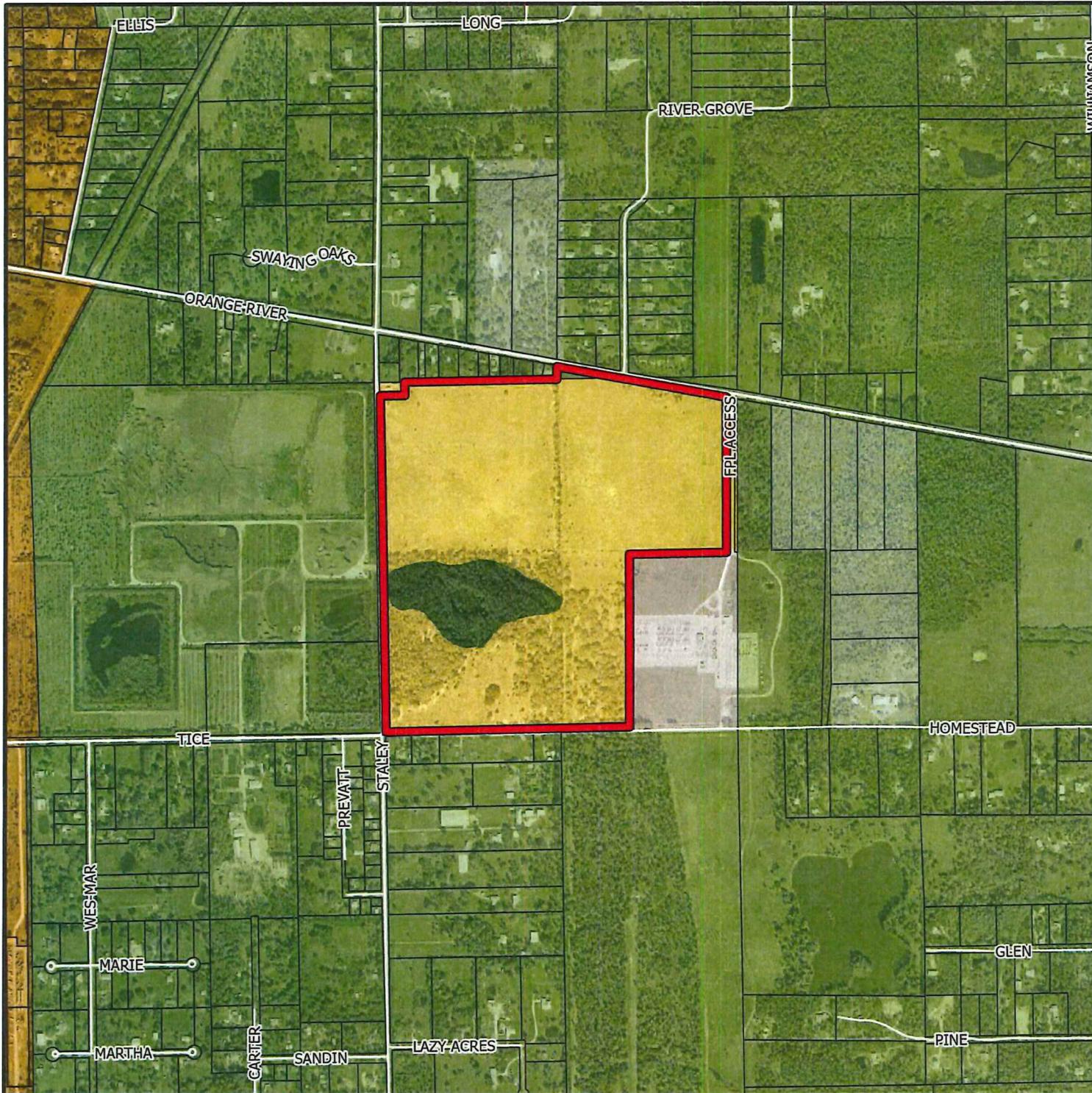
The Buckingham Community features a mix of Live/Laurel Oak, Slash Pine, Cabbage Palm, and Palmetto. Perimeter buffers composed of those species would be consistent with the existing rural landscape, maximizing the community aesthetic.⁷ A rustic entry feature, similar to the overhead design of ranch entrances may be another way to perpetuate a rural aesthetic.⁸

⁷ Lee Plan Policy 20.1.6. See also Policy 5.1.5.

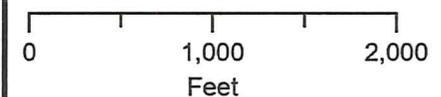
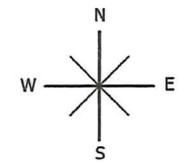
⁸ *Id.*

DCI2021-00001

Future Land Use



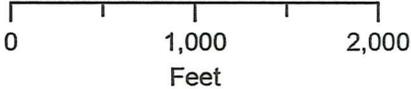
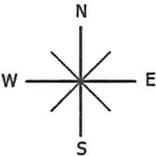
-  Subject Property
-  Urban Community
-  Sub-Outlying Suburban
-  Public Facilities
-  Rural
-  Rural Community Preserve
-  Wetlands



DCI2021-00001

Aerial

 Subject Property



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00001

Regarding: ORANGE RIVER RPD REMAND

Location: 11270 and 11400 Orange River Boulevard
Buckingham Planning Community
(District 5)

Hearing Date: May 30, 2023

Record Closed: July 31, 2023

I. **Request**

Request to rezone 129.6± acres from Residential Planned Development (RPD) to RPD to increase residential dwelling units from 160 to 258.

The property legal description is set forth in Exhibit A.

II. **Discussion on Remand**

The Board remanded the proposed Orange River RPD with instructions to reconsider proposed lot size/dimensions and Lee Plan Policy 5.1.5.⁹ Staff offered comparisons to the Buckingham 345 RPD, a residential community developing adjacent to the Rural Community Preserve. Applicant offered two site plans for consideration; the second is supported by Staff.¹⁰

Clustering is permitted within the Rural Community Preserve, so long as the project develops as an RPD, exceeds 10 acres, and maintains building setbacks of 100 feet from the project boundary.¹¹ The originally proposed site plan as well as those presented at remand satisfy these requirements.

⁹ The Hearing Examiner considered existing development regulations as “the floor” during her evaluation because it is not possible to reduce existing development entitlements without running afoul of the Bert J. Harris Jr Property Rights law. The Hearing Examiner requested the parties submit/present an analysis of average lot sizes and dimensions in the Buckingham Planning Community. The parties explained lot sizes range from .2 to ten acres but did not provide a community wide average.

¹⁰ Staff and Applicant requested additional time post hearing to refine conditions governing lot size and dimension.

¹¹ *Id.*

Revised MCP: The “Revised” MCP increases lot sizes by a minimum of 200 square feet.¹² Setbacks remain as first proposed, with the exception of lots abutting Homestead Lane, which are larger. The requested unit count remains at 258. Staff supports the requested unit count and site design, but recommends the Board adopt lot dimensions consistent with the RS-1 zoning district.

Alternate MCP: The “Alternate” MCP lowers the requested unit count to 248 and implements a site design similar to existing zoning approvals.¹³ Minimum lot sizes is 13,600 square feet for perimeter lots and 6,700 square feet for interior lots. Side setbacks remain at 5 feet. The Alternate MCP includes conditions for enhanced perimeter buffers similar to those proposed in the original request and Revised MCP. **Staff supports the Alternate MCP.**

The Hearing Examiner must re-evaluate the zoning request balancing Applicant’s desire to intensify development entitlements with the Board’s direction to protect the character of the Buckingham Community.

The Lee Plan

New development adjacent established residential neighborhoods must be compatible with or improve an area’s existing character.¹⁴ Further, the County must administer the zoning process in a manner that *acceptably minimizes adverse impacts* upon adjacent residential properties while *maximizing aesthetic qualities*.¹⁵

Lee Plan Policy 5.1.5 requires the Board to impose conditions to minimize potential impacts. The policy states the LDC will establish buffers for new development and *allow further conditioning when necessary*.¹⁶ The Lee Plan also states “appropriate buffers” *will be established* adjacent to the Rural Community Preserve.¹⁷

The County must protect residential areas from uses potentially destructive to the “character and integrity” of the residential environment.¹⁸ “*When possible, residential development adjacent to the Rural Community Preserve should make appropriate transitions... with a graduated increase in density as development moves away from the ... boundary.*”¹⁹

¹² Revised MCP depicts a 98 unit increase. Staff supports the 98 unit increase but recommends lot dimensions similar to the RS-1 zoning district.

¹³ Alternate MCP depicts an 88 unit increase. The Alternate MCP is supported by staff.

¹⁴ Lee Plan Policy 135.9.5.

¹⁵ Lee Plan Policy 135.9.6.

¹⁶ There is no adopted standard in the LDC addressing buffering development adjacent to the Rural Community Preserve.

¹⁷ Lee Plan Policy 20.1.6. Although authorized, the County has not established buffer standards in the LDC for development adjacent to the Rural Community Preserve. *See also* Lee Plan Objective 135.9 instructing the County to improve the quality of neighborhoods *with development regulations*.

¹⁸ Lee Plan Policy 5.1.5.

¹⁹ Lee Plan Policy 20.1.6.

The LDC affirms these sentiments noting that when a project is surrounded by land uses with significantly lower density, the design emphasis must *separate and protect* the project and its environs.²⁰

The Lee Plan articulates an intent to keep Buckingham's character distinct from residential patterns elsewhere. The Revised and Alternate MCPs arguably accomplish this goal, locating lakes, dense buffers, and indigenous preserves at the project perimeter. Proposed vegetative buffers screen development from view, minimizing visual impacts to the community.

It is noteworthy the LDC requires no minimum buffers on single family developments unless adjacent to parks or public preserve lands.²¹ Yet, the site plans propose 30 foot wide landscape buffers along perimeter roadways.²² The buffers include 16 foot high trees and double staggered hedge rows 48 inches in height. These buffers are consistent with the LDC Type F buffer, the densest standard in the code.

The LDC

The LDC authorizes special conditioning to protect the public interest.²³ Accordingly, the Board may impose additional conditions to minimize the impact of proposed lot size and maximize the aesthetic quality of the Buckingham Community.²⁴

Special conditions might include supplementing perimeter buffers with an undulating berm.²⁵ Perimeter buffer plant materials composed of Live/Laurel Oak, Slash Pine, Cabbage Palm, and Palmetto would preserve Buckingham's rural landscape, preserving the community aesthetic. A rustic entry feature, similar to the overhead design of ranch entrances may be another way to maintain the unique qualities of Buckingham.

²⁰ LDC §34-411. *See also* Lee Plan Policy 5.1.5 (planned developments must include conditions to minimize or eliminate potential impacts).

²¹ Both plans proposed by Applicant exceed LDC buffer requirements. The code requires a Type B buffer when a single family development is adjacent to an active recreational park. And a Type F buffer when adjacent to a public preserve. LDC §10-416(3). The code also requires buffering if parking or a right of way lies within 125 feet of residential land uses/zoning. LDC §10-416(d).

²² The revised and alternate site plans provide substantial perimeter setbacks and lush landscape buffers. Large portions of the project boundary are comprised of preserved indigenous vegetation.

²³ The Lee Plan authorizes special conditions are authorized to address unique aspects of a parcel in the protection of the public interest. The parcel is unique in that it is surrounded by the BRP but has never been included within its boundaries because of development entitlements predating Board adoption of the BRP.

²⁴ LDC § 34-932.

²⁵ The Hearing Examiner observed Horse Creek employs an undulating berm adjacent to Orange River Boulevard.

Staff Submissions

On remand, staff submitted comparisons to “Buckingham 345,” a project abutting the Rural Community Preserve where the Board approved a density of 2.94 units per acre adjacent to the Rural Community Preserve in 2021.²⁶ Buckingham 345 clustered dwelling units concentrating open space along the project perimeter, similar to the design employed by Applicant.²⁷

Applicant Submissions

At the remand hearing, Applicant presented two site plans for consideration.²⁸ The “Revised” MCP mirrored the original request for an additional 98 units with modifications to lot size and dimensions. Staff supports the requested unit count but recommends property development regulations similar to the RS-1 zoning district.

The Alternate MCP proposes a layout similar to existing zoning approvals but requests an additional 88 units.²⁹ Staff supports the “Alternate” MCP.

The Hearing Examiner modified conditions of approval on both remand alternatives to conform to revisions previously recommended by the Hearing Examiner.

Revised MCP 258 Unit Count (1.99 units per acre, 98 additional units)

Applicant’s Revised MCP increases lot size/depth for R-1 designated lots that comprise the majority of the site.³⁰ R-2 lots abutting Homestead Lane are twice the size, with greater lot depth and setbacks.

The Revised MCP maintains a site design that realigns a drainage ditch to improve water quality and protect environmental resources. The MCP includes lakes and enhanced landscaping along the perimeter, separating development tracts from the Orange River Boulevard corridor. The Revised MCP also features a prominent

²⁶ The Orange River RPD seeks 1.99 units per acre.

²⁷ Lee Plan Policies 20.1.3, 20.1.5.

²⁸ Staff and Applicant requested additional time post hearing to refine conditions governing lot size and dimension.

²⁹ While staff continues to support Applicant’s proposed unit counts, they now recommend adopting RS-1 property development regulations establishing minimum lot size of 7,500 square feet, lot widths of 75 feet and side setbacks at 7.5 feet. These lot dimensions are most similar to existing zoning approvals. It is unclear how many additional units may be achieved using these dimensions.

³⁰ The Revised MCP retains the originally requested site plan with modifications to lot size., R-1 designated lots represent approximately 98% of the lots. R-2 lots represent approximately 2%. R-2 lots are located in the southeast corner of the site adjacent to Homestead Lane. In this alternative, Applicant increases R-1 minimum lot depth by 30 feet and lot size by 200 square feet but retains 50 foot lot widths and 5 foot side setbacks. This alternative is similar to Applicant’s original request with modifications to increase lot size from 6,500 to 6,700 square feet.

area of vegetation along Staley Road.³¹ Perimeter setbacks exceed code by 50 to 70 feet, and proposed structure setbacks mimic those observed along Homestead, Staley, and Orange River Boulevard.

Perimeter design features are consistent with Objective 20.4, which requires using landscaping, open space and buffering to protect rural character from negative impacts of development. The Revised MCP is also consistent with Lee Plan policies favoring clustering development to protect environmental features of property.

The Revised MCP maximizes permissible density and concentrates open space along the project perimeter to maintain scenic vistas along abutting roadways.³²

Although Staff continues to support Applicant's requested unit count and site design, they recommend minimum lot sizes of 7,500 square feet, lot widths of 75 feet, and side setbacks of 7.5 feet. These dimensions mirror those of the RS-1 zoning district and are most similar to existing zoning approvals.³³

Alternate MCP 248 Unit Count (1.91units per acre, 88 additional units)

The Alternate MCP retains the site plan of existing RPD zoning approvals, most notably the drainage ditch bifurcating the site.³⁴ Lots positioned along the perimeter roadways are 80 feet in width, and feature minimum lot sizes of 13,600 square feet and side setbacks of 10 feet.³⁵ Interior lots are 50 feet in width, and feature a minimum lot size of 6,700 square feet. Side setbacks remain at 5 feet.

The Alternate MCP includes dense vegetated buffers along the project perimeter to maintain scenic vistas for the traveling public.³⁶

Staff supports the Alternate MCP.

³¹ Consisting of wetland areas and restored flow way to convey water to an outfall on Orange River Boulevard.

³² Lots in the southeast corner are 13,600 sq feet in area with 50 foot lot widths and 270 foot lot depth. Side setbacks remain at 5 feet.

³³ The Hearing Examiner considered existing development regulations as "the floor" during the evaluation because it is not possible to reduce existing development entitlements without running afoul of the Bert J. Harris Jr Property Rights Act. Staff estimates an additional 40 units may be achieved with the RS-1 zoning district dimensions. Staff Memo dated March 29, 2023.

³⁴ The first proposed and Revised MCPs remain superior to Alternate MCP from an environmental perspective due to benefits derived from improved water quality and stormwater attenuation from re-routing offsite flows through the wetland and created flow way. The Lee Plan emphasizes protection of water quality and environmental resources. The first proposed and Revised MCPs achieve those goals. The Alternate MCP does so to a lesser degree. These environmental goals are part of protecting the rural environment of the Buckingham Planning Community.

³⁵ In the Alternate MCP, interior lots represent approximately 80% of the total lots. Perimeter lots represent approximately 20% of the total lots.

³⁶ Perimeter lots in the southeast corner are 13,600 sq feet in area with 50 foot lot widths and 270 foot lot depth. Side setbacks remain at 5 feet.

Hearing Examiner Recommendation

The Hearing Examiner finds the alternatives offered at remand to be consistent with the Lee Plan. Clustering is permitted within the Rural Community Preserve, so long as the project develops as an RPD, exceeds 10 acres, and maintains building setbacks of 100 feet from the project boundary.³⁷ The proposed MCPs satisfy these requirements.

The Board may consider special conditioning to protect the rural character of Buckingham including undulating berms, buffer landscaping utilizing species found throughout the community, rustic fencing and entry features.

Recommendation date: October 11, 2023.



Donna Marie Collins
Chief Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Remand Recommendation

- Exhibit A Legal Description and Vicinity Map
- Exhibit B "Revised" MCP Recommended Conditions and Deviations
- Exhibit C "Alternate" MCP Recommended Conditions and Deviations
- Exhibit D Exhibits Presented at Hearing
- Exhibit E Hearing Participants
- Exhibit F Information

³⁷ *Id.*

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

Barraco
and Associates, Inc.

www.barraco.net

Civil Engineers, Land Surveyors and Planners

DESCRIPTION

Parcel in
Section 1, Township 44 South, Range 25 East
Lee County, Florida

A tract or parcel of land being all of those lands described in a deed recorded in Instrument Number 2014000192801 of the Public Records of Lee County, Florida, lying in Section 1, Township 44 South, Range 25 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

PARCEL 1:

COMMENCING at the South Quarter corner of said Section 1 run S88°47'02"W along the South line of the Southwest Quarter (SW 1/4) of said Section 1 for 800.12 feet to an intersection with the West line of the East 800 feet of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run N00°14'15"W along said West line for 30.00 feet to an intersection with the North right of way line of Homestead Lane, being the North line of the South 30 feet of said Southwest Quarter (SW 1/4) of Section 1 and the POINT OF BEGINNING.

From said Point of Beginning run S88°47'02"W along said North line for 1,798.99 feet to an intersection with the East right of way line of Staley Road, being the East line of the West 30 feet of said Southwest Quarter (SW 1/4) of Section 1; thence run N01°06'31"W along said East line for 2,500.47 feet; thence run N88°57'45"E parallel with the North line of said Fraction for 181.00 feet; thence run N01°06'31"W parallel with the West line said Southwest Quarter (SW 1/4) for 100.00 feet to an intersection with the North line of said Fraction; thence run N88°57'45"E along said North line for 1,123.26 feet to the Southwest Corner of Lot 38, Block 1, of the record plat "TERRY-TICE-& VANDAWALKERS", as recorded in Plat Book 1, Page 46, of the Public Records of Lee County, Florida; thence run N00°03'58"E along the West line of said Lot 38 for 91.57 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run S79°49'24"E along said Southwesterly right of way line for 1,274.64 feet to an intersection with the West line of the East 80 feet of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run S00°14'15"E along said West line for 1,155.09 feet to an intersection with the North line of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run S88°52'26"W for 720.09 feet to an intersection with the West line of the East 800 feet of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run S00°14'15"E along said West line for 1,282.56 feet to the POINT OF BEGINNING.

Containing 128.79 acres, more or less.

REVIEWED
DCI2021-00001
Rick Burris, Principal
Planner
Lee County DCD/Planning
1/21/2022

DESCRIPTION (CONTINUED)

PARCEL 2:

COMMENCING at the South Quarter corner of said Section 1 run $N00^{\circ}14'15''W$ along of the East line of Southwest Quarter (SW 1/4) of Section 1 for 1,311.31 feet to the Southeast corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1 and the POINT OF BEGINNING.

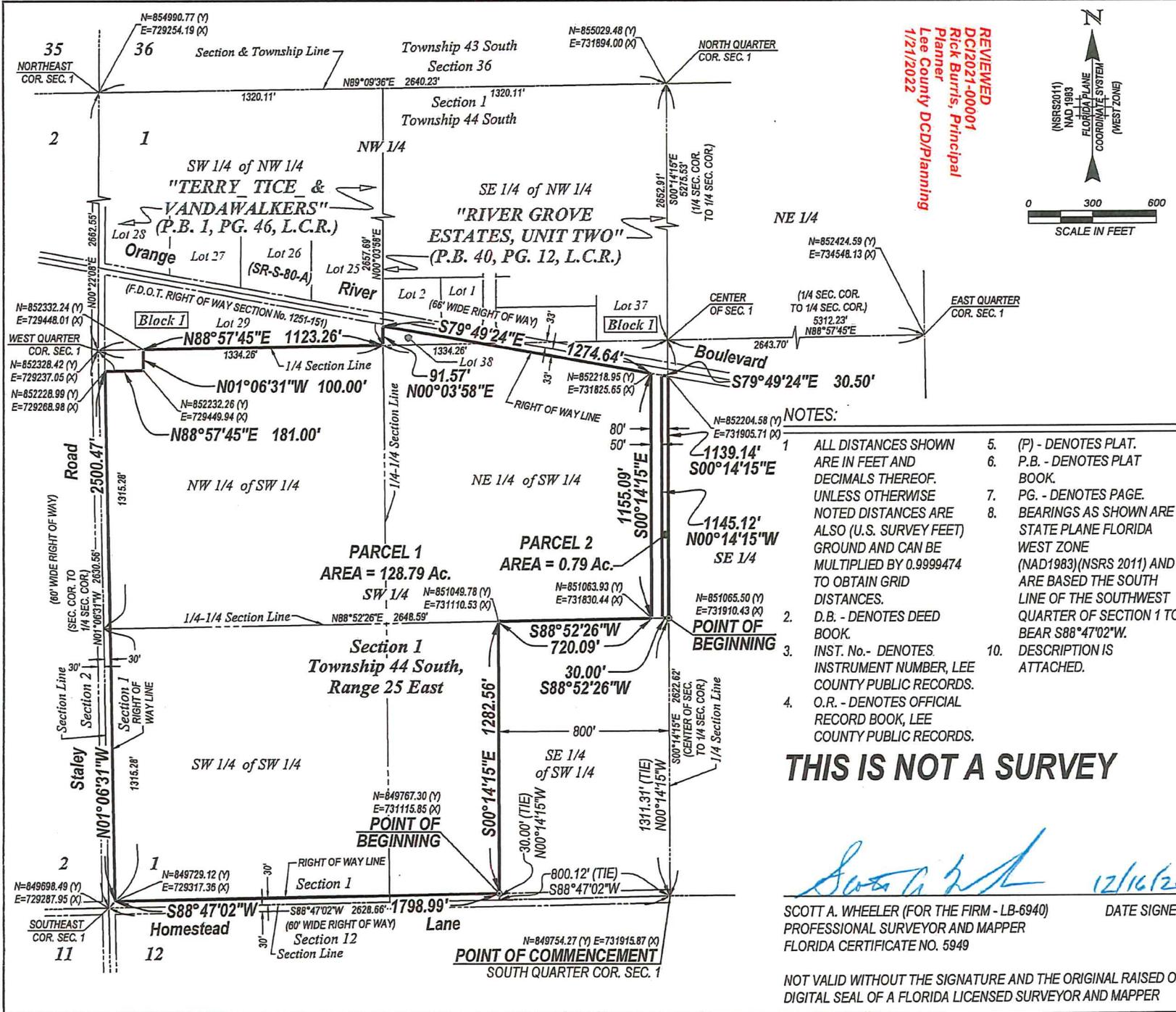
From said Point of Beginning run $S88^{\circ}52'26''W$ along the South line of said Fraction for 30.00 feet to an intersection with the East line of the West 50 feet of the East 80 feet of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $N00^{\circ}14'15''W$ along said East line for 1,145.12 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run $S79^{\circ}49'24''E$ along said Southwesterly right of way line for 30.50 feet to an intersection with the East line of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S00^{\circ}14'15''E$ along said East line for 1,139.14 feet to the POINT OF BEGINNING. Containing 0.79 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (NAD1983)(NSRS 2011) and are based on the South line of the Southwest Quarter (SW 1/4) of Section 1 to bear $S88^{\circ}47'02''W$.

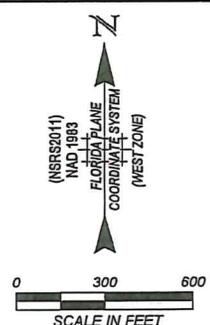

Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

L:\23886 - Orange River Blvd Parcel\survey\Descriptions\sketch\23886SK01.doc

REVIEWED
DCI2021-00001
Rick Burris, Principal
Planner
Lee County DCD/Planning
1/21/2022



REVIEWED
DC12021-0001
Rick Burris, Principal
Planner
Lee County DCD/Planning
1/21/2022



- NOTES:**
- ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF. UNLESS OTHERWISE NOTED DISTANCES ARE ALSO (U.S. SURVEY FEET) GROUND AND CAN BE MULTIPLIED BY 0.9999474 TO OBTAIN GRID DISTANCES.
 - 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 STATE PLANE FLORIDA WEST ZONE (NAD1983)(NSRS 2011) AND ARE BASED THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 1 TO BEAR S88°47'02\"W.
 - DESCRIPTION IS ATTACHED.

THIS IS NOT A SURVEY

Scott A. Wheeler

12/16/20

SCOTT A. WHEELER (FOR THE FIRM - LB-6940) DATE SIGNED:
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

Barraco
and Associates, Inc.
CIVIL ENGINEERS - LAND SURVEYING
LAND PLANNING
www.barraco.net

2271 MCGREGOR BLVD., SUITE 100
POST OFFICE DRAWER 2800
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169

FLORIDA CERTIFICATE OF AUTHORIZATION
ENGINEERING 7385 - SURVEYING LB-6940

PREPARED FOR

**PINNACLE
DEVELOPMENT**

2690 APPLE BLOSSOM DRIVE
FORT MYERS, FL 33920

PHONE (239) 689-6750

PROJECT DESCRIPTION

**A PARCEL
OF LAND IN
SECTION 1,
TOWNSHIP 44 SOUTH,
RANGE 25 EAST,
LEE COUNTY,
FLORIDA**

PROJECT SURVEYOR

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

FILE NAME	D3886DR.LDWG
LAYOUT	3
LOCATION	U3286R2NDH2DRV2THDQTR
PLOT DATE	THU 5-6-2020 - 2:48 PM
PLOT BY	PETER OLSEN

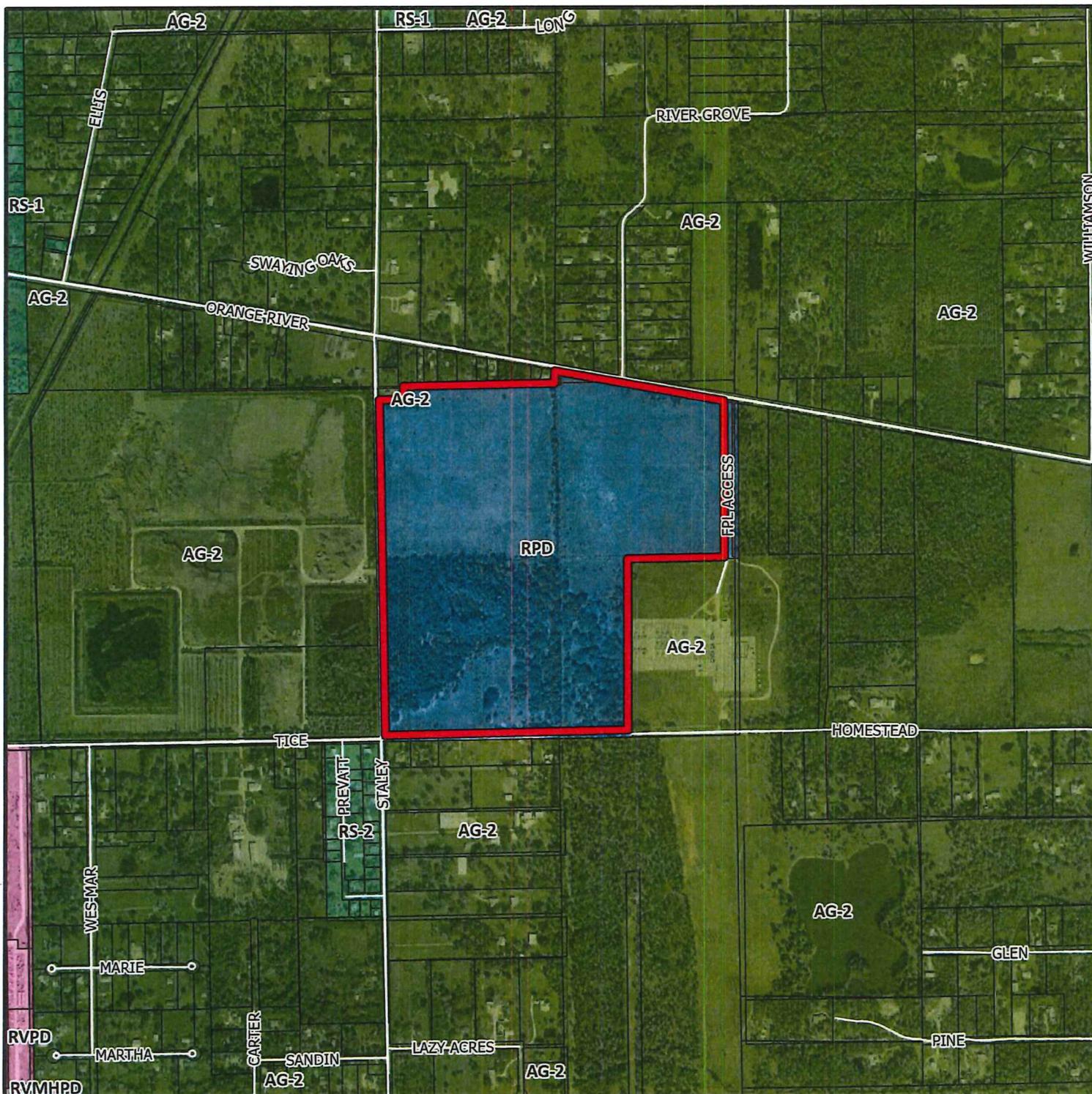
DRAWING DATA	
SURVEY DATE	04-05-2020
DRAWN BY	P. OLSEN
CHECKED BY	SAW
SCALE	1"=400'
FIELD BOOK	

PLAN REVISIONS	

STRAP NUMBERS

SKETCH TO
ACCOMPANY
DESCRIPTION

PROJECT / FILE NO.	SHEET NUMBER
23805 1-44-24	3 OF 3



DCI2021-00001

Zoning

 Subject Property

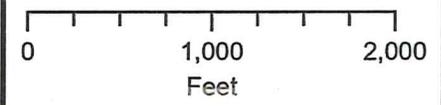
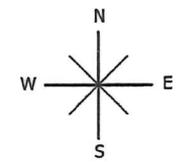


Exhibit B

REVISED MCP

RECOMMENDED CONDITIONS AND DEVIATIONS

As revised by Hearing Examiner

CONDITIONS

1. Master Concept Plan/Development Parameters

Master Concept Plan. Development must be consistent with the three-page Master Concept Plan entitled “Orange River 130 Residential Planned Development” last revised on May 4, 2022, except as modified by the conditions below. (Exhibit B1),

Consistency with Lee Plan and Land Development Code (LDC). Development must comply with the Lee County Comprehensive Plan (Lee Plan) and Land Development Code (LDC) at time of local Development Order approval, except where deviations are approved herein. Subsequent changes to the MCP may require further development approvals.

Approved Development Parameters. Development is limited to up to 258 dwelling units.

2. Permitted Uses and Site Development Regulations

a. Schedule of Permitted Uses

Accessory Uses and Structures
Administrative Offices
Dwelling Units
 Single-family (Limited to 258)
Entrance gate, gatehouse
Essential Services
Essential Service Facilities: Group I
Excavation, Water Retention
Fences
Home Occupation
Model Home and Model Display Center
Parking Lot, Accessory
Real Estate Sales Office (Limited to sales within the development only)
Recreational Facilities:
 Personal
 Private On-site
Signs

Temporary Uses, limited to construction trailers during development and Sales Center

b. Site Development Regulations

APPLICANT'S REVISED MCP	STAFF'S RECOMMENDATION
SINGLE FAMILY R-1	SINGLE FAMILY R-1
Minimum Lot Size: 6,500 SF <u>6,700 sq. ft.</u>	Minimum Lot Size: 7,500 sq. ft.
Minimum Lot Width: 50 ft.	Minimum Lot Width: 75 ft.
Minimum Lot Depth: 100 ft. <u>130 ft.</u>	Minimum Lot Depth: 100 ft.
Minimum Lot Street Setback: 20 ft. Side: 5 ft. Rear (principal): 15 ft. Rear (accessory): 5 ft. Preserve: Per LDC	Minimum Lot Street Setback: 20 ft. Side: 7.5 ft. Rear (principal): 20 ft. Rear (accessory): 5 ft. Minimum Preserve: Per LDC
Minimum Perimeter Setbacks (See MCP Pg 3): North to Orange River BLVD ROW: 170 ft. North to Residential: 150 ft. South: 50 ft. min <u>150 ft.</u> (150 ft. average) East to Power Lines: 250 ft. average West: 170 ft.	Minimum Perimeter Setbacks: North: 100 ft. South: 100 ft. East: 250 ft. average (see MCP) West: 100 ft.
Maximum Building Height: 35 ft.	Maximum Building Height: 35 ft.
Maximum Lot Coverage: 45%	Maximum Lot Coverage: 45%
SINGLE FAMILY R-2	SINGLE FAMILY R-2
Minimum Lot Size: 13,600 SF	Minimum Lot Size: 13,600 SF
Minimum Lot Width: 50 ft.	Minimum Lot Width: 80 ft.
Minimum Lot Depth: 270 ft.	Minimum Lot Depth: 170 ft.
Minimum Street Setback: 20 ft. Side: 5 ft. Rear (principal): 130 ft. Rear (accessory): 120 ft.	Minimum Street Setback: 20 ft. Side: 10 ft. Rear (principal): 30 ft. Rear (accessory): 10 ft. Minimum Preserve: Per LDC
Minimum Perimeter Setbacks (See MCP Pg 3): South: 150 ft.	Minimum Perimeter Setbacks: North: 100 ft. South: 100 ft. East: 250 ft. average (see MCP) West: 100 ft.
Maximum Building height: 35 ft.	Maximum Building height: 35 ft.
Maximum Lot Coverage: 35%	Maximum Lot Coverage: 40%

3. Easement Exchange Agreement

Developer must execute and record an easement exchange agreement relocating the existing drainage easement to the perimeter of the site prior to County development order approval. Developer must record the agreement with the Lee County Clerk of Court.

4. Model Homes, Model Display Centers

Model homes, model display centers, and real estate sales are subject to the following conditions:

- a. Unique Example. Each model must be a unique example. Multiple examples of the same unit are prohibited.
- b. Development Order Plans. The location of Model Home Sites, Model Display Centers or Model Groups must be designated on the development order plans. Developer must buffer parking areas with a single-row hedge and tree canopy.
- c. Preliminary Plat. Prior to model home construction, model home lots must be shown on a preliminary plat. Developer must file the preliminary plat concurrent with the development order application. Model homes must comply with the property development regulations set forth in Condition 2.
- d. Number Permitted. No more than 10 model homes or model units may operate within the development at a time.
- e. Real Estate Sales Limited to Project. Real estate sales are limited to the sale of lots or units within the development.
- f. Real Estate Sales Location. Real estate sales are limited to temporary real estate trailers, model homes and model display centers.
- g. Hours. Hours of operation for models and real estate sales is limited to Monday through Sunday 8 a.m. to 8 p.m.
- h. Duration. Model homes and real estate sales will be valid for up to 5 years from the issuance of the model home certificate of occupancy.

5. Environmental Conditions

- a. Landscape Plans. Development order landscape plans must depict a 30-foot wide enhanced buffer along the north, south, and northwest property lines consistent with MCP Sheet 3. Buffer vegetation must be measured from the grade of the abutting offsite right-of-way and include ten trees per

100 linear feet and a double staggered hedge row. Trees must be canopy trees and specified at 16-foot-in-height, four-inch caliper (as measured from six inches above the ground), and an eight-foot-wide canopy spread. Shrubs must be specified at 48-inches-in-height, maintained at 60-inches-in-height, and installed 36-inches-on-center. Berms, if any, must be undulating consistent with Lee Plan Policy 20.4.3.

- b. Preserve Management Plan. The development order application must include a Preserve Management Plan that details management, restoration, monitoring, and success criteria for the preserve. The Preserve Management Plan must provide for perpetual maintenance of restored vegetation and reference the Easement Exchange Agreement.
- c. Enhanced Littoral Planting Plan. Development order landscape plans must include an enhanced littoral planting plan, cross sections demonstrating substantial compliance with MCP Sheet 3, and a littoral management plan that includes littoral plant maintenance and monitoring. The littoral management plan must reference the Easement Exchange Agreement and provide for perpetual maintenance of restoration vegetation.
- d. Protected Species Management Plan. The development order application must include a protected species management plan detailing the protected species or signs of species on the site and providing for management of future protected species.
- e. Prior to Site Work. Developer must submit a vegetation removal permit for the relocation of protected species and installation of preserve protection measures prior to commencing site work.

6. Agricultural Uses

Existing bona fide agricultural uses on the site may continue subject to the following conditions:

- a. Cattle Grazing and Hay Cultivation. Bona fide agricultural uses of cattle grazing and the cultivation of hay in existence at the time of filing the zoning application and shown on Exhibit B2, may continue until approval of a local development order over the area containing those uses.
- b. Clearing Prohibited. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas in bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude removal of invasive exotic vegetation.

- c. Affidavit. Prior to issuance of a development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
- (1) Proof of Termination of Agricultural Activity. Termination of agricultural uses on portions of the property included in development order applications/approvals. Proof must include an affidavit from the person or entity holding title to the property that provides:
 - a. date the agricultural uses ceased.
 - b. legal description of the property subject to the development order approval.
 - c. An affirmative statement that the owner acknowledges and agrees that agricultural uses are illegal and prohibited on the property and that the owner covenants with the County not to allow any agricultural uses on the property until the property is rezoned to permit agricultural uses; and,
 - d. the affidavit must affirmatively state that it constitutes a covenant between the owner and the county and is binding on the owner and their assignees and successors in interest. The covenant must be properly recorded in the County's public records at the owner's expense.
 - (2) Termination of Agricultural Tax Exemption. Proof of termination of the agricultural tax exemption over portions of the property included in a development order application/approval must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.

7. Natural Resources

- a. Replacement Drainage Easement. Prior to issuance of a Certificate of Compliance for any phase of development and prior to the removal of the existing drainage ditch, the developer must construct and certify the replacement drainage easement.
- b. Access Easement over Replacement Drainage Easement. Prior to issuance of a Certificate of Compliance for the realigned drainage ditch, the developer must dedicate a replacement drainage and access easement to Lee County prior to release of the existing drainage easement.
- c. Flow Way. Prior to local development order approval, developer must submit models and calculations supporting the proposed flow way design.

If the flow way design changes, developer must submit models and calculations supporting the new flow way design for review and approval by Lee County Natural Resources.

8. Utility Connections

The project must connect to central water and sanitary sewer services.

9. State and Federal Permits.

County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if Applicant fails to obtain requisite approvals or fulfill obligations imposed by state and federal agencies or if Applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

1. Excavation Standards. Deviation (1) seeks relief from LDC §10-329(d)(1)a.3 which requires an excavation setback of 50 feet from private property lines under separate ownership, to allow an excavation setback of 40 feet to the property boundary where a lake borders the southern portion of the property's eastern boundary line.

Hearing Examiners Recommendation: Approved.

Exhibits to Conditions:

B1 "Revised" MCP for Orange River 130 dated May 4, 2022

B2 Affidavit of Agricultural Use

MASTER CONCEPT PLAN
FOR

LEE COUNTY
HEARING EXAMINER
2023 JUL 31 AM 7:55

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

ORANGE RIVER 130
RESIDENTIAL PLANNED DEVELOPMENT

11400
ORANGE
RIVER, LLC.

2970 LUCKIE ROAD
WESTIN, FL. 33331

PART OF SECTION 01, TOWNSHIP 44 SOUTH, RANGE 25 EAST
FORT MYERS, LEE COUNTY, FLORIDA

PROJECT DATA

SITE ADDRESS 11400 ORANGE RIVER BLVD FORT MYERS, FL 33905	PROJECT DATUM FLORIDA STATE PLANE WEST ZONE (NAD1983/90) NATIONAL GEODETIC VERTICAL DATUM (NGVD) 1929
ZONING CURRENT: RPD PROPOSED: RPD	RECORD PLAT
FLOOD ZONE ACCORDING TO F.I.R.M. NO. 12071C0235F, MAP REVISED: AUGUST 28, 2008, THE PROPERTY IS LOCATED IN ZONE "X"	STRAP NUMBERS 01-44-25-00-00006.0000 01-44-25-01-00020.0000

PERMIT REQUIREMENTS

AGENCY	STATUS	NOTES
S. FLORIDA WATER MANAGEMENT DISTRICT	PENDING	-
LEE COUNTY DEVELOPMENT ORDER	PENDING	-
FLORIDA DEPARTMENT OF HEALTH	PENDING	-
FLORIDA DEPT. OF ENVIRONMENTAL PROTECTION	PENDING	-
F.D.O.T. CONNECTION PERMIT	PENDING	-
F.D.O.T. DRAINAGE CONNECTION PERMIT	PENDING	-
F.D.O.T. UTILITY PERMIT	PENDING	-
ARMY CORPS OF ENGINEERS	PENDING	-
F.D.E.P. NOTICE OF INTENT	PENDING	-

NOTE: CONTRACTOR MUST OBTAIN AND KEEP ON FILE A COPY OF ALL PERMITS
REQUIRED PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITY

DESIGN TEAM

PROJECT ENGINEER CARL BARRACO JR	PROJECT MANAGEMENT JEFF WASKO
DESIGN ENGINEER JEFF WASKO	PROJECT SURVEYOR SCOTT A. WHEELER, PSM
LEAD DESIGN TECHNICIAN JAMIE WILSON	SITE PLANNING ALYSSA FONTAINE
DESIGN STAFF CHRIS PAULY	LANDSCAPE DESIGN GREG DISERIO
QUALITY CONTROL WES KAYNE	LAND PLANNER JENNIFER SAPEN

THESE PLANS MAY HAVE BEEN MODIFIED IN SIZE BY REPRODUCTION.
THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.

ALL DIMENSIONS ARE IN FEET.



INDEX OF DRAWINGS

ENGINEER OF RECORDS SIGNATURE AND SEAL APPLY TO THE FOLLOWING PLAN SHEETS, EXCLUDING ANY SUPPLEMENTS:

SHEET	DESCRIPTION	XREF	DRAWING NAME
1	COVER SHEET AND LOCATION MAP	A	23886-Z01.DWG
2	MASTER CONCEPT PLAN	B	23886-Z02.DWG
3	DETAILS AND PHASING PLAN	B	23886-Z03.DWG

CROSS-REFERENCED DRAWINGS:

XREF	DESCRIPTION	DRAWING NAME
A	AERIAL PHOTOGRAPH	LOC2019.JPG
B	BASE PLAN	23886-Z00.DWG

ORANGE
RIVER
130 AC

THIS PLAN IS PRELIMINARY AND
INTENDED FOR CONCEPTUAL
PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE
INTENSITIES OR DENSITIES MAY
CHANGE SIGNIFICANTLY BASED
UPON SURVEY, ENGINEERING,
ENVIRONMENTAL AND / OR
REGULATORY CONSTRAINTS AND /
OR OPPORTUNITIES.

DRAWING NOT VALID WITHOUT SEAL, SIGNATURE AND DATE
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FILE NAME	23886-Z01.DWG
LOCATION	J:\23886\DWG\ZONING
PLOT DATE	WED, 5-4-2022 - 11:22 AM
PLOT BY	JENNIFER SAPEN

CROSS REFERENCED DRAWINGS

MASTER =	BAI-COVER-LDWG
----------	----------------

PLAN REVISIONS	
12-23-20	1ST SUBMITTAL
4-22-21	2ND SUBMITTAL
7-14-21	3RD SUBMITTAL
1-7-22	4TH SUBMITTAL-ADD FLOW WAY PATH
5-4-22	OPEN SWALE IN WETLAND

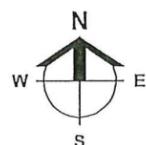
PLAN STATUS

NOT FOR CONSTRUCTION

COVER SHEET
AND
LOCATION MAP

PROJECT / FILE NO.	SHEET NUMBER
23886	1

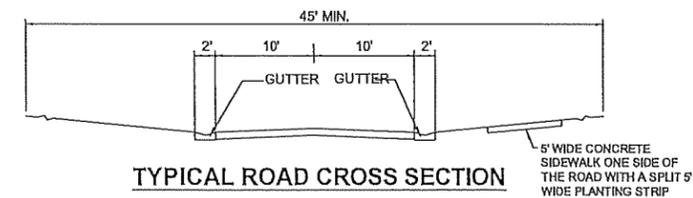
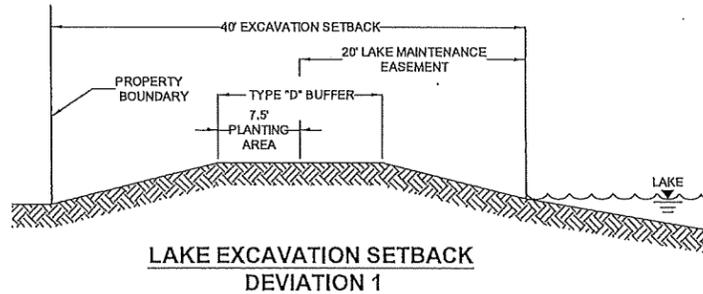
PROJECT
LOCATION



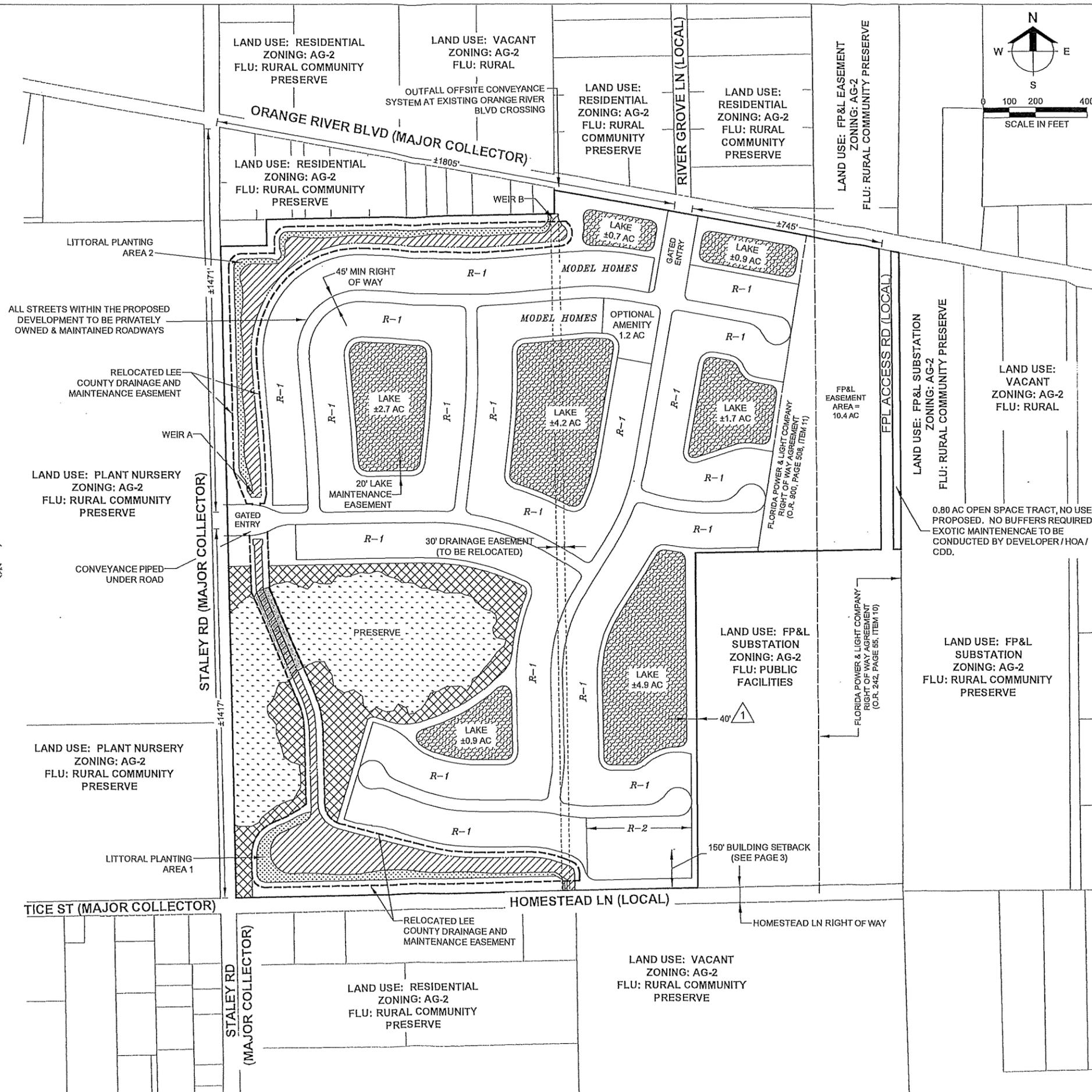
LOCATION MAP



LAND USE SUMMARY		
	WATER MANAGEMENT LAKES	18.6 AC
	OFFSITE CONVEYANCE (AT WET SEASON WATER ELEVATION)	8.2 AC
	ENHANCED LITTORAL PLANTINGS	
		TOTAL = 44.1 AC
	HARDWOOD / CONIFER UPLAND PRESERVE	6.4 AC
	WETLAND PRESERVE	10.9 AC
	WETLAND IMPACT	0.56 AC
	OTHER DEVELOPMENT AREA	84.9 AC
TOTAL PROJECT		129.6 AC



LEGEND	
	DEVIATION REQUEST



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PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR
11400 ORANGE RIVER, LLC.
2970 LUCKIE ROAD
WESTIN, FL. 33331

PROJECT DESCRIPTION
ORANGE RIVER 130 AC
LAND USE: VACANT
ZONING: AG-2
FLU: RURAL

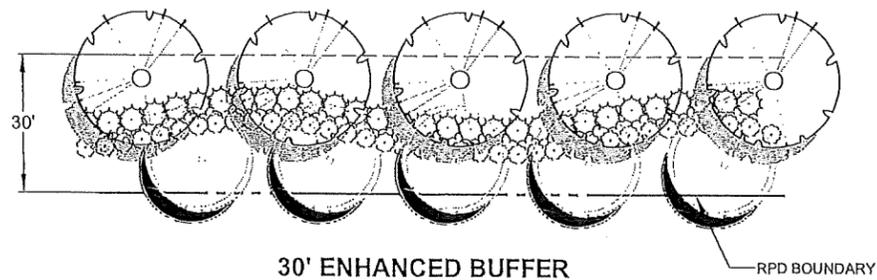
0.80 AC OPEN SPACE TRACT, NO USES PROPOSED. NO BUFFERS REQUIRED. EXOTIC MAINTENANCE TO BE CONDUCTED BY DEVELOPER / HOA / CDD.
LAND USE: FP&L SUBSTATION
ZONING: AG-2
FLU: RURAL COMMUNITY PRESERVE
LAND USE: FP&L SUBSTATION
ZONING: AG-2
FLU: RURAL COMMUNITY PRESERVE
LAND USE: FP&L SUBSTATION
ZONING: AG-2
FLU: PUBLIC FACILITIES

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SITE LAYOUT AND LAND USE INTENSITIES OR DENSITIES MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENGINEERING, ENVIRONMENTAL AND / OR REGULATORY CONSTRAINTS AND / OR OPPORTUNITIES.

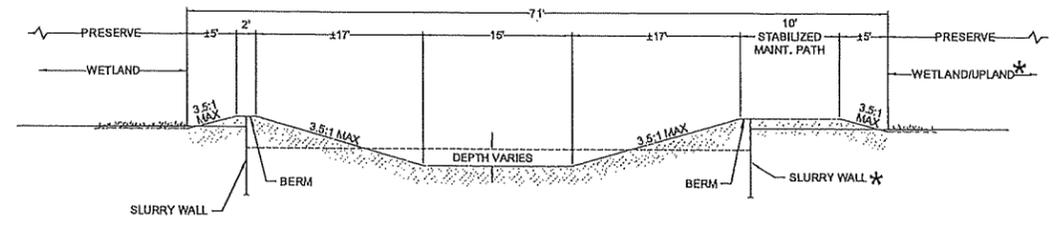
FILE NAME:	Z3886-202-NEV.DWG
LOCATION:	J\23886\DWG\ZONING\
PLOT DATE:	THU, 4-27-2023 - 9:54 AM
PLOT BY:	ALYSSA FONTAINE
CROSS REFERENCED DRAWINGS	
BASEPLAN =	Z3886-200-NEV.DWG

PLAN REVISIONS	
1-7-22	ADD FLOWWAY MAINTENANCE PATH
5-4-22	OPEN SWALE IN WETLAND
PLAN STATUS	
MASTER CONCEPT PLAN	

PROJECT / FILE NO.	SHEET NUMBER
23886	2



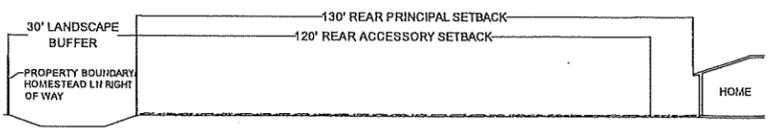
- DOUBLE STAGGERED HEDGE**
- 1) 48" IN HEIGHT AT TIME OF PLANTING
 - 2) 60" IN HEIGHT WITHIN 12 MONTHS OF TIME OF PLANTING
 - 3) MAINTAINED AT A MINIMUM HEIGHT OF 60"
 - 4) SPACED 36" ON CENTER
- 10 TREES PER 100 L.F.**
- 1) 4" IN DIAMETER @ 12" ABOVE GROUND AT TIME OF PLANTING
 - 2) 16" IN HEIGHT AT TIME OF PLANTING
- NOTE: 8" BRIDAL PATH TO BE PROVIDED ALONG THE SOUTHERN BOUNDARY



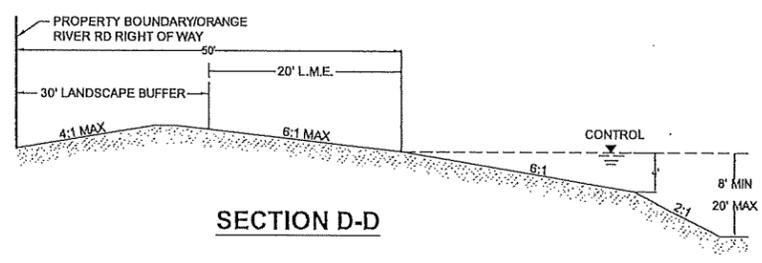
SECTION B-B

ENHANCED LITTORAL PLANTING LIST

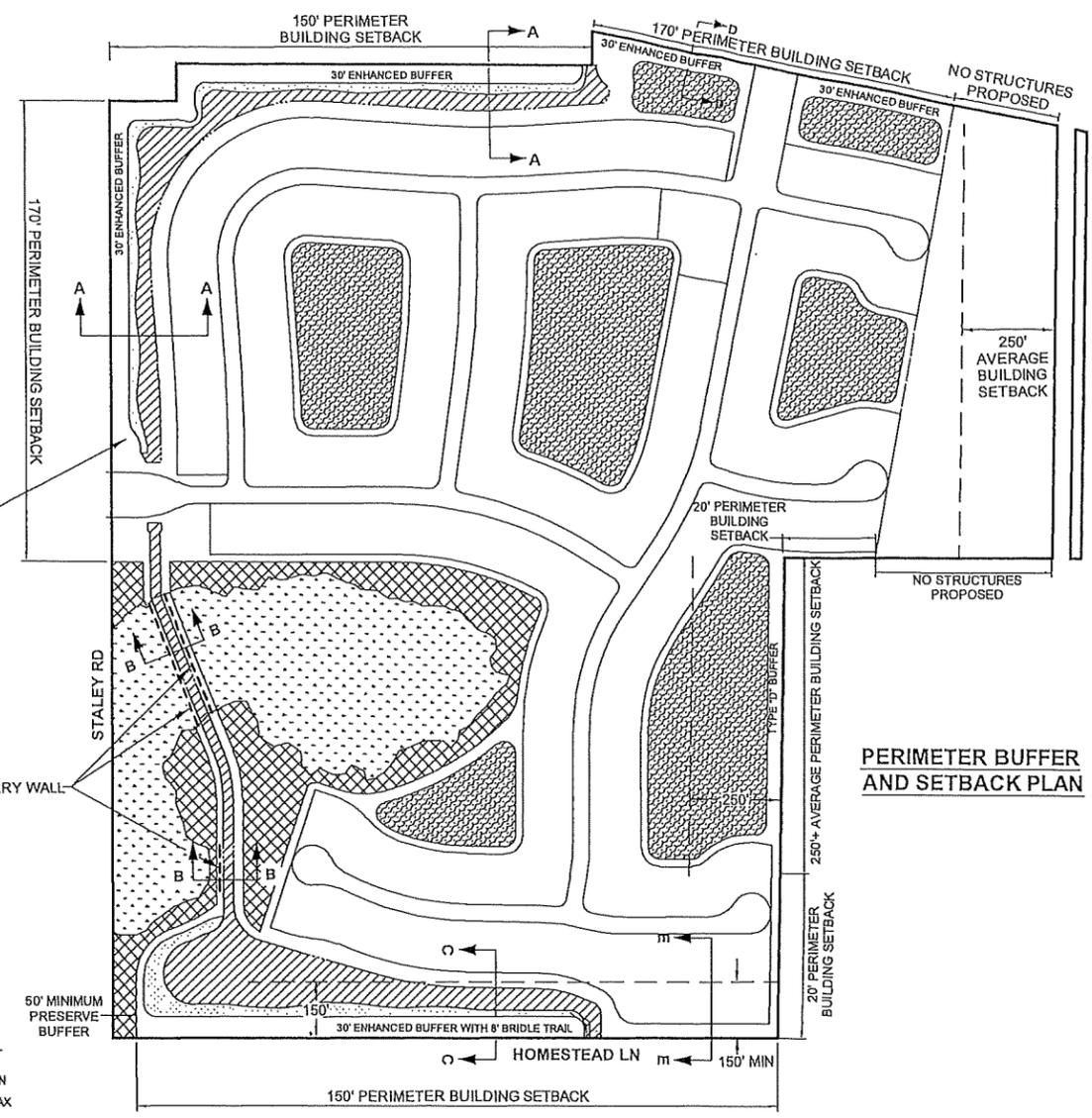
COMMON NAME	SCIENTIFIC NAME	MINIMUM HEIGHT	CONTAINER SIZE	ON CENTER
ZONE 1 TREES				
SLASH PINE	PINUS ELLIOTTII	2-5 FT	BR TO 3 GAL	30 TO 50 FT
LAUREL OAK	QUERCUS LAURIFOLIA	2-5 FT	BR TO 3 GAL	30 TO 50 FT
ZONE 1 OR 2 TREES				
BALD CYPRESS	TAXODIUM DISTICHUM	2-5 FT	BR TO 3 GAL	30 TO 50 FT
RED MAPLE	ACER RUBRUM	2-5 FT	BR TO 3 GAL	30 TO 50 FT
POP ASH	FRAXINUS CAROLINIANA	2-5 FT	BR TO 3 GAL	30 TO 50 FT
ZONE 1 PLANTS				
GULFDUNE PASPALUM	PASPALUM MONOSTACHYUM VASEY	12"	2"	5 TO 8 FT
MUHLY GRASS	MUHLENBERGIA	12"	2"	5 TO 8 FT
CORDGRASS	SPARTINA BAKERI	12"	2"	5 TO 8 FT
BLUE MAIDENCANE	AMPHICARPUM MUHLENBERGIANUM	12"	2"	3 TO 5 FT
SAWGRASS	CLADIUM JAMAICENSE	12"	2"	3 TO 5 FT
MAIDENCANE	PANICUM HEMITOMON	12"	2"	3 TO 5 FT
AMERICAN CRINUM LILY	CRINUM AMERICANUM	12"	2"	3 TO 5 FT
SOFT RUSH	JUNCUS EFFUSUS	12"	2"	3 TO 5 FT
ZONE 2 PLANTS				
SAWGRASS	CLADIUM JAMAICENSE	12"	2"	3 TO 5 FT
MAIDENCANE	PANICUM HEMITOMON	12"	2"	3 TO 5 FT
SPIKERUSH	ELEOCHARIS INTERSTINCTA	12"	2"	3 TO 5 FT
GOLDEN CANNA	CANNA FLACCIDA	12"	2"	3 TO 5 FT
ARROWHEAD	SAGITTARIA LATIFOLIA	12"	2"	3 TO 5 FT
ALLIGATOR FLAG	THALIA GENICULATA	12"	2"	3 TO 5 FT
SOFT-STEM BULRUSH	SCIRPUS TABERNAEMONTANI	12"	2"	3 TO 5 FT
VIRGINIA IRIS	IRIS VIRGINICUS	12"	2"	3 TO 5 FT
LANCELEAF ARROWHEAD	SAGITTARIA LANCIFOLIA	12"	2"	3 TO 5 FT
PICKERELWEED	PONTERDERIA CORDATA	12"	2"	3 TO 5 FT
YELLOW POND LILLY	NUPHAR LUTEUM	12"	2"	3 TO 5 FT
GULF COAST SPIKERUSH	ELEOCHARIS CELLULOSA	12"	2"	3 TO 5 FT
HERB OF GRACE	BACOPA MONNIERI	12"	2"	3 TO 5 FT
BLUE WATERHYSSOP	BACOPA CAROLINIANA	12"	2"	3 TO 5 FT
ZONE 3 PLANTS				
SPIKERUSH	ELEOCHARIS INTERSTINCTA	12"	2"	3 TO 5 FT
GOLDEN CANNA	CANNA FLACCIDA	12"	2"	3 TO 5 FT
ARROWHEAD	SAGITTARIA LATIFOLIA	12"	2"	3 TO 5 FT
PICKERELWEED	PONTERDERIA CORDATA	12"	2"	3 TO 5 FT
ALLIGATOR FLAG	THALIA GENICULATA	12"	2"	3 TO 5 FT
SOFT-STEM BULRUSH	SCIRPUS TABERNAEMONTANI	12"	2"	3 TO 5 FT
SPATTERDOCK	NUPHAR ADVENA	12"	1 GAL	15 FT
WATERLILY	NYMPHAEA ODORATA	12"	1 GAL	15 FT
YELLOW POND LILLY	NUPHAR LUTEUM	12"	1 GAL	15 FT
ROYAL BLUE WATERLILY	NYMPHAEA ELEGANS	12"	1 GAL	15 FT
BANANA LILLY	NYMPHOIDES AQUATICA	12"	1 GAL	15 FT
LANCELEAF ARROWHEAD	SAGITTARIA LANCIFOLIA	12"	1 GAL	15 FT
CALIFORNIA BULRUSH	SCHOENOPLECTUS CALIFORNICUS	12"	1 GAL	15 FT



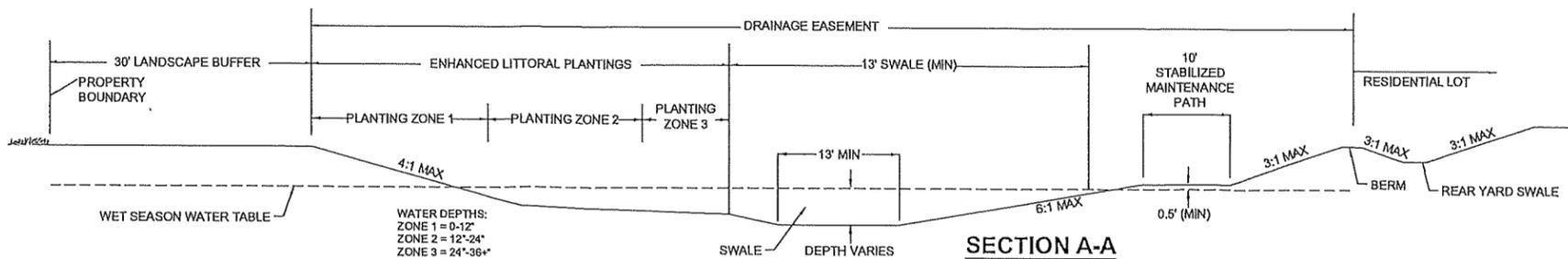
SECTION E-E



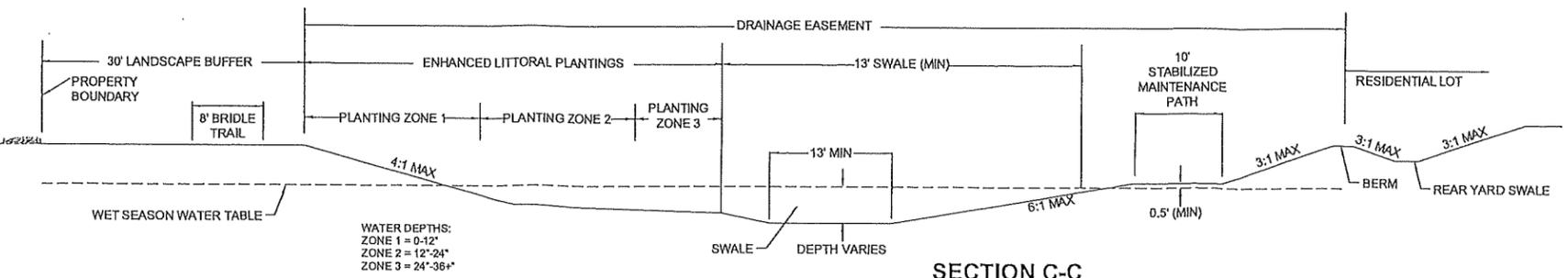
SECTION D-D



PERIMETER BUFFER AND SETBACK PLAN



SECTION A-A



SECTION C-C

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FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

11400 ORANGE RIVER, LLC.

2970 LUCKIE ROAD
WESTIN, FL. 33331

PROJECT DESCRIPTION

ORANGE RIVER 130 AC

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FILE NAME: 23886-203-NEW.DWG
LOCATION: 2323886/DWG/CONINGA
PLOT DATE: TUE, 4-25-2023 - 1:42 PM
PLOT BY: ALYSSA FONTANE

CROSS REFERENCED DRAWINGS
BASEPLAN = 23886-200-HEV.DWG

PLAN REVISIONS	
1-7-22	ADD FLOW WAY MAINTENANCE PATH
5-4-22	OPEN SWALE IN WETLAND

PLAN STATUS

PERIMETER BUFFER AND SETBACKS PLAN

PROJECT / FILE NO. **23886** SHEET NUMBER **3**

EXHIBIT B2

EXISTING AGRICULTURAL USE AFFIDAVIT

STATE OF Florida
COUNTY OF Lee

BEFORE ME, the undersigned authority, on this 7 day of July, 2022, personally appeared David Kraizgrun, who is the Manager of 11400 Orange River, LLC, who is personally known to me or who produced _____ as identification and who did take an oath, who deposes and says as follows:

1. That I am the Authorized Representative of the property more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.
2. The agricultural uses that currently exist on the referenced property include hay production and/or cattle grazing. The location of this use is depicted on Exhibit "B" (entitled the "Agricultural Uses at Time of Zoning Application Map").
3. The existing agricultural activities will remain active until approval of a local Development Order affecting the property described in Exhibit "A" and depicted on Exhibit "B".

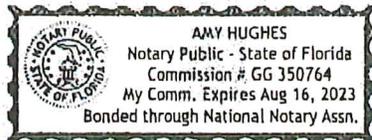
FURTHER AFFEANT SAYETH NAUGHT.

[Signature]
Name
Title

SIGN HERE

SWORN TO and subscribed before me on the date and year first above written.

(Notary Seal)



[Signature]
Signature of Notary Public

Amy Hughes
(Print, type or stamp commissioned name and Commission Number of Notary Public)

DESCRIPTION

Parcel in
 Section 1, Township 44 South, Range 25 East
 Lee County, Florida

A tract or parcel of land being all of those lands described in a deed recorded in Instrument Number 2014000192801 of the Public Records of Lee County, Florida, lying in Section 1, Township 44 South, Range 25 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

PARCEL 1:

COMMENCING at the South Quarter corner of said Section 1 run $S88^{\circ}47'02''W$ along the South line of the Southwest Quarter (SW 1/4) of said Section 1 for 800.12 feet to an intersection with the West line of the East 800 feet of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run $N00^{\circ}14'15''W$ along said West line for 30.00 feet to an intersection with the North right of way line of Homestead Lane, being the North line of the South 30 feet of said Southwest Quarter (SW 1/4) of Section 1 and the POINT OF BEGINNING.

From said Point of Beginning run $S88^{\circ}47'02''W$ along said North line for 1,798.99 feet to an intersection with the East right of way line of Staley Road, being the East line of the West 30 feet of said Southwest Quarter (SW 1/4) of Section 1; thence run $N01^{\circ}06'31''W$ along said East line for 2,500.47 feet; thence run $N88^{\circ}57'45''E$ parallel with the North line of said Fraction for 181.00 feet; thence run $N01^{\circ}06'31''W$ parallel with the West line said Southwest Quarter (SW 1/4) for 100.00 feet to an intersection with the North line of said Fraction; thence run $N88^{\circ}57'45''E$ along said North line for 1,123.26 feet to the Southwest Corner of Lot 38, Block 1, of the record plat "TERRY-TICE-& VANDAWALKERS", as recorded in Plat Book 1, Page 46, of the Public Records of Lee County, Florida; thence run $N00^{\circ}03'58''E$ along the West line of said Lot 38 for 91.57 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run $S79^{\circ}49'24''E$ along said Southwesterly right of way line for 1,274.64 feet to an intersection with the West line of the East 80 feet of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run $S00^{\circ}14'15''E$ along said West line for 1,155.09 feet to an intersection with the North line of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S88^{\circ}52'26''W$ for 720.09 feet to an intersection with the West line of the East 800 feet of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S00^{\circ}14'15''E$ along said West line for 1,282.56 feet to the POINT OF BEGINNING.

Containing 128.79 acres, more or less.

DESCRIPTION (CONTINUED)

PARCEL 2:

COMMENCING at the South Quarter corner of said Section 1 run $N00^{\circ}14'15''W$ along of the East line of Southwest Quarter (SW 1/4) of Section 1 for 1,311.31 feet to the Southeast corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1 and the POINT OF BEGINNING.

From said Point of Beginning run $S88^{\circ}52'26''W$ along the South line of said Fraction for 30.00 feet to an intersection with the East line of the West 50 feet of the East 80 feet of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $N00^{\circ}14'15''W$ along said East line for 1,145.12 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run $S79^{\circ}49'24''E$ along said Southwesterly right of way line for 30.50 feet to an intersection with the East line of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S00^{\circ}14'15''E$ along said East line for 1,139.14 feet to the POINT OF BEGINNING. Containing 0.79 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (NAD1983)(NSRS 2011) and are based on the South line of the Southwest Quarter (SW 1/4) of Section 1 to bear $S88^{\circ}47'02''W$.


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

Exhibit C

ALTERNATE MCP

**RECOMMENDED CONDITIONS AND DEVIATIONS
(Supported by Staff)**

As revised by Hearing Examiner

CONDITIONS

1. Master Concept Plan/Development Parameters

Master Concept Plan. Development must be consistent with the three-page Master Concept Plan entitled “Orange River 130 Residential Planned Development” last revised on June 27, 2023, except as modified by the conditions below. (Exhibit C1),

Consistency with Lee Plan and Land Development Code (LDC). Development must comply with the Lee County Comprehensive Plan (Lee Plan) and Land Development Code (LDC) at time of local Development Order approval, except where deviations are approved herein. Subsequent changes to the MCP may require further development approvals.

Approved Development Parameters. Development is limited to up to 258 248 dwelling units.

2. Permitted Uses and Site Development Regulations

a. Schedule of Permitted Uses

Accessory Uses and Structures

Administrative Offices

Dwelling Units

Single-family (Limited to 258 248)

Entrance gate, gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences

Home Occupation

Model Home and Model Display Center

Parking Lot, Accessory

Real Estate Sales Office (Limited to sales within the development only)

Recreational Facilities:

- Personal
- Private On-site

Signs

Temporary Uses, limited to construction trailers during development and Sales Center

b. Site Development Regulations

Single-Family Lots	“R1”	“R2”
Minimum Lot Area	6,700 sq. ft.	13,600 sq. ft.
Minimum Lot Width	50 ft.	80 ft.
Minimum Lot Depth	130 ft.	170 ft.
Minimum Street Setback	20 ft.	20 ft.
Minimum Side Setback	5 ft.	10 ft.
Minimum Rear Setback Principal	15 ft.	70 / 10 ft. (larger setbacks when lots abut project perimeter)
Minimum Rear Setback Accessory	5 ft.	30 / 5 ft. (larger setbacks when lots abut project perimeter)
Minimum Preserve Setback	Per LDC	Per LDC
Minimum Lot Coverage	45 percent	40 percent

Minimum Perimeter Building Setbacks:

- North: 100 ft.
- South: 100 ft.
- East: 250 ft. average (See MCP)
- West: 100 ft.

Maximum Building Height: 35 ft.

3. Model Homes, Model Display Centers

Model homes, model display centers, and real estate sales are subject to the following conditions:

- a. Unique Example. Each model must be a unique example. Multiple examples of the same unit are prohibited.
- b. Development Order Plans. The location of Model Home Sites, Model Display Centers or Model Groups must be designated on the development order plans. Developer must buffer parking areas with a single-row hedge and tree canopy.

- c. Preliminary Plat. Prior to model home construction, model home lots must be shown on a preliminary plat. Developer must file the preliminary plat concurrent with the development order application. Model homes must comply with the property development regulations set forth in Condition 2.
 - d. Number Permitted. No more than 10 model homes or model units may operate within the development at a time.
 - e. Real Estate Sales Limited to Project. Real estate sales are limited to the sale of lots or units within the development.
 - f. Real Estate Sales Location. Real estate sales are limited to temporary real estate trailers, model homes and model display centers.
 - g. Hours. Hours of operation for models and real estate sales is limited to Monday through Sunday 8 a.m. to 8 p.m.
 - h. Duration. Model homes and real estate sales will be valid for up to 5 years from the issuance of the model home certificate of occupancy.
4. Environmental Conditions
- a. Landscape Plans. Development order landscape plans must depict a 30-foot wide enhanced buffer along the north, south, and northwest property lines consistent with MCP Sheet 3. Buffer vegetation must be measured from the grade of the abutting offsite right-of-way and include ten trees per 100 linear feet and a double staggered hedge row. Trees must be canopy trees and specified at 16-feet-in-height, four-inch caliper (as measured from six inches above the ground), and an eight-foot-wide canopy spread. Shrubs must be specified at 48-inches-in-height, maintained at 60-inches-in-height, and installed 36-inches-on-center. Berms, if any, must be undulating consistent with Lee Plan Policy 20.4.3.
 - b. Preserve Management Plan. The development order application must include a Preserve Management Plan that details management, restoration, monitoring, and success criteria for the preserve. The Preserve Management Plan must provide for perpetual maintenance of restored vegetation and reference the Easement Exchange Agreement.
 - c. Enhanced Littoral Planting Plan. Development order landscape plans must include an enhanced littoral planting plan, cross sections demonstrating substantial compliance with MCP Sheet 3, and a littoral management plan that includes littoral plant maintenance and monitoring. The littoral management plan must reference the Easement Exchange Agreement and provide for perpetual maintenance of restoration vegetation.

- d. Protected Species Management Plan. The development order application must include a protected species management plan detailing the protected species or signs of species on the site and providing for management of future protected species.
- e. Prior to Site Work. Developer must submit a vegetation removal permit for the relocation of protected species and installation of preserve protection measures prior to commencing site work.

5. Agricultural Uses

Existing bona fide agricultural uses on the site may continue subject to the following conditions:

- a. Cattle Grazing and Hay Cultivation. Bona fide agricultural uses of cattle grazing and the cultivation of hay in existence at the time of filing the zoning application and shown on Exhibit C2, may continue until approval of a local development order over the area containing those uses.
- b. Clearing Prohibited. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas in bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude removal of invasive exotic vegetation.
- c. Affidavit. Prior to issuance of a development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - (1) Proof of Termination of Agricultural Activity. Termination of agricultural uses on portions of the property included in development order applications/approvals. Proof must include an affidavit from the person or entity holding title to the property that provides:
 - a. date the agricultural uses ceased.
 - b. legal description of the property subject to the development order approval.
 - c. An affirmative statement that the owner acknowledges and agrees that agricultural uses are illegal and prohibited on the property and that the owner covenants with the County not to allow any agricultural uses on the property until the property is rezoned to permit agricultural uses; and,

- d. the affidavit must affirmatively state that it constitutes a covenant between the owner and the county and is binding on the owner and their assignees and successors in interest. The covenant must be properly recorded in the County's public records at the owner's expense.

- (2) Termination of Agricultural Tax Exemption. Proof of termination of the agricultural tax exemption over portions of the property included in a development order application/approval must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.

6. Natural Resources

- a. Replacement Drainage Easement. Prior to issuance of a Certificate of Compliance for any phase of development and prior to the removal of the existing drainage ditch, the developer must construct and certify the replacement drainage easement.
- b. Access Easement over Replacement Drainage Easement. Prior to issuance of a Certificate of Compliance for the realigned drainage ditch, the developer must dedicate a replacement drainage and access easement to Lee County prior to release of the existing drainage easement.
- c. Flow Way. Prior to local development order approval, developer must submit models and calculations supporting the proposed flow way design. If the flow way design changes, developer must submit models and calculations supporting the new flow way design for review and approval by Lee County Natural Resources.

7. Utility Connections

The project must connect to central water and sanitary sewer services.

8. State and Federal Permits.

County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if Applicant fails to obtain requisite approvals or fulfill obligations imposed by state and federal agencies or if Applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

1. Excavation Standards. Deviation (1) seeks relief from LDC §10-329(d)(1)a.3 which requires an excavation setback of 50 feet from private property lines under separate ownership, to allow an excavation setback of 40 feet to the property boundary where a lake borders the southern portion of the property's eastern boundary line.

Hearing Examiners Recommendation: Approved.

Exhibits to Conditions for Alternate MCP:

C1 "Alternate" MCP for Orange River 130 dated June 27, 2023

C2 Affidavit of Agricultural Use

ALTERNATE MASTER CONCEPT PLAN

FOR

LEE COUNTY
HEARING EXAMINER
2023 JUL 31 AM 8:28

Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
www.barraco.net
2271 MCGREGOR BLVD., SUITE 100
POST OFFICE DRAWER 2800
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7895 - SURVEYING LB-6940

ORANGE RIVER 130
RESIDENTIAL PLANNED DEVELOPMENT

11400
ORANGE
RIVER, LLC.

2970 LUCKIE ROAD
WESTIN, FL. 33331

PART OF SECTION 01, TOWNSHIP 44 SOUTH, RANGE 25 EAST
FORT MYERS, LEE COUNTY, FLORIDA

PROJECT DATA

SITE ADDRESS 11400 ORANGE RIVER BLVD FORT MYERS, FL 33905	PROJECT DATUM FLORIDA STATE PLANE WEST ZONE (NAD1983/90) NATIONAL GEODETIC VERTICAL DATUM (NGVD) 1929
ZONING CURRENT: RPD PROPOSED: RPD	RECORD PLAT
FLOOD ZONE ACCORDING TO F.I.R.M. NO. 12071C0235F, MAP REVISED: AUGUST 28, 2008, THE PROPERTY IS LOCATED IN ZONE "X"	STRAP NUMBERS 01-44-25-00-00006.0000 01-44-25-01-00020.0000

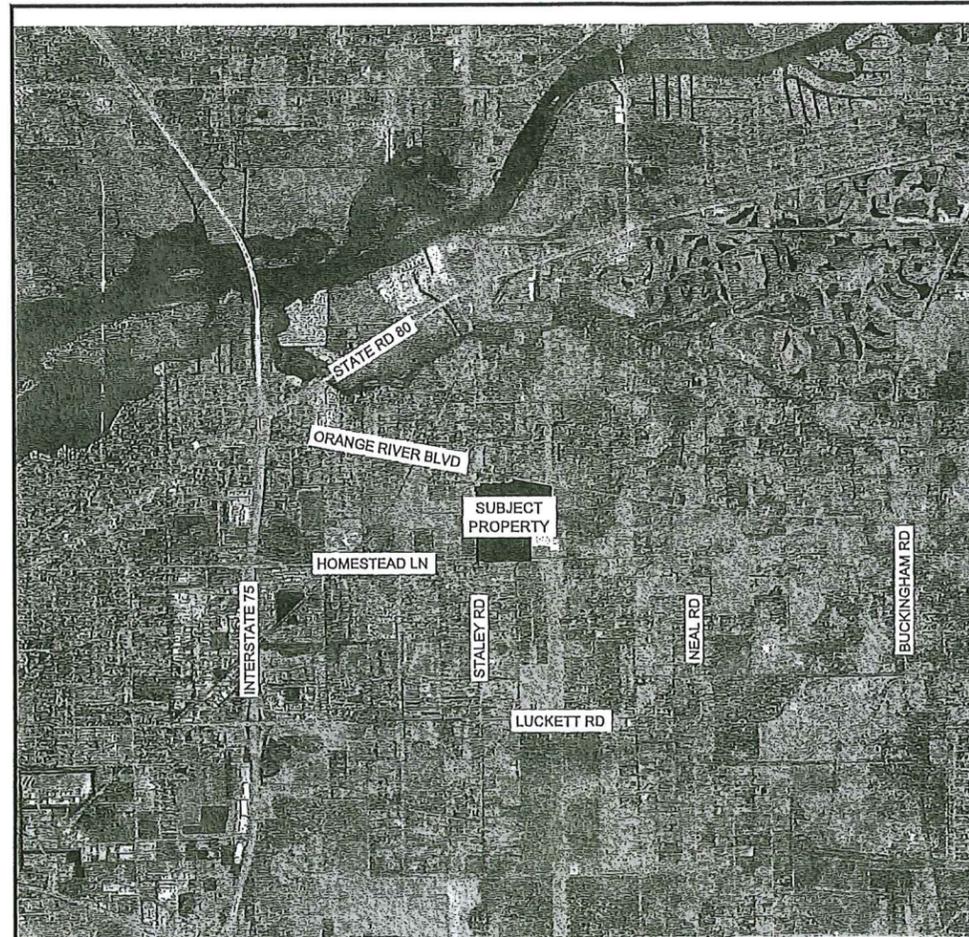
PERMIT REQUIREMENTS

AGENCY	STATUS	NOTES
S. FLORIDA WATER MANAGEMENT DISTRICT	PENDING	-
LEE COUNTY DEVELOPMENT ORDER	PENDING	-
FLORIDA DEPARTMENT OF HEALTH	PENDING	-
FLORIDA DEPT. OF ENVIRONMENTAL PROTECTION	PENDING	-
F.D.O.T. CONNECTION PERMIT	PENDING	-
F.D.O.T. DRAINAGE CONNECTION PERMIT	PENDING	-
F.D.O.T. UTILITY PERMIT	PENDING	-
ARMY CORPS OF ENGINEERS	PENDING	-
F.D.E.P. NOTICE OF INTENT	PENDING	-

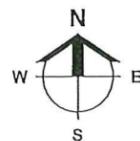
NOTE: CONTRACTOR MUST OBTAIN AND KEEP ON FILE A COPY OF ALL PERMITS
REQUIRED PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITY

DESIGN TEAM

PROJECT ENGINEER CARL BARRACO JR	PROJECT MANAGEMENT JEFF WASKO
DESIGN ENGINEER JEFF WASKO	PROJECT SURVEYOR SCOTT A. WHEELER, PSM
LEAD DESIGN TECHNICIAN JAMIE WILSON	SITE PLANNING ALYSSA FONTAINE
DESIGN STAFF CHRIS PAULY	LANDSCAPE DESIGN GREG DISERIO
QUALITY CONTROL WES KAYNE	LAND PLANNER JENNIFER SAPEN



PROJECT
LOCATION



LOCATION MAP



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INDEX OF DRAWINGS

ENGINEER OF RECORDS SIGNATURE AND SEAL APPLY TO THE FOLLOWING PLAN SHEETS, EXCLUDING ANY SUPPLEMENTS:

SHEET	DESCRIPTION	XREF	DRAWING NAME
1	COVER SHEET AND LOCATION MAP	A	23886-Z01.DWG
2	MASTER CONCEPT PLAN	B	23886-Z02.DWG
3	DETAILS AND PHASING PLAN	B	23886-Z03.DWG

CROSS-REFERENCED DRAWINGS:

XREF	DESCRIPTION	DRAWING NAME
A	AERIAL PHOTOGRAPH	LOC2019.JPG
B	BASE PLAN	23886-Z00.DWG

PROJECT DESCRIPTION

ORANGE
RIVER
130 AC

THIS PLAN IS PRELIMINARY AND
INTENDED FOR CONCEPTUAL
PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE
INTENSITIES OR DENSITIES MAY
CHANGE SIGNIFICANTLY BASED
UPON SURVEY, ENGINEERING,
ENVIRONMENTAL AND / OR
REGULATORY CONSTRAINTS AND /
OR OPPORTUNITIES.

DRAWING NOT VALID WITHOUT SEAL, SIGNATURE AND DATE
© COPYRIGHT 2023, BARRACO AND ASSOCIATES, INC.
REPRODUCTION, CHANGES OR ASSOCIATION ARE PROHIBITED

FILE NAME	23886-Z01-ALTERNATE.DWG
LOCATION	J:\23886\DWG\Z01\ORANGE
PLOT DATE	TUE, 6-27-2023 - 11:03 AM
PLOT BY	JENNIFER SAPEN

CROSS REFERENCED DRAWINGS
MASTER = BA1-COVER-1.DWG

PLAN REVISIONS	
12-23-20	1ST SUBMITTAL
4-22-21	2ND SUBMITTAL
7-14-21	3RD SUBMITTAL
1-7-22	4TH SUBMITTAL-ADD FLOW WAY PATH
5-4-22	OPEN SWALE IN WETLAND
6-27-23	ALTERNATE MCP

PLAN STATUS

NOT FOR CONSTRUCTION

COVER SHEET
AND
LOCATION MAP

PROJECT / FILE NO.	SHEET NUMBER
23886	1

THESE PLANS MAY HAVE BEEN MODIFIED IN SIZE BY REPRODUCTION.
THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.

ALL DIMENSIONS ARE IN FEET.

EXHIBIT C-2

EXISTING AGRICULTURAL USE AFFIDAVIT

STATE OF Florida
COUNTY OF Lee

BEFORE ME, the undersigned authority, on this 7 day of July, 2022, personally appeared David Kraizgrun, who is the Manager of 11400 Orange River, LLC, who is personally known to me or who produced _____ as identification and who did take an oath, who deposes and says as follows:

1. That I am the Authorized Representative of the property more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.
2. The agricultural uses that currently exist on the referenced property include hay production and/or cattle grazing. The location of this use is depicted on Exhibit "B" (entitled the "Agricultural Uses at Time of Zoning Application Map").
3. The existing agricultural activities will remain active until approval of a local Development Order affecting the property described in Exhibit "A" and depicted on Exhibit "B".

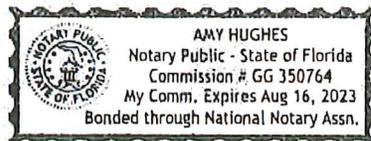
FURTHER AFFIANT SAYETH NAUGHT.

Name
Title

SIGN HERE

SWORN TO and subscribed before me on the date and year first above written.

(Notary Seal)



Amy Hughes
Signature of Notary Public

Amy Hughes
(Print, type or stamp commissioned name and Commission Number of Notary Public)

DESCRIPTION

Parcel in
Section 1, Township 44 South, Range 25 East
Lee County, Florida

A tract or parcel of land being all of those lands described in a deed recorded in Instrument Number 2014000192801 of the Public Records of Lee County, Florida, lying in Section 1, Township 44 South, Range 25 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

PARCEL 1:

COMMENCING at the South Quarter corner of said Section 1 run $S88^{\circ}47'02''W$ along the South line of the Southwest Quarter (SW 1/4) of said Section 1 for 800.12 feet to an intersection with the West line of the East 800 feet of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run $N00^{\circ}14'15''W$ along said West line for 30.00 feet to an intersection with the North right of way line of Homestead Lane, being the North line of the South 30 feet of said Southwest Quarter (SW 1/4) of Section 1 and the POINT OF BEGINNING.

From said Point of Beginning run $S88^{\circ}47'02''W$ along said North line for 1,798.99 feet to an intersection with the East right of way line of Staley Road, being the East line of the West 30 feet of said Southwest Quarter (SW 1/4) of Section 1; thence run $N01^{\circ}06'31''W$ along said East line for 2,500.47 feet; thence run $N88^{\circ}57'45''E$ parallel with the North line of said Fraction for 181.00 feet; thence run $N01^{\circ}06'31''W$ parallel with the West line said Southwest Quarter (SW 1/4) for 100.00 feet to an intersection with the North line of said Fraction; thence run $N88^{\circ}57'45''E$ along said North line for 1,123.26 feet to the Southwest Corner of Lot 38, Block 1, of the record plat "TERRY-TICE-& VANDAWALKERS", as recorded in Plat Book 1, Page 46, of the Public Records of Lee County, Florida; thence run $N00^{\circ}03'58''E$ along the West line of said Lot 38 for 91.57 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run $S79^{\circ}49'24''E$ along said Southwesterly right of way line for 1,274.64 feet to an intersection with the West line of the East 80 feet of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run $S00^{\circ}14'15''E$ along said West line for 1,155.09 feet to an intersection with the North line of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S88^{\circ}52'26''W$ for 720.09 feet to an intersection with the West line of the East 800 feet of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S00^{\circ}14'15''E$ along said West line for 1,282.56 feet to the POINT OF BEGINNING.

Containing 128.79 acres, more or less.

DESCRIPTION (CONTINUED)

PARCEL 2:

COMMENCING at the South Quarter corner of said Section 1 run $N00^{\circ}14'15''W$ along of the East line of Southwest Quarter (SW 1/4) of Section 1 for 1,311.31 feet to the Southeast corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1 and the POINT OF BEGINNING.

From said Point of Beginning run $S88^{\circ}52'26''W$ along the South line of said Fraction for 30.00 feet to an intersection with the East line of the West 50 feet of the East 80 feet of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $N00^{\circ}14'15''W$ along said East line for 1,145.12 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run $S79^{\circ}49'24''E$ along said Southwesterly right of way line for 30.50 feet to an intersection with the East line of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S00^{\circ}14'15''E$ along said East line for 1,139.14 feet to the POINT OF BEGINNING. Containing 0.79 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (NAD1983)(NSRS 2011) and are based on the South line of the Southwest Quarter (SW 1/4) of Section 1 to bear $S88^{\circ}47'02''W$.

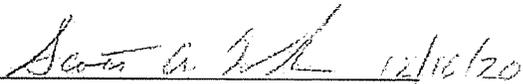

Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

Exhibit D

EXHIBITS PRESENTED AT REMAND HEARING

STAFF EXHIBITS

1. *Memorandum*: From Michael Jacob, Esq., to Donna Marie Collins, Chief Hearing Examiner, dated March 2, 2023, regarding Orange River RPD, DCI2021-00001, BOCC Hearing Date February 8, 2023 (multiple pages – 8.5"x11")
2. *Supplemental Staff Report Memorandum*: From Chahram Badamtchian to Donna Marie Collins, Chief Hearing Examiner, dated March 29, 2023 (multiple pages – 8.5"x11")
3. *Written Submissions*: Email from Chahram Badamtchian, to Hearing Examiner, with copies to Richard Akin, Esq., Carl Barraco, David Kraizgrun, Jennifer Sapen, Anthony Rodriguez, and Rebecca Sweigert, dated Friday, July 28, 2023, 4:04 PM (multiple pages – 8.5"x11" and 6 pages – 11"x17"){post hearing submittal]

APPLICANT EXHIBITS

- a. *48-Hour Notice*: Email from Richard Akin, Esq., to Hearing Examiner, with copies to Chahram Badamtchian, Anthony Rodriguez, Rebecca Sweigert, Carl Barraco, Joseph Adams, Esq., Michael Jacobs, Esq., Jennifer Sapen, David Kraizgrun, and Rebecca Sweigert, dated Friday, May 26, 2023 4:45 PM (2 pages – 8.5"x11")
1. *Alternate Master Concept Plan*: Prepared by Barraco and Associates, Inc., for Orange River 130 AC, last revised May 29, 2023 (1 page – 11"x17")
2. *Master Concept Plan Sheet*: Prepared by Barraco and Associates, Inc., for Orange River 130 AC, last revised May 4, 2022 (1 page – 11"x17")
3. *PowerPoint Presentation*: Prepared by Barraco and Associates, Inc., Passarella and Associates, Inc., TR Transportation, and Henderson, Franklin, Starnes and Holt Law firm, for Orange River RPD, Residential Planned Development Rezoning, DCI2021-00001, Remand to Hearing Examiner, May 30, 2023 (multiple pages – 8.5"x11")[color]
4. *Response to Supplemental Staff Report*: From Richard Akin, Esq., to Donna Marie Collins, Chief Hearing Examiner, dated April 24, 2023 (multiple pages – 8.5"x11")
5. *Strike Through/Underlined Conditions Applicable to Alternative Master Concept Plan*: For Orange River RPD, DCI2021-00001 (multiple pages – 8.5"x11")
6. *Written Submissions*: Email from Richard Akin, Esq., to Hearing Examiner, with copies to Joseph Adams, Esq., Michael Jacob, Esq., Chahram Badamtchian,

Anthony Rodriguez, Rebecca Sweigert, Jennifer Sopen, David Kraizgrun, and Carl Barraco, dated Friday, July 28, 2023 4:07 PM (multiple pages – 8.5"x11" and 6 pages – 11"x17"){post hearing submittal]

OTHER EXHIBITS

Robert Murray

1. *Photographs*: (4 pages – 11"x17")[color]

Maillard Philippe

1. *PowerPoint Presentation*: (multiple pages – 8.5"x11")[color]

Gary Stilwell

1. *Chapter 34*: (3 pages – 8.5"x11")

Exhibit E

REMAND HEARING PARTICIPANTS

County Staff:

1. Joseph Adams, Esq.
2. Chahram Badamtchian
3. Nicholas DeFilippo

Applicant Representatives:

1. Richard Akins, Esq.
2. Carl Barraco, PE
3. Jennifer Sapen, AICP
4. Russell Schropp, Esq.
5. Matt Simmons
6. Jesse Sorrells
7. Ted Treesh, PTP
8. Jeff Wasko, PE

Public Participants:

1. Kara Alfaro
2. Don Blackburn
3. Betsy Burdette
4. Bill Burdette
5. Keith Campbell
6. Ken Carmichael
7. Pamela Chaplow

8. Bert Cline
9. Lisa Coffey
10. David Cortez
11. Debbie Dargan
12. Susan Fero
13. Cheryl Fischer
14. Sarah Fisher
15. Manny Flint
16. Michael Golas
17. Jeff Grey
18. Porfirio Gutierrez, Jr.
19. Mike Hansen
20. Patricia Heaphy
21. Lauren Hunt
22. David Hutto
23. Nancy Hutto
24. Claudia Klees
25. Patricia Klees
26. Karl Kropp
27. Barbara Kudrow
28. Brenda Lewis
29. Donald Lewis
30. Terri Lodge

31. Jennifer Maillard
32. Philippe Maillard
33. John Marcantonio
34. Gerald Martinez
35. Kelly Mastriana
36. Gwen McCann
37. Dennis McIltrout
38. Bill McIltrout
39. Tom McIltrout
40. Lauren McIntyre
41. Thomas McKibans
42. Dixie McLoon
43. Robert Murray
44. Thomas Oommen
45. Kathleen Padgett
46. Shane Parker
47. Kristi Patrick
48. Maillard Philippe
49. Richard Paul
50. Judie Piccola
51. Sandy Portella
52. Beverly Reid
53. Beverly Ritchie

Case: DCI2021-00001

54. Jean Roth
55. Michael Saboda
56. Gary Stilwell
57. Julie Ward
58. Corey Wilkes
59. John W. Wilkes, Sr.
60. Sandra Wilkes
61. Edwin Yerdon

Exhibit F
INFORMATION

UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants is limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.
- C. Participants may not submit documents to the Board of County Commissioners unless they were marked as Exhibits by the Hearing Examiner. Documents must have the Exhibit number assigned at hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.

Summary of Hearing Examiner Recommendation

ORANGE RIVER RPD

Request: Rezone 129.6 acres from Residential Planned Development (RPD) to RPD to increase the number of permitted dwellings by 98 units. (160 to 258)

Location: 11270 and 11400 Orange River Boulevard
Buckingham Planning Community
(District 5)

Hearing Examiner Remarks

This property is unique in that it is located within the Buckingham Planning District but not within the Rural Community Preserve.

The property is vacant but zoned as a residential subdivision for over three decades. The request seeks 98 additional dwelling units increasing density from 1.23 to 1.99 units per acre. The future land use category allows densities of up to 2 units per acre.

Area residents oppose the request. However, the proposed site plan is an improvement over existing development approvals in several respects. Namely increased setbacks, enhanced landscape buffers, restored wetlands, and water quality improvements.

Citizen opposition centered on road congestion. The Lee Plan limits most road infrastructure in the Buckingham Community to two lanes. This policy has resulted in congested traffic conditions stemming in part to growth outside the community.

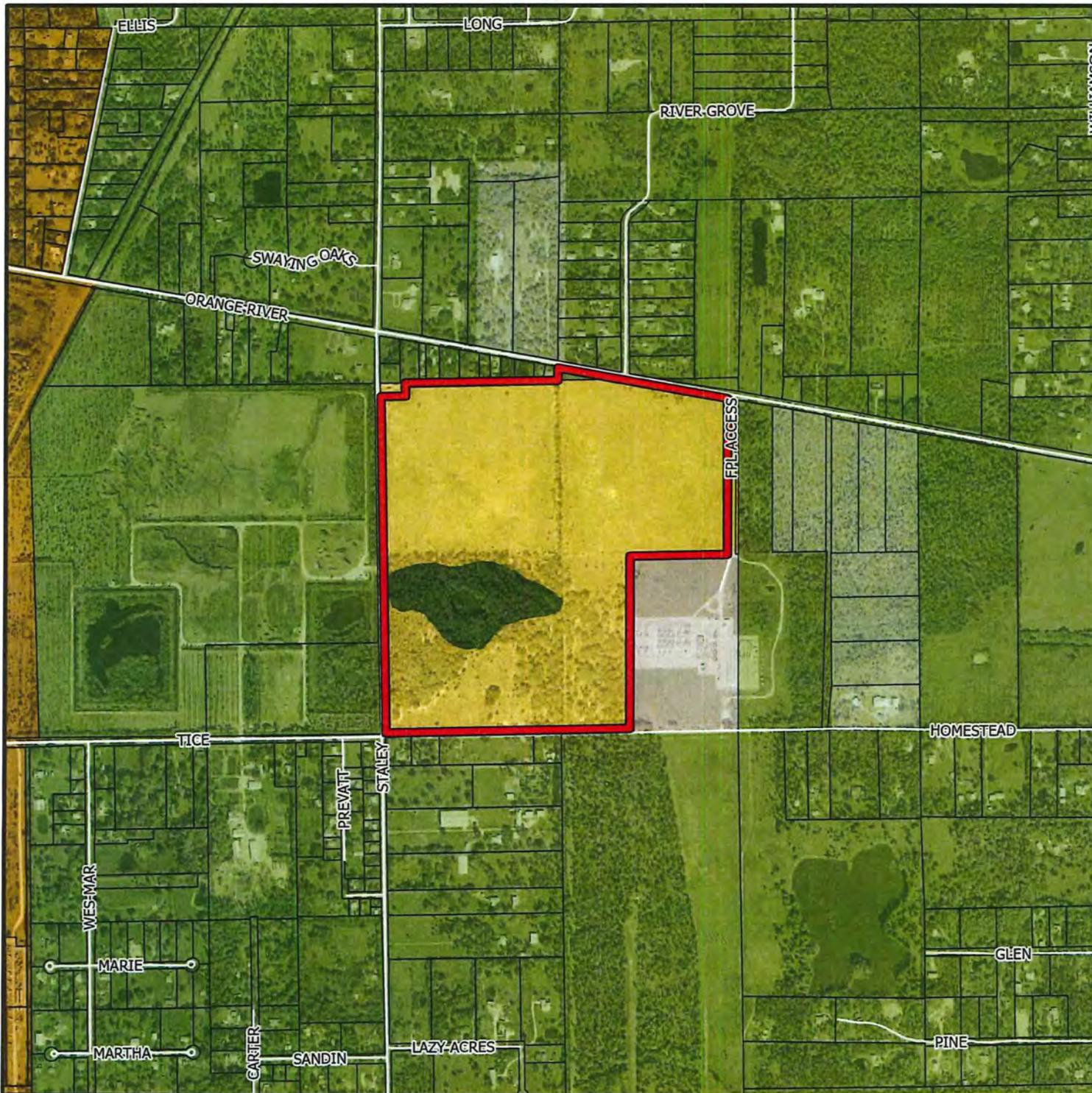
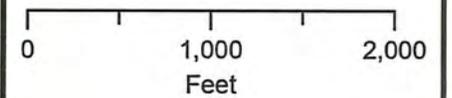
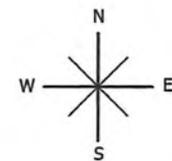
The Hearing Examiner finds the request meets the governing review criteria and recommends approval of the request subject to conditions.

Detailed recommendation follows

DCI2021-00001

Future Land Use

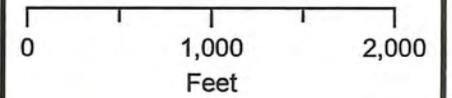
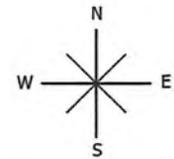
-  Subject Property
-  Urban Community
-  Sub-Outlying Suburban
-  Public Facilities
-  Rural
-  Rural Community Preserve
-  Wetlands



DCI2021-00001

Aerial

 Subject Property



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00001

Regarding: ORANGE RIVER RPD

Location: 11270 and 11400 Orange River Boulevard
Buckingham Planning Community
(District 5)

Hearing Date: August 11, 2022 (Not Heard)

Continued Date: September 28, 2022 (Not Heard)
November 16, 2022, and December 2, 2022 (Heard)

I. Request

Request to rezone 129.6± acres from Residential Planned Development (RPD) to RPD to increase residential dwelling units from 160 to 258.

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to the conditions and deviations set forth in Exhibit B.

III. Discussion

The Hearing Examiner serves as an advisor to the Board of County Commissioners (Board) on applications to rezone property to the planned development zoning district.¹ In furtherance of this duty, the Hearing Examiner accepted testimony/evidence on an application to increase dwelling units in an approved Residential Planned Development (RPD).

In preparing a recommendation to the Board, the Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), Land Development Code (LDC), and other County regulations to facts adduced at hearing. The record must contain substantial competent evidence to support the recommendation.

¹ LDC 34-145(d)(4)a.

Synopsis of Request

The request seeks to increase density of an approved planned development in the Buckingham Planning Community.

Applicant requests to increase the approved unit count by 98 dwellings, bringing the total dwelling units to 258.² If approved, the request increases density on the site from 1.23 to 1.99 dwelling units per acre.

Staff recommended approval of the request, finding the proposed RPD satisfies the review criteria in the LDC and the Lee Plan.

Zoning History

Though vacant, the property has been zoned as a residential subdivision for nearly three decades.³

When the County adopted the Lee Plan, the Future Land Use Map designated the property as Outlying Suburban. Outlying Suburban permits maximum densities of three units per acre. The County first rezoned the property from agriculture to RPD in 1990, authorizing construction of 217 dwelling units.⁴ The zoning resolution permitted 75 by 100-foot lot sizes, except along Homestead Lane, where the resolution required minimum lot sizes of 13,000 square feet. The resulting project density was approximately 1.67 dwelling units per acre.

The following year, the County amended the Lee Plan to establish the Buckingham Rural Preserve future land use category.⁵ The Rural Preserve includes much of the Buckingham community, but not the subject property.⁶ A footnote added to Table 1(a) reduced allowable densities on Outlying Suburban land in the Buckingham Community from three to two units per acre. The change did not affect existing development approvals. (217 dwellings at 1.67 units per acre).

The property owner adopted a new Master Concept Plan in 2005, authorizing up to 160 dwelling units.⁷ The resolution approved lots sizes ranging from 9,000 square feet to one acre.

² The proposed increase does not constitute bonus density as it is within the standard density range for the Sub-Outlying Suburban land use category. Lee Plan Policy 1.1.11.

³ First rezoned to RPD in 1990 by Z-89-114. Rezoned in 2005 by Z-05-043. Staff Report Attachment L.

⁴ Resolution Z-89-114 adopted August 13, 1990.. Applicant Exhibit 2.

⁵ Lee County Ordinance 91-19, Applicant Exhibit 3.

⁶ The property is an enclave surrounded by land within Buckingham Rural Preserve. The property's existing development entitlements did not conform with the limitations imposed by the new land use category. It was likely excluded from the Rural Preserve designation due to these pre-existing development entitlements.

⁷ Resolution Z-05-043 adopted October 31, 2005. This approval represented a reduction in density from the 1990 approval. Applicant Exhibit 5.

Two years later, the Board amended the property's Future Land Use Map designation from Outlying Suburban to Sub-Outlying Suburban.⁸ The change had no effect on the pre-existing density limitation of two dwelling units per acre.⁹

The 129.6-acre site consists of vacant pasture bifurcated by a County maintained drainage ditch.¹⁰ The site also includes a degraded wetland area along the western boundary.¹¹

Character of the Area

The property fronts Orange River Boulevard in the Buckingham Planning Community.¹² Development along the corridor includes residential development interspersed with small scale commercial and agricultural uses.

Residential development in the area varies from homes on acreage to dwellings on less than quarter acre lots.

There is an FPL easement alongside the east property boundary. An FPL access road and substation lie directly east and southeast of the property. Country Lakes Farm, a horticultural waste transfer and recycling business, is across Staley Road to the west.

Homestead Lane borders the south property line.

Given surrounding development patterns, a residential subdivision is appropriate at this location.¹³

Lee Plan

Planned developments must be consistent with the Lee Plan.¹⁴

The future land use classification is Sub-outlying Suburban and Wetlands.¹⁵ The Lee Plan describes Sub-Outlying Suburban lands as "Future Suburban Areas".¹⁶

⁸ Lee County Ordinance 07-09 adopting *inter alia* CPA 2005-40.

⁹ The newly adopted Sub-Outlying Suburban category limited density to 2 dwellings per acre. The same density limitation applied to the property by virtue of the 1991 Plan amendment to Table 1(a), which restricted density on Outlying Suburban lands in the Buckingham Community to two units per acre. Bonus density is prohibited.

¹⁰ The man-made ditch is a pass-through conveyance, conveying water from off site to culverts under Orange River Boulevard.

¹¹ Staff Report Attachment E, County Environmental Staff Report.

¹² Lee Plan Maps 1-B. See also Map 2-A.

¹³ LDC 34-145 (d)(4) a; Lee Plan Policy 5.1.5.

¹⁴ Lee Plan Policy 2.1.2; LDC 34-145(d)(4) a, 34-411(a).

¹⁵ Lee Plan Map 1-A.

¹⁶ Lee Plan Glossary. See also Lee Plan Objective 1.1. Future suburban areas are designated primarily for single use developments and include Sub-Outlying Suburban lands. In the thirty plus years since the County implemented comprehensive planning, the property has never been classified as rural or non-urban.

Sub-Outlying Suburban lands are located in areas where it is desirable to retain low-density residential development patterns.¹⁷

Standard density in Sub-Outlying Suburban areas ranges from one to two units per acre.¹⁸ The proposed density of 2 units per acre is consistent with standard densities in the Sub-Outlying Suburban category.

The Wetlands future land use category may develop with very low-density residential uses and recreation uses that do not adversely affect the ecological function of the wetlands.¹⁹ Owners of wetlands in the Sub-Outlying Suburban category may transfer densities from preserved wetlands to developable contiguous uplands.²⁰ Applicant proposes to utilize this policy to transfer 20 dwelling units from the 10.38 acres of restored/preserved wetlands.

The property is outside the Buckingham Rural Preserve.²¹ Therefore it is not appropriate to impose the restrictions of the Rural Preserve to the site. Nevertheless, the proposed site design employs many directives applicable to the Rural Preserve.²² And, by objective measures, the proposed site plan is an improvement over the existing MCP:

Development clustered within the site.

Open space, restored wetlands, and lakes buffer perimeter boundaries.

A flow way through wetlands and vegetation replaces an existing drainage ditch. The restored wetland and vegetation will filter nutrients improving water quality exiting the site. By contrast, the existing ditch configuration provides minimal water treatment. Further the dimensions of the drainage easement are not sufficient to allow for proper maintenance of the ditch.

Existing drainage ditch compromises the hydrology of onsite wetlands. The proposed replacement conveyance restores wetland hydrology and offers opportunities for water treatment.²³

Further, the regulatory density has not been less than two dwelling units per acre since the inception of the Lee Plan. Testimony of Russell Schropp, Esq. November 16, 2022 Transcript page 17.

¹⁷ Lee Plan Policy 1.1.11.

¹⁸ Lee Plan Policy 1.1.11.

¹⁹ Lee Plan Policy 1.5.1; Wetlands must be consistent with Lee Plan Goal 124.

²⁰ Lee Plan Policy 124.1.1 See also, Lee Plan Table 1(a) "Clarifications and Exceptions."

²¹ Property has been outside the Buckingham Rural Preserve since the inception of the Rural Preserve decades ago. There has been no formal action to expand boundaries of the Rural Preserve to include property.

²² See 20.1.3 (clustering), 20.1.4 (no bonus density), 20.1.5 (RPD boundary setbacks). 20.5.3 (exotic removal).

²³ Water quality will improve by virtue of nutrient uptake by plantings.

Though not in the Rural Preserve, the property is subject to the Buckingham Community Plan.²⁴ Land uses in the Buckingham Community Plan area must be developed in a manner consistent with the rural/agricultural land use pattern.²⁵ The site plan employs innovative open space design to preserve native vegetation, provide visual relief along road corridors, and buffer adjacent uses.²⁶ Perimeter setbacks and landscaping protects the character of surrounding development by providing views to open space including wetlands, lakes, and vegetation.²⁷

The MCP reflects enhanced landscaping with native vegetation along County rights-of-way consistent with Lee Plan directives to provide transitions from the Rural Preserve.²⁸ Increasing density by less than one additional unit per acre, the request provides a transition from the Rural Preserve to Sub Outlying Suburban lands.²⁹

One of the goals of the Buckingham Community Plan is to diversify housing choices.³⁰ The MCP provides an alternative to ranchette style housing while maintaining scenic vistas through creative project design.³¹

A planned development zoning district is appropriate because the proposed project meets the definition of Development of County Impact.³² Development will be subject to further permitting under the LDC, and will be subject to roads, school, park, fire, and emergency services impact fees.³³

Transportation

The Hearing Examiner must find rezoning requests provide sufficient access and that expected transportation impacts will be addressed by conditions of approval and County regulations.³⁴

²⁴ Lee Plan Map 2-A and Goal 20.

²⁵ Lee Plan Objective 20.1.

²⁶ Lee Plan Objective 77.1, Policy 77.3.2, 77.3.3.

²⁷ Lee Plan Objectives 20.4, 20.5, Policy 5.1.5.

²⁸ Lee Plan Objective 20.4, *Cf.* Lee Plan Policy 20.1.5.

²⁹ It is noteworthy that the Lee Plan Future Land Use Map's placement of Sub-Outlying Suburban areas adjacent to the Buckingham Rural Preserve ensures requisite transition in density with a density cap of 2 dwellings per acre. Lee Plan Policy 20.1.6. *See also* Lee Plan Policy 20.3.5.

³⁰ Lee Plan Goal 20; *See also* Lee Plan Policy 135.1.9.

³¹ Increased roadway setbacks, strategic lake placement, and restoration of the onsite wetland and hardwood hammocks contribute to maintaining rural viewsheds.

³² LDC 34-2: Development of County Impact means development which, because of its character, magnitude, location, size, timing, density, or intensity would have a substantial effect on public health, safety, and welfare or upon natural resources. *See also* 34-341(a).

³³ LDC Chapters 2, 10, 34.

³⁴ LDC 34-145(d)(4) a.

The Transportation Impact Statement (TIS) analyzed the impacts of 98 additional dwelling units assuming project buildout in 2027.³⁵ The analysis shows the 98 additional units have a *de minimus* impact relative to the 160 units approved by prior action.³⁶ The TIS confirms impacted roadway segments operate at acceptable levels of service at buildout.³⁷

The project will access Orange River Boulevard and Staley Road.³⁸ The intersection analysis indicates the northbound approach to the Orange River Boulevard/Staley Road intersection will operate below adopted levels of service both with and without the project.³⁹ This means the northbound approach to the intersection operates below adopted level of service *regardless of project traffic*. Applicable law treats this condition as a “pre-existing deficiency.” Pre-existing deficiencies must be addressed by the local government using impact fees and other revenue.

The intersection analysis shows the southbound approach to the Orange River Boulevard/Staley Road intersection fails with project traffic.⁴⁰ Level of service enhancements to the Orange River Boulevard/Staley Road intersection are considered offsite improvements. Road impact fees generated by the project may be a source of revenue to address the deficiency.⁴¹

The Buckingham Community Plan restricts nearly all roads within the community to two lanes.⁴² Areawide growth has resulted in increased traffic on those roads.⁴³ Members of the public testified to congestion at the Orange River Boulevard and Staley Road intersection. Cars cue up at the intersection on both roads during peak travel times as there are no turn lanes to facilitate turning movements.

The LDC requires a detailed transportation impact analysis with the development order application. The County will determine necessary site-related improvements during the development review process. The developer must address site related

³⁵ The project is approved for 160 dwellings. The request seeks an additional 98 dwelling units. Accordingly, the TIS examined the incremental impact of 98 units. Staff Report Attachment O.

³⁶ Ted Treesh testified that 98 new units will result in one additional am/pm peak hour trip and will not change the roadways level of service at buildout. November 16, 2022, Transcript page 46.

³⁷ Ted Treesh, November 16, 2022 - Transcript (Morning Session) page 48.

³⁸ Both roads are two lane county-maintained collector roadways. Lee County Administrative Code 11-1.

³⁹ The TIS concludes the northbound approach to the intersection will operate at LOS F without the project and northbound *and* southbound approaches will operate at LOS F with the project. Staff Report Attachment F.

⁴⁰ Turn lanes would improve operations. Testimony of Ted Treesh.

⁴¹ Transportation concurrency is not regulatory under state law. Therefore, the projected level of service deficiency at the southbound approach to the intersection cannot be the basis of denial.

⁴² Lee Plan Policy 20.2.1 Buckingham Road is not subject to this limitation. The only exception is bicycle, pedestrian/equestrian facilities, and safety improvements.

⁴³ The Buckingham Community continues to grow, as does Lehigh and Tice.

improvements, including turn lanes at project entrances.⁴⁴ The project will also be subject to road impact fees.⁴⁵

Environmental and Natural Resources

The property is located within the Orange River Watershed and bisected by a County maintained drainage easement. The easement contains a 30-foot-wide ditch conveying offsite flows from SR 82 to the Orange River.⁴⁶ The MCP replaces/relocates the easement with a constructed flow way along the site's western perimeter.⁴⁷ Storm water flows will be controlled by two weir structures designed to re-establish natural groundwater levels and hydrate the onsite wetland.⁴⁸ The proposed design improves the conveyance and storage capacity of the existing ditch.⁴⁹

The current condition of the site is pastureland with scattered indigenous vegetation, including a cypress head, a central freshwater marsh, and hardwood/conifer mixed wetland and upland forests. The MCP proposes impacts to less than an acre of the 11.48-acre wetland.⁵⁰ Applicant will restore and preserve the remaining wetland acreage and the adjacent hardwood hammock.⁵¹

The MCP depicts a preserve over 10.38 wetland acres, incorporated into the surface water management system.⁵²

Seven water management lakes are designed to accept storm water runoff from the project's developed areas. These lakes provide water quality treatment and control the flow of water into the wetland.⁵³

The function of restored flow ways and wetlands will be independent of the project storm water management system. Offsite flows will continue to pass through the property.⁵⁴ Wet and dry detention areas together with the onsite preserve will

⁴⁴ Lee Plan Objective 39.1 and Policy 39.1.1.

⁴⁵ LDC 2-261 *et seq.*

⁴⁶ Staff Report Attachment G. Memo from Nic DeFilippo, Senior Environmental Planner to Chahram Badamtchian, Senior Planner.

⁴⁷ Lee Plan Policies 61.3.6, 61.3.12.

⁴⁸ *Id.* Testimony of Carl Barraco, PE November 16, 2022, Transcript (Morning Session) page 72.

⁴⁹ Lee Plan Goals 60, 61, Objective 61.2, Policies 61.2.4, 61.3.11, 126.1.4; Testimony of Carl Barraco, PE November 16, 2022, Transcript page 76.

⁵⁰ The proposed site design will impact approximately .56 acre of wetlands.

⁵¹ Testimony of Jesse Sorrells, Ecologist, November 16, 2022, Transcript (Morning Session) page 66. See also Staff Report Attachment E. Environmental Staff Report. Lee Plan Policies 123.2.6, 123.2.15.

⁵² Lee Plan Goal 124, Objectives 20.5, 60.4, 61.2, Policies 60.4.2, 124.1.1. Wetland hydrology will be maintained by surface water runoff. Lee Plan Policy 123.1.1. The wetland is currently degraded by insufficient water supply due to the depth of the existing drainage ditch bifurcating the property. The depth of the ditch has the effect of lowering the groundwater table thereby impairing the wetland hydrology. Testimony of Carl Barraco, PE December 2, 2022 Transcript page 23.

⁵³ Lee Plan Goal 125, Policies 61.3.11, 125.1.2, 125.1.3.

⁵⁴ Lee Plan Goals 59, 60, 61, Policies 59.1.6, 60.4.1, 60.4.3, 60.4.5, 61.2.4, 61.3.3, 61.3.6, 61.3.8, 61.3.12, 77.3.4.

treat/filter storm water leaving the site. These design features will improve water quality entering the Orange River.⁵⁵

The Buckingham Community Plan seeks to manage growth, diversify housing choices, maintain rural character, and protect environmental resources.⁵⁶ The proposed site design ensures dwellings are properly oriented and functionally related to the site's natural features in keeping with these goals.⁵⁷ The MCP maintains scenic vistas along both roadway frontages.⁵⁸

Public Services

The Lee Plan requires an evaluation of public services during the rezoning process.⁵⁹

The property has access to public services and infrastructure including paved roads, public water, sanitary sewer, surface water management, police, fire protection, and emergency medical services.⁶⁰ Consistent with Lee Plan directives for the Planning Community, the developer must install electric, telephone, and cable utilities underground.⁶¹

Future residents will have access to parks, libraries, schools, and commercial centers.⁶² Orange River Boulevard is denoted as a connector trail on the County's Greenways Master Plan.⁶³ A shared use path is planned for the north side of the roadway.⁶⁴

⁵⁵ Lee Plan Goals 60, 61, 125, Objectives 60.4, 61.2, Policies 60.4.1, 60.4.5, 61.3.11, 125.1.1, 125.1.2.

⁵⁶ Lee Plan Goal 20. The Goal includes preserving existing rural and agricultural land use patterns, however insofar as the property has been zoned RPD for 15 years, focus must shift to the goal's remaining identified objectives. *See also* Lee Plan Objective 20.4.

⁵⁷ Lee Plan Standard 4.1.4.

⁵⁸ Lee Plan Policy 20.3.5; *See also* Lee Plan Policies 20.1.5, 20.1.6. While the project is not within the Buckingham Rural Preserve, proposed setbacks mirror setback directives for cluster development in the Rural Preserve.

⁵⁹ Lee Plan Policy 2.2.1.

⁶⁰ Lee Plan Goal 70, Objectives 53.1, 56.1, 66.1; Notably, Applicant must finance water and sewer line extensions. *See* Lee Plan Policy 20.3.2. In addition, all utilities within the subdivision will be underground. Lee Plan Policy 20.3.3. Fort Myers Shores Fire District, Emergency Medical Services from Lee County Medic 11, and police from Lee County Sheriff. Lee County Utilities provided letters of availability for potable water and sanitary sewer. *See* Staff Report.

⁶¹ Lee Plan Policy 20.3.3.

⁶² Parks: Manatee Park, Caloosahatchee Creek Preserve, Hickey Creek Mitigation Park, Buckingham Park; Schools: Orange River Elementary School, Oak Hammock Middle School, Riverdale High School.

⁶³ Lee Plan Map 4-E. Orange River Boulevard is also reflected on the Lee County Walkways & Bikeways Map 3-D. Ted Treesh testified that there is a pedestrian facility planned for the north side of Orange River Boulevard.

⁶⁴ Testimony of Ted Treesh.

Deviations

Applications to rezone property must meet the LDC and other County regulations or qualify for deviations.

A “deviation” is a departure from a land development regulation.⁶⁵ Applicants must demonstrate each requested deviation enhances the planned development and will not cause a detriment to the public.⁶⁶

Applicant requests a single deviation to accommodate a 10-foot reduction in the setback between an onsite water management lake and the FPL substation property.⁶⁷ The deviation generates more onsite fill material, reducing the number of trucks necessary to bring fill to the site. Potential safety concerns relating to wayward vehicles/pedestrians are ameliorated by a fence at the FPL property boundary, and a proposed landscaped buffer along the common property line.⁶⁸

The Hearing Examiner agrees with staff’s recommendation of approval. The deviation advances the objectives of the planned development and protects public health, safety, and welfare.⁶⁹

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect natural resources.⁷⁰ Conditions must plausibly relate to anticipated impacts, and mitigate project impacts to public health, safety, and welfare.⁷¹

The proposed Orange River RPD is subject to several conditions of approval. The conditions reasonably relate to impacts anticipated from development.⁷² Conditions of note protect environmental and natural resources and improve the conveyance of offsite flows to the Orange River.

The Hearing Examiner revised conditions to improve clarity.

⁶⁵ LDC §34-2.

⁶⁶ LDC §34-373(a)(9).

⁶⁷ Specifically, the deviation seeks a minor reduction in code required setbacks from an offsite lake. LDC 10-329(d)(1)a.3 Setback Standards require a 50 foot setback from private property under separate ownership. The setback may not be less than 25 feet, Applicant seeks a 40-foot setback. If approved, the deviation permits one of the property’s water management lakes to be within 40 feet of the FPL site, where the code requires lake excavations to be set back 50 feet from property under separate ownership.

⁶⁸ Testimony of Jennifer Sapen, AICP November 16, 2022, Transcript (Morning Session) pages 37, 38.

⁶⁹ LDC 34-373(a)(9), 34-377(a)(4).

⁷⁰ LDC 34-145(d)(4)a.2.(b), LDC 34-377(a)(3), and 34-932(b and c). See also Lee Plan Policy 135.9.6.

⁷¹ LDC 34-932(c).

⁷² LDC 34-83(b)(4)a.3.

Public Participation

Applicant presented the proposed RPD at a Buckingham Community Meeting on April 15, 2021.⁷³

Several members of the public attended the Hearing Examiner hearing. Without exception, those who spoke were opposed to the prospect of 98 additional dwellings. Many identified traffic concerns, loss of rural character, and environmental impacts as the basis of opposition.

Conclusion

The Hearing Examiner finds the proposed 98 unit increase to be consistent with Lee Plan policies and objectives and concurs with staff's recommendation of approval.

IV. Findings and Conclusions

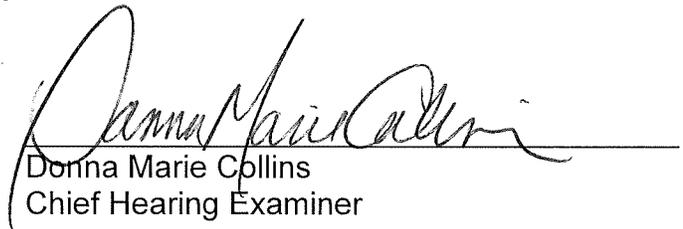
Based on the testimony and exhibits in the record, the Hearing Examiner recommends approval of the request to rezone the property to the Residential Planned Development zoning district, subject to conditions, and makes the following findings and conclusions:

- A. The requested Orange River RPD complies with the Lee Plan. Lee Plan Goals 2, 4, 5, 60, 61, 77, 124, 135, 158; Objectives 4.1, 5.1, 20.4, 20.5, 77.1, 77.3, 126.2, Policies 1.1.11, 2.1.2, 2.2.1, 5.1.1, 5.1.2, 5.1.5, 17.3.3, 17.3.4, 20.1.8, 20.3.5, 77.3.2, 77.3.3, 135.1.9, 135.9.6, 158.1.9; Lee Plan Maps 1-A, 1-B, 3-D, 4-A, 4-B, 4-E and Tables 1(a) and (b).
- B. As conditioned herein, the RPD zoning designation:
 - 1. Meets the standards set forth in the LDC and other regulations or qualifies for deviations. LDC 2-3, 10-7, 10-81, 34-411, 34-413, 34-491, 34-612(2), 34-932, 34-934;
 - 2. Is compatible with existing and planned uses in the surrounding area. Lee Plan Objective 20.4, Policies 1.1.11, 2.1.2, 5.1.2, 5.1.5, 20.3.5, 135.1.9, 135.9.6; and LDC 34-411(j);
 - 3. Will provide access to support the proposed development intensity. Lee Plan Policies 39.2.2; and LDC 34-411.

⁷³ Applicant presented the rezoning request to the community at a Buckingham Community Meeting held at the Lee County Mosquito Control District on April 15, 2021. Cf. Lee Plan Policies 17.3.3, 17.3.4, 20.1.8. The meeting sign in sheet reflected 68 members of the public attended the presentation.

4. Existing regulations and conditions of approval address expected impacts on transportation facilities. Lee Plan Policy 135.9.6; LDC 2-265 *et seq.*, LDC 10-7(b);
 5. Will not adversely affect environmentally critical areas or natural resources. Lee Plan Goals 60, 61, 77, 124, 125, Objectives 20.5, 77.1, 77.3, 126.2, Policies 61.2.4, 61.3.1, 61.3.6, 61.3.11, 61.3.12, 123.2.6, 124.1.1, 125.1.2, 125.1.3, 126.1.4, 126.2.1, 135.9.6, 158.1.7, and Standard 4.1.4; and
 6. Will be served by public services and infrastructure including public water and sewer, paved streets, police, fire and emergency services, and surface water management. Lee Plan Goals 53, 56, 62, 64, 65, 70, Objectives 4.1 and 5.1; Policies 2.2.1, 20.3.2, 20.3.3; and Standards 4.1.1, 4.1.2.
- C. The proposed uses are appropriate at the location. Lee Plan Goals 2, 5, Policies 1.1.11, 2.1.2, 2.2.1, 2.2.2, 5.1.2, 5.1.5, 135.1.9, 158.1.9; and LDC 34-411.
- D. The recommended conditions of approval and county regulations provide sufficient safeguards to protect the public interest. Lee Plan Policies 5.1.5, 135.9.5, 135.9.6; LDC 34-145(d)(4)a.2.b), LDC 34-377(a)(3), 34-411, 34-932, 34-936.
- E. The recommended conditions are reasonably related to the impacts expected from the proposed development. LDC 34-932, 34-936.
- F. The deviations recommended for approval:
1. Enhance the objectives of the planned development; and
 2. Promote the intent of the LDC to protect public health, safety, and welfare. LDC 34-373(a)(9), 34-377(a)(4).

Recommendation dated: January 4, 2023.


Donna Marie Collins
Chief Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

- Exhibit A Legal Description and Vicinity Map
- Exhibit B Recommended Conditions and Deviations
- Exhibit C Exhibits Presented at Hearing
- Exhibit D Hearing Participants
- Exhibit E Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

Barraco
and Associates, Inc.

www.barraco.net
Civil Engineers, Land Surveyors and Planners

DESCRIPTION

Parcel in
Section 1, Township 44 South, Range 25 East
Lee County, Florida

A tract or parcel of land being all of those lands described in a deed recorded in Instrument Number 2014000192801 of the Public Records of Lee County, Florida, lying in Section 1, Township 44 South, Range 25 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

PARCEL 1:

COMMENCING at the South Quarter corner of said Section 1 run $S88^{\circ}47'02''W$ along the South line of the Southwest Quarter (SW 1/4) of said Section 1 for 800.12 feet to an intersection with the West line of the East 800 feet of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run $N00^{\circ}14'15''W$ along said West line for 30.00 feet to an intersection with the North right of way line of Homestead Lane, being the North line of the South 30 feet of said Southwest Quarter (SW 1/4) of Section 1 and the POINT OF BEGINNING.

From said Point of Beginning run $S88^{\circ}47'02''W$ along said North line for 1,798.99 feet to an intersection with the East right of way line of Staley Road, being the East line of the West 30 feet of said Southwest Quarter (SW 1/4) of Section 1; thence run $N01^{\circ}06'31''W$ along said East line for 2,500.47 feet; thence run $N88^{\circ}57'45''E$ parallel with the North line of said Fraction for 181.00 feet; thence run $N01^{\circ}06'31''W$ parallel with the West line said Southwest Quarter (SW 1/4) for 100.00 feet to an intersection with the North line of said Fraction; thence run $N88^{\circ}57'45''E$ along said North line for 1,123.26 feet to the Southwest Corner of Lot 38, Block 1, of the record plat "TERRY-TICE-& VANDAWALKERS", as recorded in Plat Book 1, Page 46, of the Public Records of Lee County, Florida; thence run $N00^{\circ}03'58''E$ along the West line of said Lot 38 for 91.57 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run $S79^{\circ}49'24''E$ along said Southwesterly right of way line for 1,274.64 feet to an intersection with the West line of the East 80 feet of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run $S00^{\circ}14'15''E$ along said West line for 1,155.09 feet to an intersection with the North line of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S88^{\circ}52'26''W$ for 720.09 feet to an intersection with the West line of the East 800 feet of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S00^{\circ}14'15''E$ along said West line for 1,282.56 feet to the POINT OF BEGINNING.

Containing 128.79 acres, more or less.

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Rick Burris, Principal
Planner
Lee County DCD/Planning
1/21/2022

DESCRIPTION (CONTINUED)

PARCEL 2:

COMMENCING at the South Quarter corner of said Section 1 run $N00^{\circ}14'15''W$ along of the East line of Southwest Quarter (SW 1/4) of Section 1 for 1,311.31 feet to the Southeast corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1 and the POINT OF BEGINNING.

From said Point of Beginning run $S88^{\circ}52'26''W$ along the South line of said Fraction for 30.00 feet to an intersection with the East line of the West 50 feet of the East 80 feet of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $N00^{\circ}14'15''W$ along said East line for 1,145.12 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run $S79^{\circ}49'24''E$ along said Southwesterly right of way line for 30.50 feet to an intersection with the East line of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S00^{\circ}14'15''E$ along said East line for 1,139.14 feet to the POINT OF BEGINNING. Containing 0.79 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (NAD1983)(NSRS 2011) and are based on the South line of the Southwest Quarter (SW 1/4) of Section 1 to bear $S88^{\circ}47'02''W$.


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

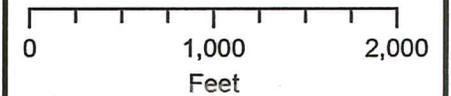
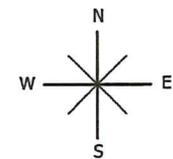
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Rick Burris, Principal
Planner
Lee County DCD/Planning
1/21/2022

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Zoning

 Subject Property



ATTACHMENT B

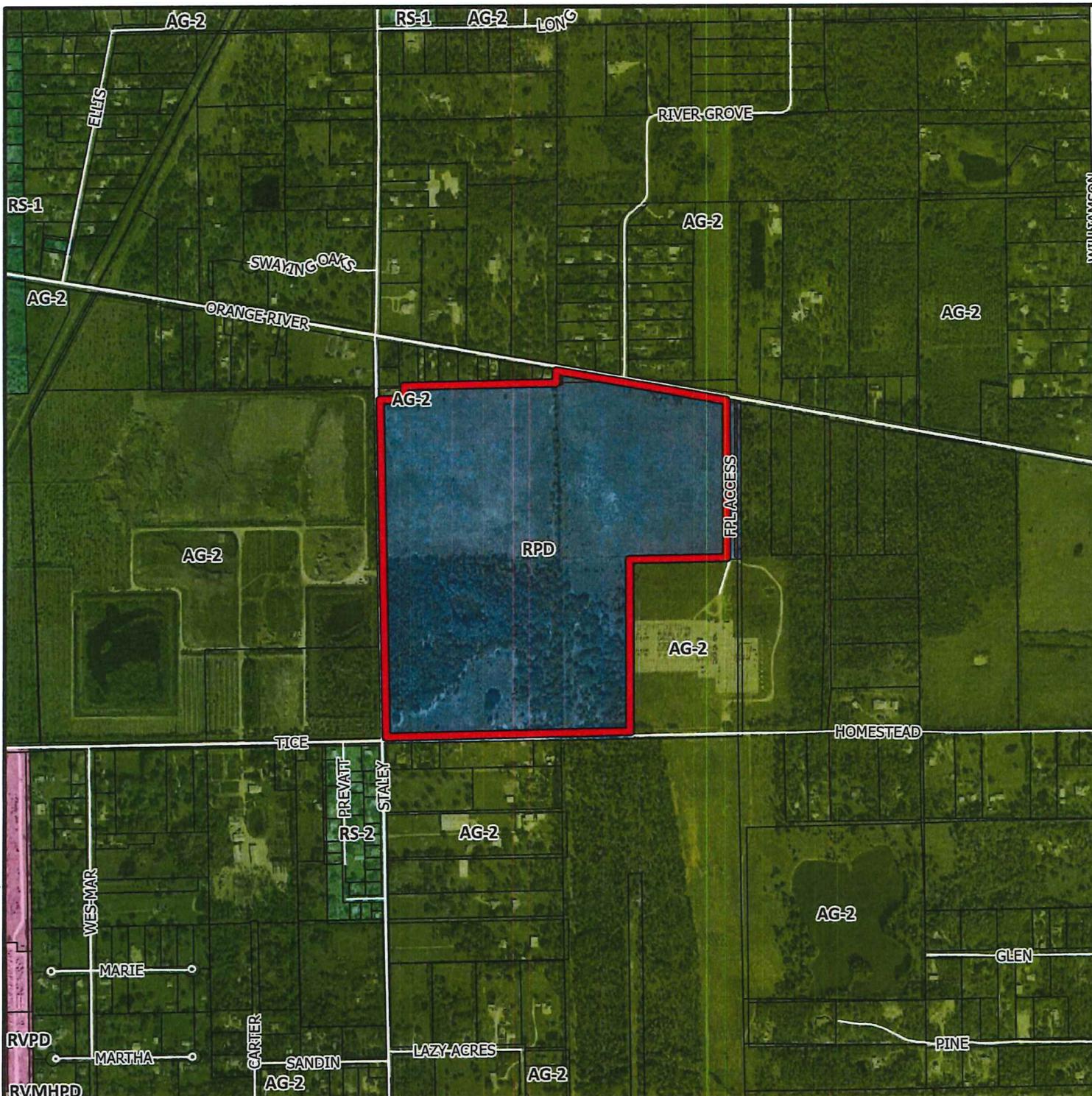


Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

Conditions as revised by Hearing Examiner

CONDITIONS

1. Master Concept Plan/Development Parameters

Master Concept Plan. Development must be consistent with the three-page Master Concept Plan entitled “Orange River 130 Residential Planned Development” last revised on May 4, 2022, except as modified by the conditions below. (Exhibit B1),

Consistency with Lee Plan and Land Development Code (LDC). Development must comply with the Lee County Comprehensive Plan (Lee Plan) and Land Development Code (LDC) at time of local Development Order approval, except where deviations are approved herein. Subsequent changes to the MCP may require further development approvals.

Approved Development Parameters. Development is limited to up to 258 dwelling units.

2. Permitted Uses and Site Development Regulations

a. Schedule of Permitted Uses

Accessory Uses and Structures

Administrative Offices

Dwelling Units

Single-family (Limited to 258)

Entrance gate, gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences

Home Occupation

Model Home and Model Display Center

Parking Lot, Accessory

Real Estate Sales Office (Limited to sales within the development only)

Recreational Facilities:

Personal

Private On-site

Signs

Temporary Uses, limited to construction trailers during development and

Sales Center

b. Site Development Regulations

Single-Family:

Minimum Lot Size: 6,500 square feet

Minimum Lot Width: 50 ft.

Minimum Lot Depth: 100 ft.

Minimum Setbacks:

Street: 20 ft.

Side: 5 ft.

Rear (principal) 15 ft.

Rear (accessory) 5 ft.

Preserve: Per Land Development Code

Minimum Perimeter Setbacks (See MCP, Page 3):

North to Orange River Boulevard Right of Way: 170 ft.

North to residential: 150 ft.

South: Minimum 50 ft. (150 ft. average)

East to power lines: 250 ft. average

West: 170 ft.

Maximum Building Height: 35 ft.

Maximum Lot Coverage: 45 percent

3. Easement Exchange Agreement

Developer must execute and record an easement exchange agreement relocating the existing drainage easement to the perimeter of the site prior to County development order approval. Developer must record the agreement with the Lee County Clerk of Court.

4. Model Homes, Model Display Centers

Model homes, model display centers, and real estate sales are subject to the following conditions:

- a. Unique Example. Each model must be a unique example. Multiple examples of the same unit are prohibited.

- b. Development Order Plans. The location of Model Home Sites, Model Display Centers or Model Groups must be designated on the development order plans. Developer must buffer parking areas with a single-row hedge and tree canopy.
- c. Preliminary Plat. Prior to model home construction, model home lots must be shown on a preliminary plat. Developer must file the preliminary plat concurrent with the development order application. Model homes must comply with the property development regulations set forth in Condition 2.
- d. Number Permitted. No more than 10 model homes or model units may operate within the development at a time.
- e. Real Estate Sales Limited to Project. Real estate sales are limited to the sale of lots or units within the development.
- f. Real Estate Sales Location. Real estate sales are limited to temporary real estate trailers, model homes and model display centers.
- g. Hours. Hours of operation for models and real estate sales is limited to Monday through Sunday 8 a.m. to 8 p.m.
- h. Duration. Model homes and real estate sales will be valid for up to 5 years from the issuance of the model home certificate of occupancy.

5. Environmental Conditions

- a. Landscape Plans. Development order landscape plans must depict a 30-foot wide enhanced buffer along the north, south, and northwest property lines consistent with MCP Sheet 3. Buffer vegetation must be measured from the grade of the abutting offsite right-of-way and include ten trees per 100 linear feet and a double staggered hedge row. Trees must be canopy trees and specified at 16-feet-in-height, four-inch caliper (as measured from six inches above the ground), and an eight-foot-wide canopy spread. Shrubs must be specified at 48-inches-in-height, maintained at 60-inches-in-height, and installed 36-inches-on-center. Berms, if any, must be undulating consistent with Lee Plan Policy 20.4.3.
- b. Preserve Management Plan. The development order application must include a Preserve Management Plan that details management, restoration, monitoring, and success criteria for the preserve. The Preserve Management Plan must provide for perpetual maintenance of restored vegetation and reference the Easement Exchange Agreement.

- c. Enhanced Littoral Planting Plan. Development order landscape plans must include an enhanced littoral planting plan, cross sections demonstrating substantial compliance with MCP Sheet 3, and a littoral management plan that includes littoral plant maintenance and monitoring. The littoral management plan must reference the Easement Exchange Agreement and provide for perpetual maintenance of restoration vegetation.
- d. Protected Species Management Plan. The development order application must include a protected species management plan detailing the protected species or signs of species on the site and providing for management of future protected species.
- e. Prior to Site Work. Developer must submit a vegetation removal permit for the relocation of protected species and installation of preserve protection measures prior to commencing site work.

6. Agricultural Uses

Existing bona fide agricultural uses on the site may continue subject to the following conditions:

- a. Cattle Grazing and Hay Cultivation. Bona fide agricultural uses of cattle grazing and the cultivation of hay in existence at the time of filing the zoning application and shown on Exhibit B2, may continue until approval of a local development order over the area containing those uses.
- b. Clearing Prohibited. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas in bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude removal of invasive exotic vegetation.
- c. Affidavit. Prior to issuance of a development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - (1) Proof of Termination of Agricultural Activity. Termination of agricultural uses on portions of the property included in development order applications/approvals. Proof must include an affidavit from the person or entity holding title to the property that provides:
 - a. date the agricultural uses ceased;
 - b. legal description of the property subject to the development order approval;

- c. An affirmative statement that the owner acknowledges and agrees that agricultural uses are illegal and prohibited on the property and that the owner covenants with the County not to allow any agricultural uses on the property until the property is rezoned to permit agricultural uses; and,
- d. the affidavit must affirmatively state that it constitutes a covenant between the owner and the county and is binding on the owner and their assignees and successors in interest. The covenant must be properly recorded in the County's public records at the owner's expense.

(2) Termination of Agricultural Tax Exemption. Proof of termination of the agricultural tax exemption over portions of the property included in a development order application/approval must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.

7. Natural Resources

- a. Replacement Drainage Easement. Prior to issuance of a Certificate of Compliance for any phase of development and prior to the removal of the existing drainage ditch, the developer must construct and certify the replacement drainage easement.
- b. Access Easement over Replacement Drainage Easement. Prior to issuance of a Certificate of Compliance for the realigned drainage ditch, the developer must dedicate a replacement drainage and access easement to Lee County prior to release of the existing drainage easement.
- c. Flow Way. Prior to local development order approval, developer must submit models and calculations supporting the proposed flow way design. If the flow way design changes, developer must submit models and calculations supporting the new flow way design for review and approval by Lee County Natural Resources.

8. Utility Connections

The project must connect to central water and sanitary sewer services.

9. State and Federal Permits.

County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if Applicant fails to obtain requisite approvals or fulfill obligations imposed by state and federal agencies or if Applicant undertakes actions resulting in a violation of state

or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

1. Excavation Standards. Deviation (1) seeks relief from LDC §10-329(d)(1)a.3 which requires an excavation setback of 50 feet from private property lines under separate ownership, to allow an excavation setback of 40 feet to the property boundary where a lake borders the southern portion of the property's eastern boundary line.

Hearing Examiners Recommendation: Approved.

Exhibits to Conditions:

B1 Master Concept Plan "Orange River 130" dated May 4, 2022

B2 Bona Fide Agricultural Uses

MASTER CONCEPT PLAN FOR ORANGE RIVER 130 RESIDENTIAL PLANNED DEVELOPMENT

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

PREPARED FOR

11400
ORANGE
RIVER, LLC.

2970 LUCKIE ROAD
WESTIN, FL. 33331

PROJECT DESCRIPTION

ORANGE
RIVER
130 AC

THIS PLAN IS PRELIMINARY AND
INTENDED FOR CONCEPTUAL
PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE
INTENSITIES OR DENSITIES MAY
CHANGE SIGNIFICANTLY BASED
UPON SURVEY, ENGINEERING,
ENVIRONMENTAL AND / OR
REGULATORY CONSTRAINTS AND /
OR OPPORTUNITIES.

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FILE NAME: 23886-Z01.DWG
LOCATION: J:\23886\10\WGZCNNGI
PLOT DATE: WED, 5-4-2022 - 11:22 AM
PLOT BY: JENNIFER SAPIEN

CROSS REFERENCED DRAWINGS
MASTER = BAI-COVER-1.DWG

PLAN REVISIONS	
12-23-20	1ST SUBMITTAL
4-22-21	2ND SUBMITTAL
7-14-21	3RD SUBMITTAL
1-7-22	4TH SUBMITTAL-ADD FLOW WAY PATH
5-4-22	OPEN SWALE IN WETLAND

PLAN STATUS

NOT FOR CONSTRUCTION

COVER SHEET
AND
LOCATION MAP

PROJECT / FILE NO.	SHEET NUMBER
23886	1

PART OF SECTION 01, TOWNSHIP 44 SOUTH, RANGE 25 EAST
FORT MYERS, LEE COUNTY, FLORIDA

PROJECT DATA

SITE ADDRESS 11400 ORANGE RIVER BLVD FORT MYERS, FL 33905	PROJECT DATUM FLORIDA STATE PLANE WEST ZONE (NAD1983/90) NATIONAL GEODETIC VERTICAL DATUM (NGVD) 1929
ZONING CURRENT: RPD PROPOSED: RPD	RECORD PLAT
FLOOD ZONE ACCORDING TO F.I.R.M. NO. 12071C0235F, MAP REVISED: AUGUST 28, 2008, THE PROPERTY IS LOCATED IN ZONE "X"	STRAP NUMBERS 01-44-25-00-00006.0000 01-44-25-01-00020.0000

PERMIT REQUIREMENTS

AGENCY	STATUS	NOTES
S. FLORIDA WATER MANAGEMENT DISTRICT	PENDING	-
LEE COUNTY DEVELOPMENT ORDER	PENDING	-
FLORIDA DEPARTMENT OF HEALTH	PENDING	-
FLORIDA DEPT. OF ENVIRONMENTAL PROTECTION	PENDING	-
F.D.O.T. CONNECTION PERMIT	PENDING	-
F.D.O.T. DRAINAGE CONNECTION PERMIT	PENDING	-
F.D.O.T. UTILITY PERMIT	PENDING	-
ARMY CORPS OF ENGINEERS	PENDING	-
F.D.E.P. NOTICE OF INTENT	PENDING	-

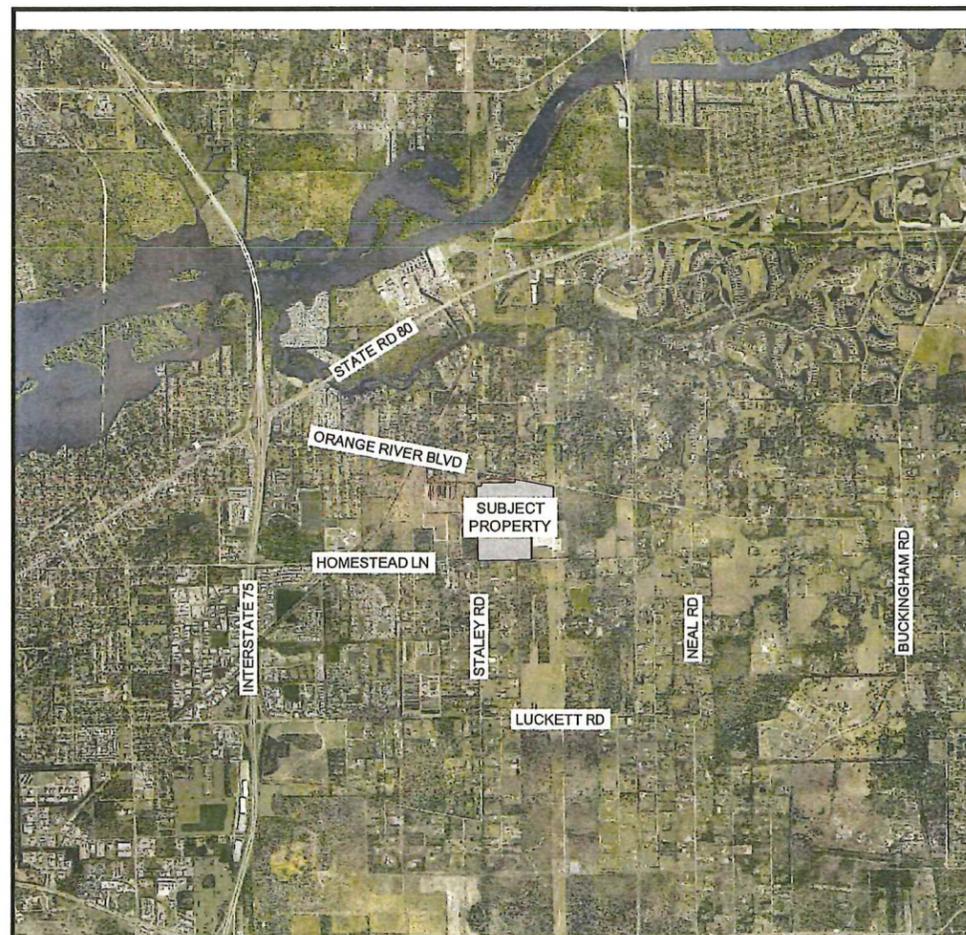
NOTE: CONTRACTOR MUST OBTAIN AND KEEP ON FILE A COPY OF ALL PERMITS
REQUIRED PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITY

DESIGN TEAM

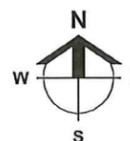
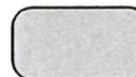
PROJECT ENGINEER CARL BARRACO JR	PROJECT MANAGEMENT JEFF WASKO
DESIGN ENGINEER JEFF WASKO	PROJECT SURVEYOR SCOTT A. WHEELER, PSM
LEAD DESIGN TECHNICIAN JAMIE WILSON	SITE PLANNING ALYSSA FONTAINE
DESIGN STAFF CHRIS PAULY	LANDSCAPE DESIGN GREG DISERIO
QUALITY CONTROL WES KAYNE	LAND PLANNER JENNIFER SAPIEN

THESE PLANS MAY HAVE BEEN MODIFIED IN SIZE BY REPRODUCTION.
THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.

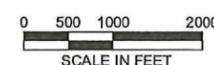
ALL DIMENSIONS ARE IN FEET.



PROJECT
LOCATION



LOCATION MAP



INDEX OF DRAWINGS

ENGINEER OF RECORDS SIGNATURE AND SEAL APPLY TO THE FOLLOWING PLAN SHEETS, EXCLUDING ANY SUPPLEMENTS:

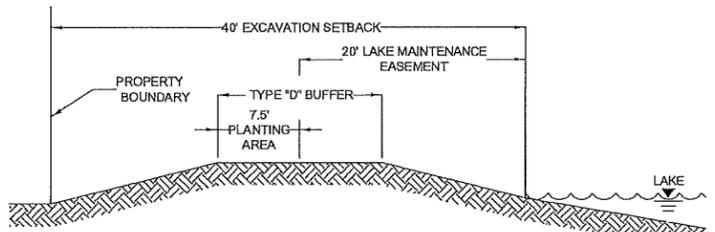
SHEET	DESCRIPTION	XREF	DRAWING NAME
1	COVER SHEET AND LOCATION MAP	A	23886-Z01.DWG
2	MASTER CONCEPT PLAN	B	23886-Z02.DWG
3	DETAILS AND PHASING PLAN	B	23886-Z03.DWG

CROSS-REFERENCED DRAWINGS:

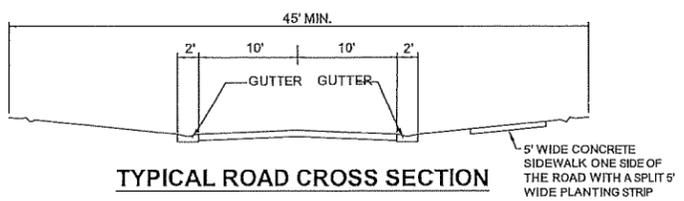
XREF	DESCRIPTION	DRAWING NAME
A	AERIAL PHOTOGRAPH	LOC2019.JPG
B	BASE PLAN	23886-Z00.DWG

LAND USE SUMMARY

	WATER MANAGEMENT LAKES	18.6 AC	TOTAL = 44.1 AC
	OFFSITE CONVEYANCE (AT WET SEASON WATER ELEVATION)	8.2 AC	
	ENHANCED LITTORAL PLANTINGS		
	HARDWOOD / CONIFER UPLAND PRESERVE	6.4 AC	
	WETLAND PRESERVE	10.9 AC	
	WETLAND IMPACT	0.56 AC	
	OTHER DEVELOPMENT AREA	84.9 AC	
TOTAL PROJECT		129.6 AC	

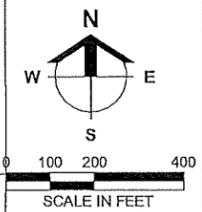
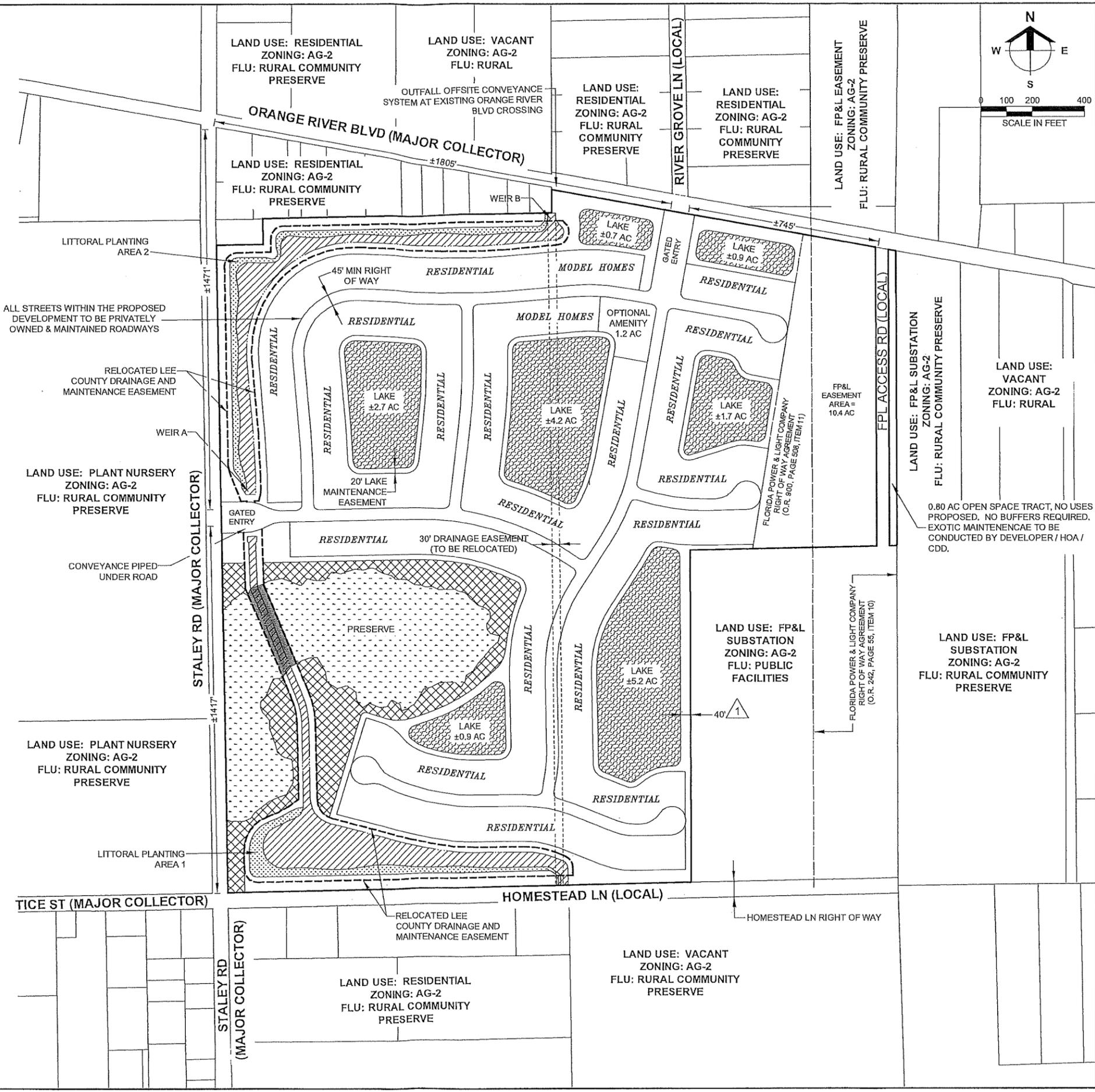


LAKE EXCAVATION SETBACK DEVIATION 1



TYPICAL ROAD CROSS SECTION

LEGEND



Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
www.barraco.net
2271 MCGREGOR BLVD., SUITE 100
POST OFFICE DRAWER 2800
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3189
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR
11400 ORANGE RIVER, LLC.
2970 LUCKIE ROAD
WESTIN, FL. 33331

PROJECT DESCRIPTION
**ORANGE RIVER
130 AC**

THIS PLAN IS PRELIMINARY AND INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY.
SITE LAYOUT AND LAND USE INTENSITIES OR DENSITIES MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENGINEERING, ENVIRONMENTAL AND / OR REGULATORY CONSTRAINTS AND / OR OPPORTUNITIES.

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PLOT DATE	WED, 5-4-2022 - 11:41 AM
PLOT BY	JENNIFER SAPEN

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BASEPLAN =	23886-200.DWG

PLAN REVISIONS	
1-7-22	ADD FLOW WAY MAINTENANCE PATH
5-4-22	OPEN SWALE IN WETLAND

PLAN STATUS	

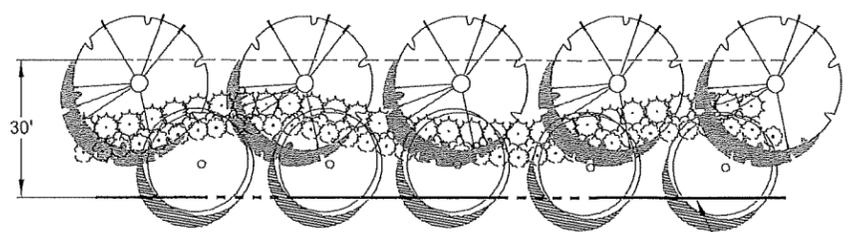
MASTER CONCEPT PLAN	
PROJECT / FILE NO.	SHEET NUMBER
23886	2

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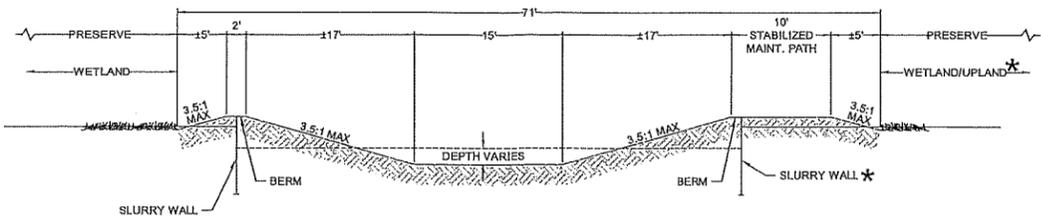
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PLAN REVISIONS	
1-7-22	ADD FLOW WAY MAINTENANCE PATH
5-4-22	OPEN SWALE IN WETLAND

PLAN STATUS	
PROJECT / FILE NO.	SHEET NUMBER
23886	3



30' ENHANCED BUFFER



SECTION B-B

ENHANCED LITTORAL PLANTING LIST

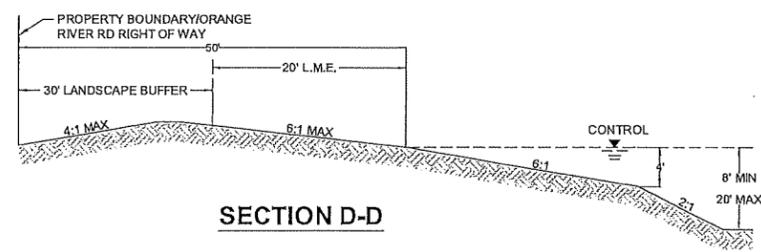
COMMON NAME	SCIENTIFIC NAME	MINIMUM HEIGHT	CONTAINER SIZE	ON CENTER
ZONE 1 TREES				
SLASH PINE	PINUS ELLIOTTII	2-5 FT	BR TO 3 GAL	30 TO 50 FT
LAUREL OAK	QUERCUS LAURIFOLIA	2-5 FT	BR TO 3 GAL	30 TO 50 FT

ZONE 1 OR 2 TREES				
BALD CYPRESS	TAXODIUM DISTICHUM	2-5 FT	BR TO 3 GAL	30 TO 50 FT
RED MAPLE	ACER RUBRUM	2-5 FT	BR TO 3 GAL	30 TO 50 FT
POP ASH	FRAXINUS CAROLINIANA	2-5 FT	BR TO 3 GAL	30 TO 50 FT

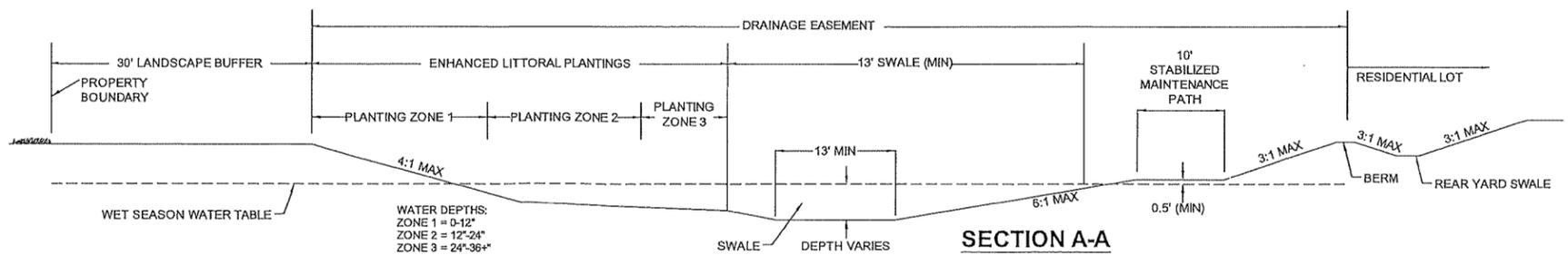
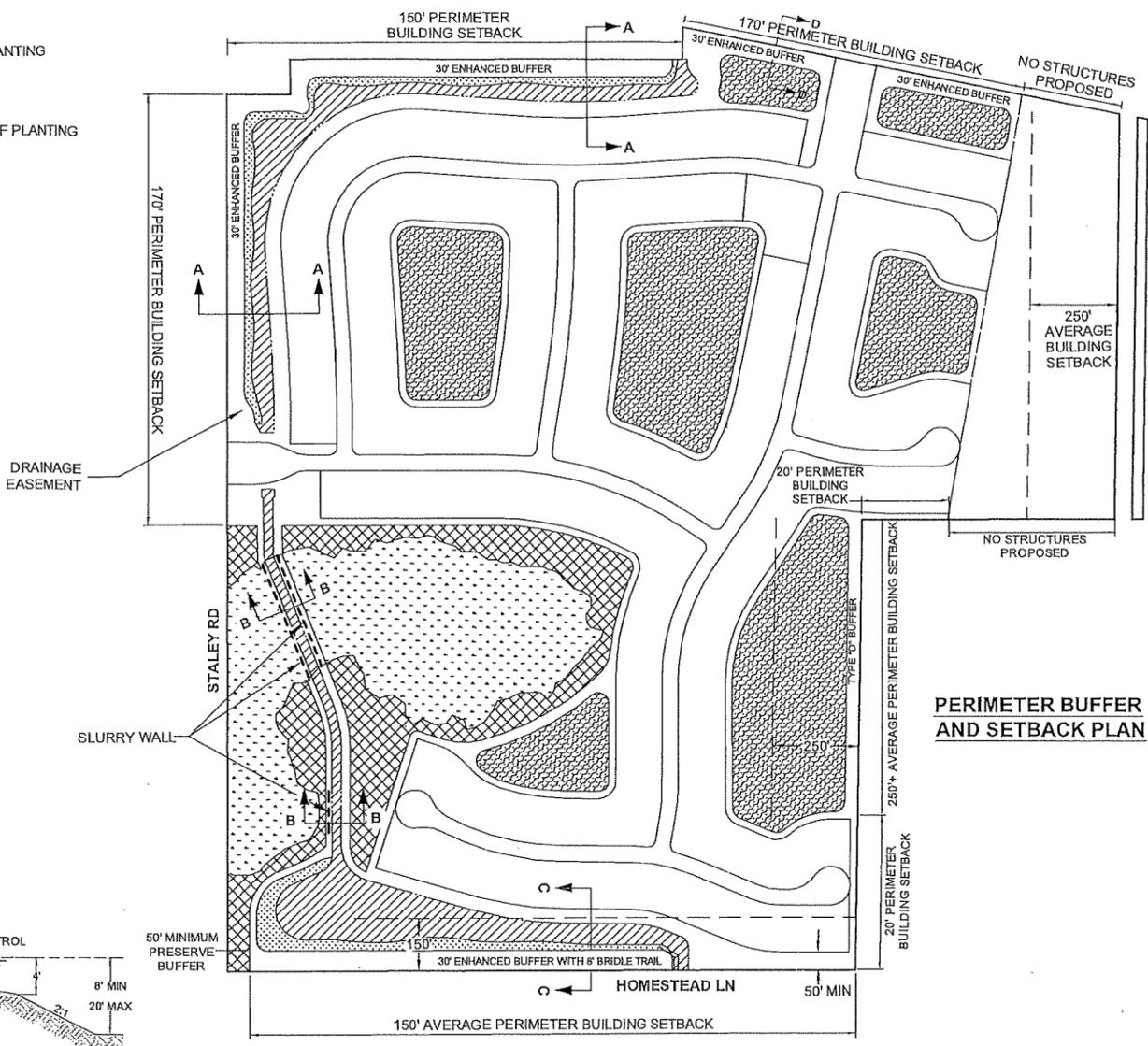
ZONE 1 PLANTS				
GULFDUNE PASPALUM	PASPALUM MONOSTACHYUM VASEY	12"	2"	5 TO 8 FT
MUHLY GRASS	MUHLENBERGIA	12"	2"	5 TO 8 FT
CORDGRASS	SPARTINA BAKERI	12"	2"	5 TO 8 FT
BLUE MAIDENCANE	AMPHICARPUM MUHLENBERGIANUM	12"	2"	3 TO 5 FT
SAWGRASS	CLADIUM JAMAICENSE	12"	2"	3 TO 5 FT
MAIDENCANE	PANICUM HEMITOMON	12"	2"	3 TO 5 FT
AMERICAN CRINUM LILY	CRINUM AMERICANUM	12"	2"	3 TO 5 FT
SOFT RUSH	JUNCUS EFFUSUS	12"	2"	3 TO 5 FT

ZONE 2 PLANTS				
SAWGRASS	CLADIUM JAMAICENSE	12"	2"	3 TO 5 FT
MAIDENCANE	PANICUM HEMITOMON	12"	2"	3 TO 5 FT
SPIKERUSH	ELEOCHARIS INTERSTINCTA	12"	2"	3 TO 5 FT
GOLDEN CANNA	CANNA FLACCIDA	12"	2"	3 TO 5 FT
ARROWHEAD	SAGITTARIA LATIFOLIA	12"	2"	3 TO 5 FT
ALLIGATOR FLAG	THALIA GENICULATA	12"	2"	3 TO 5 FT
SOFT-STEM BULRUSH	SCIRPUS TABERNAEMONTANI	12"	2"	3 TO 5 FT
VIRGINIA IRIS	IRIS VIRGINICUS	12"	2"	3 TO 5 FT
LANCELEAF ARROWHEAD	SAGITTARIA LANCIFOLIA	12"	2"	3 TO 5 FT
PICKERELWEED	PONTERDERIA CORDATA	12"	2"	3 TO 5 FT
YELLOW POND LILLY	NUPHAR LUTEUM	12"	2"	3 TO 5 FT
GULF COAST SPIKERUSH	ELEOCHARIS CELLULOSA	12"	2"	3 TO 5 FT
HERB OF GRACE	BACOPA MONNIERI	12"	2"	3 TO 5 FT
BLUE WATERHYSSOP	BACOPA CAROLINIANA	12"	2"	3 TO 5 FT

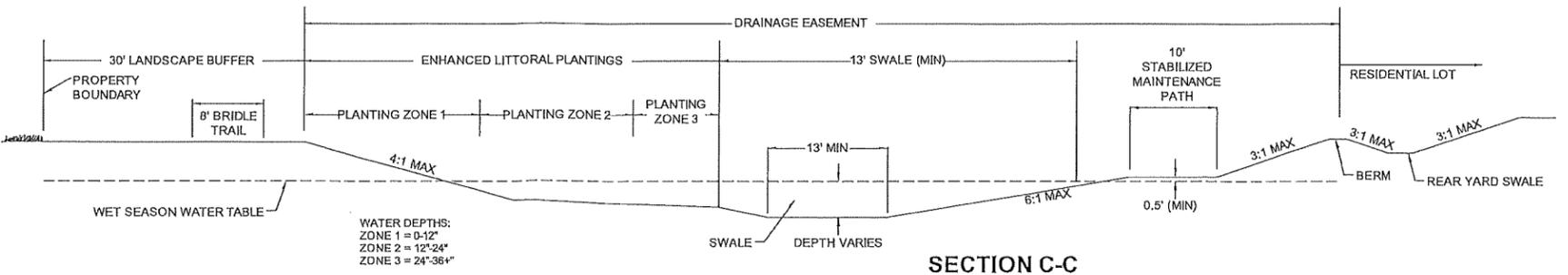
ZONE 3 PLANTS				
SPIKERUSH	ELEOCHARIS INTERSTINCTA	12"	2"	3 TO 5 FT
GOLDEN CANNA	CANNA FLACCIDA	12"	2"	3 TO 5 FT
ARROWHEAD	SAGITTARIA LATIFOLIA	12"	2"	3 TO 5 FT
PICKERELWEED	PONTERDERIA CORDATA	12"	2"	3 TO 5 FT
ALLIGATOR FLAG	THALIA GENICULATE	12"	2"	3 TO 5 FT
SOFT-STEM BULRUSH	SCIRPUS TABERNAEMONTANI	12"	2"	3 TO 5 FT
SPATTERDOCK	NUPHAR ADVENA	12"	1 GAL	15 FT
WATERLILY	NYMPHAEA ODORATA	12"	1 GAL	15 FT
YELLOW POND LILLY	NUPHAR LUTEUM	12"	1 GAL	15 FT
ROYAL BLUE WATERLILY	NYMPHAEA ELEGANS	12"	1 GAL	15 FT
BANANA LILLY	NYMPHOIDES AQUATICA	12"	1 GAL	15 FT
LANCELEAF ARROWHEAD	SAGITTARIA LANCIFOLIA	12"	1 GAL	15 FT
CALIFORNIA BULRUSH	SCHOENOPLECTUS CALIFORNICUS	12"	1 GAL	15 FT



SECTION D-D



SECTION A-A



SECTION C-C

EXHIBIT B2

EXISTING AGRICULTURAL USE AFFIDAVIT

STATE OF Florida
COUNTY OF Lee

BEFORE ME, the undersigned authority, on this 7 day of July, 2022, personally appeared David Kraizgrun, who is the Manager of 11400 Orange River, LLC, who is personally known to me or who produced _____ as identification and who did take an oath, who deposes and says as follows:

1. That I am the Authorized Representative of the property more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.
2. The agricultural uses that currently exist on the referenced property include hay production and/or cattle grazing. The location of this use is depicted on Exhibit "B" (entitled the "Agricultural Uses at Time of Zoning Application Map").
3. The existing agricultural activities will remain active until approval of a local Development Order affecting the property described in Exhibit "A" and depicted on Exhibit "B".

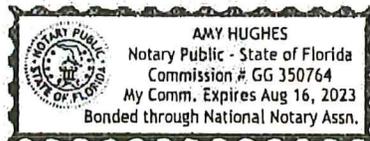
FURTHER AFFIANT SAYETH NAUGHT.

Name
Title

SIGN HERE

SWORN TO and subscribed before me on the date and year first above written.

(Notary Seal)



Signature of Notary Public

Amy Hughes
(Print, type or stamp commissioned name and Commission Number of Notary Public)

DESCRIPTION

Parcel in
 Section 1, Township 44 South, Range 25 East
 Lee County, Florida

A tract or parcel of land being all of those lands described in a deed recorded in Instrument Number 2014000192801 of the Public Records of Lee County, Florida, lying in Section 1, Township 44 South, Range 25 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

PARCEL 1:

COMMENCING at the South Quarter corner of said Section 1 run $S88^{\circ}47'02''W$ along the South line of the Southwest Quarter (SW 1/4) of said Section 1 for 800.12 feet to an intersection with the West line of the East 800 feet of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run $N00^{\circ}14'15''W$ along said West line for 30.00 feet to an intersection with the North right of way line of Homestead Lane, being the North line of the South 30 feet of said Southwest Quarter (SW 1/4) of Section 1 and the POINT OF BEGINNING.

From said Point of Beginning run $S88^{\circ}47'02''W$ along said North line for 1,798.99 feet to an intersection with the East right of way line of Staley Road, being the East line of the West 30 feet of said Southwest Quarter (SW 1/4) of Section 1; thence run $N01^{\circ}06'31''W$ along said East line for 2,500.47 feet; thence run $N88^{\circ}57'45''E$ parallel with the North line of said Fraction for 181.00 feet; thence run $N01^{\circ}06'31''W$ parallel with the West line said Southwest Quarter (SW 1/4) for 100.00 feet to an intersection with the North line of said Fraction; thence run $N88^{\circ}57'45''E$ along said North line for 1,123.26 feet to the Southwest Corner of Lot 38, Block 1, of the record plat "TERRY-TICE-& VANDAWALKERS", as recorded in Plat Book 1, Page 46, of the Public Records of Lee County, Florida; thence run $N00^{\circ}03'58''E$ along the West line of said Lot 38 for 91.57 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run $S79^{\circ}49'24''E$ along said Southwesterly right of way line for 1,274.64 feet to an intersection with the West line of the East 80 feet of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1; thence run $S00^{\circ}14'15''E$ along said West line for 1,155.09 feet to an intersection with the North line of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S88^{\circ}52'26''W$ for 720.09 feet to an intersection with the West line of the East 800 feet of said Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S00^{\circ}14'15''E$ along said West line for 1,282.56 feet to the POINT OF BEGINNING.

Containing 128.79 acres, more or less.

DESCRIPTION (CONTINUED)

PARCEL 2:

COMMENCING at the South Quarter corner of said Section 1 run $N00^{\circ}14'15''W$ along of the East line of Southwest Quarter (SW 1/4) of Section 1 for 1,311.31 feet to the Southeast corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of said Section 1 and the POINT OF BEGINNING.

From said Point of Beginning run $S88^{\circ}52'26''W$ along the South line of said Fraction for 30.00 feet to an intersection with the East line of the West 50 feet of the East 80 feet of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $N00^{\circ}14'15''W$ along said East line for 1,145.12 feet to an intersection with the Southwesterly right of way line of Orange River Boulevard, (66 feet wide right of way); thence run $S79^{\circ}49'24''E$ along said Southwesterly right of way line for 30.50 feet to an intersection with the East line of said Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section 1; thence run $S00^{\circ}14'15''E$ along said East line for 1,139.14 feet to the POINT OF BEGINNING. Containing 0.79 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (NAD1983)(NSRS 2011) and are based on the South line of the Southwest Quarter (SW 1/4) of Section 1 to bear $S88^{\circ}47'02''W$.


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. *48-Hour Notice*: Email from Chahram Badamtchian, to Hearing Examiner, Jennifer Sapen, Richard Akin, Esq., Friday, September 23, 2022 2:47 PM (5 pages – 8.5"x11")
1. DCD Staff Report with attachments for DCI: Prepared by Chahram Badamtchian, Planner, date stamped received July 28, 2022 (multiple pages – 8.5"x11" and 11"x14") [black and white, color]
2. *Emails from Citizens*: (multiple pages – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice*: Email from Richard Akin, Esq., Henderson Franklin, to Hearing Examiner, with copies to Chahram Badamtchian, Jose Adams, Esq., Jennifer Sapen, Jeff Wasko, Carl Barraco, Russell Schropp, Esq., Jesse Sorrells, and Ted Treesh, Monday, August 8, 2022 2:50 PM (3 pages – 8.5"x11")
- b. *Second 48-Hour Notice*: Email from Richard Akin, Esq., Henderson Franklin, to Hearing Examiner, with copies to Chahram Badamtchian, Jose Adams, Esq., Jennifer Sapen, Jeff Wasko, Carl Barraco, Russell Schropp, Esq., Jesse Sorrells, David Kraizgrun, and Ted Treesh (3 pages – 8.5"x11")
1. *PowerPoint Presentation*: Orange River RPD, DCI2021-00001, Presentation to Hearing Examiner, November 16, 2022 (multiple pages – 8.5"x11")[color]
2. *Resolution Z-89-114*: (multiple pages – 8.5"x11")
3. *Lee County Ordinance 91-19*: (multiple pages – 8.5"x11")
4. *Vacated MCP Notice*: (2 pages – 8.5"xx11")
5. *Resolution Z-05-043*: (multiple pages – 8.5"x11")
6. *CPA2005-40*: Sub-Outlying Suburban Future Land Use Map Category BOCC Sponsored Amendment to the Lee County Comprehensive Plan, BOCC Adoption Document, May 16, 2007 (multiple pages – 8.5"x11")
7. *Lee County Ordinance No. 18-18*: (multiple pages – 8.5"x11")

Case: DCI2021-00001

8. *Résumé*: Jeffrey L. Wasko, II, P.E., Project Manager/Design Engineer (1 page – 8.5"x11")
9. *Résumé*: Jesse Sorrells, Ecologist (3 pages – 8.5"x11")
10. *Feasibility Review*: Prepared by Maxwell, Hendry, Simmons Real Estate Appraiser and Consultants, for 11400 Orange River Boulevard, Fort Myers, Florida 33905, date of project review September 16, 2022, date of report September 23, 2022 (multiple pages – 8.5"x11")
11. *Rebuttal PowerPoint Presentation*: Orange River RPD, DCI2021-00001, Presentation to Hearing Examiner, December 2, 2022 (multiple pages – 8.5"x11")[color]
12. *Public Notice/Affidavit of Posting*: Signed by Julie Zamora, July 25, 2022 (multiple pages – 8.5"x11")

OTHER EXHIBITS

Don Blackburn

1. *Thumb Drive*: Video

Betsy Burdette

1. *Notes for Hearing*: (2 double sided pages – 8.5"x11")

Bill Burdette

1. *Photographs*: (2 pages – 8.5"x11" and 1 page – 11"x17")

Phillip Mallard

1. *Buckingham Plan from 2007*: (multiple pages – 8.5"x11")

Shane Parker

1. *Aerial Photograph*: (1 page – 8.5"x11")

Sandra Wilkes

1. *Signed Petitions*: (multiple pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Joseph Adams, Esq.
2. Chahram Badamtchian

Applicant Representatives:

1. Carl Barraco, PE
2. Richard Akins, Esq.
3. Jennifer Sapen, AICP
4. Russell Schropp, Esq.
5. Matt Simmons
6. Jesse Sorrells
7. Ted Treesh, PTP
8. Jeff Wasko, PE

Public Participants:

1. Kara Alfaro
2. Don Blackburn
3. Betsy Burdette
4. Bill Burdette
5. Keith Campbell
6. Ken Carmichael
7. Pamela Chaplow
8. Bert Cline

9. Lisa Coffey
10. David Cortez
11. Susan Fero
12. Cheryl Fischer
13. Sarah Fisher
14. Michael Goals
15. Jeff Grey
16. Porfirio Gutierrez, Jr.
17. Mike Hansen
18. Patricia Heaphy
19. Lauren Hunt
20. David Hutto
21. Nancy Hutto
22. Claudia Klees
23. Karl Kropp
24. Barbara Kudrow
25. Brenda Lewis
26. Don Lewis
27. Terri Lodge
28. Jennifer Maillard
29. Philippe Maillard
30. John Marcantonio
31. Gerald Martinez

32. Kelly Mastriana
33. Gwen McCann
34. Dennis McIltrout
35. Bill McIltrout
36. Tom McIltrout
37. Lauren McIntyre
38. Dixie McLoon
39. Thomas Oommen
40. Kathleen Padgett
41. Shane Parker
42. Kristi Patrick
43. Richard Paul
44. Judie Piccola
45. Sandy Portella
46. Beverly Reid
47. Beverly Ritchie
48. Jean Roth
49. Michael Saboda
50. Julie Ward
51. Corey Wilkes
52. John W. Wilkes, Sr.
53. Sandra Wilkes

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants is limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.

MASTER CONCEPT PLAN FOR

ORANGE RIVER 130 RESIDENTIAL PLANNED DEVELOPMENT

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LAND PLANNING
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FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

**11400
ORANGE
RIVER, LLC.**

2970 LUCKIE ROAD
WESTIN, FL. 33331

PART OF SECTION 01, TOWNSHIP 44 SOUTH, RANGE 25 EAST
FORT MYERS, LEE COUNTY, FLORIDA

PROJECT DATA

SITE ADDRESS 11400 ORANGE RIVER BLVD FORT MYERS, FL 33905	PROJECT DATUM FLORIDA STATE PLANE WEST ZONE (NAD1983/90) NATIONAL GEODETIC VERTICAL DATUM (NGVD) 1929
ZONING CURRENT: RPD PROPOSED: RPD	RECORD PLAT -
FLOOD ZONE ACCORDING TO F.I.R.M. NO. 12071C0235F, MAP REVISED: AUGUST 28, 2008, THE PROPERTY IS LOCATED IN ZONE "X"	STRAP NUMBERS 01-44-25-00-00006.0000 01-44-25-01-00020.0000

PERMIT REQUIREMENTS

AGENCY	STATUS	NOTES
S. FLORIDA WATER MANAGEMENT DISTRICT	PENDING	-
LEE COUNTY DEVELOPMENT ORDER	PENDING	-
FLORIDA DEPARTMENT OF HEALTH	PENDING	-
FLORIDA DEPT. OF ENVIRONMENTAL PROTECTION	PENDING	-
F.D.O.T. CONNECTION PERMIT	PENDING	-
F.D.O.T. DRAINAGE CONNECTION PERMIT	PENDING	-
F.D.O.T. UTILITY PERMIT	PENDING	-
ARMY CORPS OF ENGINEERS	PENDING	-
F.D.E.P. NOTICE OF INTENT	PENDING	-

**NOTE: CONTRACTOR MUST OBTAIN AND KEEP ON FILE A COPY OF ALL PERMITS
REQUIRED PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITY**

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PROJECT ENGINEER CARL BARRACO JR	PROJECT MANAGEMENT JEFF WASKO
DESIGN ENGINEER JEFF WASKO	PROJECT SURVEYOR SCOTT A. WHEELER, PSM
LEAD DESIGN TECHNICIAN JAMIE WILSON	SITE PLANNING ALYSSA FONTAINE
DESIGN STAFF CHRIS PAULY	LANDSCAPE DESIGN GREG DISERIO
QUALITY CONTROL WES KAYNE	LAND PLANNER JENNIFER SAPEN



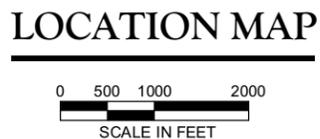
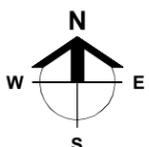
INDEX OF DRAWINGS

ENGINEER OF RECORDS SIGNATURE AND SEAL APPLY TO THE FOLLOWING PLAN SHEETS, EXCLUDING ANY SUPPLEMENTS:

SHEET	DESCRIPTION	XREF	DRAWING NAME
1	COVER SHEET AND LOCATION MAP	A	23886-Z01.DWG
2	MASTER CONCEPT PLAN	B	23886-Z02.DWG
3	DETAILS AND PHASING PLAN	B	23886-Z03.DWG

CROSS-REFERENCED DRAWINGS:

XREF	DESCRIPTION	DRAWING NAME
A	AERIAL PHOTOGRAPH	LOC2019.JPG
B	BASE PLAN	23886-Z00.DWG



THESE PLANS MAY HAVE BEEN MODIFIED IN SIZE BY REPRODUCTION.
THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.

ALL DIMENSIONS ARE IN FEET.

PROJECT DESCRIPTION

**ORANGE
RIVER
130 AC**

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PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE
INTENSITIES OR DENSITIES MAY
CHANGE SIGNIFICANTLY BASED
UPON SURVEY, ENGINEERING,
ENVIRONMENTAL AND / OR
REGULATORY CONSTRAINTS AND /
OR OPPORTUNITIES.

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LOCATION	J:\23886\DWG\ZONING\
PLOT DATE	WED, 5-4-2022 - 11:22 AM
PLOT BY	JENNIFER SAPEN

CROSS REFERENCED DRAWINGS

MASTER =	BAI-COVER-1.DWG
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PLAN REVISIONS

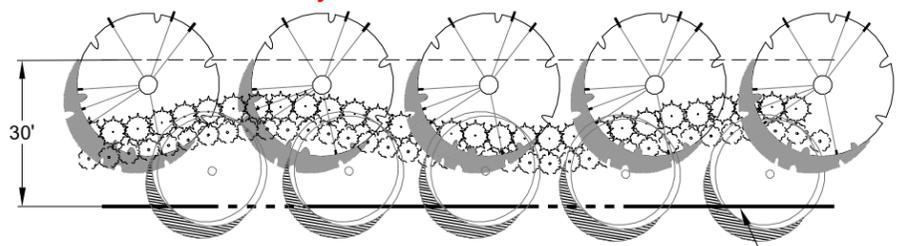
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4-22-21	2ND SUBMITTAL
7-14-21	3RD SUBMITTAL
1-7-22	4TH SUBMITTAL-ADD FLOW WAY PATH
5-4-22	OPEN SWALE IN WETLAND

PLAN STATUS

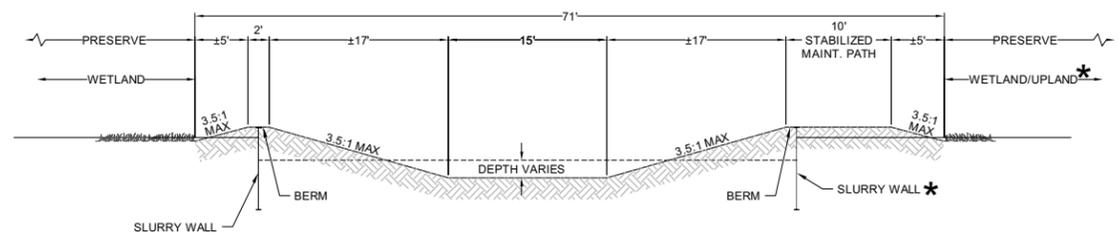
NOT FOR CONSTRUCTION

**COVER SHEET
AND
LOCATION MAP**

PROJECT / FILE NO.	SHEET NUMBER
23886	1



30' ENHANCED BUFFER



SECTION B-B

DOUBLE STAGGERED HEDGE

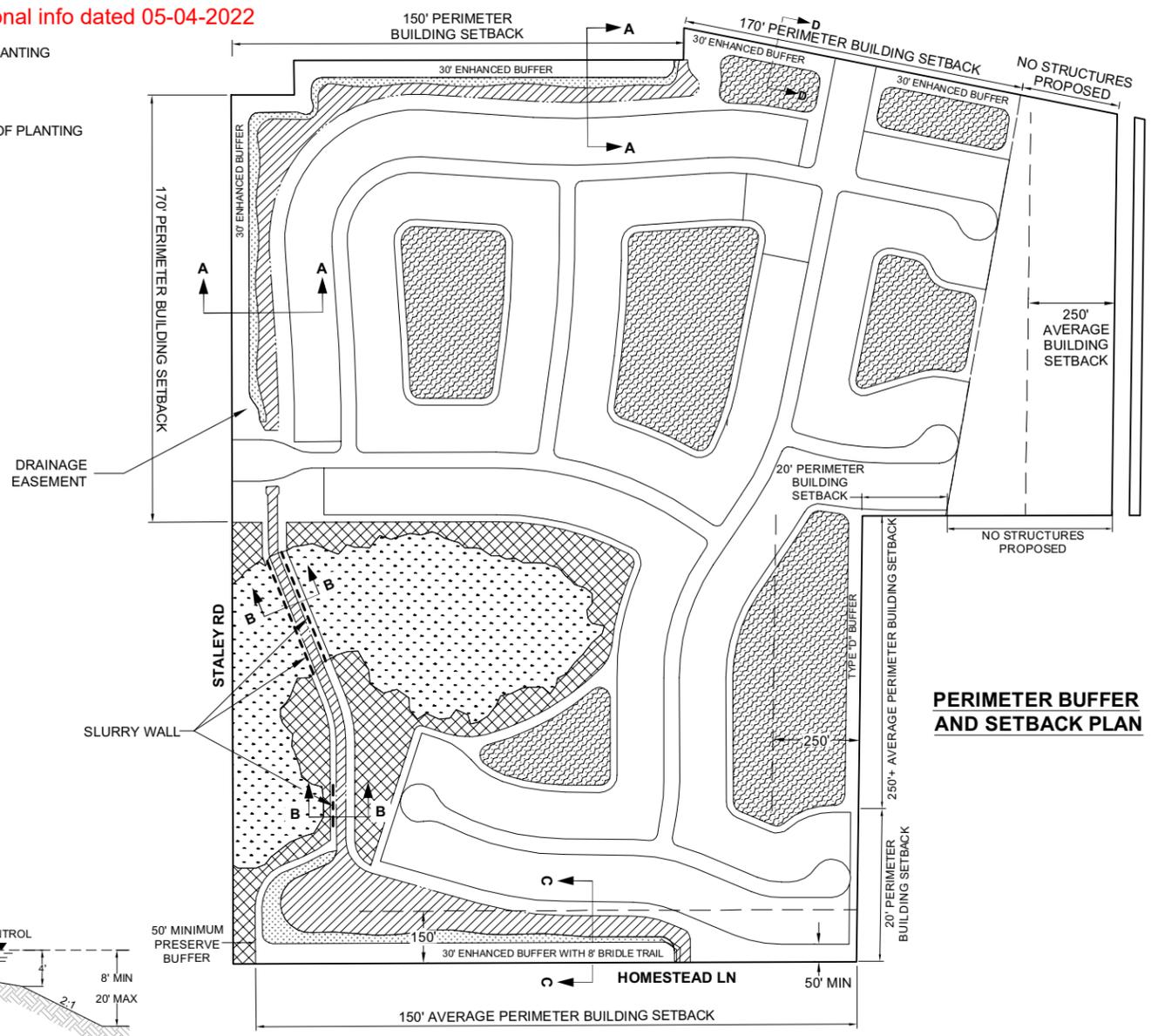
- 1) 48" IN HEIGHT AT TIME OF PLANTING
- 2) 60" IN HEIGHT WITHIN 12 MONTHS OF TIME OF PLANTING
- 3) MAINTAINED AT A MINIMUM HEIGHT OF 60"
- 4) SPACED 36" ON CENTER

10 TREES PER 100 L.F.

- 1) 4" IN DIAMETER @ 12" ABOVE GROUND AT TIME OF PLANTING
- 2) 16" IN HEIGHT AT TIME OF PLANTING

NOTE: 8' BRIDLE PATH TO BE PROVIDED ALONG THE SOUTHERN BOUNDARY

Additional info dated 05-04-2022



PERIMETER BUFFER AND SETBACK PLAN

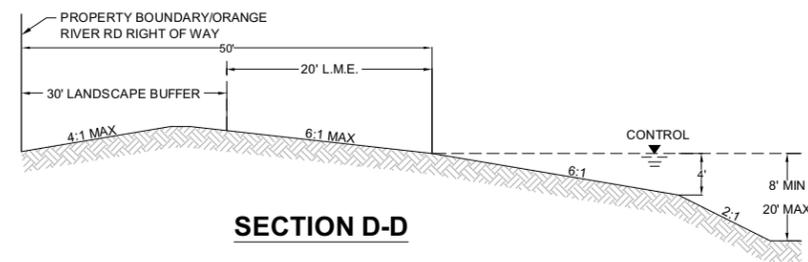
ENHANCED LITTORAL PLANTING LIST

COMMON NAME	SCIENTIFIC NAME	MINIMUM HEIGHT	CONTAINER SIZE	ON CENTER
ZONE 1 TREES				
SLASH PINE	PINUS ELLIOTTII	2-5 FT	BR TO 3 GAL	30 TO 50 FT
LAUREL OAK	QUERCUS LAURIFOLIA	2-5 FT	BR TO 3 GAL	30 TO 50 FT
ZONE 1 OR 2 TREES				
BALD CYPRESS	TAXODIUM DISTICHUM	2-5 FT	BR TO 3 GAL	30 TO 50 FT
RED MAPLE	ACER RUBRUM	2-5 FT	BR TO 3 GAL	30 TO 50 FT
POP ASH	FRAXINUS CAROLINIANA	2-5 FT	BR TO 3 GAL	30 TO 50 FT

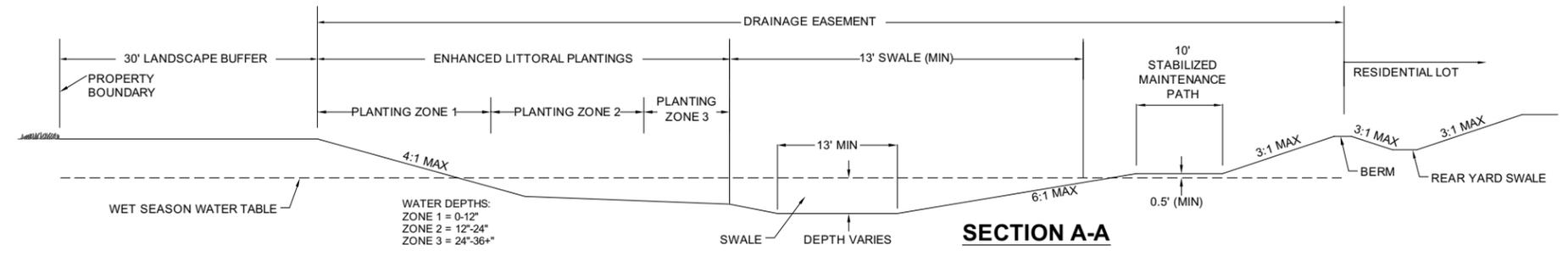
COMMON NAME	SCIENTIFIC NAME	MINIMUM HEIGHT	CONTAINER SIZE	ON CENTER
ZONE 1 PLANTS				
GULFDUNE PASPALUM	PASPALUM MONOSTACHYUM VASEY	12"	2"	5 TO 8 FT
MUHLY GRASS	MUHLENBERGIA	12"	2"	5 TO 8 FT
CORDGRASS	SPARTINA BAKERI	12"	2"	5 TO 8 FT
BLUE MAIDENCANE	AMPHICARPUM MUHLENBERGIANUM	12"	2"	3 TO 5 FT
SAWGRASS	CLADIUM JAMAICENSE	12"	2"	3 TO 5 FT
MAIDENCANE	PANICUM HEMITOMON	12"	2"	3 TO 5 FT
AMERICAN CRINUM LILY	CRINUM AMERICANUM	12"	2"	3 TO 5 FT
SOFT RUSH	JUNCUS EFFUSUS	12"	2"	3 TO 5 FT

COMMON NAME	SCIENTIFIC NAME	MINIMUM HEIGHT	CONTAINER SIZE	ON CENTER
ZONE 2 PLANTS				
SAWGRASS	CLADIUM JAMAICENSE	12"	2"	3 TO 5 FT
MAIDENCANE	PANICUM HEMITOMON	12"	2"	3 TO 5 FT
SPIKERUSH	ELEOCHARIS INTERSTINCTA	12"	2"	3 TO 5 FT
GOLDEN CANNA	CANNA FLACCIDA	12"	2"	3 TO 5 FT
ARROWHEAD	SAGITTARIA LATIFOLIA	12"	2"	3 TO 5 FT
ALLIGATOR FLAG	THALIA GENICULATA	12"	2"	3 TO 5 FT
SOFT-STEM BULRUSH	SCIRPUS TABERNAEMONTANI	12"	2"	3 TO 5 FT
VIRGINIA IRIS	IRIS VIRGINICUS	12"	2"	3 TO 5 FT
LANCELEAF ARROWHEAD	SAGITTARIA LANCIFOLIA	12"	2"	3 TO 5 FT
PICKERELWEED	PONTERDERIA CORDATA	12"	2"	3 TO 5 FT
YELLOW POND LILLY	NUPHAR LUTEUM	12"	2"	3 TO 5 FT
GULF COAST SPIKERUSH	ELEOCHARIS CELLULOSA	12"	2"	3 TO 5 FT
HERB OF GRACE	BACOPA MONNIERI	12"	2"	3 TO 5 FT
BLUE WATERHYSSOP	BACOPA CAROLINIANA	12"	2"	3 TO 5 FT

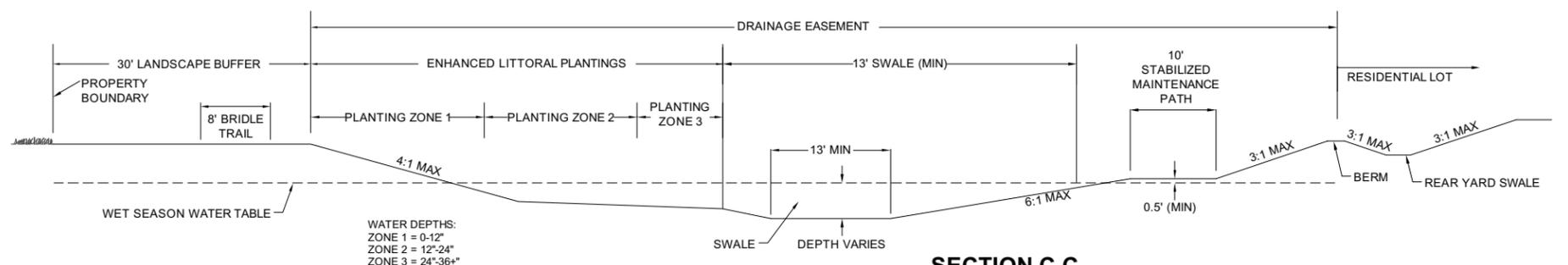
COMMON NAME	SCIENTIFIC NAME	MINIMUM HEIGHT	CONTAINER SIZE	ON CENTER
ZONE 3 PLANTS				
SPIKERUSH	ELEOCHARIS INTERSTINCTA	12"	2"	3 TO 5 FT
GOLDEN CANNA	CANNA FLACCIDA	12"	2"	3 TO 5 FT
ARROWHEAD	SAGITTARIA LATIFOLIA	12"	2"	3 TO 5 FT
PICKERELWEED	PONTERDERIA CORDATA	12"	2"	3 TO 5 FT
ALLIGATOR FLAG	THALIA GENICULATE	12"	2"	3 TO 5 FT
SOFT-STEM BULRUSH	SCIRPUS TABERNAEMONTANI	12"	2"	3 TO 5 FT
SPATTERDOCK	NUPHAR ADVENA	12"	1 GAL	15 FT
WATERLILY	NYMPHAEA ODORATA	12"	1 GAL	15 FT
YELLOW POND LILLY	NUPHAR LUTEUM	12"	1 GAL	15 FT
ROYAL BLUE WATERLILY	NYMPHAEA ELEGANS	12"	1 GAL	15 FT
BANANA LILLY	NYMPHOIDES AQUATICA	12"	1 GAL	15 FT
LANCELEAF ARROWHEAD	SAGITTARIA LANCIFOLIA	12"	1 GAL	15 FT
CALIFORNIA BULRUSH	SCHOENOPECTUS CALIFORNICUS	12"	1 GAL	15 FT



SECTION D-D



SECTION A-A



SECTION C-C

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 FORT MYERS, FLORIDA 33902-2800
 PHONE (239) 461-3170
 FAX (239) 461-3169
 FLORIDA CERTIFICATES OF AUTHORIZATION
 ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR
11400 ORANGE RIVER, LLC.
 2970 LUCKIE ROAD
 WESTIN, FL. 33331

PROJECT DESCRIPTION
ORANGE RIVER 130 AC

THIS PLAN IS PRELIMINARY AND INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY.
 SITE LAYOUT AND LAND USE INTENSITIES OR DENSITIES MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENGINEERING, ENVIRONMENTAL AND / OR REGULATORY CONSTRAINTS AND / OR OPPORTUNITIES.

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LOCATION	J:\23886\DWG\ZONING\
PLOT DATE	WED, 5-4-2022 - 11:30 AM
PLOT BY	JENNIFER SAPEN

CROSS REFERENCED DRAWINGS

BASEPLAN	= 23886-200.DWG
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PLAN REVISIONS

1-7-22	ADD FLOW WAY MAINTENANCE PATH
5-4-22	OPEN SWALE IN WETLAND

PERIMETER BUFFER AND SETBACKS PLAN

PROJECT / FILE NO.	23886	SHEET NUMBER	3
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ALTERNATE MASTER CONCEPT PLAN

FOR

ORANGE RIVER 130 RESIDENTIAL PLANNED DEVELOPMENT

PART OF SECTION 01, TOWNSHIP 44 SOUTH, RANGE 25 EAST
FORT MYERS, LEE COUNTY, FLORIDA

PROJECT DATA

SITE ADDRESS 11400 ORANGE RIVER BLVD FORT MYERS, FL 33905	PROJECT DATUM FLORIDA STATE PLANE WEST ZONE (NAD1983/90) NATIONAL GEODETIC VERTICAL DATUM (NGVD) 1929
ZONING CURRENT: RPD PROPOSED: RPD	RECORD PLAT -
FLOOD ZONE ACCORDING TO F.I.R.M. NO. 12071C0235F, MAP REVISED: AUGUST 28, 2008, THE PROPERTY IS LOCATED IN ZONE "X"	STRAP NUMBERS 01-44-25-00-00006.0000 01-44-25-01-00020.0000

PERMIT REQUIREMENTS

AGENCY	STATUS	NOTES
S. FLORIDA WATER MANAGEMENT DISTRICT	PENDING	-
LEE COUNTY DEVELOPMENT ORDER	PENDING	-
FLORIDA DEPARTMENT OF HEALTH	PENDING	-
FLORIDA DEPT. OF ENVIRONMENTAL PROTECTION	PENDING	-
F.D.O.T. CONNECTION PERMIT	PENDING	-
F.D.O.T. DRAINAGE CONNECTION PERMIT	PENDING	-
F.D.O.T. UTILITY PERMIT	PENDING	-
ARMY CORPS OF ENGINEERS	PENDING	-
F.D.E.P. NOTICE OF INTENT	PENDING	-

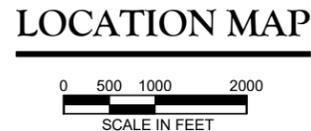
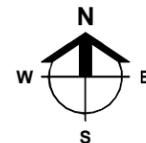
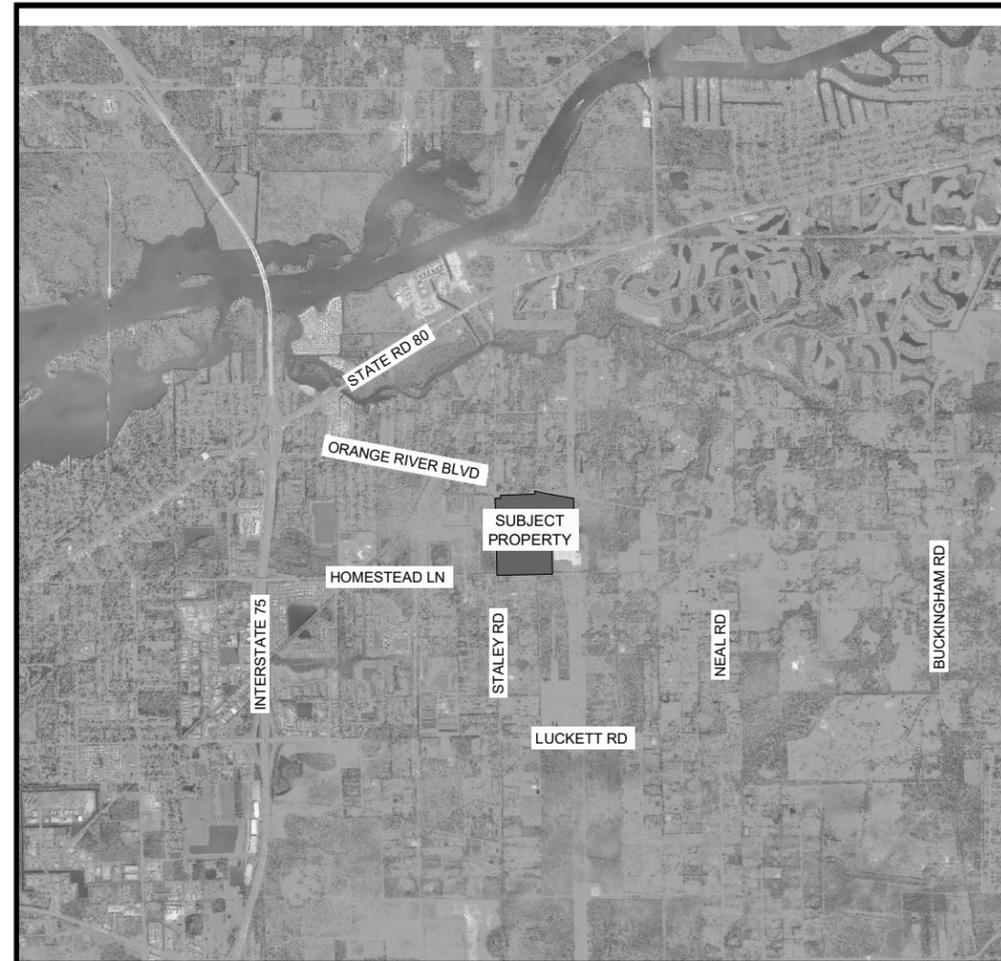
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DESIGN TEAM

PROJECT ENGINEER CARL BARRACO JR	PROJECT MANAGEMENT JEFF WASKO
DESIGN ENGINEER JEFF WASKO	PROJECT SURVEYOR SCOTT A. WHEELER, PSM
LEAD DESIGN TECHNICIAN JAMIE WILSON	SITE PLANNING ALYSSA FONTAINE
DESIGN STAFF CHRIS PAULY	LANDSCAPE DESIGN GREG DISERIO
QUALITY CONTROL WES KAYNE	LAND PLANNER JENNIFER SAPEN

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B	BASE PLAN	23886-Z00.DWG

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FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

11400
ORANGE
RIVER, LLC.

2970 LUCKIE ROAD
WESTIN, FL. 33331

PROJECT DESCRIPTION

ORANGE
RIVER
130 AC

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LOCATION	J:\23886\DWG\ZONING\
PLOT DATE	TUE, 6-27-2023 - 11:03 AM
PLOT BY	JENNIFER SAPEN

CROSS REFERENCED DRAWINGS

MASTER = BAI-COVER-1.DWG

PLAN REVISIONS	
12-23-20	1ST SUBMITTAL
4-22-21	2ND SUBMITTAL
7-14-21	3RD SUBMITTAL
1-7-22	4TH SUBMITTAL-ADD FLOW WAY PATH
5-4-22	OPEN SWALE IN WETLAND
6-27-23	ALTERNATE MCP

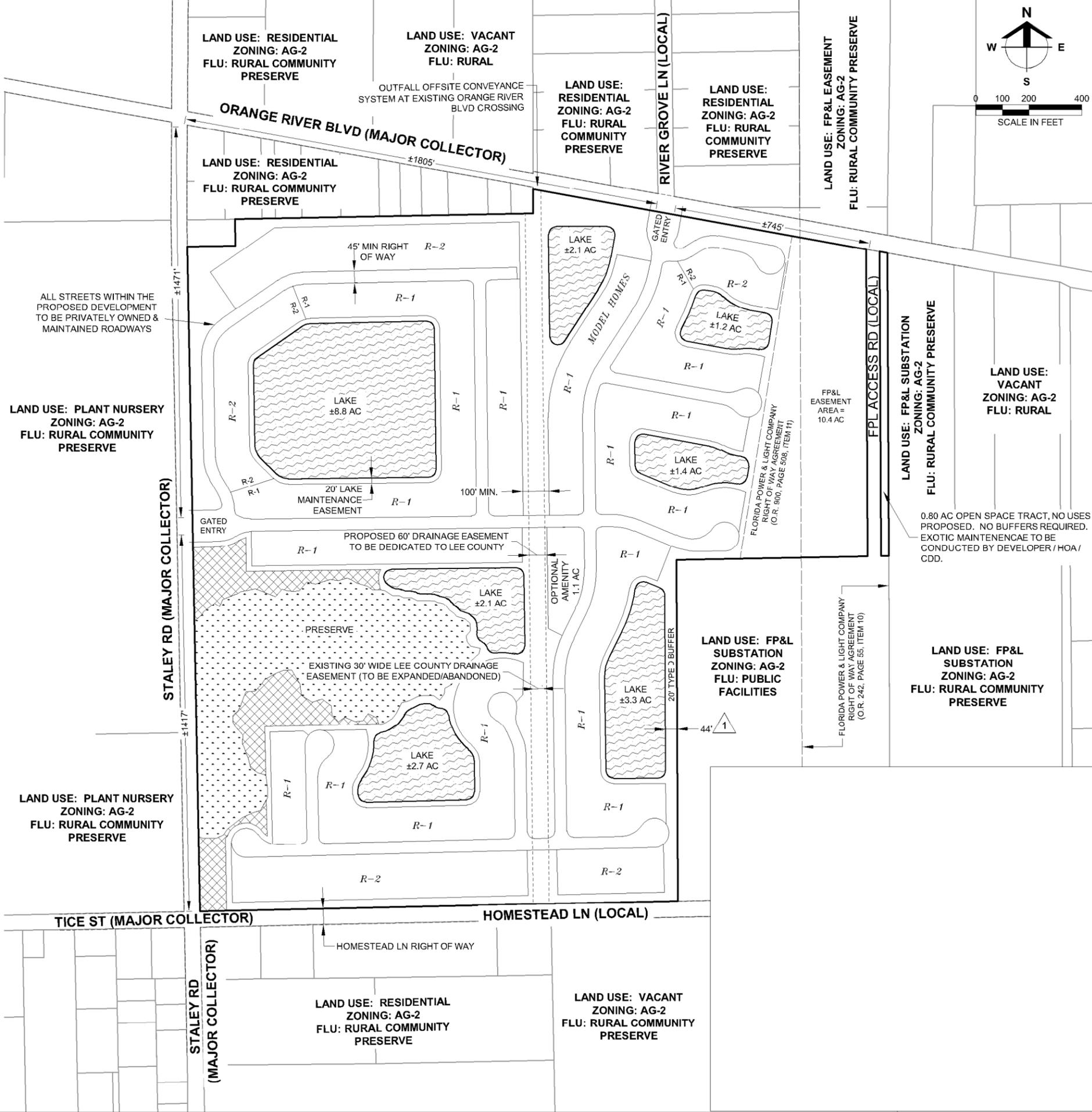
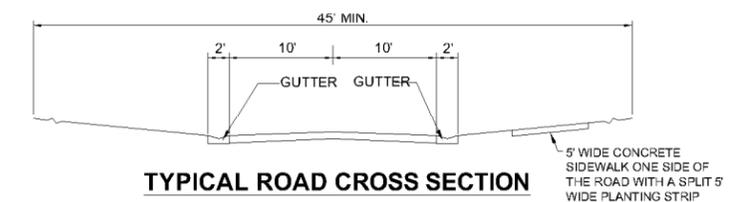
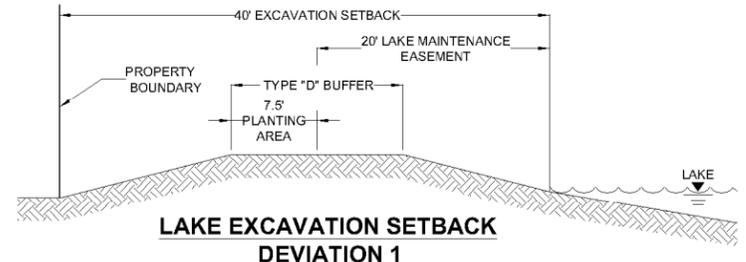
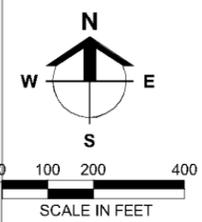
PLAN STATUS

NOT FOR CONSTRUCTION

COVER SHEET
AND
LOCATION MAP

PROJECT / FILE NO.	SHEET NUMBER
23886	1

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ENGINEERING 7995 - SURVEYING LB-6940



LEGEND

DEVIATION REQUEST

LAND USE SUMMARY

	WATER MANAGEMENT LAKES	21.6 AC	TOTAL = 37.1 AC
	HARDWOOD / CONIFER UPLAND PRESERVE	4.0 AC	
	WETLAND PRESERVE	11.5 AC	
	OTHER DEVELOPMENT AREA	92.3 AC	
	TOTAL PROJECT	128.8 AC	

PREPARED FOR

11400 ORANGE RIVER, LLC.

2970 LUCKIE ROAD
WESTIN, FL. 33331

PROJECT DESCRIPTION

**ORANGE RIVER
130 AC**

0.80 AC OPEN SPACE TRACT, NO USES PROPOSED. NO BUFFERS REQUIRED. EXOTIC MAINTENANCE TO BE CONDUCTED BY DEVELOPER / HOA / CDD.

THIS PLAN IS PRELIMINARY AND INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE INTENSITIES OR DENSITIES MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENGINEERING, ENVIRONMENTAL AND / OR REGULATORY CONSTRAINTS AND / OR OPPORTUNITIES.

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FILE NAME: 23886-202-NEWER.DWG
LOCATION: JJ23886DWGZONING
PLOT DATE: MON, 6-26-2023 - 1:50 PM
PLOT BY: ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASEPLAN = 23886-200-NEWER.DWG

PLAN REVISIONS

5-29-23	ENLARGE R-2 AREAS
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PLAN STATUS

ALTERNATE MASTER CONCEPT PLAN

PROJECT / FILE NO. **23886** SHEET NUMBER **2**

**MEMORANDUM
FROM THE
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION**

**TO: Donna Marie Collins
Chief Hearing Examiner**

DATE: March 29, 2023

**SUBJECT: Supplemental Staff Report Memorandum
DCI2021-00001, Orange River RPD**

On February 8, 2023, the Board of County Commissioners remanded this case to the Hearing Examiner to consider issues raised by the Board during its Zoning Hearing. Pursuant to Lee County Administrative Code 2-6, Board-directed remands are handled as if requested by the Department of Community Development. As a Department-requested remand, County Staff must prepare recommended changes responsive to the issues raised for remand. County Staff must provide the required response in the form of a revised Staff Report addressing the remanded issues. The forgoing response shall serve as the County Staff's revisions to its previously published Staff Report in response to the Hearing Examiner's Order of Remand Dated March 6, 2023.

The Board of County Commissioners remanded the case to the Hearing Examiner for further consideration of:

- Lot sizes and dimensions;
- Site development regulations; and
- Consistency with Lee Plan Policy 5.1.5

In the context of these issues, Staff examined the existing residential development pattern in the Rural Community Preserve and the Buckingham Community Plan Area. Most parcels in the Buckingham Community Plan Area are zoned Agricultural (AG-2) and range between 0.2 acres and 10 acres in size. The Future Land Use designation of these lots is Rural Community Preserve.

Land Development Code (LDC) Section 34-654 establishes the following site development regulations for lots in the AG-2 zoning district¹:

Min. Lot Area	39,500 sq. ft.
Min. Lot Width	100 feet
Min. Lot Depth	130 feet
Public Street Setback	25 feet
Private Street/Easement Setback	20 feet
Side Setback	15 feet
Rear Setback	25 feet

There are a number of residential planned developments bordering the Buckingham Community Plan Area. One such residential planned development, known as "Buckingham 345", was recently amended by Resolution Z-21-002 (see Attachment S2). This project contains three types of residential lots with varying sizes and site development regulations. Of particular note is the fact that lots on development tracts bordering the Buckingham Rural Community Preserve are required to have a minimum lot size of 13,600 square feet. Lots interior to the development are required to have a minimum lot size of 6,500 square feet. Each of these lot types is permitted to be developed with single family dwellings. Lots furthest away from the Buckingham Rural Community Preserve have a minimum lot size requirement of 4,500 square feet and may be developed with Single-Family, Zero Lot Line, Two-Family-Attached or Townhome dwelling unit types as defined in LDC Section 34-2. The Buckingham 345 planned development is also required to provide a 30-foot-wide buffer along its southern boundary, which abuts the Rural Community Preserve future land use category in the Buckingham Community Plan Area. Based on the above design considerations, this development was reviewed and found to be consistent with Lee Plan Policy 20.1.6.

Like the Buckingham 345 Residential Planned Development, the Orange River RPD proposes 30-foot-wide enhanced buffers along Staley Road, Orange River Boulevard, and Homestead Lane. The design of the development also utilizes lakes and preserves to further increase the setbacks for lots along the development perimeter to an amount ranging between 50 feet in a small area along the southern property boundary, to 170 feet along Orange River Boulevard. A setback of more than 150 feet will be in effect for most perimeter lots when taking into account proposed preserve areas and required stormwater infrastructure. Based on the Board's discussion during its Zoning hearing, the site development regulations proposed in the Orange River case were not sufficient to address the Board's concerns over compatibility with surrounding residences.

¹ LDC Section 34-3274 provides for reduced setbacks for single-family residences developed on non-conforming lots of record. LDC Section 34-3271 defines a "non-conforming or substandard lot as "a lot of which the area, dimension or location was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, and which fails by reason of such adoption, revision or amendment to conform to the requirements for the zoning district in which the lot is located."

The following table provides a comparative analysis of the subject project (Orange River RPD) and the aforementioned Buckingham 345 RPD:

	Orange River RPD DCI2021-00001*	Buckingham 345 RPD (Resolution Z-21-002)		
		R-1 Lots	R-2 Lots	R-3 Lots [^]
Min. Lot Area	6,500 sq. ft.	4,500 sq. ft.	6,500 sq. ft.	13,600 sq. ft.
Min. Lot Width	50 feet	45 feet	50 feet	80 feet
Min. Lot Depth	100 feet	100 feet	130 feet	170 feet
Street Setback	20 feet	20 feet	20 feet	20 feet
Side Setback	5 feet	5 feet	5 feet	5 feet
Rear Setback	15 feet	10 feet	10 feet	45 feet
*Contained in Hearing Examiner Recommendation				
[^] Lots abutting the Buckingham Rural Community Preserve				

In light of the Board's concerns and this comparative analysis, staff recommends the following changes to the minimum lot size, and setbacks for Orange River RPD:

	HEX Rec.*	Perimeter Lots [^]		Interior Lots	
		Remand Proposal	Net Change	Remand Proposal	Net Change
Min. Lot Area (sq. ft.)	6,500	13,600	+ 7,100 (109%)	7,500	+1,000 (15.6%)
Min. Lot Width (ft.)	50	80	+30 ft. (60%)	75	+25 ft. (50%)
Min. Lot Depth (ft.)	100	170	+70 ft. (70%)	100	No change
Min. Street Setback (ft.)	20	20	No change	20	No change
Min. Side Setback (ft.)	5	10	+5 ft. (100%)	7.5	+2.5 ft. (33%)
Min. Rear Setback (ft.) (Principal)	15	30	+15 ft. (100%)	20	+ 5 ft. (33%)
Min. Rear Setback (ft.)(Accessory)	5	10	+5 ft. (100%)	5	No change
*Contained in Hearing Examiner Recommendation					
[^] Lots located between the Orange River Boulevard, Staley Road, or Homestead Lane, and an internal roadway as shown on the proposed Master Concept Plan					

The Orange River RPD, as originally approved, contained one-acre perimeter lots; however, this approval (Resolution Z-05-043) did not provide the perimeter lakes and preserves as proposed by this amendment. Furthermore, the proposed 30-foot-wide buffers were included in the calculation of lot area for each perimeter lot. It should be

noted that this amendment contains a separate tract for a 30-foot-wide perimeter buffer in addition to the perimeter lakes and preserves.

With staff's proposed modifications to site development regulations, in particular setbacks and lot areas, the development will be more compatible with the surrounding Rural Community Preserve.

In the context of the above, staff conducted a secondary review of the request against Lee Plan Policy 5.1.5 and provides the following conclusion:

Policy 5.1.5 is intended to protect residential areas from incompatible and potentially destructive uses. With respect to this case, the principal difference between the proposed development and the surrounding development pattern is the size of the lots and applicable setbacks for buildings and structures. With this in mind, it is the opinion of Staff that the proposed modifications to the site development regulations for the subject planned development will provide additional assurances that the development is compatible with existing single-family uses in the surrounding area and not destructive to the existing residential environment.

This project is a Planned Development, as encouraged by Policy 5.1.5, containing large setbacks and buffers along the perimeter of the development.

The Future Land Use designation of the subject site is Sub-Outlying Suburban, entitling the applicant to a maximum of two dwelling units per acre. Staff is not recommending any limitation on the density beyond the density limitation established by Lee Plan Policy 1.1.11. However, the larger lots, larger setbacks, and enhanced buffers provide limiting factors that will further limit the number of dwelling units in the development. Staff estimates that the proposed modifications to the site development regulations, if approved, will result in the development of approximately 200 dwelling units on the subject property, which is 40 units more than the 160 units approved by Resolution Z-05-043, and 58 units less than the 258 units being sought by this request.

Attachments

S1: Proposed Revised Site Development Regulations

S2: Resolution Z-21-002 (Buckingham 345 Residential Planned Development)

ATTACHMENT S1

Proposed Revised Site Development Regulations

Single-Family: (Interior Lots)

Minimum Lot Size: ~~6,500~~ 7,500 square feet
Minimum Lot Width: ~~50~~ 75 ft.
Minimum Lot Depth: 100 ft.

Minimum Setbacks:

Street: 20 ft.
Side: ~~5~~ 7.5 ft.
Rear (principal) ~~45~~ 20 ft.
Rear (accessory) 5 ft.
Preserve: Per Land Development Code

Single-Family: (Perimeter Lots)

Minimum Lot Size: ~~6,500~~ 13,600 square feet
Minimum Lot Width: ~~50~~ 80 ft.
Minimum Lot Depth: ~~400~~ 170 ft.

Minimum Setbacks:

Street: 20 ft.
Side: ~~5~~ 10 ft.
Rear (principal) ~~45~~ 30 ft.
Rear (accessory) ~~5~~ 10 ft.
Preserve: Per Land Development Code 30 ft.

Minimum Perimeter Setbacks (See MCP Page 3):

North to Orange River BLVD ROW: 170 ft.
North to residential: 150 ft.
South: 50 ft. minimum (150 ft. average)
East to power lines: 250 ft. average
West: 170 ft.

Maximum Building Height: 35 ft.

Maximum Lot Coverage: 45 percent

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

WHEREAS, Lee County Homes I Corporation, General Partner, Kevin Ratterree, Vice President, filed an application on behalf of the property owner, Lee County Homes Associates I, LLLP (Lee County Homes), to amend the 345± acre Residential Planned Development (RPD) to add 325 units and modify the Master Concept Plan (MCP), Schedule of Uses, Property Development Regulations and Deviations in reference to Lee County Homes (Buckingham 345) RPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Amanda L. Rivera, was advertised and held on February 11, 2021; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case # DCI2020-00010 and recommended APPROVAL of the Request with conditions; and

WHEREAS, a second public hearing was advertised and held on April 7, 2021 before the Lee County Board of Commissioners; and,

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

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

SECTION A. REQUEST

The applicant filed a request to rezone a 345± acre RPD to add 325 units and modify the MCP, Schedule of Uses, Property Development Regulations and Deviations. The request is premised on the adoption of a companion comprehensive plan amendment to the Future Land Use Map and Lee Plan Table 1(b).¹

The property is located in the Outlying Suburban Future Land Use Category, pursuant to the adoption of CPA2020-00002, and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development of this project must be substantially consistent with the five-page Master Concept Plan (MCP) entitled "Lee County Homes Associates I, LLLP," prepared by Morris Depew, dated February 4, 2021, and attached hereto as Exhibit C, except as modified by the conditions below. Development must comply with all requirements of the LDC and the Lee County Comprehensive Plan (Lee Plan) at time of local development order approval,

¹ CPA2020-00001, CPA2020-00002 adopted April 7, 2021

except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary. Project density is limited to a maximum of 1,015 dwelling units.

2. Schedule of Uses and Property Development Regulations

a. Schedule of Uses

Residential R-1

Accessory Uses and Structures

Dwelling Units:

Single-family, minimum lot size 6,500 square feet

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences, Walls

Home Occupation

Model Home and Model Unit

Model Display Center

Parking Lot, Accessory

Real Estate Sales Office

Signs

Temporary Uses, limited to construction trailers at the time of development

Residential R-2

Accessory Uses and Structures

Dwelling Units:

Single-family, minimum lot size 4,500 square feet

Zero Lot Line

Two Family Attached

Townhomes

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences, Walls

Home Occupation, no outside help

Model Home and Model Unit

Model Display Center

Model Display Group

Parking Lot, Accessory

Real Estate Sales Office

Signs

Temporary Uses, limited to construction trailers at the time of development

Residential R-3

Accessory Uses and Structures

Dwelling Units:

Single-family, minimum lot size 13,600 square feet

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities: Group I
Excavation, Water Retention
Fences, Walls
Home Occupation, no outside help
Model Home and Model Unit
Model Display Center
Parking Lot, Accessory
Real Estate Sales Office
Signs
Temporary Uses, limited to construction trailers at the time of development

Residential Amenity (RA)

Accessory Uses and Structures
Administrative Offices
Banks and Financial Establishments, Group I (Including ATMs)
Communication Facility, Wireless (Antenna only, Towers prohibited)
Consumption on Premises
Club, Private
Essential Services
Essential Services Facilities, Group I
Excavation, Water Retention
Fences and Walls
Food & Beverage Service, Limited
Parking Lot, Accessory
Personal Services, Group I
Recreational Facilities, Private
Real Estate Sales Office
Restaurant, Groups I, II, and III
Signs
Specialty Retail Shops, Groups I and II
Storage, Indoor
Temporary Uses

b. Site Development Regulations

Attached as Exhibit D.

3. Development Permits

County development permits do 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.

4. Hurricane Preparedness

To mitigate future hurricane damage and loss of life, and to ensure compliance with Lee Plan objectives, developer must:

- a. Establish a homeowners' or residents' association. The organization must provide an educational program with Emergency Management staff on an annual basis that describes risks of natural hazards through literature, brochures, and speakers

for Hurricane Awareness/Preparedness Seminars. The intent is to educate residents of the actions necessary to mitigate dangers inherent in these hazards;

- b. Formulate an emergency hurricane notification and evacuation plan, subject to approval by the Lee County Office of Emergency Management; and
- c. Comply with LDC §2-481 *et seq.* hurricane preparedness and impact mitigation, if required.

5. Model Homes, Model Units, Model Display Centers

Model units, model homes, model display centers, and real estate sales are subject to the following:

- a. Each model must be a unique example. Multiple examples of the same unit are prohibited.
- b. All Model Home Sites, Model Display Centers, or Model Groups must be designated on development order plans. Parking areas must be buffered with a single-row hedge and tree canopy.
- c. Prior to model home construction, model home lots must be shown on a preliminary plat. Developer must file the preliminary plat concurrently with the local development order application. Model homes must comply with setbacks set forth in Exhibit D.
- d. Model homes or model units are limited to no more than 15 within the development at one time.
- e. Real estate sales are limited to the sale of lots or units within the development only.
- f. Real estate sales are limited to temporary real estate trailers, model units, model display centers, and the Recreational Amenity area (Tract RA).
- g. Hours of operation for models and real estate sales are limited to 8 a.m. to 8 p.m. daily.
- h. Model homes and real estate sales will be valid for up to 5 years from the date of issuance of a certificate of occupancy of a model home.

6. Buffers

a. Southern Property Line

Development order plans must depict a 30 foot wide buffer along the southern property line (excluding indigenous preserve area) with the development order establishing lots adjacent to this property boundary. The 30 foot wide buffer must abide by the following:

- i. Contain a berm with a wall or fence at least eight feet in height, except where it encroaches in the upland preserve as shown on the MCP;

- ii. Vegetation installed between the southern property line and the eight foot berm/wall or fence combination must contain ten oak trees (*Quercus virginiana*) per 100 linear feet and a double hedge row;
- iii. Trees must be 10 feet, two inch caliper, and four-foot spread;
- iv. Shrubs must be at least 36 inches in height at time of planting and create a visual screen; and
- v. Existing indigenous native vegetation may be counted toward the vegetation requirements of this condition.

b. Buffer on Lands Abutting Buckingham Road

Development order plans must depict an enhanced 25 foot Type-D buffer along Buckingham Road that includes 10 trees per 100 linear feet (must include live oaks, no palms) between the eight foot berm/wall or fence and the Buckingham Road right-of-way.

c. Buffer Adjacent to Portico and Internal Right-of-Way

Development order plans must depict an enhanced 20 foot wide Type-C buffer where internal roads are less than 125 feet from an adjacent single family subdivision. A berm with a wall at least eight feet in height may be constructed closer than 25 feet from the abutting property if the following plant material is proposed:

- i. Between the wall/berm and the property line - Ten South Florida Slash Pine (*Pinus elliottii* var. *densa*) and 18 shrubs per 100 linear feet; and
- ii. Between the wall/berm and the internal right-of-way –
 - 1) Five shade trees per 100 linear feet;
 - 2) Clusters of three South Florida Slash Pine (*Pinus elliottii* var. *densa*) between the shade trees; and
 - 3) 18 shrubs per 100 linear feet.

d. All required buffers must utilize 100% native vegetation.

7. Protected Species

The development order must provide a Species Management Plan explaining how the cardinal airplant (*Tillandsia fasciculata*) and wild pine airplant (*Tillandsia utriculata*) will be protected during development and exotic removal.

8. Agricultural Uses

Existing bona fide agricultural uses in the form of cattle pasture and the raising of hay may continue on the property subject to the following:

a. Termination of Agricultural Use.

Agricultural uses must terminate on project areas receiving development order approval for vertical development and prior to county issuance of a vegetation removal permit. Development order approvals for plats, infrastructure improvements, landscaping, surface water management, or other non-vertical development do not trigger termination.

b. Additional Clearing Prohibited.

Clearing of native trees or other native vegetation, including understory, in agricultural areas is prohibited. Existing areas of bona fide agricultural use that include existing grass pasture(s) may be mowed, but may not be cleared or expanded. This prohibition does not preclude County approved requests for removal of invasive exotic vegetation.

c. Proof of Termination.

Upon approval of a local development order for vertical development and prior to issuance of a vegetation removal permit, the property owner must provide written proof of the following, subject to approval by the County Attorney's Office:

i. Affidavit.

Sworn affidavit from the property owner confirming:

- 1) Date agricultural uses ceased;
- 2) Legal description of the property subject to the development order approved for vertical development;
- 3) An affirmative statement acknowledging and agreeing agricultural uses are illegal and prohibited on the property, and that the owner covenants with the County they will not allow agricultural uses to resume until the property is rezoned to permit agriculture; and
- 4) The affidavit constitutes a covenant between the property owner and the County binding on the owner and its successors. The covenant must be properly recorded in the public records of the County at the owner's expense.

ii. Termination of Tax Exemption.

Termination of the agricultural tax exemption for portions of the property subject to development order for vertical development. Proof of termination must include a copy of the request to terminate the tax exemption submitted to the Lee County Property Appraiser.

9. Right-of-Way Dedication

Developer voluntarily reserves a 20 foot wide strip along Buckingham Road for county right-of-way purposes. Developer may dedicate the strip by recording an instrument (i.e.

deed or plat) that grants or dedicates to the County an exclusive easement for right-of-way purposes. Developer will be eligible for 100% road impact fee credits for land dedicated for Buckingham Road. If Developer grants the easement via a plat, the dedication must be clear and unambiguous. Use of the label "Future Right-of-way" is not acceptable. The dedicated area may not be used for required development buffering or any other non-county right-of-way improvements. Developer must complete dedication prior to issuance of the first building permit allowing vertical construction within the project.

10. Access to Buckingham Road

- a. The MCP and local development order must depict a minimum 70-foot-wide divided entrance on Buckingham Road that includes a 14-foot wide median with two 11-foot wide lanes on both sides of the median for ingress and egress.
- b. Local development orders must include a second access point on Buckingham Road. This access will be an egress point for residents only and an ingress/egress for emergency vehicles. At least 25 feet of separation is required between the gate and the Buckingham Road right-of-way. Access for emergency services to be provided by a Knox Box.
- c. Developer must provide written documentation from the Fort Myers Shores Fire District indicating the access points are acceptable and provide adequate access for emergency vehicles.

11. Commercial Uses and Consumption on Premises

- a. Commercial uses are limited to a maximum of 7,500 square feet of floor area for the entire development.
- b. Commercial uses are for residents and guests only, not open to the general public.
- c. Hours of operation for consumption on premises are limited to 7:00 a.m. to midnight, daily.

12. Public School Use

- a. If the School Site Reserved Area is conveyed to the Lee County School District, this zoning approval may be amended administratively to remove the 13-acre parcel from the MCP. The deletion of the school site from the MCP will not affect the right to develop 1,015 single-family dwelling units on the remaining portion of land covered by the MCP.
- b. If not conveyed, the School Site Reserved Area may be developed with single-family and accessory uses consistent with the Property Development Regulations for R-1, R-2, or R-3 and the enhanced buffer along Buckingham Road, with an Administrative Amendment.
- c. Density for the RPD remains limited to 1,015 dwelling units even if the School Site Reserved Area is utilized for residential development.

13. Natural Resources Conditions

Development order plans must include:

- a. A map depicting locations of free-flowing wells. Wells that are not part of an irrigation system or designated groundwater monitoring network must be permanently plugged and abandoned consistent with Lee County Code of Ordinances 32-99.
- b. A Water Quality Monitoring Plan approved by the Lee County Division of Natural Resources. The Plan must establish:
 - i. Overall goals and objectives of the Plan;
 - ii. An outfall monitoring schedule during "wet" season of June through October for Field Temperature, Total Kjeldahl Nitrogen, Total Nitrogen, Chlorophyll A, Nitrite, Nitrate, Phosphorus, Turbidity, and Stage;
 - iii. A baseline monitoring event prior to construction commencement;
 - iv. Provision of water quality monitoring data to the Division of Natural Resources annually for at least 5 years, including a comparison of State water quality standards, plots of parameters, and recommendations. Developer may amend water quality monitoring and reporting requirements by written request if State water quality standards are met or exceeded for five consecutive years. The Division of Natural Resources must approve Developer's written request. Results must be reported as an Electric Data Deliverable (EDD) in a format the Division of Natural Resources approves; and
 - v. A contingency plan if an exceedance of State Water Quality Standards is discovered, including notification to impacted residents and applicable authorities.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-416(d)(6) requirement to provide a combination berm and solid wall eight feet in height not less than 25 feet from the abutting property with landscaping between the wall and abutting property of a Type "C" buffer (five trees and 18 shrubs per 100 linear feet), to allow landscaping and a three foot high berm/five foot high wall combination located closer to the abutting property.

This deviation is APPROVED SUBJECT TO Condition 6.

2. Deviation (2) seeks relief from the LDC §10-415(b)(1)(a) requirement that developments provide 50 percent open space through onsite preservation of existing native vegetation communities, to allow 17.3 acres of existing native vegetation communities to be maintained onsite.

This deviation is APPROVED SUBJECT TO the condition that the development order must depict 105.06 acres open space comprised of 83.35 acres general open space and 21.71 acres indigenous open space that includes 150% upland credits for upland indigenous area #1.

3. Deviation (3) seeks relief from the LDC §10-296(e)(2)(h)(5) Table 15 Suburban Local Streets requirement that residential land uses have 10 foot travel lane, 5 foot planting strip, and 5 foot pedestrian facility on both sides of the roadway, to allow a roadway cross-section with 10-12 foot travel lane, no planting strip, and a 5 foot pedestrian facility on one side of the primary road and village road.

This deviation is APPROVED.

4. Deviation (4) seeks relief from the LDC §10-296(e)(2)(h)(5) Table 15 Suburban Local Streets requirement that residential land uses have 10 foot travel lane, 5 foot planting strip, and 5 foot pedestrian facility on both sides of the roadway, to allow a roadway cross-section with 10-12 foot travel lane, a 5 foot planting strip, and a 5 foot pedestrian facility on one side of the primary road at the community entry.

This deviation is APPROVED SUBJECT TO Condition 10.

5. Deviation (5) seeks relief from the LDC §10-285 requirement of 660 feet of access connection separation within a future Suburban future land use category on a principal arterial, to allow 738± feet from the primary access to the proposed second egress and 503± feet from the proposed egress to the existing access to the north.

This deviation is APPROVED.

6. Deviation (6) seeks relief from the LDC §10-296(k)(1) requirement that all dead end streets be closed at one end by a circular turnaround, to allow the road to terminate at a residential driveway.

This deviation is APPROVED SUBJECT TO the condition that dead-end portion of the roads shall serve a maximum of two residential lots.

7. Deviation (7) seeks relief from the LDC §10-418(1) requirement that shorelines be sinuous, to allow some of the stormwater management ponds to be more rectangular than sinuous.

This deviation is APPROVED SUBJECT TO the condition that development order plans must include a detailed plan of planted littoral shelves for non-sinuous lakes depicting littoral plants installed in a serpentine or undulating design to simulate a sinuous shoreline.

SECTION D. EXHIBITS:

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

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

SECTION E. FINDINGS AND CONCLUSIONS:

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

1. *As conditioned herein*, the proposed amendment to the Buckingham 345 RPD:
 - a. Complies with the Lee Plan. *See*, Lee Plan Vision Statement Paragraph 4 (Caloosahatchee Shores Planning Community), Lee Plan Goals 2, 4, 5, 21, 39, 77, Objectives 2.2, 5.1, 21.3, and Policies 1.1.6, 20.1.6, 21.1.3, 135.9.7; Lee Plan Maps 1, 16.
 - b. Complies with the LDC and other County regulations. *See*, LDC Chapters 10 and 34; §33-1480 *et. seq.*
 - c. Is compatible with existing and planned uses in the area. *See*, Lee Plan Policies 1.1.6, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 5.2.4, 135.1.9, 135.9.5; LDC §§ 34-411(c), (i), and (j).
 - d. Will not adversely affect environmentally critical areas and natural resources. *See*, Lee Plan Goals 77, Objectives 4.1, 77.1, LDC §34-411(h).
 - e. Will be served by urban services. *See*, Lee Plan Glossary, Maps 6, 7, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policies 2.2.1, 5.1.3, 135.9.7 and Standards 4.1.1 and 4.1.2; LDC §34-411(d).
2. The MCP reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. *See*, Lee Plan Goal 39, Objective 39.1; LDC §34-411(d).
3. The proposed mix of uses is appropriate at the proposed location. *See*, Lee Plan Policies 1.1.6, 2.1.1, 5.1.3, 5.1.5, and 135.1.9.
4. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. *See*, Lee Plan Policies 5.1.5, 135.9.6; *See also*, LDC Chapters 10, 33, and 34.
5. *As conditioned herein*, the deviations:
 - a. Enhance the objectives of the planned development; and
 - b. Promote the intent of the LDC to protect the public health, safety, and welfare. *See*, LDC §34-377(b)(4).

SECTION F. SCRIVENER'S ERRORS

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

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

Adopted by unanimous consent.

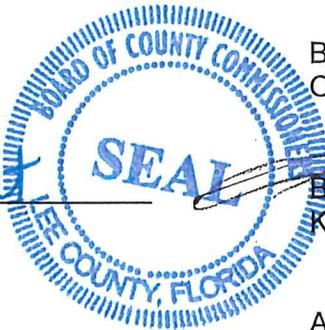
Kevin Ruane	<u>Aye</u>
Cecil Pendergrass	<u>Aye</u>
Raymond Sandelli	<u>Aye</u>
Brian Hamman	<u>Aye</u>
Frank Mann	<u>Aye</u>

DULY PASSED AND ADOPTED this 7th day of April 2021.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Misoy Flint
Deputy Clerk



BY: [Signature]
Kevin Ruane, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

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

MINUTES OFFICE
2021 APR 12 PM 3:35

LEGAL DESCRIPTION OF A PARCEL LYING IN SECTIONS 32 & 33, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE BEING A PORTION OF SECTIONS 32 AND 33, TOWNSHIP 43 SOUTH, RANGE 26 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.89°06'45"W. ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 2647.49 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 33; THENCE S.89°06'35"W. ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 33 FOR A DISTANCE OF 2647.39 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 33; THENCE N.00°56'24"W. ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 1329.88 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 33; THENCE S.89°35'38"W. ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 43 SOUTH, RANGE 26 EAST, FOR A DISTANCE OF 977.91 FEET TO THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BUCKINGHAM ROAD., A 60' RIGHT-OF-WAY; THENCE N.24°23'07"E. ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BUCKINGHAM ROAD, FOR A DISTANCE OF 2286.44 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE S.00°56'26"E. ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 81.43 FEET TO THE NORTHWEST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE N.89°04'22"E. ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 1498.70 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE N.00°47'24"W. ALONG THE WEST LINE OF THE EAST HALF OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 662.27 FEET TO A POINT ON THE PLATTED BOUNDARY LINE OF PORTICO PHASE I, RECORDED AS INSTRUMENT #2006000411756, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.89°09'28"E. ALONG SAID LINE, FOR A DISTANCE OF 1167.05 FEET; THENCE S.00°39'01"E. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE 1, FOR A DISTANCE OF 1321.78 FEET TO THE CENTER OF SAID SECTION 33; THENCE S.88°59'10"W. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE 1, FOR A DISTANCE OF 1334.18 FEET; THENCE S.00°56'52"E. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE 1, FOR A DISTANCE OF 1331.03 FEET; THENCE N.89°02'54"E. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE 1, FOR A DISTANCE OF 1988.34 FEET; THENCE N.00°41'08"W. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE 1, FOR A DISTANCE OF 1333.38 FEET; THENCE N.88°59'10"E. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE 1, FOR A DISTANCE OF 1980.58 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 33 AND A NORTHWEST CORNER OF PORTICO PHASE IIA, RECORDED AS INSTRUMENT #2019000293574, OF SAID PUBLIC RECORDS; THENCE S.00°47'28"E. ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33 AND THE WEST LINE OF SAID PORTICO PHASE IIA, FOR A DISTANCE OF 2670.74 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 15,018,447 SQUARE FEET, OR 344.78 ACRES, MORE OR LESS

APPROVED
DCI2020-00010
Daniel Munt, Planner
Lee County DCD
10/20/2020

BY: 
DENIS J. O'CONNELL JR.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LS# 5430

DATE SIGNED: 5/7/2020

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

RECEIVED

MAY 27 2020

NOTES:

1. BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33, AS BEING S.89°06'45"W.
2. DISTANCES ARE IN FEET AND DECIMALS THEREOF.
3. PARCEL IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS AND RIGHT-OF-WAYS (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).
4. THE STATE PLANE COORDINATES SHOWN HEREON ARE IN FEET, FLORIDA WEST ZONE, NORTH AMERICAN DATUM OF 1983 (1990 ADJUSTMENT) BASED UPON CONTINUOUSLY OPERATING FLORIDA PERMANENT REFERENCE NETWORK (FPRN) STATIONS MAINTAINED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION.

COMMUNITY DEVELOPMENT

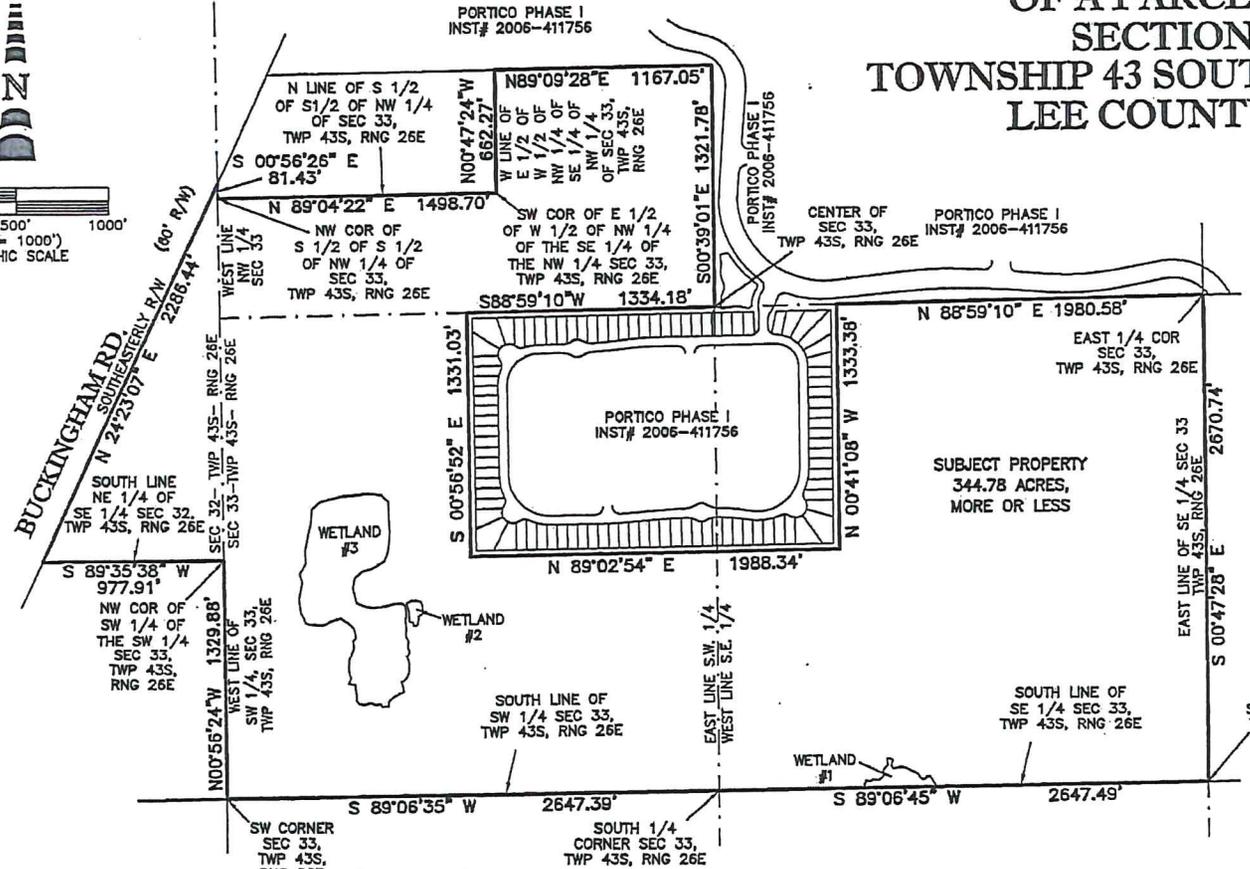
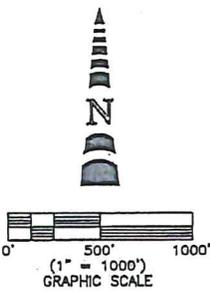
BUCKINGHAM 345 ACRES, OVER ALL

TITLE: LEGAL DESCRIPTION			
	METRON SURVEYING & MAPPING, LLC	10970 S. CLEVELAND AVE. SUITE #605 FORT MYERS, FLORIDA 33907 PHONE: (239) 275-8575 FAX: (239) 275-8457	
LAND SURVEYORS-PLANNERS		www.metronfl.com	
LB# 7071			
FILE NAME: 14879OVERALL.dwg	FIELD BOOK/PAGE: SEE FILE	PROJECT NO.:	SHEET:
EXHIBIT DATE: 5/06/2020	DRAWN BY: BUD	SCALE: 1" = 1000'	CHECKED BY: DJO
		PROJECT NO.:	14879
		SHEET:	1 OF 2
		FILE NO. (S-T-R)	33-43-26

EXHIBIT A

DCI2020-00010

LEGAL DESCRIPTION OF A PARCEL LYING IN SECTIONS 32 & 33, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA



- NOTES:**
1. BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33, AS BEING S.89°06'45\"W.
 2. DISTANCES ARE IN FEET AND DECIMALS THEREOF.
 3. PARCEL IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS AND RIGHT-OF-WAYS (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).
 4. THE STATE PLANE COORDINATES SHOWN HEREON ARE IN FEET, FLORIDA WEST ZONE, NORTH AMERICAN DATUM OF 1983 (1990 ADJUSTMENT) BASED UPON CONTINUOUSLY OPERATING FLORIDA PERMANENT REFERENCE NETWORK (FPRN) STATIONS MAINTAINED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION.

P.O.B.
SE CORNER SEC 33,
TWP 43S, RNG 26E
N:855075.16
E:750193.40

SW CORNER
SEC 33,
TWP 43S,
RNG 26E
N:854893.02
E:743899.16

RECEIVED
 MAY 27 2020
 COMMUNITY DEVELOPMENT

LEGEND:
 P.O.B. = POINT OF BEGINNING
 INST = INSTRUMENT
 R/W = RIGHT OF WAY
 O.R. = OFFICIAL RECORDS BOOK
 PG. = PAGE
 SEC = SECTION
 TWP = TOWNSHIP
 RNG = RANGE

BUCKINGHAM 345 ACRES, OVER ALL

TITLE: SKETCH OF DESCRIPTION			
		10970 S. CLEVELAND AVE. SUITE #605 FORT MYERS, FLORIDA 33907 PHONE: (239) 275-8575 FAX: (239) 275-8457 www.metronfl.com	
METRON SURVEYING & MAPPING, LLC LAND SURVEYORS-PLANNERS LB# 7071			
FILE NAME: 14879OVERALL.dwg	FIELD BOOK/PAGE: SEE FILE	PROJECT NO.: 14879	SHEET: 2 OF 2
EXHIBIT DATE: 5/05/2020	DRAWN BY: BUD	SCALE: 1" = 1000'	CHECKED BY: DJO
		FILE NO. (S-T-R) 33-43-26	

DC12020-00010

DCI2020-00010 Zoning

Legend

 Subject Parcel

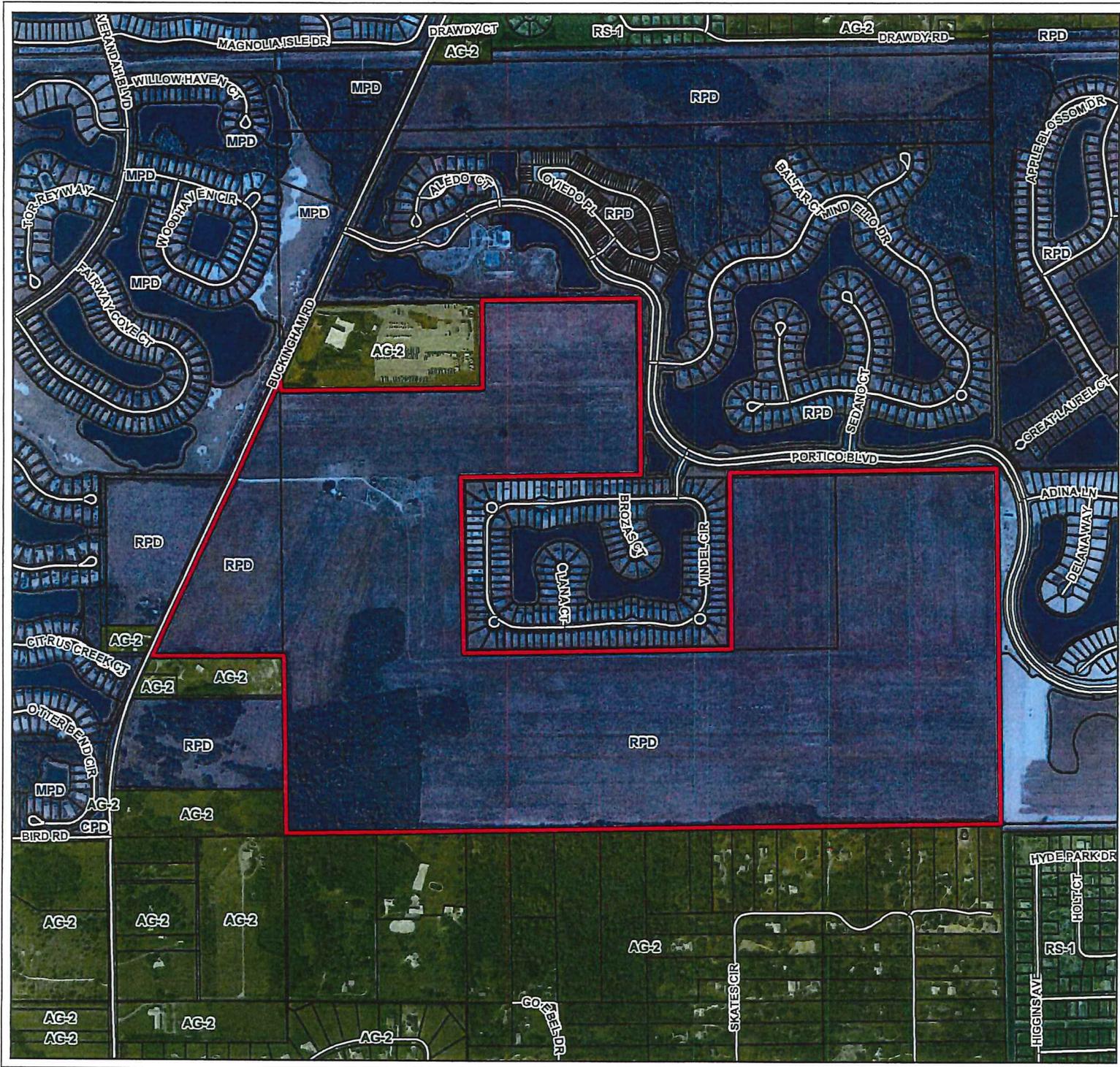
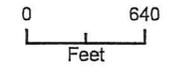


EXHIBIT B

MASTER CONCEPT PLAN FOR LEE COUNTY HOMES ASSOCIATES I, LLLP

LEE COUNTY, FLORIDA

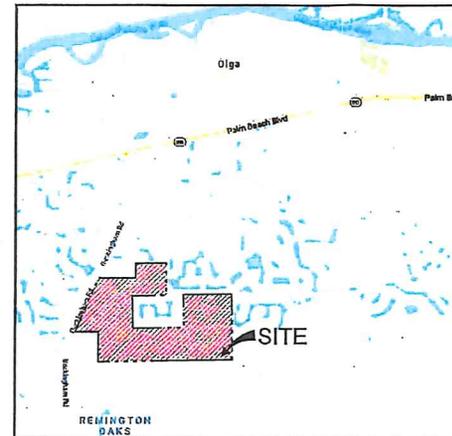
SECTION 33, TOWNSHIP 43, RANGE 26E
LEE COUNTY, FLORIDA



SITE VICINITY MAP

N.T.S.

SHEET INDEX		DESCRIPTION	SHEET
NO.	DATE		
1	1/1/20	GENERAL	COVER
2	1/1/20	PLANNING	COVER SHEET
3	1/1/20	MASTER CONCEPT PLAN	C-101
4	1/1/20	OPEN SPACE PLAN	C-102
5	1/1/20	NOTES AND TYPICAL SECTIONS	C-801
6	1/1/20	LOT TYPICALS	C-301



SITE LOCATION MAP

N.T.S.

PROJECT:
LEE COUNTY HOMES ASSOCIATES I, LLLP

LOCATION:
BUCKINGHAM ROAD
LEE COUNTY, FLORIDA

CLIENT:
LEE COUNTY HOMES ASSOCIATES I, LLLP

CONSULTANT:
MORRIS DEPEW
ENGINEERS, PLANNERS & SURVEYORS
LANDSCAPE ARCHITECTS
PLANNING, DESIGN, ENVIRONMENTAL SERVICES

Fort Myers
2611 Central Avenue
Fort Myers, Florida 33901
889.227.2222
Fax: 889.227.2211
Web: www.morrisdepew.com

Tallahassee
10 South Monroe Street
Tallahassee, Florida 32309
904.224.2241

Destin
807 Highway #1
Destin, Florida 32838
904.224.2241

PREPARED BY:

REVISIONS	DATE

PROJECT MANAGER: TJE
DRAWING BY: LML
APPROBATION: LEE COUNTY
DATE: 02/04/2021
SHEET TITLE: COVER SHEET
SHEET NUMBER: COVER
JOB FILE NUMBER: 19079-01

OCI 2020-00010

Approved as Exhibit *C*
MCP Page 1 of 5
Resolution # *Z-21-002*

Lee County Homes Associates I, LLLP
Residential Planned Development
Property Development Regulations
November 16, 2020

Land Uses	Min Lot Area (SF)	Min Lot Width (FT)	Min Lot Depth (FT)	Min Street Setback ² (FT)	Min Side Setback (FT)	Min Rear Lot Setback ³ (FT)	Min Accessory Structure Side Setback (FT)	Min Accessory Structure Rear Setback (FT)	Building Separation (FT)	Max Building Height (FT)	Max Lot Coverage (%)
R-1											
Single-Family	6,500	50	130	20	5	10	5	5	10	35	65
Single-Family ⁴	8,500	170	50	5	5 & 60	10	5	5	10	35	50
R-2											
Single-Family	4,500	45	100	20	5	10	5	5	10	35	55
Single-Family ⁴	7,000	140	50	5	5 & 60	10	5	5	10	35	40
Zero-lot Line ¹	4,500	45	100	20	0 or 5	10	5	5	10 ¹	35	55
Two-Family Attached	3,000	30	100	20	0 or 5	10	5	5	10	45	60
Townhouse	2,000	20	100	20	0 or 5	10	5	5	10	45	50
R-3											
Single Family	13,600	80	170	20	5	45	5	40	10	35	55
Single-Family ⁴	16,800	80	210	60	5	45	5	40	10	35	45
Non-Residential											
Clubhouse/Amenity Sites	10,000	100	100	20	10	10	10	5	10	50	55

Note 1: A minimum 10 foot building separation for zero lot line structures must be maintained.

Note 2: For Corner Lots, the secondary street setback is reduced to 5 feet to function as a side yard.

Note 3: Where lots abut a waterbody, setback is measured from the rear lot line.

Note 4: Lot dimensions and setbacks only apply to a residential lot intersecting with a dead end ROW consistent with the location of Deviation 6.

EXHIBIT D